

Note: Following is an unofficial copy of the Minker minute entry of March 6, 1998. For an official copy, contact the Apache County Clerk's Office at P.O. Box 365, St. Johns, AZ 85936; phone (520) 337-4364.

Some requests for copies may involve a minimal fee.

For questions concerning scheduling or procedure, contact Kathy Dolge at the Office of the Special Master, Arizona State Courts Building, 1501 W. Washington, Suite 228, Phoenix, AZ 85007; phone (602) 542-9600; TDD (602) 542-9545.

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE

THE HONORABLE MICHAEL C. NELSON, PRESIDING JUDGE

IN CHAMBERS ()

IN OPEN COURT (X)

THE HONORABLE ALLEN G. MINKER,
Visiting Judge

SUE HALL, CLERK
By: Barbara Neuzil, Deputy

IN RE THE GENERAL ADJUDICATION
OF
ALL RIGHTS TO USE WATER IN THE
LITTLE COLORADO RIVER SYSTEM
AND
SOURCE

DATE: March 6, 1998

TIME: 9:40 A.M.

CIVIL NO. 6417

DESCRIPTIVE SUMMARY: Status Conference held in the Apache County Superior Courtroom, St. John's Arizona.

NUMBER OF PAGES: 12

DATE OF FILING: March 6, 1998

MINUTE ENTRY

This is the date and time set for a Status Conference.

Courtroom Reporter Susan Humphrey is present.

APPEARANCES

The Court calls for appearances and they are as follows: Mr. Craig Sommers, Mr. Fritz Beeson, Mr. David C. Roberts and Mr. John B. Weldon, Jr. representing Salt River Project; Mr. David A. Brown representing various claimants; Mr. Pete Shumway representing LCR counties; Mr. Randall Lindsay representing the City of Flagstaff; Mr. William Staudenmaier representing Arizona Public Service; Mr. Barry Sanders and Mr. Michael Brophy representing Arizona Public Service and the Aztec Land and Cattle Company; Mr. Lauren J. Caster representing Stone Container Corporation, the Arizona Water Company, Santa Fe Pacific Railroad Company and the Burlington Northern Santa Fe Railroad Company; Mr. William Darling representing the Cameron Trading Post and Atkinson Trading Company; Mr. Barry Brandon and Mr. John Cawley representing the Department of the Interior/Bureau of Indian Affairs; Mr. Bradley S. Bridgewater representing the United States; Ms. Dorothy FireCloud, Ms. Jane Marx, Mr. Wilfred Eriacho, Sr., Mr. Barton Martza and Mr. Joseph Dishta representing the Pueblo of Zuni; Mr. Thomas Wilmoth and Mr. Gregg Houtz representing the Arizona Department of Water Resources; Mr. Joe Clifford and Mr. Don W. Young representing the Arizona Attorney General's Office; Mr. Jim Boles, Mayor, and Mr. Bill Barris representing the City of Winslow; Mr. Jerry L. Haggard and Ms. Cynthia Chandley representing Phelps Dodge; Mr. Todd Honyaoma Sr., Mr. Nat A. Nutongla, Mr. Arthur Batala, Mr. Ron Morgan, Mr. Scott Canty, Mr. Eugene Kaye and Mr. Reid Chambers representing the Hopi Tribe; Mr. Stanley Pollack and Mr. Scott McElroy representing the Navajo Nation; Mr. Melvin Bautista representing the Navajo Nation, Division of Natural Resources; Mr. Michael Foley, Mr. John Leeper and Mr. Johnnie D. Francis representing the Navajo Nation Department of Water Resources; Mr. Richard Berthoff, Mr. Robert Hoffman and Mr. Larry Cope representing Southern California Edison; Mr. Andrew F. Walch representing the United States National Park Service, Forest Service, and Bureau of Land Management; Mr. Tom Bateridge and Ms. Jeanne Whiteing representing the San Juan Southern Paiute Tribe.

Also in attendance: Special Master John E. Thorson and Judge Michael C. Nelson, Presiding Judge of Apache County Superior Court.

The Court extends his welcome to the participants.

The Court reminds everyone that 20 years ago, in 1978, Mr. Jerry Haggard first filed the petition in this case. The Court states that in order to accommodate the tight drafting schedule as set forth by Judge Michael C. Nelson no status report was required to be submitted prior to this hearing. The Court advises that in January he had two conversations regarding settlement progress with Mr. Bruce Babbitt, Secretary of the Interior, pursuant to a prior ex parte discussion agreement with the parties. The Court today requests an overall review of settlement and bill drafting status.

PROGRESS REPORTS

Mr. Reid Chambers advises that since the last hearing there has been progress but there is more work to be done. There have been a number of meetings regarding intertribal issues. An N-Aquifer management plan has been formed. As the legislation is being drafted, the agreement in concept is being transformed into a settlement agreement. In the process, "skeletons," or issues that were not worked out, have been discovered. Meetings regarding legislation and settlement are scheduled. Mr. Chambers suggests that a week-long meeting in a western metropolitan area away from the participants' regular places of business could be profitable. Mr. Chambers believes that there is no consensus for such a proposed meeting due to outstanding issues that do not involve the Hopi Tribe such as the Three Canyon Project, the Pueblo of Zuni issues, the drawing up of the final quantification abstracts for the irrigation districts and other on-going technical work. Mr. Chambers commends Judge Nelson for his continued work in the settlement process and "cannot imagine a better settlement judge." Mr. Chambers advises that there are a lot of "fragile truces in this room" which will be endangered if legislation is not ready by the end of April. Mr. Chambers says that the truces could be disrupted or upset by uncontrollable events making it difficult to put the agreements back together again. Mr. Chambers advises that the participants were informed by Judge Nelson that the Court will not be standing for reelection. Mr. Chambers expresses his enormous appreciation for the work of this Court in these negotiations and prevails upon the Court to continue to handle this case until its completion.

The Court states that Mr. Harry Sachse advised at the December hearing that now, March, was the time to have the bill ready to be introduced in Congress.

Mr. Chambers advises that Mr. Michael Brophy and the state parties prepared the first draft of the bill. Mr. Sachse redrafted the bill over the Christmas period and circulated it among the parties for comments. Mr. Chambers states that there are some blank pages in the bill, particularly regarding the Three Canyon Project and the Pueblo of Zuni issues. Mr. Chambers believes that it would be possible for the bill to be passed by Congress this year if it was ready in April. The passage of the bill would be conceivable but less probable if it was ready later than that.

Mr. Chambers outlines the outstanding issues involving the Hopi Tribe to be the amount of Central Arizona Project (CAP) water committed and issues with the state parties regarding the Hopi Tribe's water rights for the newly acquired ranches south of the Little Colorado River. The Hopi Tribe's water rights issue on the New Lands is whether the water rights will be quantified as part of this settlement or whether they will be specified in the settlement and subject to agreements not to sue among the parties. Part of the settlement will include that certain judgments that the Navajos and Hopis have against one another will be satisfied, but the tribes disagree as to which judgments will be addressed. The question remains whether to resolve these issues before or after the on-going technical work is completed.

The Court confirms that this is the last year of his current term and his last day in office will be December 31, 1998. The Court advises that he will consider Mr. Chambers' suggestion that he remain appointed to this case as a protem judge and will revisit this issue later in the year. The Court's decision will be influenced by the status of the bill going through Congress as well as the progress of settlement negotiations. The Court expresses his appreciation for the comments made as they affect him personally.

Mr. Stanley Pollack echoes the remarks of Mr. Chambers regarding the Court continuing to hear this matter until its conclusion. Mr. Pollack says that his outlook is "less rosy" than Mr. Chambers' and that of the Settlement Committee. Mr. Pollack agrees that for the legislation to pass this term, a bill needs to be introduced to Congress in April. Mr. Pollack advises that there are significant issues that have to be resolved. Mr. Pollack outlines the issues to be the Three Canyon Project, the allocation of the CAP water for the Navajo Nation, and the substantive issues with respect to the Hopi Tribe. Mr. Pollack adds that there is concern regarding the state parties' resolution of the C-Aquifer as it relates to Blue Springs.

Mr. Pollack believes that issues involving all of the parties could be addressed during a week-long meeting. Mr. Pollack states that no amount of deliberation from the lawyers is going to resolve the concerns of the biologists under the Endangered Species Act as they relate to the Navajo project. Mr. Pollack says that a firm commitment is not needed now from the U.S. Fish and Wildlife Services that the project would satisfy the Endangered Species Act. What is needed is a positive indication from the U.S. Fish and Wildlife Service that the project is probable and that environmental problems can be mitigated. The information required to determine whether there is a viable project will not be known until mid to late summer. Mr. Pollack believes that it would be more reasonable to have a bill introduced in Congress by November.

Mr. Pollack advises that the issue of allocation of Central Arizona Project (CAP) water involves more interests than the parties present this date. It touches on matters that are being addressed between the Department of the Interior, the Central Arizona Water Conservation District (CAWCD) and the State of Arizona concerning repayment of the CAP, now pending in federal court. Mr. Pollack says that there should be some indication by the end of April of either settlement or litigation of this financial issue. Discussions about CAP allocations are continuing between the various parties.

Mr. Pollack indicates that it has yet to be determined whether Phelps Dodge's Blue Ridge Reservoir will be "part of the mix" in the Three Canyon Project. Mr. Pollack believes that because of the biological concerns driving the Three Canyon Project, there will not be a settlement unless the Navajo Nation receives a wet water project out of the Little Colorado Basin. Mr. Pollack states that it is possible to introduce a bill to Congress this year but it is unlikely the legislation will be passed during this session of Congress.

Mr. Michael Brophy advises that Mr. Harry Sachse is the principal drafter of the settlement legislation; the draft is a good one. Mr. Brophy states that it is the unresolved issues that will delay the introduction of the bill in Congress. Mr. Brophy hopes that either Senator Jon Kyl or Senator John McCain will introduce the bill to Congress. Mr. Brophy says that Senator Kyl has met with all of the parties and is in support of settlement. The litigation alternative is fundamentally unthinkable. Mr. Brophy states that Senator Kyl must be able to report to his colleagues exactly what is contained in the bill. His report is not possible without the details of the Three Canyon Project and the outcome of other unresolved issues. Mr. Brophy agrees with Mr. Pollack; it is unlikely a bill will pass through Congress this year. Mr. Brophy advises that the negotiations should continue and that the parties should keep working toward resolution of the issues that do not require a technical solution. Mr. Brophy agrees with Mr. Chamber's

suggestion of a week-long session perhaps in April. Mr. Brophy requests that the Court remain with this case as Mr. Chambers and Mr. Pollack suggested.

The Court inquires if anyone wishes to "throw in the towel," discontinue settlement negotiations, and receives no response from any person present in the courtroom.

Ms. Jane Marx reports that since the last hearing and after the solstice religious activities of the Pueblo of Zuni, two days were spent with a number of representatives of the state parties in the field at Zuni Heaven. As a result of those days' activities, the Pueblo of Zuni resolved to establish a technical group to bring people closer together, and to ascertain if a project could be envisioned to get real water to the Pueblo of Zuni. Ms. Marx states that money may not solve the problem; actual water is needed. The first meeting of the technical group will be March 19, 1998. Ms. Marx says there will be a follow-up meeting with the United States' and the State representatives on March 26, 1998. Ms. Marx is certain that the early April deadline for a bill is out of the question for the Pueblo of Zuni. Ms. Marx remains optimistic that the Pueblo of Zuni can be part of this settlement at a later date if substantial technical differences can be resolved.

Mr. Bradley Bridgewater advises that the complexity and scope of these settlement negotiations are truly unprecedented; the details are demonic. Mr. Bridgewater says that the nature of the Three Canyon Project needs to be clarified. There is a continuing concern about the viability of the Mohave Power Plant and its relationship to the Lake Powell pipeline. There is an issue surrounding the amount of water to be allocated out of Lake Powell. Mr. Bridgewater states that all are committed to working through these problems but the amount of work is daunting.

Mr. Barry Brandon agrees with Mr. Bridgewater; settlement is possible. Mr. Brandon concurs with every comment that Mr. Pollack made in terms of identifying the problem areas. Mr. Brandon indicates that legislation on this settlement will not be passed this year. Mr. Brandon states that the Three Canyon Project needs to be defined before the Department of the Interior can support the relevant legislation. Mr. Brandon adds that the operation, maintenance, and repair cost information for the Lake Powell pipeline is also needed. The United States has made it clear that there are some funding limitations.

Mr. Brandon advises that water marketing and CAP allocation issues with respect to the Navajo Nation are larger than just this settlement. The litigation involving the CAWCD, which is in negotiation, is handled by Mr. David Hayes, counsellor to the Secretary of the Interior. Mr. Hayes is in direct contact with Ms. Rita Pearson, the Director of the Arizona Department of Water Resources. The issue is being handled at the highest level and is on-going. Until those issues are resolved, the Little Colorado River negotiations will be delayed.

Mr. Brandon explains that the United States has also made it clear that the Pueblo of Zuni needs to be included within the whole settlement. The Department of the Interior has always worked toward a global settlement package and is firmly committed to obtaining a settlement. This is the largest, most complex Indian water rights settlement negotiations that the Department of the Interior is involved with and

perhaps has ever been involved with. Mr. Brandon advises that Mr. Hayes spends more time with this potential settlement than any other Indian water right settlement involving the United States. Mr. Brandon agrees with Mr. Pollack; there are a couple of issues such as the marketing allocation and the Three Canyon Project that are beyond negotiators at this time. Mr. Brandon remains optimistic for settlement. Even if there is no bill this year, he promotes working toward settlement next year. Mr. Brandon adds that from the standpoint of the Department of the Interior, there are outstanding questions that need to be answered to support the congressional bill. Mr. Brandon believes that given the momentum and the amount of energy that has been put into settlement negotiations, everyone has a very strong interest in trying to hang on to the truces that have been made.

Mr. Jerry Haggard says that Blue Ridge Reservoir (BRR) and Show Low Lake remain key components to the settlement. The federal team, including the U.S. Fish and Wildlife Service and the Arizona Game and Fish Department, are studying both the usability of BRR and the environmental impact of that use. The studies are not going as rapidly as anyone would like. The pace is due largely to the seasons in which some of the studies have to be carried out. There are on-going discussions at this time for alternatives regarding BRR. Mr. Haggard is encouraged that some progress has been achieved.

Mr. John Weldon advises that he was not present for negotiations yesterday. Mr. Weldon says that he is generally disappointed. From the time discussions began with Senator Kyl, it was understood that settlement required the unfettered support of the Department of the Interior. Senator Kyl would not support funding, projects or concepts if not wholeheartedly supported by the Interior Department. The United States created funding parameters for this settlement - no more than \$65,000,000 for the northside and \$65,000,000 for southside, including the Three Canyon Project. The United States then committed to pay the operation, maintenance and repair costs for both projects and Mr. Weldon believes that the United States did not realize how much that would cost. Mr. Weldon believes that the United States is not willing to confess its mistake and is not willing to support the level of funding required. Mr. Weldon alleges that rather than deal with the funding issue, the United States uncovers other road blocks to settlement, such as the Mohave Power Plant and the Pueblo of Zuni issues. Mr. Weldon concludes that linking the CAP allocations for the Navajo Nation to the CAWCD settlement, a very difficult settlement in itself, is another delay tactic. Mr. Weldon addresses some of the issues germane to the CAWCD settlement and advises that there is a trial date in the matter for May of this year. Mr. Weldon does not expect the CAWCD settlement to resolve quickly. Mr. Weldon states that the lack of specificity of the Three Canyon Project is unfortunate. An attempt is being made to formulate a project that does not involve irrigation but seeks to justify municipal and industrial uses. Mr. Weldon is quick to note his belief in the sincerity of Mr. Brandon and Mr. Bridgewater but questions the sincerity and commitment to this settlement of the Department of the Interior as a whole.

The Court asks Mr. Weldon why he did not raise his hand when the Court asked to hear from anyone believing that continued negotiations would be fruitless. Mr. Weldon answers that it is time for the Court to receive honest answers from Mr. Hayes and Secretary Babbitt regarding the intentions of the United States after which settlement can be addressed. The Court inquires if Mr. Weldon believes the situation would be different if Mr. Duffy had not left the Department of the Interior. Mr. Weldon advises that, in January, Mr. Hayes blamed Mr. Duffy for the operation, maintenance and repair commitment. Had he

known the magnitude of that commitment, he would never have made it. In December, Mr. Brandon reaffirmed the United States' commitment to the operation, maintenance and repair costs and the commitment to settlement. Mr. Weldon believes that the Department of the Interior continues to impose issues which prevent settlement from happening. Mr. Weldon suggests that the Department of the Interior should clarify its position. Mr. Weldon understands that there is a great deal of concern over the level of funding to which the Department of the Interior is committed.

Mr. Bradley Bridgewater advises that he also has high regard for Mr. Weldon. Mr. Bridgewater clarifies that the issue of the CAP allocations is not a matter of fiction created by the Department of the Interior; the State of Arizona is very concerned about that arrangement and has expressed that concern in writing. Mr. Bridgewater says that it was Salt River Project which initially insisted that the Pueblo of Zuni issues be a part of this settlement. Mr. Bridgewater states that as the United States has become more involved in the Pueblo of Zuni issues, it has discovered that it would not make sense to negotiate a settlement without the Pueblo of Zuni component.

Mr. Weldon explains that discussions have gone on for years with the Hopi Tribe and Navajo Nation without involving the issues of the Pueblo of Zuni. Mr. Weldon feels that because the issues involving the Navajo Nation and Hopi Tribe will take a long time, the issues with the Pueblo of Zuni actually may be resolved first. Mr. Weldon states that the ultimate authority to allocate CAP water is with Secretary Babbitt and that there is CAP water available to allocate to the Navajo Nation and Hopi Tribe without awaiting the results of the CAWCD litigation.

Mr. Brandon responds that both he and Mr. Hayes are relatively new and some of the discussions that have taken place have been for the benefit of Mr. Hayes and for himself who are both new to the settlement process. Some of the questions raised by Mr. Hayes are legitimate questions that many of the parties have raised before. Mr. Hayes raised them in an attempt to ascertain and understand how the United States' contribution went from \$130,000,000 to \$300,000,000. This project is of immense proportions in terms of federal funding. Just because there is an agreement among the parties does not mean this bill will pass through Congress. Mr. Brandon confirms that the United States is not backing out from any of the money that has been committed. Mr. Brandon says that he is in constant communication with Mr. Hayes regarding these settlement negotiations. Mr. Brandon advises that it does not make sense that Mr. Hayes would spend so much time on a settlement if Mr. Hayes really wanted to kill it.

Mr. Brandon reaffirms that the marketing issue and the Mohave Power Plant are big issues. At the Court's request, Mr. Brandon confirms that the Department of the Interior will stand behind its commitment to the operating, maintenance and repair costs as well as the constructions costs.

Mr. Michael Brophy says he has no reason to doubt Mr. Hayes. Mr. Brophy states that if the US/CAWCD litigation is settled, it will make it more feasible to get a block of water to the Navajo Nation for them to market and will provide a mechanism for paying for that water at no cost to this settlement and with very low operation, maintenance and repair costs. Mr. Brophy believes a decision in the

CAWCD litigation should happen this year making this settlement more likely to occur. Mr. Brophy explains that if Secretary Babbitt uses the CAP water for the Navajo Nation/Hopi marketing, it will create a difficult political situation for our representatives in Congress in supporting this bill.

Mr. Robert Hoffman states that in another capacity he represents the CAWCD in the repayment litigation. Mr. Hoffman advises that all that has been stated in this hearing regarding that litigation is correct except that no trial date has been set. The pretrial conference is supposed to be completed by the end of April unless it is reported to the judge prior to that time that the settlement has a chance of being approved by the board, accepted by the State, and approved by the tribes. On the federal side the issues are very political. If a CAWCD settlement is reached, there would be political support among the state and the federal parties causing no problem for the senators to support this Little Colorado River settlement. Mr. Hoffman expects that if there is no CAWCD settlement, lengthy litigation may begin this summer before Judge Carroll.

The Court requests comments regarding the future of the Mohave Power Plant.

Mr. Hoffman answers that the future of the Mohave Power Plant is tied to whether scrubbers will be required. If the scrubbers are required in the next year or two, then the decisions about the viability of the project might be made fairly soon. The viability of the draft is also tied to the deregulation of marketing power and whether the plant can compete in the deregulated market.

The Court requests comments regarding the meeting held at the Department of Water Resources with its Director, Ms. Rita Pearson. Mr. Tom Wilmoth states that communication has been greatly enhanced. Mr. Wilmoth advises that it is useless to discuss CAP water until the CAWCD discussions have been completed. Mr. Wilmoth believes they should wait to hear from Ms. Pearson and Mr. Hayes regarding the CAWCD settlement before continuing with the CAP issue in these negotiations. Mr. Greg Houtz adds that there was a good meeting between Director Pearson and representatives of the Navajo Nation exploring the method that the Navajo Nation used in reaching the numbers in its request. Mr. Houtz agrees with Mr. Wilmoth that the CAP issues are being handled at the highest level.

Ms. Jeanne Whiteing advises that the settlement involving the San Juan Southern Paiute Tribe has been pretty much resolved in general terms. They are continuing to work on the details. Ms. Whiteing states that the San Juan Southern Paiute Tribe has no formal land base. It is a party to the 1934 Land Act among the Navajo Nation, Hopi Tribe and San Juan Southern Paiute Tribe. In that context, there have been negotiations with the Navajo Nation to agree on a permanent reservation for the Tribe. There has been a negotiated agreement which has been approved by the San Juan Southern Paiute Tribe and is now awaiting the approval of the Navajo Nation Tribal Council, a lengthy process. Ms. Whiteing advises that it would be prudent to include language in this settlement agreement making it contingent upon the Navajo Nation/ San Juan Southern Paiute Tribe agreement.

Mr. Pete Shumway advises that he is still optimistic regarding settlement and that these are very important issues. Mr. Shumway commends the hard work by Judge Michael Nelson and by all of those

involved in negotiations.

The Court laments the length of time spent in settlement negotiations and the missed opportunities for introduction of a bill to Congress. On the other hand, the Court marvels that, only five or ten years ago, the likelihood of a federal budget surplus also would not have been predicted. For many status conferences, the Court has heard that "we are almost there," and that "we have the major stumbling blocks solved," but there are plenty of stumbling blocks still being discussed today. Still, the Court observes that no one is saying that it is time to quit. The Court recalls that the parties had previously indicated it was necessary to introduce a bill early this year. The Court observes that it is not likely that a bill will pass through Congress in 1998, particularly given Mr. Pollack's assessment of the work needed on the details of the Three Canyon Project. The Court reiterates that the petition in this case was filed in 1978. The Court states that settlement talks have got to be something more than simply a way of staving off litigation. The Court notes that the Special Master is here and certainly ready to pick up the thread of litigation. The Court ponders the questions, "Why not do it now?," "What is the point of hearing after hearing?" and "What is different now?"

Mr. Chambers quotes Winston Churchill, saying that complex negotiation, like democracy, is the worst solution except for all of the others. Mr. Chambers advises that this is not an ideal course, but that it is more likely than not that an agreement will be reached. He is appalled that it will not happen this year. Mr. Chambers fears that during a delay, something external will happen to disrupt the truces now in balance. There is a great danger in delay, but Mr. Chambers says there is no other option. Once litigation begins, the parties will be "at each other's throats again."

The Court comments that at least claims would be adjudicated, everyone would see all of the evidence, and parties would know how their claims would be quantified.

Mr. Chambers answers that there is little water in the basin and fighting over what is here will not solve the water problem. Mr. Chambers believes that now is the best opportunity for settlement. Although the budget is balanced, Mr. Chambers cautions that a balanced budget does not mean that there is a lot of money available.

Mr. Joe Clifford advises that the state agencies that he represents have not been working on these cosmic issues. His clients are the wildlife managers in the field. Not enough is being said about the efforts of these people and they are producing wet water for the settlement. If these managers can come up with projects which actually do what the parties want done, settlement will be enhanced.

Mr. Clifford outlines the work of the land managers and addresses the pace at which they are working. The work on the Three Canyon Project is a state-initiated project involving people from local, state and federal levels. The task is to do a preliminary analysis of the Three Canyon Project, not to give it environmental clearance. The biologists are to assemble and formulate a preliminary opinion on endangered species based on data gathered over a short period of time and say whether they see any absolute impediments to this project. The biologists started this work and then asked the federal

government for a specific project to study. Mr. Clifford finds this to be remarkable because these people from universities, the federal government, and the state government and do not usually work together to form an opinion. They do so here because they are excited about making this project work. They are not being slow. For example, they have a crew that goes out to the site to take measurements. The measurements cannot be taken from the topographical maps because the land contours cannot be accurately recorded on a map. The only other method for obtaining this information is through a military satellite system which again takes time, permission from the military, and setting up equipment. The group initially thought they could have made all of these measurements by March but now they feel it will take until the end of summer.

Mr. Clifford also discusses the field tour recently given by the Pueblo of Zuni where the members very eloquently explained to the state parties what they needed and why they needed it. The state has made a proposal that is now being reviewed by the Pueblo of Zuni. Mr. Clifford points out that there is a lot of work being done by non-lawyers, who are very interested and excited about these projects. The work of these dedicated people will ultimately fill in the blank pages of the settlement agreement. Mr. Clifford states that he is optimistic about an agreement.

Mr. William Darling reviews that last summer he filed a petition regarding inholding rights which the Court deferred because of the intense effort required to draft the bill for Congress. Mr. Darling requests that the Court allow the petition to move forward after the upcoming scheduled meetings over the next few months. Mr. Darling advises that the legal issues in his petition are not the subject of a tax case filed in federal court.

Mr. Andrew Walch advises that when he became involved in this case he was very interested in the technical studies being done to provide the National Park Service (NPS) with information regarding the hydrology of the system. The study group was able to provide the NPS with enough information about the hydrology to move forward on settlement. Mr. Walch is delighted to hear that the Pueblo of Zuni is also conducting technical studies. Mr. Walch reports that next week there is a conference call between the NPS and Salt River Project (SRP) and he anticipates that an agreement between the two will be reached. Mr. Walch advises that an agreement between the NPS and Arizona Public Service should materialize within the month. Mr. Walch says that today the Navajo Nation was provided with a draft agreement for resolution of the issues between the Navajo Nation and the NPS. Mr. Walch is optimistic that those issues will be resolved fairly quickly. Mr. Walch has provided a copy of these draft settlements to Mr. Caster, Mr. Clifford and others. Mr. Walch has extra copies for others who are interested. The NPS will move forward individually, negotiating with whomever wishes to negotiate. Those who do not wish to enter into negotiations with the NPS will hopefully identify themselves and identify the issues that they see outstanding so that litigation can begin. Mr. Walch adds that the negotiations with the City of Flagstaff are progressing well.

The Court confers with Judge Nelson.

ORDERS AND DIRECTIVES FROM THE COURT

The Court advises that despite the reservations and impatience expressed by the Court today, the parties shall continue working toward settlement resolution. The Court encourages everyone to do everything that can be done to resolve the remaining legal issues and to flesh out the Three Canyon Project sufficiently to be acted upon by the Department of the Interior and Congress.

IT IS HEREBY ORDERED setting a Status Conference on **Thursday, July 16, 1998 at 9:30 a.m.** in the Apache County Superior Court, St. Johns, Arizona.

The Court requests that Mr. David Hayes be present at the July 16, 1998 hearing.

The Court further directs that Mr. Bradley Bridgewater file within the next thirty days written confirmation that Mr. Hayes will be here.

The Court expects to hear at the next conference that the details of the Lake Powell pipeline have been worked out, where it goes and what its capacity will be. The Court insists that this information be provided at the July conference.

The Court directs that the parties remain in the courtroom to confer with Judge Nelson.

11:32 A.M. - Hearing concludes.

Later: The motions of William Darling for admission pro hac vice in this proceeding and to be added to the Court-approved mailing list are GRANTED.

HONORABLE ALLEN G. MINKER
JUDGE OF THE SUPERIOR COURT

The original of the foregoing is filed with the Clerk of Apache County. On this 30th day of March 1998, a copy of the foregoing mailed to those parties who appear on the Court-Approved mailing list for Case No. 6417 dated January 15, 1998.

Barbara Neuzil, Deputy