

Decision still likely to be months away

By Russ Pankonin

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Friday marked the completion of another step in the ongoing dispute between Kansas and Nebraska over water use in the Republican Basin.

A trial between the states was heard in Portland, Maine by Special Water Master William J. Kayatta, Jr., of Portland.

The trial began Monday, Aug. 13, and was completed on Friday, Aug. 24, one week ahead of schedule.

Jasper Fanning, manager of the Upper Republican Natural Resources District, spent the entire two weeks in Portland as a witness for Nebraska in the case.

He was joined by the managers of the Middle and Lower Republican NRDs and the Tri-Basin NRD.

Fanning said Nebraska presented its case well before the special master. However, he said it was hard to get a feel on how the special master will rule. "I'd just be speculating," he said this week.

While the special master didn't have any practical experience with groundwater pivot irrigation, Fanning said he was well read and prepared for the trial.

From here, attorneys from both states will file post-trial briefs. Each will then be able to file responses to the other's briefs. Fanning said this should be complete by mid-October.

He didn't know how long it may be before Kayatta makes a recommendation to the U.S. Supreme Court on the dispute.

From there, he said the case can still be argued before the Supreme Court before they render a decision. As a result, Fanning said it will be some time before an outcome will be known.

All witnesses pre-filed their testimony with Kayatta before the trial began. Fanning said each witness only took the stand once and was questioned about all aspects of the case at once.

That made the trial somewhat harder to follow, he noted.

Another key element, Fanning said, came in the action by Kayatta to strike much of the testimony of Brad Edgerton, manager of the Frenchman/Cambridge Irrigation District.

Edgerton was testifying as a witness for Kansas, addressing the shortage in surface water the irrigation district experiences. He attributes that to groundwater use upstream in the Middle and Upper NRDs.