

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
AMENDED AND RESTATED
STANDING ORDER NO. 1**
(ON MANAGEMENT OF CERTAIN
OBJECTION PROCEEDINGS BEFORE
THE SPECIAL MASTER)

Civil No. 360057298

Rick L. Knuth, Special Master

The Special Master, acting *sua sponte*, issued Standing Order No. 1 (On Management of Certain Objection Proceedings Before the Special Master) on August 9, 2016, which the instant order amends and restates:

1. This Amended and Restated Standing Order No. 1 (this “Order”) restates that certain “Order Governing Filing of Documents,” dated and entered on December 19, 1994, addressing the filing of documents in the general case file and requiring the designation of specific adjudicative subdivisions in pleadings filed with the Clerk.

2. For purposes of this Order, an “Objection Proceeding” shall include an objection to any State Engineer’s Proposed Determination, within the meaning of Utah Code *Ann.* Sections 73-4-11 and 73-4-9.5, respectively (each, an “Objection”).

3. The provisions of this Order apply only to Objections filed prior to June 28, 2016.

4. An Objection Proceeding for an Objection subject to this Order shall be commenced by the Special Master's issuance of a "Notice and Order to Show Cause," either *sua sponte*, or upon motion of an interested party upon good cause shown, requiring any person asserting an Objection to a Proposed Determination (each, an "Objector") to appear and show cause why the Objection should not be dismissed. A Notice and Order to Show Cause will be in a form substantively similar to Attachment A, attached hereto.

5. As a part of a motion for the issuance of a Notice and Order to Show Cause, the movant shall file a proposed service matrix, setting forth:

- a. The name and current address (if available) of the original Objector who interposed the Objection;
- b. The Statement of Claim/Water User Claim number to which the Objection relates;
- c. An image of the book and page number from the Proposed Determination where the subject Statement of Claim/Water User Claim appears;
- d. The name and current address of any attorney who has appeared for any party respecting the Objection; and,
- e. The name and address of the present record title owner(s) of the water right to which the Objection relates, as that information is currently reflected in the database of the Utah State Division of Water Rights.

6. In addition to the service matrix, the motion for the issuance of a Notice and Order to Show Cause shall include copies of all responsive pleadings directed to the Objection.

7. The Notice and Order to Show Cause will be served by certified mail, return receipt requested, and will be accompanied by:

a. A cover letter from the Special Master, substantively identical to Attachment B, attached hereto;

b. A copy of the subject Objection and of all responsive pleadings directed to the Objection;

c. A copy of the page(s) of the State Engineer's Proposed Determination where the subject Statement of Claim/Water User Claim appears;

d. A form of Notice of Intent to Proceed with Objection Proceeding, substantively identical to Attachment C, attached hereto; and,

e. A copy of this Order.

8. An Objection will be subject to a report and recommendation by the Special Master to the District Judge that the subject Objection be dismissed, where: (1) the Objector fails to file with the Clerk the completed form Notice of Intent to Proceed with Objection Proceeding, indicating an intention to pursue the Objection, within thirty-five (35) days of the date of the Notice and Order to Show Cause; (2) the Objector returns the Notice of Intent to Proceed with Objection Proceeding, at any time, indicating an intention not to pursue the Objection; or, (3) the Objector fails to file any response to the Notice and Order to Show Cause.

9. Whenever a Notice of Intent to Proceed with Objection Proceeding has been timely filed with the Court indicating an intention to pursue the Objection, the State Engineer shall file an answer or other controverting pleading within seventy (70) days, except where the State Engineer has already done so.

a. The State Engineer's answer shall contain a Disclosure of Potentially Affected Parties, disclosing the name and address of any person known to the State Engineer "whose rights would be affected or drawn into question"¹ by the resolution of the Objection or the outcome of the Objection Proceeding, as well as the rationale and methodology the State Engineer used to ascertain the identity of such potentially affected parties.

b. In instances where the State Engineer has already answered an Objection, the State Engineer shall file a Disclosure of Potentially Affected Parties, disclosing the information outlined *supra* ¶ 9(a), as a separate pleading, within seventy (70) days of the filing of a Notice of Intent to Proceed.

c. The Objector shall file a Disclosure of Potentially Affected Parties, disclosing the information outlined *supra* ¶ 9(a), within thirty-five (35) days of the date of service of the State Engineer's Disclosure of Potentially Affected Parties.

d. The Disclosure of Potentially Affected Parties will be for notice and procedural purposes only, will be made without waiver of defenses, and the

¹ *Plain City Irr. Co. v. Hooper Irr. Co.*, 51 P.2d 1069, 1071 (Utah 1935).

disclosure or non-disclosure of any party will not be admissible as evidence as to that party's substantive rights.

10. Following the later of the filing of the State Engineer's Answer or the State Engineer's Disclosure of Potentially Affected Parties, the Special Master will schedule and conduct a mandatory Scheduling Conference with the parties to the Objection Proceeding and will issue a Scheduling Order containing deadlines for discovery, mediation and settlement negotiations, dispositive motions, and a final hearing date.

11. The Tier 2 discovery standards and limits of Rule 26(c)(5), Utah Rules of Civil Procedure, will apply to each Objection Proceeding, unless otherwise ordered.

12. All hearings before the Special Master will be held at the Matheson Courthouse, 450 South State Street, Salt Lake City, Utah 84114-1860, unless otherwise ordered, and will in all instances be recorded.

13. Proposed orders for the Special Master's signature, which may be submitted under the conditions provided in Rule 7(j)(6) of the Utah Rules of Civil Procedure, shall be presented by emailing the proposed order, in MS-Word format, to the Special Master at: rknuth@joneswaldo.com, with a copy to other parties/counsel in the Objection Proceeding or sub-case. Requests for Ruling and/or orders in Rich Text format should be electronically filed only where the District Judge's order is sought.

14. When briefing on a motion to be considered by the Special Master is complete or the time for briefing has expired, either party may submit a "Request to Submit for Decision by Special Master," by emailing the a proposed order, in MS-Word format, to the Special Master at: rknuth@joneswaldo.com, with a copy to other

parties/counsel in the Objection Proceeding or sub-case. The Request to Submit for Decision by Special Master must state whether a hearing has been requested and the dates on which the following documents were filed:

- a. The motion;
- b. The memorandum opposing the motion, if any;
- c. The reply memorandum, if any; and
- d. The response to objections in the reply memorandum, if any.

15. To aid in the uniformity of final orders on Objections, in instances where there has been no objection to a Report and Recommendation, the Special Master will submit a form of order or judgment to the District Judge. Parties may notify the Special Master by email when the time for objection to a Report and Recommendation has passed, and the Special Master will notify the District Judge that the matter is ready for a final ruling.

16. The United States of America may appear telephonically in any Status Conference or Scheduling conference, unless otherwise ordered. Counsel for the United States may email the Special Master in advance of the hearing for a conference call-in number.

17. To facilitate browser-searching of the court's on-line docket, each pleading filed in connection with any Objection Proceeding subject to this Order shall include, in the title input into the Court's Xchange or GreenFiling systems, a sub-case number consisting of a three-number set, the first number of which shall correspond to the two-digit number of the Proposed Determination subdivision, the second number being the

number of the book of the subject Proposed Determination, and the third number being the ordinal number assigned to the Objection in the State Engineer's online listing of the objections for that Subdivision, under <http://nrwrt1.nr.state.ut.us/adjstatus/default.asp>. The three numbers in the three-number set shall be separated by hyphens thusly, "XX-X-XX," such that the court's on-line docket can be effectively searched for the three-number set employing search functions in commonly-used web browsers. The sub-case numbers for Objections in the Spanish Fork Canyons, Books 1 and 2; Cedar Valley, Book 1; Salt Lake County West; Salt Lake County Northwest; and Salt Lake County, Central, Book 2 Subdivisions are prescribed in the Special Master's Order Approving Numbering of Sub-Cases in Subdivisions 51-1, 51-2, 54-1, 59-1, and 59-2, dated November 2, 2016.

18. Pursuant to the Order Appointing a Master and Order of Reference (Etc.), dated and entered June 28, 2016:

a. Objection Proceedings before the Special Master will be conducted in conformity with the Utah Rules of Civil Procedure and the Utah Rules of Evidence;

b. Documents filed with the Clerk of the Court are deemed filed with the Special Master; and,

c. Parties may request leave to appear telephonically at status conferences and scheduling conferences, and the Special Master shall freely grant leave for those proceedings. The Special Master may grant leave to appear telephonically at other hearings or proceedings as may be appropriate, in the judgment of the Special Master.

SO ORDERED this 3rd day of November, 2016.

By: /s/ Rick L. Knuth
Rick L. Knuth
Special Master

ATTACHMENT A

(Form of Notice and Order to Show Cause)

IN THE THIRD JUDICIAL DISTRICT COURT
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

[•] Subdivision, Book [•]

*[•Original Objector Name(s)•]
Objection Proceeding No. XX-X-XX*

**SPECIAL MASTER’S
NOTICE AND ORDER TO
SHOW CAUSE WHY
OBJECTION TO STATE
ENGINEER’S PROPOSED
DETERMINATION SHOULD
NOT BE DISMISSED**

Civil No. 360057298 ([•]-[•])

R. L. Knuth, Special Master,

To:

Original Objector:

[•Name•]

[•Address•]

Current Record Title Owner of the Subject Water Right:²

[•Name•]

[•Address•]

Counsel of Record:

[•Name•]

[•Address•]

Regarding:

Subject Water Right(s): [•]

² As reflected in the water rights database of the Utah State Division of Water Rights:
<http://www.waterrights.utah.gov/wrinfo/query.asp>

Objection, dated [●], to State Engineer's Proposed Determination, [●Subdivision and Book●], Statement of Claim/Water Users Claim No. [●].

* * * * *

THE DULY-APPOINTED AND ACTING SPECIAL MASTER IN THIS GENERAL ADJUDICATION OF WATER RIGHTS ENTERS THE FOLLOWING ORDER:

You are hereby notified of your right to participate in proceedings to adjudicate an Objection in the above-referenced general adjudication of water rights.

1. The following documents are enclosed with this Order:
 - d. A cover letter from the Special Master appointed to hear Objections in this case;
 - e. A copy of the Objection;
 - f. The page(s) of the State Engineer's Proposed Determination to which the Objection relates;
 - g. [●A copy of all responsive pleadings controverting the Objection, if any●];
 - h. A form of Notice of Intent to Proceed with Objection Proceeding; and,
 - i. Special Master's Amended and Restated Standing Order No. 1, dated November 3, 2016.

If it is your desire and intention to pursue the Objection to the State Engineer's Proposed Determination in this general adjudication of water rights, you must so indicate on the enclosed Notice of Intent to Proceed with Objection Proceeding, and file

the completed form with the Clerk of the Court, at the address given therein, **but if you fail to do so within thirty-five (35) days from the date of this Order, the Special Master will report to the assigned District Judge his recommendation that the Objection be dismissed, and you will be forever barred from asserting such Objection.**

2. If you desire to pursue the Objection, and you timely return the Notice of Intent to Proceed with Objection Proceeding so indicating, to the extent the State Engineer has not already done so, the State Engineer is required to file and serve on you an answer or other controverting pleading in support of the State Engineer's Proposed Determination. Once the State Engineer and any other party controverting the Objection has filed a responsive pleading, the matter will be set for a mandatory scheduling conference before the Special Master, after which the Special Master will issue a Scheduling Order, governing further litigation of the Objection Proceeding.

3. If you do NOT wish to pursue the Objection, you may return the completed Notice of Intent to Proceed with Objection Proceeding to the Clerk of the Court, so indicating, and the Objection will be dismissed by the Court in due course.

4. You may request an enlargement of the thirty-five (35) day period to respond to this Notice and Order to Show Cause by filing a motion with the Clerk of the Court, specifying a good cause in support of your request for additional time.

SO ORDERED this [●] day of [●], 201[●].

By: Rick L. Knuth
Special Master

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the [●insert day of mailing●][●st, nd, rd, th●] day of [●insert month of mailing●], 20[●] I caused a true and correct copy of the foregoing Special Master's Notice and Order to Show Cause Why Objection to State Engineer's Proposed Determination Should Not Be Dismissed, together with accompanying attachments, to be served via USPS Certified Mail with return receipt on the following:

[●Name of Original Objector●]
[●Address●]

[●Name of Current Record Title Owner of Subject Water Right ●]
[●Address●]

[●Name of Counsel of Record ●]
[●Address●]

The foregoing, along with its accompanying attachments, was also served on the same date, via electronic filing notification, on all parties requesting such notification in the above-captioned case.

/s/ Paul R. Smith

ATTACHMENT B

(Form of Special Master's Cover Letter)

[●], 2016

[●]³

Re: *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*, Civil No. 360057298
(Third Judicial District Court)

Dear Water Right User:

You are being supplied with this letter and the accompanying Notice and Order to Show Cause in connection with the above-referenced general adjudication of all water rights in the Utah Lake and Jordan River drainage.

Utah, like other western states, is conducting general adjudications of all of the water rights within several major drainages. These proceedings, which are complex and lengthy legal actions, are being conducted for several reasons. First, these adjudications are an effort to recognize, quantify, and prioritize water rights that, in some cases, extend back into the 1800s. Second, these adjudications will result in a centralized record of the water rights that are recognized as valid, and will eliminate water rights or parts of water rights that — for whatever reason — the law does not recognize or no longer acknowledges as valid.

I am an attorney who is also the Special Master of the general adjudication's objection process. A master is a judicial officer appointed by the Court to hear disputes and report on legal and factual issues referred by the Court. After resolving the objections to the State Engineer's proposed determinations and the various objections of

³ Certified Mail Serial No. [●]

water right claimants, the Special Master is responsible for presenting a written report and recommended final decree to the district court judge assigned to the general adjudication. After hearing and resolving any objections to the Special Master's report, the judge will issue an interlocutory decree for each area of the watershed, each of which will be incorporated into a final decree for the entire area of the General Adjudication.

The Utah State Engineer has published a Proposed Determination of Water Rights for the [_____] Subdivision, Book [____], describing the elements of the subject water right. Many years ago, you or your predecessor-owner objected to the State Engineer's Proposed Determination. Now is the time to resolve the objection and those of other water appropriators in the [_____] subdivision of the General Adjudication.

Enclosed is a copy of the page(s) of the Proposed Determination that affects the subject water right, and a copy of the original objection which is the subject matter of this letter.

It is important that you carefully read and understand the enclosed Notice and Order to Show Cause. In order to pursue the objection, you must sign and file with the District Court the enclosed "Notice of Intent to Proceed with Objection Proceeding"; instructions for doing so are attached to that Notice.

This is your only opportunity to present your objection to the manner in which the subject water right is characterized and treated under the State Engineer's Proposed Determination.

If you fail to sign and file with the Court the enclosed Notice of Intent to Proceed with Objection Proceeding, you will forfeit your opportunity to participate and be heard, and the Objection will be dismissed. You will be giving up your right to provide the Special Master with information necessary to determine your claims with respect to the water rights in question. You will also be forfeiting your opportunity to argue a position that is shared by other water users or interested parties.

General adjudications are complex legal proceedings that affect valuable property rights. Like any lawsuit involving important legal issues, it is usually to your advantage to consult with a qualified attorney early in the process. Even if you decide not to retain a lawyer, early consultation with an attorney will help you in making that decision. You may wish to talk to other individuals participating in an objection proceeding to see if your interests and positions are the same. If they are, you may wish to join together to assert a common position or retain a lawyer. You may learn that major parties have competing positions and that some of the major parties, although not representing you, may support your position on a specific issue. You should also be mindful that these objection proceedings must be conducted in accordance with the Utah Rules of Evidence

and Rules of Civil Procedure, and that the State Engineer is a party in each objection proceeding and will be represented by lawyers in the Office of the Utah Attorney General. If you do not have a lawyer, the Utah State Bar may be able to help you find one: www.utahbar.org/public-services/i-need-a-lawyer/

Please also know that although you have the right to represent yourself in an objection proceeding, unless you are authorized to practice law in the courts of the State of Utah, you will not be permitted to represent or appear for any other person, including family members, or a corporation, company, or trust that you own or control.

Additional information may be available from:

Utah Division of Water Rights, Adjudication Section
1594 West North Temple, Suite 220
P.O. Box 146300
Salt Lake City, Utah 84114-6300
Telephone: (Blake Bingham, Adjudication Program Manager)
801-538-7345
Email: waterrights_adjudication@utah.gov

Information about general adjudication cases is available online at:
<http://www.waterrights.utah.gov/adjdinfo/default.asp>

Specific information concerning this general adjudication case, including online images of pending objections, is available at:
<http://nrwrt1.nr.state.ut.us/adjstatus/default.asp>

Sincerely,

Rick L. Knuth,
Special Master, Utah Lake and Jordan River
General Adjudication of Water Rights
Third District Court, in and for Salt Lake County

RLK:rp
Enc.

ATTACHMENT C

(Form of Notice of Intent to Proceed with Objection Proceeding)

IN THE THIRD JUDICIAL DISTRICT COURT
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

[•] Subdivision, Area [•], Book [•]

*[•], Original Objector,
Objection Proceeding No. XX-X-XX*

**NOTICE OF INTENT TO
PROCEED WITH OBJECTION
PROCEEDING**

Civil No. 360057298 (54-1)

R.L. Knuth, Special Master

Regarding:

Objection, dated [•], to State Engineer's Proposed Determination, [•]
Subdivision, Book [•], Statement of Claim/Water Users Claim No. [•].

=====

THE UNDERSIGNED hereby notifies the Court that (check one, and only one):

☐ I **DO NOT** intend to proceed with an Objection Proceeding before the
Special Master, with respect to above-referenced Objection.

Note: If you do not intend to proceed because you no longer have an ownership
interest in the water right that is the subject of the Objection, kindly provide any
information you have about who may currently own or use the water right, in the space
below:

☐ I **DO** intend to proceed with an Objection Proceeding before the Special Master, with respect to above-referenced Objection.

Please fill in your/the Objector's preferred contact information below:

Name: _____

Address: _____

Tele: _____

Email: _____

THE UNDERSIGNED further notifies the Court that (check one, and only one):

☐ I **do not currently have an attorney, but I intend to employ an attorney who will make an appearance on my behalf at a later time; or I intend to represent myself, in this Objection Proceeding. I can be reached at the contact information above.**

☐ I **am an attorney**, who is representing the Objector(s) in this Objection Proceeding, and can be reached at the contact information below:

Name: _____

Address: _____

Tele: _____

Email: _____

DATED: _____, 20[●]

By: _____

Print Name: _____

When completed and signed, please either (a) electronically file this form with the Third District Court via the Xchange or GreenFiling systems, or (b) mail this form to:

Clerk, Third Judicial District Court
450 South State Street
PO Box 1860
Salt Lake City, Utah 84114-1860