

The Order of the Court is stated below:

Dated: September 12, 2017
04:15:51 PM

/s/ LAURA SCOTT
District Court Judge



AMENDED ORDER PREPARED BY:

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<p>IN THE THIRD JUDICIAL DISTRICT</p> <p>COURT</p> <p>SALT LAKE COUNTY, STATE OF</p> <p>UTAH</p>	
<p>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</p> <p>GENERAL CASE FILE</p>	<p>AMENDED ORDER APPOINTING A MASTER AND ORDER OF REFERENCE IN THE UTAH LAKE AND JORDAN RIVER GENERAL ADJUDICATION</p> <p>Civil No. 360057298 WA</p> <p>Judge Laura Scott</p>

This matter originally came before the Court on the Motion of Kent L. Jones, P.E., Utah State Engineer, through counsel, to appoint a Master in the Utah Lake and Jordan River General Adjudication, pursuant to U.R.C.P. Rule 53. The Objectors' Advisory Committee, formed and appointed by the Court and the Special Master, subsequently recommended that the Court amend the Order in its Third Report, filed August 18, 2017.

The Court has reviewed the documents in support of the motion and Third Report of the Objectors' Advisory Committee. On June 28, 2016, the Court appointed Rick L. Knuth to serve as a Master in the Utah Lake and Jordan River General Adjudication as more particularly detailed in this Order of Reference. The powers and duties of the Master shall be governed by Rule 53 of the U.R.C.P. except where expressly modified by this Order of Reference, or as otherwise ordered by the Court. Further, the Court amends the Order of Reference consistent with the Objectors' Advisory Committee' Third Report.

MASTER'S DUTIES

The Master's duties are limited to hearing objections to a List of Unclaimed Rights and objections to a Proposed Determination. The Master may not hear objections related to federal reserved water rights. Generally, the Master will preside over the adversarial proceedings between an objector, the State Engineer, and any affected parties. The Master will be expected to meet performance measures as set by this Order or the Court. In addition to the powers authorized under U.R.C.P. Rule 53(c), the Master is given the following duties and powers:

1. Actively managing the objections including: scheduling, notifying the parties, holding

status and settlement conferences, and holding hearings.

2. Consistent with Utah Code of Judicial Conduct Rule 2.6, the Master may encourage the parties to settle matters in dispute. However, the Master shall not act in any manner that coerces a party into settlement nor shall the Master, as the finder of fact, participate in compromise negotiations that would be inadmissible under Utah Rule of Evidence 408.
3. Designating objection proceedings within the general adjudication divisions or subdivisions and identifying the parties to each objection proceeding. For example, the State Engineer and the objector will always be parties to each objection proceeding, but the Master shall also identify and give notice to other parties who may be affected by the adjudication of an objection as required by Utah Code § 73-4-13 and *Plain City Irr. Co. v. Hooper Irr. Co.*, 51 P.2d 1069 (Utah 1935).
4. Identifying the parties affected by a proposed settlement and, following notice to the affected parties, hearing objections to a proposed settlement.
5. Taking evidence, overseeing discovery, ruling on procedural motions, and ruling on substantive motions with a report and recommendation to the Court.
6. Preparing the Master's final report and recommendation for each objection proceeding containing findings of fact and conclusions of law. In preparing each report, the Master may solicit proposed findings of fact and conclusions of law from the objection proceeding parties.

PROCEEDINGS BEFORE THE MASTER

Proceedings before the Master shall be conducted pursuant to the Utah Rules of Civil Procedure and the Utah Rules of Evidence. Documents filed with the Court are deemed filed with the Master. The Master will arrange for the recording of all proceedings, and the parties may obtain transcripts as needed for objecting to or defending the Master's report and recommendation. Parties may request leave to appear telephonically at status or scheduling conferences, and the Master shall freely grant such leave for those proceedings. The Master may grant leave to appear telephonically at such other hearings or proceedings as may be appropriate, in the discretion of the Master. Because of the large number of parties in the general adjudication, the Master is not required to hold a meeting with all parties within 21 days of the appointment as provided in U.R.C.P. Rule 53(d)(1).

MASTER'S ETHICAL OBLIGATIONS AND EX PARTE COMMUNICATIONS

The Master shall be bound by the Utah Code of Judicial Conduct to the same extent as a Judge Pro Tempore, except the Master shall be bound at all times with Rules 1.2 and 2.4 and while serving as a Master with Rule 3.13 of the Utah Code of Judicial Conduct. The Master shall not have *ex parte* communications with any party or the Court except to communicate with the parties or the Court on non-substantive or administrative matters.

MASTER'S REPORT TO THE DISTRICT COURT

After an objection proceeding is heard by the Master, the Master will submit to the Court a report and recommendation with the Master's decisions, findings, and conclusions pursuant to U.R.C.P. 53 and serve the report on all parties to the objection proceeding. Any party who has

directly participated in the objection proceeding may file a written objection to the Master's report within 30 days of the filing of the Report. If objections to the Master's report are filed, parties to the objection proceeding may file written responses within 30 days. A party who has not directly participated in the objection proceeding may file an objection or respond to an objection to the Master's report only if the party can demonstrate by clear and convincing evidence that failure to participate was (1) due to circumstances beyond the party's control, or (2) the party could not have determined through the exercise of reasonable due diligence that the outcome of the case would affect the party's interests. The Court may enlarge the 30-day time period for filing objections to the Master's report and recommendation, or responses thereto, in a given objection proceeding only upon a showing of extraordinary circumstances.

For any report and recommendation that receives an objection, the Court will accept the Master's findings of fact unless clearly erroneous as provided by U.R.C.P. 53(e)(2), and will review the Master's conclusions of law de novo.

SIX MONTH STATUS CONFERENCE

Six months following the entry of this Order of Reference, the Court shall hold a status conference with the parties and the Master to assess the progress and status of the Master's work.

DURATION OF MASTER'S APPOINTMENT AND COMPENSATION

The Master's appointment is contingent on continued legislative funding. Compensation for the Master may not be charged upon the parties, other than the Utah State Engineer. The Master will be compensated at a rate of \$300 per hour; \$190 per hour for an associate attorney; and \$100 per hour for a paralegal. The Master may employ counsel of his choosing, subject to

Court approval, to advise and assist him in carrying out his duties and under his supervision.

Each month the Master and the Master's counsel shall submit their respective invoices to the Court and the State Engineer shall pay the amounts approved by the Court each month, not to exceed \$438,000 per state fiscal year.

*****END OF ORDER*****

In accordance with the Utah State District Court eFiling standards No 4, and URCP 10(e), this Order does not bear the handwritten signature of the Judge, but instead displays an electronic signature at the upper-righthand corner of the first page of this Order along with the court's seal and the date and time the Order was executed.

CERTIFICATE OF SERVICE

I do hereby certify that on the 31st day of August, 2017, that notice of the proposed **AMENDED ORDER APPOINTING A SPECIAL MASTER AND ORDER OF REFERENCE IN THE UTAH LAKE AND JORDAN RIVER GENERAL ADJUDICATION** was sent via ECF to those listed on the Court's electronic filing system in civil case number 360057298. It was also sent by electronic mail to all members of the Objectors' Advisory Committee.

/s/ Sarah M. Shechter