

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

May 11, 2023

CLERK OF THE COURT

SPECIAL WATER MASTER
SHERRI ZENDRI

A. Parmar
Deputy

FILED: May 17, 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 10**

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 Candance French on behalf of the Navajo Nation
- Gus Guarino and Rebecca Ross 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
- Bradley 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”)
- Ethan Minkin on behalf of the City of Flagstaff
- Maria O’Brien on behalf of Atkinson Trading Company

Court Reporter, Cindy Mahoney, is present. A record of the proceedings is also made digitally.

LET THE RECORD REFLECT that Court Reporter, Cindy Mahoney, was previously sworn on the first day of trial.

Counsel for the United States, Mr. Guarino, addresses the Court regarding the stipulation between the United States and Atkinson Trading Company. The parties agree that the United States will redact the first three pages of Dr. Camilli's report (United States' exhibit 1231) to avoid any potential dispute over a small area of land within the study area.

Witness, Dr. Eileen Camilli, is sworn and testifies.

LET THE RECORD FURTHER REFLECT Counsel for the Hopi Tribe, Mr. Londen, addresses the Court regarding the United States' demonstrative exhibit D1. The Hopi Tribe does not object to its use at this time in this Phase I trial; however the Hopi would object to any use regarding priority purposes and notes that priority issues are reserved for the Phase 2 trial.

Witness, Dr. Eileen Camilli, testifies further.

United States' exhibits 1149, 1150 and 1231 are received in evidence.

Counsel for the United States, Mr. Guarino, objects to the witness testifying regarding the occupation of the San Juan Southern Paiute Tribe as to relevance and speculation.

Counsel for the San Juan Southern Paiute Tribe, Ms. Shaffer, references the Minute Entry dated February 28, 2023, regarding the Motion for Summary Judgment and Rule 611(b) regarding the scope of cross examination.

The objection is overruled.

Witness, Dr. Eileen Camilli, testifies further.

Counsel for the United States, Mr. Guarino, objects to the witness testifying about prior statements not in this Court.

Counsel for the San Juan Southern Paiute, Ms. Shaffer, requests to read the witness' deposition transcript regarding the witness' prior statements on the San Juan Southern Paiute Tribe.

The objection is overruled and counsel is permitted to read from the transcript.

Witness, Dr. Eileen Camilli, testifies further.

Counsel for the Navajo Nation, Mr. Leonard, objects to the line of questioning regarding occupation as to relevance.

Counsel for San Juan Southern Paiute Tribe, Ms. Shaffer, states the questioning is regarding ownership of water rights not occupation and believes this to be an issue preserved by the Court's Minute Entry dated February 28, 2023.

Counsel for the United States, Mr. Guarino, joins in the Navajo Nation's relevance objection.

The objection is sustained.

Witness, Dr. Eileen Camilli, testifies further.

The witness is excused.

10:09 a.m. The Court stands in recess.

10:25 a.m. The Court reconvenes with the above-named parties present.

Court Reporter, Cindy Mahoney, is present. A record of the proceedings is also made digitally.

Witness, Douglas Capitan, is sworn and testifies.

Counsel for ASLD, Ms. Brennan, objects as to disclosure regarding this witness testifying about the Census or problems with the Census data.

Counsel for LCRC, Mr. Pew, and Counsel for SRP, Ms. Wilkinson, joins in ASLD's objection.

The objection is sustained.

Witness, Douglas Capitan, testifies further.

Counsel for ASLD, Ms. Brennan, objects as to foundation regarding this witness opining on the reliability of statistics for population.

Counsel for LCRC, Mr. Pew, joins in the objection and objects as to disclosure as this witness was not disclosed to testify regarding the reliability or validity of Census data.

Counsel for SRP, Ms. Wilkinson, joins in both ASLD's and LCRC's objections.

The objection is sustained.

Witness, Douglas Capitan, testifies further.

Navajo Nation's exhibit 1088 is received in evidence.

Counsel for ASLD, Ms. Brennan, moves to strike as nonresponsive and objects as to foundation regarding this witness' testimony on his feelings regarding the data.

Counsel for LCRC, Mr. Pew, joins in ASLD's objection and again objects as to disclosure. He further elaborates that the witness was disclosed to speak about the Navajo Nation Division of Economic Development's activities, however, population and Census data is a largely disputed issue in this case and if this witness was going to testify about such issues, it should have been disclosed.

Counsel for SRP, Ms. Wilkinson, joins in both ASLD's and LCRC's objections.

IT IS ORDERED granting the Motion to Strike.

The objections as to foundation and disclosure are sustained.

Witness, Douglas Capitan, testifies further.

Navajo Nation's exhibit 1225, 1226, 1227 and 1341 received in evidence.

The witness is excused.

12:01 p.m. This matter stands in recess until Monday, May 15, 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.