

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
BASIN,

Case No. WA1300001

CASE MANAGEMENT ORDER #29
SETTING RESPONSES, REPLIES AND
ORAL ARGUMENT ON PHASE 1C
MOTIONS.

November 17, 2017

SUMMARY OF ISSUES ADDRESSED BY THIS CASE MANAGEMENT ORDER

- I. Background and order regarding phase 1C motions**
- II. Order regarding response and reply briefs and oral argument in phase 1C**

This Case Management Order (CMO) #29 will be mailed to those listed on the current service list provided by the Court on November 17, 2017.

**I. BACKGROUND AND ORDER REGARDING REFERENCE TO PHASE 1C
MOTIONS**

In Case Management Order (CMO) #14, the Court set forth procedures for the conduct of Phase 1 of the adjudication, which included three subphases: 1A, 1B, and 1C. In Case Management Order (CMO) #28, the Court set forth the issues to be addressed and the procedures applicable to Phase 1C.

Case Management Order (CMO) #28 set October 20, 2017 as the deadline to file motions regarding three specified Phase 1C categories.

WA1300001
OR
Order
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The Court received 10 Phase 1C motions from 8 parties or groups of parties, each requesting rulings as to one or more Phase 1C issues or issue categories. Following is a list of the Phase 1C motions and the issue categories addressed therein.

A. *OWRD's Phase 1 C Motions*, which can be referred to as "Phase 1C, Motion A" or within this order as simply "Motion A" [Issue Category Nos. 1, 2, & 3];

B. *Klamath Project Water Users' Motion for Order Ruling that the Judgment will affirm KBA_ACFOD_00001-00014, and Disallowing Exceptions thereto*, which can be referred to as "Phase 1C, Motion B" or within this order as simply "Motion B" [Issue Category No. 1];

C. *Klamath Project Water Users' Motion for Order Ruling that the Judgment will affirm the General Conclusions of Law Concerning Amendment of Claims*, which can be referred to as "Phase 1C, Motion C" or within this order as simply "Motion C" [Issue Category No. 2];

D. *Klamath Project Water Users' Motion for that the Judgment will Affirm the Denial of Late-Filed Claims and Disallow Exceptions thereto*, which can be referred to as "Phase 1C, Motion D" or within this order as simply "Motion D" [Issue Category No. 3];

E. *Motion of Kite Ranches, INC. for an Order Allowing Amendment of Claims Regarding Claim NO. 207*, which can be referred to as "Phase 1C, Motion E" or within this order as simply "Motion E" [Issue Category No. 2];

F. *Phase 1C Motion and Notices of: Agri water, LLC; Ausaymas Cattle Co.; Double K. Ranch (aka Kenneth Tuttle and Karen Tuttle); Gerald H. Hawkins; Goose Nest Ranches, LLC; Mike and Jan Hester; Harlowe Ranch, LLC; Hawkins Cattle Co.; John B. Owens; Kenneth Owens; Martin Nicholson; NBCC LLC; Nicholson Investments, LLC; Nicholson Loving Trust; Owens & Hawkins; Productive Timberland LLC; Randall Kizer (Successor to Maxine Kizer); Richard Nicholson; Robinson Best, LLC; Roger Nicholson; T & B Ranch and Wood River District Improvement Co.*, which can be referred to as "Phase 1C, Motion F" or within this order as simply "Motion F" [Issue Category No. 1]

G. *Phase 1C Motion of Wilks Ranch Oregon Ltd for Order Reversing Denial of Claim 131 and Remanding for Determination of Claim*, which can be referred to as “Phase 1C, Motion G” or within this order as simply “Motion G” [Issue Category No. 3]

H. *Phase 1C Motion of Gregg Harris for Order Allowing Filing of Water Right Claim*, which can be referred to as “Phase 1C, Motion H” or within this order as simply “Motion H” [Issue Category No. 3]

I. *Joint Motion of Cameron Curtiss; Steven Lawrence and James Lawrence for Orders Regarding Phase 1C to Amend Claims NOS. 13 and 3*, which can be referred to as “Phase 1C, Motion I” or within this order as simply “Motion I” [Issue Category No. 2]

J. *United States of America’s and The Klamath Tribes’ Joint Phase 1C Motion for Order Modifying OWRD’s General Conclusions of Law Concerning Amendment of Claims: Phase 1C: Issue Category #2*, which can be referred to as “Phase 1C, Motion J” or within this order as simply “Motion J” [Issue Category No. 2].

II. ORDER REGARDING PHASE 1C RESPONSE AND REPLY BRIEFS AND ORAL ARGUMENTS

1. Any party or the Oregon Water Resources Department (OWRD), responding in whole or in part to any of the above motions, shall file its response brief no later than **December 1, 2017**.

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

a. The Court encourages Responses to Motions in an issue category to be filed, to the extent practicable, in a single combined brief (responding to one or more motions). The Court further encourages combined responses across issue categories where practicable.

b. Responsive briefs shall include a simple caption substantially similar to the following: *[Insert Name of party or group of parties filing the response]*’s Response to Phase 1C Motion(s) Issue Category(ies) *[insert Category or Categories Number(s)]*. Case Management Order #14, section III.C (“Captions”) does not apply to responses to Phase 1C motions.

c. The parties should identify in the first paragraph of their response the motion(s) and issue(s) or issue categories addressed. The parties may reference the Phase 1C motions using the identifiers (e.g., "Phase 1C, Motion A") provided in section II above.

3. The movant(s) and any party supporting one or more of the above motions and/or rulings requested therein shall file their reply brief no later than **December 22, 2017**.

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

a. The Court encourages Replies to Responses in an issue category to be filed, to the extent practicable, in a single combined brief (responding to one or more motions). The Court further encourages combined responses across issue categories where practicable.

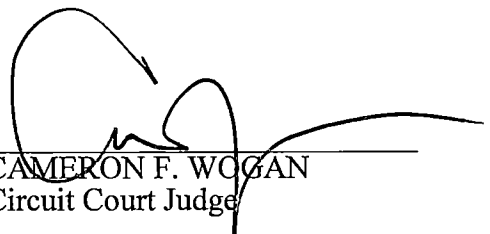
b. Reply briefs shall include a simple caption substantially similar to the following: *[Insert name of party or group of parties filing the reply]*'s Reply in Support of Phase 1C Motion(s) Issue Category(ies) *[insert Category or Categories Number(s)]*. Case Management Order #14, section III.C ("Captions") does not apply to Phase 1C reply briefs.

c. The parties should identify in the first paragraph of their reply the motion(s), issue(s) or issue categories, and response(s) addressed. The parties may reference the Phase 1C motions using the identifiers (e.g., "Phase 1C, Motion A") provided in section II above.

5. No party is required to file a response or reply concerning any given motion. Except as otherwise provided in this Case Management Order, responses and replies shall comply with Case Management Order #14, section III.E.

6. The Court will hold a hearing on the above motions on **February 6, 2018** commencing at 9:00 a.m. and, if necessary **February 7, 2018**. A party will be permitted to make oral argument only if the party filed a motion, response, or reply. In its discretion the Court will determine the length and order of oral argument.

Dated this 17th day of November, 2017.


CAMERON F. WOGAN
Circuit Court Judge