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6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
7 IN AND FOR THE COUNTY OF APACHE  
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10 IN RE THE GENERAL ADJUDICATION  
11 OF ALL RIGHTS TO USE WATER IN  
12 THE LITTLE COLORADO RIVER  
13 SYSTEM AND SOURCE  
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Civil Case No. CV6417-300

ORDER APPROVING STIPULATION  
REGARDING DISPUTE OF  
OWNERSHIP OF REAL PROPERTY  
AND RELATED WATER CLAIMS

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17 CONTESTED CASE NAME: *In re Navajo Nation*

18 HSR INVOLVED: Navajo Reservation Hydrographic Survey Report.


19 DESCRIPTIVE SUMMARY: Stipulation regarding dispute of ownership of real property and  
20 related water claims approved.

21 NUMBER OF PAGES: 6


22 DATE OF FILING: November 22, 2022

23 Having reviewed the November 1, 2022 Stipulation Regarding Dispute of Ownership of  
24 Real Property and Related Water Claims in the In re Navajo Nation contested case, and good  
25 cause appearing:  
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1 IT IS ORDERED that the stipulation, attached as Exhibit 1 to this order, is approved and  
2 will be applied to the water right decree for the Navajo Reservation with the Arizona portion of  
3 the Little Colorado River Basin.

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7 Susan Ward Harris  
8 Special Master

9 On November 22, 2022, the original of the foregoing was  
10 delivered to the Clerk of the Apache County Superior  
11 Court for filing and distributing a copy to all persons  
12 listed on the Court-approved mailing list for this contested  
13 case.

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15 Emily Natale  
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*Attorneys for Atkinson Trading Company, Inc.*

**SUPERIOR COURT OF ARIZONA**

**APACHE COUNTY**

IN RE: THE GENERAL ADJUDICATION OF  
ALL RIGHTS TO USE WATER IN THE  
LITTLE COLORADO RIVER SYSTEM AND  
SOURCE

Civil No. CV 6417-300

**STIPULATION REGARDING  
DISPUTE OF OWNERSHIP OF  
REAL PROPERTY AND  
RELATED WATER CLAIMS**

CONTESTED CASE NAME: *In re Navajo Nation (No. CV6417-300) (Phase I)*

HSR INVOLVED: Final Navajo Reservation Hydrographic Survey Report within the LCR Watershed, DCML, Stock and Wildlife Watering, & Stockponds

DESCRIPTIVE SUMMARY: The Undersigned Parties submit their Stipulation regarding Dispute of Ownership of Real Property and Related Water Claims

NUMBER OF PAGES: [4] pages (excluding exhibits)

DATE OF FILING: Original transmitted to the Clerk of the Court on November 1, 2022.

The Navajo Nation ("Nation"), the United States, and Atkinson Trading Company ("Atkinson") (the Nation, the United States, and Atkinson collectively referred to herein as "Parties" and individually as "Party") hereby enter into the following Stipulation Regarding Dispute of Ownership of Real Property and Related Water Claims ("Stipulation"). The Parties stipulate as follows:

1. The Parties dispute ownership of real property located in T29N R9E section 22 between the west bank of the Little Colorado River ("LCR") and the centerline of the LCR as generally indicated in the attached map (Exhibit A) (hereafter, "Disputed Property").<sup>1</sup>
2. Atkinson currently has two (2) wells on the Disputed Property ("Atkinson Wells"), permitted by the Arizona Department of Water Resources.

<sup>1</sup> Exhibit A is presented for demonstrative purposes only.



- 1 3. The Parties agree that resolution of ownership of the Disputed Property is not a proper issue  
2 for *In re the General Adjudication of all Rights to use Water in the Little Colorado System*  
3 and Source ("General Stream Adjudication"), and none of the Parties is asking or will ask  
4 the court in this General Stream Adjudication to address or resolve ownership of the  
5 Disputed Property.<sup>2</sup>
- 6 4. The Nation and the United States agree that Atkinson may assert a claim to water rights  
7 related to the Disputed Property in the appropriate contested case in the General Stream  
8 Adjudication as though no dispute between the Parties exists as to such property rights, and  
9 the Nation and the United States will not object to Atkinson's claim to water rights on the  
10 basis of ownership of the Disputed Property.
- 11 5. Atkinson agrees that the Nation, or the United States on the Nation's behalf, may assert a  
12 claim to water rights related to the Disputed Property in the appropriate contested case in  
13 the General Stream Adjudication as though no dispute between the Parties exists as to such  
14 property rights, and Atkinson will not object to the Nation's and/or the United States' claims  
15 on the Nation's behalf to water rights on the basis of ownership of the Disputed Property.
- 16 6. The Parties agree that any water right decreed in the General Stream Adjudication to any  
17 Party to this Stipulation may be subject to a final decision of any forum with jurisdiction to  
18 resolve ownership of the Disputed Property.
- 19 7. The Parties agree that this Stipulation shall be included and attached to any water right  
20 decreed in the General Stream Adjudication to any Party to this Stipulation.
- 21 8. No Party to this Stipulation shall present, assert, establish, or defend its alleged superior  
22 claim to the Disputed Property as against the claims of any other such Party in a manner  
23 inconsistent with this Stipulation.
- 24 9. The Parties agree that no Party shall disturb, disrupt, or otherwise interfere with in any  
25 manner current and ongoing water uses on or from the Disputed Property or assert or seek  
26 to challenge jurisdiction or other control over the Atkinson Wells as long as there remains  
a dispute regarding ownership of the Disputed Property.
10. Nothing in this Stipulation compromises in any way any Party's rights or claims regarding  
the Disputed Property, including the right to assert and prosecute a claim regarding the  
Disputed Property in an appropriate forum outside the context of the General Stream  
Adjudication.

21 If this Stipulation is not approved by the Court, the Parties agree that this Stipulation  
22 shall not be cited, referred to, or offered into evidence by any Party in any circumstance.  
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25 <sup>2</sup> By entering into this Stipulation, unless otherwise provided by law, the United States and the Nation do not subject  
26 themselves to suit or otherwise waive their sovereign immunity in any manner, including related to quiet title actions  
associated with trust or restricted Indian lands.

1 RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of November, 2022.  
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4 Todd Kim  
5 Assistant Attorney General  
6 Vanessa Boyd Willard  
7 Cody L.C. McBride  
8 Andrew "Guss" Guarino  
9 Emmi Blades  
10 Rebecca M. Ross  
11 Trial Attorneys, Indian Resources Section  
12 Environment and Nat'l Resources Division  
13 United States Department of Justice

14 By: /s/ with permission

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17 Judith M. Dworkin  
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20 Candace D. French  
21 and  
22 Doreen N. McPaul  
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24 By: /s/ with permission

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By: /s/ Maria O'Brien

*Attorneys for Atkinson Trading Company, Inc.*

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**CERTIFICATE OF SERVICE**

The original and two copies of the foregoing sent via Federal Express this 1<sup>st</sup> day of November, 2022 to:

Clerk of the Superior Court  
Apache County  
70 W. 3<sup>rd</sup> South  
St. Johns, AZ 85936

A copy of the foregoing sent via Federal Express the 1<sup>st</sup> day of November, 2022 to:

Susan Ward Harris  
Special Master  
Central Court Building, Suite 3A  
201 West Jefferson  
Phoenix, AZ 85003

Copies of the foregoing were sent by first class mail this 1<sup>st</sup> day of November, 2022 to:

All persons on the court-approved mailing list for Little Colorado River Adjudication, No. CV 6417-300 dated October 21<sup>st</sup>, 2022.

/s/ Maria O'Brien  
Maria O'Brien