

IN THE THIRD JUDICIAL DISTRICT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

*In the Matter of the General
Determination of All the Rights to the Use
of Water, Both Surface and Underground,
Within the Drainage Area of the Utah Lake
and Jordan River in Utah, Salt Lake,
Davis, Summit, Wasatch, Sanpete and
Juab Counties in Utah*

General Case File

**SPECIAL MASTER'S
STATUS REPORT TO
COURT ***

Civil No. 360057298

(Hon. Laura S. Scott)

R. L. Knuth, Special Master

R. L. KNUTH, the duly-appointed and acting Special Master in this general determination of water rights, submits his Special Master's Report to the Court:

1. This Special Master's Status Report to Court (this "Report") is submitted in conjunction with the Status Conference scheduled for January 20, 2017, which is responsive to the requirement of the Court's Order Appointing a Master and Order of Reference (Etc.), dated June 28, 2016 ("Order of Reference"), that the Court hold a Status Conference six (6) months after the Special Master's appointment "to assess the progress and status of the Master's work."

2. From the date of the Order of Reference, through January 7, 2017, the Special Master has taken the following actions:

- a. Prepared and published to the parties' counsel drafts of the Special Master's Standing Order No. 1 and ancillary documents, conducted a lengthy Status Conference on August 5, 2016, to receive the parties' comments and suggestions to the proposed forms of orders.

b. Issued the Special Master's Standing Order No. 1, which governs objections proceedings before the Special Master in all unresolved Objections that were pending as of the date of the Order of Reference. This Standing order was amended and restated on November 3, 2016. This Standing Order was issued specifically to address the unique problems arising in older unresolved objections where many years have passed — several decades, in many instances — between the time the objection was filed and the appointment of the Special Master. The Special Master spent considerable time at the inception of his appointment, crafting procedures that satisfy the requisite constitutional notice and fundamental fairness requirements, particularly for pro se objectors who may not have counsel or great familiarity with the civil justice system. Now that those procedures are in place, the Special Master is hopeful that the process will move faster, more efficiently and cost-effectively, than without that careful forethought.

c. The Special Master issued his first Notice and Order to Show Cause to an objector on August 12, 2016, in the Spanish Fork Subdivision, Book 1. As of December 31, 2016, three hundred seventeen (317) Orders to Show Cause for Objections have been issued in eighty (80) original objections in seven (7) subdivisions of the thirteen (13) subdivisions where the State Engineer has published proposed determinations: Spanish Fork Canyon (Books 1 and 2), Cedar Valley, Salt Lake County Northwest, Salt Lake County Central, Salt Lake County West, and Salt Lake County Southwest Subdivisions.

- d. As of January 1, 2017, there remain six (6) subdivisions with proposed determinations for which Notices and Orders to Show Cause have not been issued to objectors. The Special Master has issued Notices and Orders to Show Cause to objectors in all subdivisions in which the State Engineer has promulgated a service matrix. The average time between the Special Master's receipt of the State Engineer's service matrix for a subdivision to the issuance of Orders to Show Cause to objectors is thirty-one (31) days. Based on that turn-around time, the Special Master believes that as long as a service matrix for each subdivision with a proposed determination can be timely generated, Orders to Show Cause can be issued in all such subdivisions within a year of the Order of Reference, *viz.*, July 1, 2017.
- e. The 317 Orders to Show Cause issued by the Special Master through December 31, 2016, provide the original objector with detailed information about the general adjudication generally, and the subject objection, specifically, and require the objector to give notice of an intent to pursue the objection. From the date of the Order of Reference through January 7, 2017, a total of twenty-seven (27) Notices of Intent to Proceed with Objection Proceeding were filed with the Court, which will have to be litigated to conclusion, or settled by the parties.
- f. By order dated November 19, 2016, the Special Master formed an Objectors' Advisory Committee to advise the Special Master on procedures for the litigation of objections to proposed determinations and lists of unclaimed water rights that will be issued *after* the Order of Reference. The Committee is open to participation by all parties in interest, and

neither the Court nor the Special Master will direct the Committee's discussions or conclusions. The Committee is to meet and file their recommendations to the Special Master by the end of February, 2017.

- g. In order to better adapt the Court's e-filing system to the needs of the objection proceedings in the case, the Special Master has issued an order that assigns a unique numerical identifier to each of the pending objection proceedings that are subject to orders to show cause, consisting of a three-number set based on the number of the subdivision, the number of the proposed determination book, and the ordinal number assigned to the objection by the State Engineer in his service matrix.
- h. The Special Master consulted with Judge Scott and the Clerk of the Court, resulting in the issuance of a court order creating a separate civil number for each subdivision of the case, and creating a protocol under which all objection proceedings within a given subdivision will be under the same civil number, and not the general case number. Combined with the assignment of the three-number set described above in paragraph (h), this innovation will improve the ability of the Court and the litigants to manage the large volume of separate proceedings in the general adjudication.
- i. The Special Master's team consists of a senior attorney, an associate attorney, two legal assistants, and two legal secretaries. This team has set up internal, cost-effective procedures for the preparation, review, service, and filing of Orders to Show Cause to Objectors, preparation of Reports and Recommendations, Notices of Scheduling Conferences, and Notices to

Potentially Affected Parties, using mostly paraprofessional staff and junior attorneys.

- j. The Special Master has met with Judge Scott, on at least a monthly basis, to discuss procedural and administrative issues arising from the Order of Reference, and in an effort to make the objection proceedings efficient, cost-effective, and user-friendly for the litigants and their counsel.
- k. As of December 31, 2016, the Special Master has filed thirty-eight (38) Reports and Recommendations to the Court for dismissals of objections in six (6) subdivisions. As the time for filing Notices of Intent to Proceed in response to the Special Master's orders expires, it is expected that this number will increase markedly in the coming months. The Special Master has also submitted one (1) Report and Recommendation to the Court for dismissal in the Palmyra, Lake Shore Subdivision, in which no orders to show cause have yet been issued.
- l. To December 31, 2016, the Special Master and his team have logged approximately 750 hours on the case, and have printed approximately 7,200 pages of notices, orders, reports and recommendations, and other filings in the case.
- m. To December 31, 2016, the Special Master and his firm have requested the Court's approval of \$128,032.50 for fees and costs, and have received aggregate payments for in the amount of \$88,772.67. In addition, unbilled time with a nominal value of approximately \$32,500 has yet to be submitted for the period ending December 31, 2016.

3. A numeric and graphic summary of the Special Master's work, by subdivision, is attached to this Status Report as Exhibit A.

4. To date, the Special Master's work has been almost exclusively devoted to subdivisions where water claimants filed objections to proposed determinations that were published many years ago; some dating back to the early-1970s. The decades intervening between the original objection and the present have greatly complicated matters of ensuring that objectors (and their successors and descendants) are afforded the notice and due process guaranteed by the state and federal constitutions. Nevertheless, significant process has been made in the first six months in addressing the backlog of old objections, and the Special Master is hopeful that the pace of work will abate somewhat as the old objections have been disposed of.

RESPECTFULLY SUBMITTED this 11th day of January, 2017.

/s/ R. L. Knuth
R. L. Knuth,
Special Master

CERTIFICATE OF SERVICE

I certify that on the 11th day of January, 2017, I caused a true and correct copy of the foregoing SPECIAL MASTER'S STATUS REPORT TO COURT to be served on the same date, via electronic filing notification, on all parties requesting such notification in the above-captioned case.

/s/Rick L. Knuth

EXHIBIT A

**General Adjudication of Water Rights for the Utah Lake and Jordan River Drainage
Status Report, as of January 7, 2017**

Subdivision	Objections	OSCs	NOIs	R&Rs	% to R&R
Spanish Fork Subdivision Civil No. 365729801 (51-1)	13	13	7	7	54%
Spanish Fork Subdivision Civil No. 365729802 (51-2)	13	13	4	11	85%
Cedar Valley Subdivision Civil No. 365729807 (54-1)	18	17*	10	4	22%
SLC Northwest Subdivision Civil No. 365729813 (59-1)	6	6	3	1	17%
SLC Central Subdivision Civil No. 365729814 (59-2)	13	13	0	10	77%
SLC West Subdivision Civil No. 365729815 (59-3)	8	8	3	5	63%
SLC Southwest Subdivision Civil No. 365729816 (59-4)	9	9	0	0	0%
Totals	80	79	27	38	48%

Key	
OSCs	Notices & Order to Show Cause
NOIs	Notices of Intent to Proceed
R&Rs	Reports and Recommendations
% to R&R	Ratio of Objections that have Proceeded to R&Rs

*The Special Master only issued 17 (instead of 18) OSCs in the Cedar Valley Subdivision because he recused himself in Objection Proceeding No. 54-1-17.