

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

03/14/2022

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

A. Parmar
Deputy

FILED: March 23, 2022

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

Central Court Building – Courtroom 301

1:30 p.m. This is the time set for a Scheduling Conference before Special Water Master Susan Ward Harris.

The following attorneys appear via Court Connect:

- Guss Guarino on behalf of the United States Department of Justice
- Kathryn Hoover, Jeffrey S. Leonard, Evan Hiller and Judith M. Dworkin on behalf of the Navajo Nation
- Michelle Brown-Yazzie observing on behalf of the Navajo Nation Department of Justice
- Colin Campbell and Payslie Bowman on behalf of the Hopi Tribe
- Brian Heiserman and David A. Brown on behalf of the LCR Coalition
- Kevin Crestin on behalf of the Arizona State Land Department (“ASLD”)
- Mark McGinnis and Katrina L. Wilkinson of behalf of Salt River Project (“SRP”)
- Lee Storey on behalf of the City of Flagstaff
- Kimberly Parks on behalf of the Arizona Department of Water Resources (“ADWR”)

- Kate Shaffer on behalf of the San Juan Southern Paiute Tribe
- Maria O'Brien on behalf of the Atkinson Trading Company
- Michael Pearce on behalf of the Tristate Generation

A record of the proceedings is made digitally in lieu of a court reporter.

Phase II

Discussion is held regarding scheduling for the next phase of the case. Mr. Leonard presents his proposal for scheduling in this matter. Mr. Guarino states no objection to Mr. Leonard's proposal. Mr. Campbell believes 2 months should be added to the discovery/disclosure period. Mr. Brown states his proposed schedule is similar to Mr. Leonard's but does agree with Mr. Campbell that more time is needed. He believes the objectors need a year between the time when the claimants' expert reports are received and the objectors' expert reports are submitted. Mr. McGinnis also does not believe the proposal leaves sufficient time for objectors' expert reports. Mr. Crestin agrees with Mr. Brown's comments. Ms. Storey, Ms. O'Brien, and Ms. Shaffer agree with Mr. Brown's and Mr. McGinnis' comments. Mr. Pearce has nothing to add. Mr. Leonard states no objection to the addition of more time for the objectors. He will submit an amended proposal.

Phase I

The parties discuss how much more additional time is needed for Mr. Greenslade to prepare a revised report. The Court will review Mr. Greenslade's report and let the parties know which pages have been stricken.

Mr. Leonard states that Mr. Greenslade requires four months to revise his report. He proposes that any dispositive motions with respect to the groundwater hydrology be filed two weeks after completion, responses be filed within 30 days, and replies two weeks after the responses. He states that he does not believe that the trial date needs to be changed. Mr. Guarino agrees with Mr. Leonard's proposal.

Mr. Campbell has no objection to the four months for Mr. Greenslade to prepare an amended report but would like the same amount of time to submit a response report. Mr. McGinnis does not believe SRP will file a responsive expert report to the amended report. He does believe that a deadline for motions in limine should be included after the three experts' depositions are taken.

Mr. Crestin does not have a preference between Mr. Leonard's and Mr. McGinnis' proposals. Ms. Storey requests that Mr. Greenslade not listen in on the depositions to ensure his expert report is confined to a groundwater report without new information gleaned from the surface water experts. Mr. Heiserman does not object to Mr. Leonard's proposal or moving the trial a month out. Ms. Shaffer has no position on the experts, but

agrees with pushing out the deadline for motions in limine or pushing the trial a month out. Ms. O'Brien and Mr. Pearce have nothing to add at this time.

The Court is concerned with keeping a dispositive motion date before the discovery is completed. The court would like to make the dispositive motion deadline the same as the motion in limine deadline and push them out past the discovery deadline. Mr. Leonard does not believe motion in limines will need the same amount of time as dispositive motions. Further discussion is held.

Mr. McGinnis agrees with the Court's proposal of having two layers of deadlines for the separate dispositive motion deadlines. Mr. Heiserman believes it is a good idea but agrees with Mr. McGinnis with keeping a separate deadline for motions in limine.

The Court inquires if any of the parties have an objection to pushing the trial date forward and with keeping Mr. Ward's deposition deadline. No objections are stated to the trial date. Ms. Storey believes Mr. Ward's deadline should be pushed forward as well. Mr. Guarino does not believe Mr. Ward's deadline should be changed.

The Court will prepare a new schedule for the rest of Phase I. Mr. Leonard will prepare a schedule for Phase II and circulate it amongst the parties before submitting it to the Court.

2:26 p.m. Matter concludes.

LATER: Pursuant to the minute entry filed March 8, 2022, those portions of Mr. Greenslade's Report titled "Evaluation of Groundwater Availability to Meet the Navajo Nation's DDMI Claim, Contested Case No. CV6417-300 (Phase I)" shall be stricken where the Report discusses the N Aquifer and the WNHH Model developed as part of the Kyl Study. The following portions of the Report shall be replaced with the analysis and results from the replacement model chosen by Mr. Greenslade to evaluate the N Aquifer: Sections 1.0, 5.1, 6.0, 8.1, 8.2, 9.1, 10.1, and 11.0 and Figures 5-19, 27, 36-38.

Phase I Amended Case Schedule

July 15, 2022

Amended report due from William Greenslade

July 29, 2022

Discovery Concludes

Except for depositions of: William Greenslade
Neil Blandford
Mark Nichols

October 3, 2022

Expert reports responsive to Greenslade Report

November 18, 2022

Rebuttal expert report from William Greenslade

November 21, 2022

Dispositive Motions

Except for dispositive motions that involve material facts about groundwater modelling and require the deposition testimony of William Greenslade, Neil Blandford, or Mark Nichols

Responses due **January 4, 2023** and replies due **January 24, 2023**

December 16, 2022

Deposition deadline for William Greenslade, Neil Blandford, and Mark Nichols

January 13, 2023

Motions in Limine

January 13, 2023

Dispositive Motions that involve material facts about groundwater modelling and require the deposition testimony of William Greenslade, Neil Blandford, or Mark Nichols (“Groundwater Motions”)

February 17, 2023

Responses due to Groundwater Motions

March 9, 2023

Replies to Groundwater Motions

March 27, 2023

Due: Joint Pre-Trial Statement

April 10, 2023

Trial begins

A copy of this minute entry is provided to all parties on the Court approved mailing list.