

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

July 27, 2023

CLERK OF THE COURT

SPECIAL WATER MASTER
SHERRI ZENDRI

A. Parmar
Deputy

FILED: August 1, 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 38**

Courtroom 613 – East Court Building

9:00 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 Dworkin on behalf of the Navajo Nation
- Guss Guarino and Cody McBride on behalf of the United States Department of Justice
- Phillip Londen on behalf of the Hopi Tribe
- Julia Kolsrud on behalf of the San Juan Southern Paiute Tribe
- Brian Heiserman, David Brown and Brad Pew on behalf of the LCR Coalition (“LCRC”)
- Katrina Wilkinson and Mark McGinnis on behalf of Salt River Project (“SRP”)
- Kevin Crestin and Carrie Brennan on behalf of the Arizona State Land Department (“ASLD”)
- Lee Storey, Ethan Minkin and Luke Erickson 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.

The Court addresses the parties regarding Mr. Hiller's disclosure and relevance objection. There is room for argument regarding the disclosure issues, however there is a relevance issue therefore the objection is sustained and no more testimony regarding differential privacy will be permitted from this witness.

Counsel for Navajo Nation, Mr. Leonard, inquires if the testimony regarding differential privacy will be stricken.

The Court will not strike any testimony from yesterday however the lack of relevance of the testimony is noted in the record.

Witness, Dr. Jim Chang, having been previously sworn, testifies further.

Counsel for ASLD, Ms. Brennan, objects to the witness opining on whether his projections were meant for a permanent homeland as it calls for a legal conclusion.

The objection is sustained; however, Mr. McBride is permitted to rephrase the question without using legal terms.

Witness, Dr. Jim Chang, testifies further.

Counsel for LCRC, Mr. Pew objects to the witness being questioned regarding any trial preparation with LCRC and ASLD as to relevance.

The objection is sustained.

Witness, Dr. Jim Chang, testifies further.

10:32 a.m. The Court stands in recess.

10:46 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, Dr. Jim Chang, testifies further.

Counsel for LCRC, Mr. Pew, objects to use of Navajo Nation's exhibit 1543 with this witness as hearsay within hearsay.

Mr. Hiller is directed to finish his question. The Court notes Mr. Hiller's question is not related to the exhibit. The objection is overruled.

Witness, Dr. Jim Chang, testifies further.

Counsel for LCRC, Mr. Pew, objects to the use of Navajo Nation's exhibit 1544 with this witness as hearsay within hearsay.

The objection is overruled.

Witness, Dr. Jim Chang, testifies further.

Counsel for LCRC, Mr. Pew, objects to the witness providing opinions on the validity of hearsay statements.

The objection is overruled.

Witness, Dr. Jim Chang, testifies further.

The Court inquires as to the relevance of Somerton. Mr. Hiller responds that this line of questioning is meant to address methodology and OEO (Office of Economic Opportunity) projections. The Court will permit Mr. Hiller to continue his questioning.

Witness, Dr. Jim Chang, testifies further.

Navajo Nation's exhibits 1540, 1542 and 1543 are received in evidence.

11:57 a.m. The Court stands in recess.

1:27 p.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, Dr. Jim Chang, testifies further.

The witness is excused.

ASLD rests.

Counsel for LCRC, Mr. Heiserman, addresses the Court regarding post-trial briefing. The parties were unable to present a stipulation regarding this issue as the Claimants believed the Court should issue its findings for both Phase 1 and Phase 2 after Phase 2 has concluded. The Objectors disagree and believe the Court should issue its findings regarding Phase 1 at the conclusion of Phase 1's trial.

Counsel for United States, Mr. Guarino, addresses the Court.

Counsel for Navajo Nation, Mr. Hiller, addresses the Court.

Counsel for the Hopi Tribe, Mr. Londen, addresses the Court.

Counsel for San Juan Southern Paiute Tribe, Ms. Kolsrud, addresses the Court.

Counsel for SRP, Mr. McGinnis, addresses the Court.

Counsel for City of Flagstaff, Ms. Storey, addresses the Court.

Counsel for ASLD, Ms. Brennan, addresses the Court.

Counsel for LCRC, Mr. Heiserman, addresses the Court.

Counsel for United States, Mr. Guarino, addresses the Court.

Discussion is held regarding the proposals given. The Court will not wait until the end of Phase 2 to issue some form of an interim document for Phase 1. It does agree that Navajo Nation should have the last word. The Court would like the parties to work towards a proposal that provides for page limits, scheduling and what an interim document should look like.

Counsel for City of Flagstaff, Ms. Storey, inquires if the Navajo Nation know which witnesses will be coming back. Counsel for Navajo Nation, Mr. Leonard, does not know for sure, but at this moment the Navajo Nation anticipates calling Dr. Liebler and Jason John.

2:44 p.m. This matter stands in recess until Monday, July 31, 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.