

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF KLAMATH

In the Matter of the Determination of the Relative Rights of the Waters of the Klamath River,
A Tributary of the Pacific Ocean

In Re:)
WATERS OF THE KLAMATH RIVER) Case No. WA1300001
BASIN,)
) CASE MANAGEMENT ORDER #18
) SETTING RESPONSES, REPLIES, AND
) ORAL ARGUMENT ON PHASE 1A
) MOTIONS
)
_____) June _____, 2016

SUMMARY OF ISSUES ADDRESSED BY THIS CASE MANAGEMENT ORDER

- I. Introduction**
- II. Background and Order Regarding Reference to Motions**
- III. Order Regarding Response and Reply Briefs and Oral Arguments**

I. INTRODUCTION

This proceeding is referred to as the “Klamath Adjudication”. This Case Management Order #18 will be mailed to those listed on the current service list provided by the court on _____.

II. BACKGROUND AND ORDER REGARDING REFERENCE TO MOTIONS

In Case Management Order #14, the court ordered that hearing on exceptions in this proceeding would proceed in phases. In general, Phase 1 addresses issues or issue categories not inherently limited to a single claim or category of claims, and will proceed in three distinct parts or

sub-phases including Phase 1A (jurisdictional and similar issues), Phase 1B (procedural issues), and Phase 1C (other threshold or cross-cutting issues). Section III of Case Management Order #14 includes standards and instructions for motions in each of the sub-phases.

Case Management Order #15 set May 20th, 2016, as the deadline to file motions regarding Phase 1A issues or issue categories. The court received the following motions:

A. Motion of Agency Seven, LLC, et al., for an Order Regarding Phase 1A, Issue No. 5; which can be referred to as “Phase 1A, Motion A” or within this order as simply “Motion A”;

B. Motion of Stephen S. Napier and Mary Anna Napier, et al., for an Order Allowing Motions for Entry of a Limited Judgment(s) Regarding Claim Nos. 66, 98, 99, 108, 109, 113, 119, 120, 121, 122, 128, 234, 242, and 697; Phase 1A Category No. 5; which can be referred to as “Phase 1A, Motion B” or within this order as simply “Motion B”;

C. PacifiCorp’s Motion for an Order on the Court’s Authority to Issue a Partial Judgment (Phase 1A, Issue #5); which can be referred to as “Phase 1A, Motion C” or within this order as simply “Motion C”;

D. Motion of TPC, LLC, et al., for Order Dismissing the United States’ Exceptions and Requests to be Heard, filed against Water Right Claim Nos. 9, 18, 41, 45, 57, 59, 62, 64, 74, 95, 97, 105, 114, 124, 130, 131, 676, and 703; Phase 1A, Issue Category No. 3; which can be referred to as “Phase 1A, Motion D” or within this order as simply “Motion D”;

E. Brian and Sharon Allen’s Motion to Dismiss Statement of Exceptions of Klamath Project Water Users to Amended and Corrected Findings of Fact and Order of Determination in the Klamath Basin Adjudication; Exceptions to Partial Order of Determination concerning water right Claim or

Claims No. 279; Phase 1A, Issues #1 and #3; which can be referred to as “Phase 1A, Motion E” or within this order as simply “Motion E”;

F. Klamath Project Water Users’ Motion for Order Denying and Striking All Exceptions alleging OWRD failed to comply with ORS 539,120; Phase 1A, Issue Categories #2 and #3; which can be referred to as “Phase 1A, Motion F” or within this order as simply “Motion F”;

G. Klamath Project Water Users’ Motion for Order Denying and Striking All Exceptions to the ACFFOD related to organization or form of ACFFOD and/or access to the record prior to the time for filing exceptions or availability of record evidence; Phase 1A; Issue Category #2; which can be referred to as “Phase 1A, Motion G” or within this order as simply “Motion G”;

III. ORDER REGARDING RESPONSE AND REPLY BRIEFS AND ORAL ARGUMENTS

1. Any party or the Oregon Water Resources Department, responding in whole or in part to any of the above motions, shall file its response papers no later than July 19th, 2016.

2. Responsive briefs shall be organized and limited as follows:

a. Parties may respond to Motions A, B, and C in either a single combined brief (responding to two or more motions) or in separate briefs (responding to a single motion only), but the total number of pages filed in response to Motions A, B, and C, regardless of the number of response briefs filed, shall not exceed 30 pages.

b. Responses to Motion D and/or E shall be made in separate briefs (responding to a single motion only) and shall not exceed: 30 pages with respect to Motion D; and 10 pages with respect to Motion E.

c. Parties may respond to Motions F and G in either a single combined brief (responding to both motions), or in separate briefs (each responding to a single motion only), but the total number of pages filed in response to Motions F and G, regardless of the number of response briefs filed, shall not exceed 20 pages.

3. The movant(s) and any party supporting one or more of the above motions shall file its reply papers no later than August 18th, 2016.

4. Reply papers shall be organized and limited as follows:

a. Replies to responses to Motions A, B, and C may be filed in one or more briefs, but the total number of pages filed in reply to responses to Motions A, B, and C, regardless of the number of reply briefs filed, shall not exceed 20 pages.

b. Replies to responses to Motion D shall be included in a single combined brief, not to exceed 20 pages.

c. Replies to responses to Motion E shall be included in a single combined brief, not to exceed 5 pages.

d. Replies to responses to Motions F and G may be included in one or more briefs, but the total number of pages filed in reply to responses to Motions F and G regardless of the number of reply briefs filed, shall not exceed 15 pages.

5. Responses and replies shall comply with Case Management Order #14, Section III.E. No party is required to file a response or reply concerning any given motion.

6. The page limitations above do not include caption, Table of Contents, and any attachments.

7. The court will hold a hearing on the above motions on October 18th and, if necessary, October 19th, 2016. Prior to the hearing the court will issue a schedule for the various oral arguments. A party will be permitted to make oral arguments only if they filed a motion, response, or reply. In its discretion the court will determine the length and order of oral arguments.

Dated this ____ day of June, 2016.

CAMERON F. WOGAN
Circuit Court Judge