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4 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

5 **IN AND FOR THE COUNTY OF APACHE**
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9 IN RE THE GENERAL
10 ADJUDICATION OF ALL RIGHTS TO
11 USE WATER IN THE LITTLE
12 COLORADO RIVER SYSTEM AND
SOURCE

Contested Case No. CV6417-300

**ORDER DENYING MOTION FOR
CLARIFICATION**

13 On December 20, 2023, the parties to this case filed a Joint and Unopposed Motion
14 for Clarification regarding the page limits permitted for responses to the proposed findings
15 of fact and conclusions of law previously submitted in this case. In an August 2, 2023,
16 minute entry, at the conclusion of the 2023 trial, this court limited responses to 75 pages.
17 That limit was deliberately meant to include responses to both briefings and the proposed
18 findings of fact and conclusions of law.

19 Both the Arizona Rules of Civil Procedure and the Arizona Rules of Evidence
20 empower courts to limit proceedings such that a timely ruling at reasonable expense to the
21 parties may be provided.¹ While it is expected that upon closer inspection, many of the
22 findings of facts are duplicative of one another and there is some agreement, among all
23 parties nearly 1,400 findings of fact were presented. An initial review of many of the
24 findings found they are restatements of witnesses' opinions, where the opinion itself may
25 not present genuinely factual information. Although it may be factual that a particular
26 statement was made by the witness who made it, the information in the statement remains

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28 ¹ Arizona Rule of Civil Procedure 1 states that the rules of civil procedure "should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding." Ariz. R. Civ. Pro. 1. Arizona Rule of Evidence 102 states that the rules of evidence "should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination."

1 an opinion. If parties find that a witness's opinion rises to a finding of fact, the finding
2 should include language supporting the statement as something more than simply this
3 expert's view.

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5 **IT IS ORDERED** that the 75-page limit for response briefs includes both responses
6 to post trial briefing and proposed findings of fact and conclusions of laws. The Court is
7 looking for assistance in deciphering what the parties find undisputed facts, and where there
8 is agreement, nuanced as it may be, on the relevancy of those facts. Parties should focus on
9 statements where they agree in truth and relevance. Response briefs shall be filed no later
10 than **February 16, 2024**.

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12 **IT IS FURTHER ORDERED** that only the Navajo Nation and the United States
13 are permitted to file final replies by **March 15, 2024**. Such replies may address any
14 briefings, any proposed findings of fact, and any conclusions of laws, however the replies
15 shall not be more than 25 pages total.

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17 dated this 9th day of January, 2024.

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Sherri L. Zendri
Special Water Master

On January 9, 2024, the original of the
foregoing was delivered to the Clerk of the
Apache County Superior Court for filing and
distributing a copy to all persons listed on the
Court-approved mailing list for this contested
case.

—
Emily Natale