

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

June 20, 2023

CLERK OF THE COURT

SPECIAL WATER MASTER
SHERRI ZENDRI

A. Parmar
Deputy

FILED: June 22, 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 23

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 and Judith M. Dworkin on behalf of the Navajo Nation
- Gus Guarino and Emmi Blades on behalf of the United States Department of Justice
- Phillip Londen and Brandon Delgado on behalf of the Hopi Tribe
- Irania Fimbres-Ruiz on behalf of the San Juan Southern Paiute Tribe
- David Brown and Brian J. Heiserman 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
- Maria O’Brien on behalf of Atkinson Trading Company

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

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

The Court addresses the parties regarding disclosure statements.

IT IS ORDERED affirming Rule 611(b) of the Arizona Rules of Evidence; a witness may be cross examined on any relevant matter.

Witness, Dr. John Leeper, having been previously sworn, testifies.

Counsel for Navajo Nation, Mr. Leonard, objects to the witness testifying regarding a draft report as to hearsay and testifying regarding lakes outside of the basin as to relevance. Counsel for City of Flagstaff, Mr. Thomas, notes that Tucker Flat is listed in Table 8-1 of the witness' inventory report.

The objections are overruled.

Witness, Dr. John Leeper, testifies further.

Counsel for City of Flagstaff, Mr. Thomas, moves for the admission of City of Flagstaff's exhibit 228. Counsel for Navajo Nation, Mr. Leonard, objects as to relevance, foundation, and hearsay. Counsel for United States, Mr. Guarino, objects as to relevance.

The objections are sustained and City of Flagstaff's exhibit 228 is not admitted.

Witness, Dr. John Leeper, testifies further.

Navajo Nation's exhibits 379, 380 and 381 are received in evidence.

Counsel for City of Flagstaff, Mr. Thomas, objects to the witness testifying regarding the cost effectiveness of DCMI supply from any of the inventoried sources.

The objection is overruled.

Witness, Dr. John Leeper, testifies further.

Counsel for ASLD, Ms. Brennan, objects to the witness testifying regarding population as outside the scope of cross examination. Counsel for SRP, Mr. McGinnis, joins. Counsel for City of Flagstaff, Mr. Thomas, objects as to relevance.

The objections are sustained.

Witness, Dr. John Leeper, testifies further.

LET THE RECORD REFLECT that Counsel for Navajo Nation, Mr. Leonard, attempts to use a demonstrative exhibit, an excerpt from legislation. The excerpt is provided to the parties and the Court.

Counsel for City of Flagstaff, Mr. Thomas, objects to the witness providing legal opinions to legislation. Counsel for SRP, Mr. McGinnis, objects to the demonstrative exhibit as it is not on the exhibit list nor was it provided to the parties within three days.

The objections are sustained. Counsel for Navajo Nation, Mr. Leonard, instead asks the Court to take judicial notice of Sections 10602 and 10603 of Public Law 111-11.

IT IS ORDERED granting the Navajo Nation's Oral Motion to Take Judicial Notice. The Court will take judicial notice of Sections 10602 and 10603 of Public Law 111-11 without prejudice to any objectors presenting argument later on.

Counsel for LCRC, Mr. Heiserman, adds that it is his LCRC's position that any party at any point may cite to the sections without the Court taking judicial notice because it is a statute/legal authority. Counsel for the Hopi Tribe, Mr. Londen, agrees with LCRC, and believes the parties may cite treaties and legislation at any point.

Witness, Dr. John Leeper, testifies further.

The witness is excused.

10:31 a.m. The Court stands in recess.

10:44 a.m. The Court reconvenes with the above-named counsel present, with the exception of Chris Thomas for the City of Flagstaff.

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

Witness, Dr. Tamzen Stringham, is sworn and testifies.

United States' exhibits 1285 and 1330 are received in evidence.

Upon motion of the United States, LCRC's exhibits 82 and 83 are received in evidence.

Witness, Dr. Tamzen Stringham, testifies further.

The witness is excused.

Counsel for Navajo Nation, Mr. Leonard, addresses the Court regarding preliminary issues related to Mr. Greenslade.

Witness, William Greenslade, is sworn and testifies.

Navajo Nation's exhibits 387, 388, 390, 391 and 397 are received in evidence.

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

1:27 p.m. The Court reconvenes with the above-named parties present with the exception of David Brown for the LCR Coalition. Ethan Minkin is now present on behalf of the City of Flagstaff.

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

Witness, William Greenslade, testifies further.

2:46 p.m. **LET THE RECORD REFLECT** that Maria O'Brien of Atkinson Trading Company is no longer present.

Witness, William Greenslade, testifies further.

3:01 p.m. The Court stands in recess.

3:15 p.m. The Court reconvenes with the above-named parties present.

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

Witness, William Greenslade, testifies further.

The witness is excused.

Counsel for Navajo Nation, Mr. Leonard, addresses the Court regarding the witness schedule. He adds that tomorrow's witness, Ms. Starosta, will not be flying into Phoenix until 8:00 a.m. tomorrow morning. The parties agree to starting at 10:00 a.m. on Wednesday in place of 9:00 a.m.

3:34 p.m. This matter stands in recess until Wednesday, June 21, 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.