

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

June 27, 2023

CLERK OF THE COURT

SPECIAL WATER MASTER
SHERRI ZENDRI

A. Parmar
Deputy

FILED: June 30, 2023

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

Case No. CV6417-300

In Re: Navajo Nation

**MINUTE ENTRY
TRIAL DAY 26**

Courtroom 613 – East Court Building

8:57 a.m. This is the time set for Trial to Court regarding Phase 1 – DCMI and Stock/Wildlife Watering before Special Water Master Sherri Zendri.

The following attorneys appear in person:

- Jeffrey S. Leonard, Evan Hiller, Judith M. Dworkin and Candace French on behalf of the Navajo Nation
- Gus Guarino and Cody McBride on behalf of the United States Department of Justice
- Phillip Londen and Payslie Bowman on behalf of the Hopi Tribe
- Kate Shaffer on behalf of the San Juan Southern Paiute Tribe
- Brian J. Heiserman and Brad Pew on behalf of the LCR Coalition (“LCRC”)
- Katrina Wilkinson and Mark McGinnis on behalf of Salt River Project (“SRP”)
- Carrie Brennan and Kevin Crestin on behalf of the Arizona State Land Department (“ASLD”)
- Chris Thomas, Lee Storey and Luke Erickson on behalf of the City of Flagstaff

Court Reporter, Nicole Buldis, is present. A record of the proceedings is also made digitally.

LET THE RECORD REFLECT that Court Reporter, Nicole Buldis, was previously sworn on the third day of trial.

Witness, Jason John, is sworn and testifies.

Counsel for Navajo Nation, Mr. Leonard, moves for the admission of Navajo Nation's exhibit 455. Counsel for City of Flagstaff, Mr. Thomas, objects to the admission of a draft report.

The Court will address the admission of the exhibit after the morning break.

Witness, Jason John, testifies further.

Counsel for City of Flagstaff, Mr. Thomas, objects to the witness giving expert opinions as a fact witness. Counsel for Navajo Nation, Mr. Leonard, states that the witness has personal knowledge due to his employment.

The objection is overruled.

Witness, Jason John, testifies further.

Counsel for City of Flagstaff, Mr. Thomas, objects to the witness providing expert opinions to hypotheticals presented by Mr. Leonard.

The objection is overruled.

Witness, Jason John, testifies further.

Counsel for City of Flagstaff, Mr. Thomas, objects to the witness providing his opinion regarding the City of Flagstaff's systems.

The objection is sustained.

Witness, Jason John, testifies further.

Counsel for LCRC, Mr. Pew, objects to the witness providing expert testimony regarding reclaimed water.

The objection is sustained.

Witness, Jason John, testifies further.

Counsel for City of Flagstaff, Mr. Thomas, objects to the witness testifying regarding a legal statute as it calls for a legal opinion.

Mr. Leonard is directed to review his disclosures regarding this witness during the morning break and ensure the testimony remains appropriate for a fact witness.

10:28 a.m. The Court stands in recess.

10:45 a.m. The Court reconvenes with the above-named parties.

Court Reporter, Nicole Buldis, is present. A record of the proceedings is also made digitally.

Witness, Jason John, testifies further.

Upon motion of the Navajo Nation, City of Flagstaff's exhibit 186 is received in evidence.

Counsel for Navajo Nation, Mr. Leonard, moves for the admission of Navajo Nation's exhibit 455. Counsel for City of Flagstaff, Mr. Thomas, withdraws his objection as the city did not list any objection on the exhibit list or pretrial statement.

Navajo Nation's exhibit 455 is received in evidence.

Witness, Jason John, testifies further.

Counsel for Navajo Nation, Mr. Leonard, objects to the witness giving expert testimony regarding a report on the Tuba City public water system.

Counsel for Hopi Tribe, Mr. Londen, is directed to establish proper foundation for the witness' knowledge on the report.

Witness, Jason John, testifies further.

Upon motion of the LCRC, Navajo Nation's exhibit 1007 is received in evidence.

Witness, Jason John, testifies further.

Upon motion of the City of Flagstaff, Navajo Nation's exhibit 1013 is received in evidence.

12:00 p.m. The Court stands in recess.

1:30 p.m. The Court reconvenes with the above-named parties present.

Court Reporter, Nicole Buldis, is present. A record of the proceedings is also made digitally.

Witness, Jason John, testifies further.

Upon motion of the City of Flagstaff, Navajo Nation's exhibit 973 and United States' exhibit 136 are received in evidence.

Witness, Jason John, testifies further.

Counsel for Navajo Nation, Mr. Leonard, objects to the witness testifying about water pumped in New Mexico as to relevance.

The objection is overruled. Mr. Thomas is directed to keep the boundaries of his questioning a little closer to Arizona. Mr. McGinnis adds that even if this Court does not have jurisdiction over water in New Mexico, it can consider other water for its allocation.

Witness, Jason John, testifies further.

Counsel for City of Flagstaff, Mr. Thomas, objects to the witness being asked to interpret language in Public Law 111-11 as it calls for a legal opinion.

The objection is sustained.

Witness, Jason John, testifies further.

Counsel for LCRC, Mr. Pew, objects to the line of questioning regarding the estimation/planning for commercial and industrial use as improper expert testimony. Counsel for Navajo Nation, Mr. Leonard, responds that the witness has knowledge of this planning as director of the Navajo Nation Department of Water Resources. Counsel for City of Flagstaff, Mr. Thomas, joins in the objection.

The objection is sustained. Mr. Leonard is permitted to ask the witness what he has done in the past, but not future projections.

Witness, Jason John, testifies further.

The witness is excused.

Discussion is held regarding the remaining objectors' opening statements and scheduling in August. Ms. Brennan adds that the Arizona Water Law Conference is on August 3rd and 4th and is unsure if the Claimants will be done with their rebuttal case before then. To the extent it is possible, the Court would like the Claimants' rebuttal witnesses to be ready to testify after Dr. Tayman. SRP and City of Flagstaff both deferred their opening statements. The City of Flagstaff plan to present their opening statement after Dr. Jim's testimony. SRP explains that if they choose to present an opening statement, it will be after Dr. Jim's testimony as well.

2:46 p.m. This matter stands in recess until Monday July 10, 2023.

A copy of this minute entry is provided to all parties on the Court approved mailing list.

NOTE: All court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for a half-day and \$280 for a full day.