

CLERK OF DISTRICT COURT  
2013 MAY -1 PM 3:26

*RS*

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF KLAMATH

8 *In Re* )  
9 WATERS OF THE KLAMATH RIVER BASIN.)  
10 )  
11 )  
12 )  
13 )  
14 )

Case No. **WS1300002**  
~~WAT300001~~

**PETITION FOR PARTIAL STAY OF  
FINDINGS OF FACT AND ORDER  
OF DETERMINATION BY UPPER  
BASIN CONTESTANTS AS TO  
CERTAIN TRIBAL CLAIMS**

ORS 539.180

**ORAL ARGUMENT REQUESTED**

16 The parties noted in Exhibit 1 to the Memo In Support of Petition for Partial Stay of  
17 Certain Tribal Claims (collectively “Upper Basin Contestants” or “UBC” or “petitioners”)  
18 respectfully PETITION the Court for an ORDER GRANTING A PARTIAL STAY of the State  
19 of Oregon’s Final Order and Determination (“FFOD”) as follows:

**PETITION**

21 Pursuant to ORS 539.180 and the Court’s March 7, 2013 Case Management Order #1,  
22 UBC petitions the Court for an order staying the operation and enforcement of those portions of  
23 the FFOD granting the United States’ instream claims<sup>1</sup> for the Wood River and its tributaries  
24 (Claims 668 and 670), Crooked Creek (Claim 669), the Sprague River and its tributaries (Claims

<sup>1</sup> These claims were made by the United States Bureau of Indian Affairs as Trustee for the Klamath Tribes.

**PETITION FOR PARTIAL STAY OF FINDINGS OF FACT AND ORDER OF  
DETERMINATION BY UPPER BASIN CONTESTANTS AS TO CERTAIN TRIBAL  
CLAIMS**

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1 641, 642, 643, 644, 645, 646, 647, 649, 650, 651, 652, 654, 655, and 657), the lower Sycan River  
2 (Claim 658), the lower Williamson River and its tributaries (Claims 625, 626, 627, 634, and  
3 640), and the United States' claim for lake levels on Upper Klamath Lake Claim (Claim 622)  
4 against the petitioners.

5 This petition is supported by the undertakings of each petitioner, which are to be filed  
6 with the Court this week, a memorandum of law, and the Declaration of Elizabeth E. Howard in  
7 Support of the Memo in Support of Petition for Partial Stay of Certain Tribal Claims.

8 **ORAL ARGUMENT/HEARING REQUESTED**

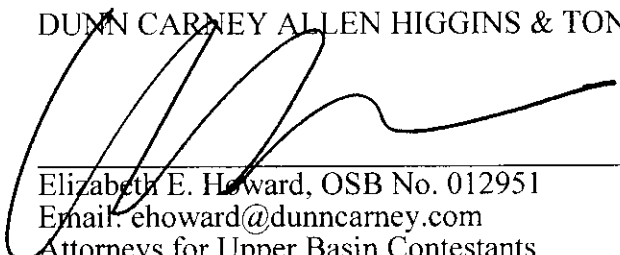
9 Petitioners request oral argument. Petitioners also reserve the right to request a hearing  
10 to provide witness testimony and conduct cross examination, should a response to the Petition be  
11 filed.

12 **CERTIFICATE OF COMPLIANCE WITH UTCR 5.010**

13 Though UTCR 5.010 does not apply to this Petition, UBC, by and through its counsel of  
14 record, Elizabeth Howard, have made a good faith effort to confer with the United States and  
15 Klamath Tribes, by and through their counsel prior to the filing of this Petition, via written  
16 correspondence and through direct telephonic communication. At the time of this filing,  
17 conferral efforts are continuing.

18 Dated this 30<sup>th</sup> day of April, 2013.

19 DUNN CARNEY ALLEN HIGGINS & TONGUE LLP

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21   
22 Elizabeth E. Howard, OSB No. 012951  
23 Email: ehoward@dunncarney.com  
24 Attorneys for Upper Basin Contestants

25  
26 Page 2 **PETITION FOR PARTIAL STAY OF FINDINGS OF FACT AND ORDER OF  
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