

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

09/18/2018

CLERK OF THE COURT
FORM V000

SPECIAL WATER MASTER SUSAN WARD
HARRIS

A. Hatfield

Deputy

FILED: 10/2/2018

In re: the General Adjudication
of All Rights to Use Water in the
Little Colorado River System and Source

CV 6417-203

In re: Hopi Reservation HSR

In re: Trial to the Court Day Six

MINUTE ENTRY

Courtroom: ECB 613

10:30 a.m. This is the time set for Trial to the Court before Special Water Master Susan Ward Harris.

The following attorneys and parties appear in-person: Jeffrey Leonard, Judith Dworkin and Evan Hiller on behalf of the Navajo Nation; Carrie Brennan and Kevin Crestin on behalf of the Arizona State Land Department; Brian Heiserman on behalf of the LCR Coalition; Erin Byrnes and Lee Storey on behalf of the City of Flagstaff; R. Jeffrey Heilman and Mark McGinnis on behalf of the Salt River Project; Cody McBride and Vanessa Willard on behalf of the United States Department of Justice; Grace Rebling and Colin Campbell on behalf of the Hopi Tribe; Kimberly Parks on behalf of the Arizona Department of Water Resources; Susan Montgomery on behalf of the Yavapai-Apache Nation and the Pascua Yaqui Tribe

Court reporter, Luz Franco, is present and a record of the proceedings is made digitally.

LET THE RECORD REFLECT that the portions of U.S. exhibit 1 as ordered in evidence on September 11, 2018 and September 12, 2018 have been submitted to the above named clerk and is identified as U.S. exhibit 821, in evidence.

LET THE RECORD FURTHER REFLECT that the status of U.S. exhibit 1 remains marked for identification, not in evidence.

LET THE RECORD REFLECT that the portions of U.S. exhibit 694 as ordered in evidence on September 17, 2018 has been submitted to the above named clerk and is identified as U.S. exhibit 822, in evidence.

LET THE RECORD FURTHER REFLECT that the status of U.S. exhibit 694 remains marked for identification, not in evidence.

LET THE RECORD REFLECT that the portions of U.S. exhibit 653 as ordered in evidence on September 17, 2018 has been submitted to the above named clerk and is identified as U.S. exhibit 822, in evidence.

LET THE RECORD FURTHER REFLECT that the status of U.S. exhibit 653 remains marked for identification, not in evidence.

Mr. Campbell on behalf of the Hopi Tribe submits a Bench Memorandum on the issue of the admission of expert reports under Rule 611 for the Court's review and consideration.

Christopher Banet resumes the stand and continues to testify.

U.S. exhibit 675 is received into evidence.

Portions of U.S. exhibit 668, specifically pages 1 and 2 are received in evidence. U.S. exhibit 668 having been submitted in electronic format only, Counsel for U.S. is directed to submit a revised electronic file to the courtroom clerk containing only the portions in evidence for identification and retention as admitted.

The witness is excused.

11:42 a.m. The Court stands at recess.

1:30 p.m. Court reconvenes with the parties and respective counsel present.

Court reporter, Barbara Stockford, is present and a record of the proceedings is made digitally.

Discussion is held regarding the bench memorandum on the issue of expert reports.

Further discussion is held concerning witness schedules.

Dr. Brent Cody is sworn and testifies.

U.S. exhibit 565 and 564 are received in evidence.

3:02 p.m. The Court stands at recess.

3:15 p.m. Court reconvenes with the parties and respective counsel present.

Court reporter, Barbara Stockford, is present and a record of the proceedings is made digitally.

Dr. Brent Cody continues to testify.

U.S. exhibit 730 is received in evidence.

The Witness is excused.

4:15 p.m. The Court stands at recess. Court will resume September 20, 2018 at 10:30 a.m.

LATER

Navajo exhibits 607-614 are lease documents for Peabody Western Coal Company to conduct mining operations on lands within the Hopi and the Navajo Reservations. The leases were produced by the United States following the issuance of an unopposed protective order limiting access to the documents due to the inclusion of proprietary information. Pursuant to Rule 123(c)(1), Rules of the Arizona Supreme Court, the confidentiality of documents can be protected at trial through the sealing of the record and (if requested and appropriate) the closing of the courtroom to certain portions of the trial proceedings where the confidential information is discussed. *Catrone v. Miles*, 215 Ariz. 446, 456, 160 P.3d 1204, 1214 (Ct. App. 2007). Accordingly, to continue the protection of the proprietary information contained in Navajo exhibits 607-614, access to the exhibits shall be restricted and not accessible to the public. The clerk is directed to delete Navajo Exhibits 607-614 from the set of electronic provided by the parties. The United States is further directed to submit paper copies of Navajo exhibits 607-614 to the clerk and the Clerk of the Court is further directed to take the action necessary to maintain the confidentiality of Navajo exhibits 607-614.

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case No. CV6417-203.