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**IN THE THIRD JUDICIAL DISTRICT COURT
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

**ORDER APPOINTING A MASTER AND
ORDER OF REFERENCE IN THE
UTAH LAKE AND JORDAN RIVER
GENERAL ADJUDICATION**

Civil No. 360057298

Judge Laura Scott

This matter 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.

Having reviewed the documents in support of the motion and considered the arguments, and having reviewed the list of applicants and their qualifications and the comments of the parties, the

Court Orders and directs that R,L. Knuth be appointed 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.

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 subcases within the general adjudication divisions or subdivisions and identifying the parties to each subcase. For example, the State Engineer and the objector will always be parties to each subcase, 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 subcase 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 subcase 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 a subcase 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. Rule 53 and serve the report on all parties to the subcase. Parties shall then have 30 days to object in writing to the Master's report. If objections to the Master's report are filed, parties to the subcase may file written responses within 30 days. 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 subcase 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. Each month the Master shall submit an invoice to the Court and the State Engineer shall pay the amount approved by the Court each month, not to exceed \$438,000 per state fiscal year.

SIGNATURE IS LOCATED AT THE TOP OF THE FIRST PAGE

Approved as to Form via email:

/s/ Benjamin J. Jensen

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CERTIFICATE OF SERVICE

I do hereby certify that on the 16th day of June, 2016, that notice of the proposed **ORDER APPOINTING A 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.

/s/ Benjamin J. Jensen