

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

May 22, 2023

CLERK OF THE COURT

SPECIAL WATER MASTER
SHERRI ZENDRI

A. Parmar
Deputy

FILED: May 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 14**

Courtroom 613 – East Court Building

8:56 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
- Emmi Blades on behalf of the United States Department of Justice
- Phillip Londen and Brandon Delgado on behalf of the Hopi Tribe
- Julia Kolsrud 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 on behalf of the Arizona State Land Department (“ASLD”)
- Ethan Minkin 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 first day of trial.

Witness, Dr. Tom Ley, is sworn and testifies.

United States' exhibits 365 and 1215 are received in evidence.

Hopi Tribe's exhibit 137 is offered into evidence. Counsel for LCRC, Mr. Heiserman, objects to Mr. Cody's report as to hearsay under Rules 801 and 802 of the Arizona Rules of Evidence. Navajo Nation and the United States join in the hearsay objection.

Counsel for Hopi Tribe, Mr. Londen, believes he is entitled to cross examine the witness regarding reports referenced in Dr. Ley's report under Rule 705 of the Arizona Rules of Evidence.

The objection is sustained and Hopi Tribe's exhibit 137 will not be admitted in evidence. However, counsel may question the witness on what he did with Dr. Cody's report.

Counsel for the Hopi Tribe, Mr. Londen, offers the exhibit as an offer of proof.

The offer of proof is noted; however, the objection stands and Hopi Tribe's exhibit 137 will not be received in evidence.

Witness, Dr. Tom Ley, testifies further.

Counsel for LCRC, Mr. Heiserman, objects to the reading of Dr. Cody's report into the record as the exhibit has not been admitted.

The objection is overruled without prejudice to Mr. Heiserman re-urging his objection once Mr. Londen has asked his question.

Witness, Dr. Tom Ley, testifies further.

Counsel for Navajo Nation, Mr. Hiller, objects to this witness testifying as to what Mr. Umstot did in his report as to foundation.

Counsel for the Hopi Tribe, Mr. Londen, withdraws his question.

Witness, Dr. Tom Ley, testifies further.

10:17 a.m. The Court stands in recess.

10:34 a.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, Dr. Tom Ley, testifies further.

Counsel for the Navajo Nation, objects to the witness being questioned regarding exclusive interest in the joint use area, as it calls for a legal conclusion.

Counsel for the San Juan Southern Paiute Tribe, Ms. Kolsrud, states that this topic is included in Dr. Ley's report and reads from the report before re-asking the question.

The objection is overruled.

Witness, Dr. Tom Ley, testifies further.

Counsel for Navajo Nation, Mr. Hiller, objects as to foundation regarding Mr. Minkin's question whether 50% is used for DCMI purposes. He states the use of the 50% figure is speculative.

Counsel for City of Flagstaff, Mr. Minkin, states he is asking the witness' opinion on the number and Rule 703 of the Arizona Rules of Evidence excludes speculation.

Discussion is held regarding Rule 602 and Rule 703 of the Arizona Rules of Evidence.

The objection is sustained.

Witness, Dr. Tom Ley, testifies further.

The witness is excused.

11:03 a.m. This matter stands in recess until Tuesday, May 23, 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.