

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

10/14/2010

CLERK OF THE COURT
FORM V000

SPECIAL MASTER GEORGE A. SCHADE, JR.

J.Rutledge
Deputy

FILED: 10/15/2010

In Re the General Adjudication
of All Rights to Use Water in
The Little Colorado River System and Source

CV 6417-201

In Re Telephonic Status Conference Regarding
Settlement Negotiations of the Claims of the
Hopi Tribe and the Navajo Nation

MINUTE ENTRY

9:30 a.m. In chambers. This is the time set for a Telephonic Conference pursuant to the Special Master's Order of May 12, 2010 for the purpose of updating the Special Master on the status of the Water Rights Settlement Agreement and on the status of the HSR for the Hopi Tribe. Appearing telephonically are: Harry R. Sachse, Reid Peyton Chambers, and Colin Cloud Hampson on behalf of the Hopi Tribe; Stanley M. Pollack, Scott B. McElroy, and Daniel E. Steuer on behalf of the Navajo Nation; Vanessa Boyd Willard on behalf of the United States Department of Justice; Lee A. Storey on behalf of the City of Flagstaff; John B. Weldon, Jr., Lisa M. McKnight, and Patrick B. Sigl on behalf of Salt River Project; Cynthia M. Chandley and Rhett A. Billingsley on behalf of Freeport McMoRan Corporation; L. William Staudenmaier on behalf of Arizona Public Service; Lauren J. Caster and Gregory L. Adams on behalf of Catalyst Paper (Snowflake) Inc.; Joe P. Sparks and Laurel A. Herrmann on behalf of the San Carlos Apache Tribe and Tonto Apache Tribe; David A. Brown on behalf of various Little Colorado River claimants. The Special Master notes that Janet L. Ronald of the Arizona Department of Water Resources is not able to attend this conference. Present in chambers are Special Master, George A. Schade, Jr., and assistant Barbara K. Brown.

Court reporter, Brenda Brown, is present.

Mr. Reid P. Chambers informs the Special Master that the substantive issues in the Settlement Agreement are essentially resolved. The Settlement Agreement is virtually complete with the exception of having to conform the Agreement to other documents that have to be completed contemporaneously with the Agreement, as well as resolving any technical errors that may arise in the Agreement.

Mr. Chambers further states that the negotiating parties have drafted and approved proposed legislation that needs to be presented to the state legislature, which will change some state statutory laws in order that parts of the Settlement Agreement can be implemented.

Mr. Chambers further explains that there are three principal documents that are near completion: 1) the judgment and decree; 2) federal legislation that will be submitted to Congress early next year to authorize the water projects contemplated in the Settlement Agreement; and 3) the forms of the waiver that need to be executed by the parties.

In light of the foregoing, the position of the Hopi Tribes is to continue the current stay for an additional six months so that the Agreement can be finalized.

Mr. Stanley M. Pollack agrees with Mr. Chambers as to the status of the Settlement Agreement activities. However, he advises the Special Master that he is anticipating that the Navajo Nation Council will approve the Settlement Agreement in the current form, notwithstanding the many attachments to the Agreement that have not yet been completed, within the next couple of weeks. This approval would be the most tangible evidence of a realistic Settlement Agreement. Without the Council's approval of the Settlement Agreement, he sees no reason to continue settlement activities. Therefore, he requests a 60-day stay in this matter.

Mr. Pollack further advises the Special Master that the Navajo Nation Council wanted the public to be more educated on the issue before they voted on the Settlement Agreement. Therefore, public meetings have been and are still being conducted to address the issue before the final vote occurs.

Mr. Lauren J. Caster agrees with Mr. Pollack's assessment of the situation and favors a 60-day extension of the stay.

Mr. John B. Weldon, Jr., agrees that the stay should be extended for 60 days.

Discussion is held regarding the effect of a 60-day stay on the current deadlines in this matter.

Mr. David A. Brown agrees with the position of the Navajo Nation and favors the 60-day stay.

Ms. Vanessa Boyd Willard supports the 60-day stay but appreciates the six month stay proposed by the Hopi Tribe. Ms. Willard further states that at minimum a 60-day stay is necessary in this matter and if it is not approved it will create a tremendous workload and make it difficult to comply with the November 12, 2010 deadline currently set.

Ms. Lee A. Storey states that the City of Flagstaff does not have a problem with a 60-day stay and supports the request. Further, she informs the Court that there is no change in the City's position regarding the outstanding issues of the settlement terms that she discussed at the last hearing. She indicates that she has not had an opportunity to present the settlement terms to the new city council but is hopeful that the city council will support the Settlement Agreement.

Mr. L. William Staudenmaier supports the 60-day stay and envisions extending all current deadlines for 60 days, with a status report being submitted to the Court before the conclusion of those deadlines.

Ms. Cynthia M. Chandley states that although she has not been very active in this matter, she has no objection to any stay that may be granted.

Mr. Joe P. Sparks indicates that the Apache Tribes have been monitoring this process to stay up with the developments and supports the efforts of the parties but has no position on the request for stay.

Special Master Schade inquires of Mr. Pollack regarding how realistic it will be for the Navajo Nation Council to advise the parties, within the next 60 days, of their position on the Settlement Agreement.

Mr. Pollack states that when the terms of the Settlement Agreement were brought to the Navajo Nation on September 29, 2010, it was originally tabled for 7-10 days to allow time for the public to be educated on it. This process is still ongoing. Therefore, although he cannot guarantee a specific time as to when the Navajo Nation Council will vote on this issue, they are tentatively planning to hold some work sessions by the end of October and to have a special session in November.

Special Master Schade inquires of Mr. Pollack as to what happens next when the Navajo Nation Council decides to either approve or not approve of the terms of the Settlement Agreement.

Mr. Pollack indicates that if the Settlement Agreement is approved, he will notify the parties and begin working on the conforming attachments to the Agreement. If the Settlement Agreement is not approved, a request will be made to the Special Master to bring this matter back to litigation.

Based upon the information provided and the position of the parties, the Special Master orders that all the pending deadlines in the current briefing schedule are suspended until further ordered and requests the Navajo Nation to file a report on or before **Wednesday, December 15, 2010**, concerning the status of the settlement agreement. Thereafter, the Special Master will determine how to proceed in this contested case.

There are no objections from the parties as to this order.

The Special Master recognizes that this is a difficult process and appreciates the efforts expended by both tribes to resolve this matter.

10:05 a.m. Matter concludes.

A copy of this order is mailed to all parties on the Court-approved mailing list for the Little Colorado River Adjudication Civil No. 6417-201 dated July 29, 2010.