

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

May 4, 2023

CLERK OF THE COURT

SPECIAL WATER MASTER
SHERRI ZENDRI

A. Parmar
Deputy

FILED: May 5, 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 8**

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
- Rebecca Ross on behalf of the United States Department of Justice
- Phillip Londen and Payslie Bowman on behalf of the Hopi Tribe
- Julia Kolsrud on behalf of the San Juan Southern Paiute Tribe
- Brian J. Heiserman on behalf of the LCR Coalition (“LCRC”)
- Katrina Wilkinson on behalf of Salt River Project (“SRP”)
- Carrie Brennan on behalf of the Arizona State Land Department (“ASLD”)
- Ethan Minkin on behalf of the City of Flagstaff

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.

LET THE RECORD FURTHER REFLECT that although he is not making an official appearance, Agency Attorney, Larry Ruzow, of the Federal Office of the Navajo Hopi Indian Relocation appears informally with Witness, Bill Inman.

Witness, Bill Inman, is sworn and testifies.

The witness is excused.

Witness, Brian Parrish, is sworn and testifies.

Navajo Nation's exhibit 1212 is received in evidence.

10:29 a.m. The Court stands in recess.

10:44 a.m. The Court reconvenes with the above-named counsel present.

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

Witness, Brian Parrish, testifies further.

Navajo Nation's exhibits 1141 and 1142 are received in evidence.

Counsel for the LCRC, Mr. Heiserman, objects to this witness testifying regarding the 2020 Census as to foundation and disclosure. Counsel for ASLD, Ms. Brennan, joins in the objection.

The objection is sustained.

Witness, Brian Parrish, testifies further.

LET THE RECORD REFLECT that Navajo Nation had previously designated exhibit 1164 as confidential. Counsel for the Navajo Nation, Mr. Hiller, notes that the exhibit does not need to be designated as confidential.

Navajo Nation's exhibit 1164 is received in evidence.

LET THE RECORD FURTHER REFLECT that the Court had previously granted the Navajo Nation's request to seal the confidential portions of Mr. Parrish's testimony on May 2, 2023. At 11:19 a.m., Counsel for Navajo Nation, Mr. Hiller, indicates

the start of the confidential testimony and the Courtroom is sealed from the public. The observers are excused from the courtroom until the confidential testimony is completed and the Court's staff disables the live feed.

Witness, Brian Parrish, testifies further.

Counsel for the ASLD, Ms. Brennan, objects to the admission of the Navajo Nation's exhibit 1162 as to foundation and hearsay.

Counsel for the Navajo Nation, Mr. Hiller, he believes the witness is able to authenticate the exhibit as required by Rule 901 and that exhibit falls under the hearsay exception for business records under Rule 803 and 806 of the Arizona Rules of Evidence.

Over the objection of ASLD,

Navajo Nation's exhibit 1162 is received in evidence, however, Ms. Brennan's comments are noted by the Court.

Witness, Brian Parrish, testifies further.

Navajo Nation's exhibits 1165, 1166, 1167 and 1168 are received in evidence.

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

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

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

LET THE RECORD REFLECT that the Courtroom remains sealed from the public, with the exception of counsel, McArthur Stant, observing on behalf of the Navajo Nation Department of Justice.

Witness, Brian Parrish, testifies further.

Navajo Nation's exhibits 1161 and 1170 are received in evidence.

The Court inquires as to why Navajo Nation's exhibit 1170 should be designated confidential.

Counsel for the Navajo Nation, Mr. Hiller, states that he will confer with his clients and revisit the issue of whether this exhibit should be confidential at a later date.

Discussion is held regarding cross on the confidential exhibits/topics.

LET THE RECORD REFLECT that Counsel for LCRC, Mr. Heiserman, has cross examination on the confidential topics discussed during his direct testimony. The parties agree to go out of order and allow Mr. Heiserman to conduct cross examination regarding the confidential topics while the courtroom is sealed.

Witness, Brian Parrish, testifies further.

LET THE RECORD FURTHER REFLECT that at 1:51 p.m., Mr. Parrish's confidential testimony ends and the Court unseals the courtroom. The observer is permitted to enter the courtroom and the live feed resumes.

Witness, Brian Parrish, testifies further.

The witness is excused.

By motion of the Navajo Nation and pursuant to the previously granted protective order,

IT IS ORDERED designating Navajo Nation's exhibits 1161, 1162, 1165, 1166, 1167, 1168 and 1170 as confidential.

IT IS FURTHER ORDERED sealing the portion of the court proceeding held on May 4, 2023 between 11:19 a.m. through 12:00 p.m. and 1:30 p.m. through 1:51 p.m. not to be opened or transcribed without further order of the Court.

IT IS FURTHER ORDERED directing court reporter, Cindy Mahoney, to transcribe and seal the court proceeding held on May 4, 2023 between 11:19 a.m. through 12:00 p.m. and 1:30 p.m. through 1:51 p.m., not to be opened without further order of the Court.

IT IS FURTHER ORDERED permitting court reporter, Cindy Mahoney, to release a copy of said sealed transcript to the attorneys in this case:

- Jeffrey S. Leonard, Evan Hiller, Judith M. Dworkin and Candance French on behalf of the Navajo Nation
- Rebecca Ross on behalf of the United States Department of Justice
- Phillip Londen and Payslie Bowman on behalf of the Hopi Tribe
- Julia Kolsrud on behalf of the San Juan Southern Paiute Tribe
- Brian J. Heiserman on behalf of the LCR Coalition ("LCRC")
- Katrina Wilkinson on behalf of Salt River Project ("SRP")
- Carrie Brennan on behalf of the Arizona State Land Department ("ASLD")
- Ethan Minkin on behalf of the City of Flagstaff

2:10 p.m. This matter stands in recess until Monday, May 8, 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.

CC: CTS Technical Support
Electronic Records Services Manager
Cindy Mahoney