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 SECOND STATUS REPORT TO THE 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 Second Status Report to the Court:

1. This Special Master's Second Status Report to the Court (this "Status Report") is submitted in conjunction with the Status Conference scheduled before the Court on **June 23, 2017**.

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

3. The Special Master issued his first Status Report to the Court on January 11, 2017. Between that date and June 14, 2017, the Special Master has done the following:

A. The Special Master's Actions Since His First Status Report

a. The Special Master issued his original Standing Order No. 1 on August 9, 2016, which governs objection proceedings before the Special Master in all unresolved Objections that were pending as of the date of the Order of

Reference. The Special Master subsequently revised Standing Order No. 1 and on November 3, 2016 issued his first Amended and Restated Standing Order No. 1.

b. The Special Master prepared and published to the parties' counsel on April 19, 2017, a draft of the Special Master's Standing Order No. 2, and ancillary documents, inviting comment of the stakeholders. Many of those comments were incorporated into the Special Master's Standing Order No. 2, which addresses the litigation of Objections to List of Unclaimed Rights.

c. The Special Master issued Notices and Orders to Show Cause in 7 subdivisions: specifically, the Goshen Valley, Harmony Park, Hobble Creek-Springville, Palmyra-Lake Shore, Pleasant Grove, and Round Valley Subdivisions. As a result, the Special Master has now issued Notices and Orders to Show Cause for all of the objections that were made to Proposed Determinations published prior to the Special Master's appointment, consisting of approximately 4,000 printed pages. The average turn-around time, from receiving the State Engineer's service list for a given subdivision until the issuance of the Special Master's Order to Show Cause, was 30 days.

d. The Special Master issued Notices and Orders to Show Cause for 70 objections and served Notices of Objection Proceedings on 585 potentially affected parties, consisting of 24,144 printed pages.

e. The Special Master issued 39 Reports and Recommendations to the District Judge for the dismissal or disposition by settlement of Objection

Proceedings, which includes three (3) Reports and Recommendations for removal of objections from Lists of Unclaimed Rights. *See* **Exhibit A.**[1] Since the Special Master's appointment, he has filed 77 Reports and Recommendations, and 70 Objection Proceedings have reached a final resolution, either through orders of dismissal, orders incorporating stipulations, voluntary withdrawals of Objections, or voluntary withdrawals of all Notices of Intent in an Objection Proceeding. *See id.*

f. The Special Master has met with Judge Scott, on at least a monthly basis, to discuss procedural and administrative issues in the case.

g. From January 1, 2017 to June 15, 2017, the Special Master and his team have logged approximately 575 hours on the case.

h. From the Special Master's appointment, to May 31, 2017, the Special Master and his firm have requested the Court's approval of $116,628 for fees and costs, and have requested aggregate payments in the amount of $279,503.50.

B. The Subdivision Sub-Cases and Three-Digit Identifiers

a. After extensive conferences among District Judge Laura Scott, the Clerk of the Court, and the Special Master, the Court entered its Order Assigning Subdivision Sub-Case Numbers for Objection Proceedings, and Governing Filing of Documents in Subdivision Sub-Cases (the "Sub-Case Order"), on December 15, 2016. Prior to entry of the Sub-Case Order, all filings in the

[1] Exhibit A provides data representing the Special Master's work from the date of his appointment (June 28, 2016) through June 14, 2017—in other words they are cumulative. The figures provided for the Special Master's progress since his first Status Report were calculated by comparing the cumulative figures from Exhibit A to those provided in the first Status Report.

General Adjudication were made under the general 1936 case number — *viz.*, Case No. 360057298—regardless of which Objection Proceeding or Subdivision the filing related to. This made management of this large and complex case cumbersome and unwieldy, especially for parties appearing *pro se*. The Sub-Case Order created separate sub-cases for each Subdivision within the General Adjudication and required that all pleadings be filed under the separate Subdivision sub-case that corresponds to the location of the subject water right. The Sub-Case Order also required that all pleadings include a three-digit identifier, to facilitate browser-searching of the Court's on-line docket. Implementation of the separate Subdivision sub-cases and the three-digit identifier system, though not ideal, is working reasonably well, and is doubtless a great improvement over the prior practice of filing all pleadings in the case under a single civil number.

C. The Objector's Advisory Committee

a. On November 19, 2016, the Special Master entered an order forming the Objectors' Advisory Committee. The Committee is open to participation by all parties in interest, and neither the Court nor the Special Master direct the Committee's discussions or conclusions. The Committee was charged with making procedural recommendations for the litigation of objections proceedings before the Special Master. As originally constituted, the Committee was to meet and file their recommendations to the Special Master by the end of February 2017.

b. The Committee filed its First Report of the Objectors' Advisory Committee on February 2, 2017. In the First Report, the Committee reported that, during its first meeting, it had established voting rules, elected the Committee's co-chairs, and determined that it needed more time to complete its assignment. On motion of the Advisory Committee, the Special Master entered an order extending the term of the Advisory Committee until May 30, 2017.

c. The Advisory Committee issued its Second Report of Objectors' Advisory Committee on April 10, 2017, in which the Committee proposed various revisions to the Special Master's Amended and Restated Standing Order No. 1. In particular, the Committee proposed that, following the initial scheduling conference, the Special Master would "certify an official Certificate of Service for the Objection Proceeding." In other words, the Committee proposed that the Special Master compile and issue a service list for each Objection Proceeding that would identify the names and contact information for each party that is entitled to service.

d. Finally, on April 26, 2017, the Advisory Committee issued its comments on, and proposed revisions to, the proposed Special Master's Standing Order No. 2, on Objections to Lists of Unclaimed Rights.

e. Despite some initial misgivings on the part of several of the major stakeholders in the General Adjudication, the Objector's Advisory Committee process has worked as intended. The Committee has performed diligently and well, the Committee's insights have proven very valuable to the Special Master, and many of the Committee's

recommendations have been incorporated into the Special Master's standing orders for governing objections litigation within the General Adjudication.

f. The Special Master attended and participated in a Status Conference before the Court on April 28, 2017, at which the Advisory Committee's three reports were discussed.

g. The Special Master issued his Standing Order No. 2 on May 4, 2017, and to date it has been implemented in 3 objections to Lists of Unclaimed Rights, two of which have been disposed of by Order of the Court after a Report and Recommendation of the Special Master, and a third order is pending.

D. The Second Amended and Restated Standing Order No. 1

a. The Special Master has not yet issued a Second Amended and Restated Standing Order No. 1 because of pending uncertainty over how to make available to litigants the service lists discussed in the Committee's Second Report. At the April 28, 2017 Status Conference, the Court, the Special Master, and the stakeholders present discussed the idea of setting up a feature on the homepage of the Special Master's law firm (Jones Waldo) that would allow the Special Master to publish read-only service lists that would be available to the public.

b. After the April 28th Status Conference, the Special Master consulted with a web designer and was provided with alternatives and cost estimates, and discussed those with counsel for the State Engineer. The State Engineer considered the cost prohibitive and is reticent to provide this feature on

the Division of Water Rights website. The Special Master is likewise uncomfortable with housing the service lists on his law firm's website.

c. The Special Master therefore recommends that the service lists reside and be made available to the parties and the public on the Court's website: https://www.utcourts.gov/courts/dist/distsites/3rd/. As discussed during the April Status Conference, the Special Master would provide the information necessary to populate the service lists, but the Court would upload the service lists to its website. The Special Master is under the impression that the Court's staff, and Judge Scott's staff in particular, are already operating at capacity. The Special Master would therefore recommend providing Judge Scott with additional staffing resources to assist with this additional responsibility. These new staffing resources, and the modification to the Court's website to include service lists, would of course require the Court to incur new costs. However, the Special Master firmly believes that funding these things would significantly advance the purposes of the General Adjudication.

d. The Court has set another Status Conference to be held in this case on June 23, 2017. The Special Master intends to issue his Second Amended and Restated Standing Order No. 1 after taking into account the comments of the Court and the stakeholders at that Status Conference.

E. The Special Master's Future Efforts

4. Now that the claims objection process is underway in all subdivisions where a Proposed Determination has heretofore been published, the Special Master expects to concentrate his efforts on providing notices to potentially affected parties in

those proceedings where the objector has elected to proceed, and conducting scheduling conferences and issuing scheduling orders that will move those objections to an ultimate disposition. The Special Master anticipates that new Proposed Determinations will be published in the coming months, though when that will happen is unknown at this time. The Special Master intends to issue his Standing Order No. 3 within the next sixty (60) to ninety (90) days, which will govern how objections to newly-published Proposed Determinations are litigated.

RESPECTFULLY SUBMITTED this 15th day of June, 2017.

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

CERTIFICATE OF SERVICE

I certify that on the 15th day of June, 2017, I caused a true and correct copy of the foregoing SPECIAL MASTER'S SECOND 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/R. L. Knuth

EXHIBIT A

General Adjudication of Water Rights for the Utah Lake and Jordan River Drainage

Status Report for June 28, 2016 to June 14, 2017

Subdivision	Objections	OSCs	NOIs	R&Rs	Final Dispositions
Spanish Fork Subdivision (51-1), Civil No. 365729801	13	13	7	7	10
Spanish Fork Subdivision (51-2), Civil No. 365729802	17	17	9	17	16
Palmyra-Lakeshore Subdivision (51-3), Civil No. 365729803	1	1	0	0	0
Hobble Creek Subdivision (51-4), Civil No. 365729804	36	36	46	0	4
Goshen Valley Subdivision (53-1), Civil No. 365729806	3	3	0	0	0
Cedar Valley Subdivision (54-1), Civil No. 365729807	18	17	39	4	10
Round Valley Subdivision (55-1), Civil No. 365729808	4	4	1	0	0
Pleasant Grove Subdivision (55-8), Civil No. 365729811	6	6	5	4	0
SLC Northwest Subdivision (59-1), Civil No. 365729813	6	6	5	4	5
SLC Central Subdivision (59-2), Civil No. 365729814	13	13	2	12	13
SLC West Subdivision (59-3), Civil No. 365729815	8	8	14	7	6
SLC Southwest Subdivision (59-4), Civil No. 365729816	9	9	9	8	3
SLC Supplement Subdivision (59-5), Civil No. 365729817	17	16	4	11	1
West Mill Creek Subdivision (57-6), Civil No. 365729821	4	N/A	N/A	3	2
Totals	**155**	**149**	**141**	**77**	**70**

Key	
OSCs	Notices & Order to Show Cause
NOIs	Notices of Intent to Proceed
R&Rs	Reports and Recommendations
Final dispositions	Final resolutions, including orders of dismissal, orders entering a stipulation, voluntary withdrawals of Objection, or voluntary withdrawals of all Notices of Intent in an Objection Proceeding