

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 (CMO)
	)	#34: ORDERS REGARDING NOTICE
	)	OF E-FILING MISTAKE OF KLAMATH
	)	PROJECT USERS' (KPWU) MOTION
	)	
	)	August 16 th , 2018

This Case Management Order #34 will be mailed to those listed on the current service list provided by the court on August 2nd, 2018.

On August 8th, 2018 at 4:09 p.m. KPWU filed a document entitled "NOTICE OF E-FILING MISTAKE OF KLAMATH PROJECT WATER USERS MOTION ..." (the notice) which is attached as Exhibit A. The certificate of service to Exhibit A is not attached. The notice explains that KPWU filed its motion late. On August 6, 2018 at 1:37 p.m. KPWU filed the motion referred to in the notice entitled "KLAMATH PROJECT WATER USERS' MOTION FOR ORDER RULING: (1) THAT THE ACFFOD'S GENERAL CONCLUSIONS OF LAW CONCERNING PRE-1909 CLAIMS (KBA_ACFFOD_00015-00021) DO NOT PRECLUDE THE CONSIDERATION OF EXCEPTIONS UNIQUE TO CLAIMS BASED ON THE ACT OF FEBRUARY 22, 1905, 1905 OR. GEN. LAWS CH.228; AND (2) ESTABLISHING THE STANDARD TO BE APPLIED TO EXCEPTIONS RELATED TO WAIVER OR ABANDONMENT OF A WATER RIGHT OR

CASE MANAGEMENT ORDER #34: ORDERS --
REGARDING NOTICE OF E-FILING MISTAKE OF KPWU

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WA1300001
OR
Order
9706870



CLAIM, OR APPROPRIATION” (the motion).

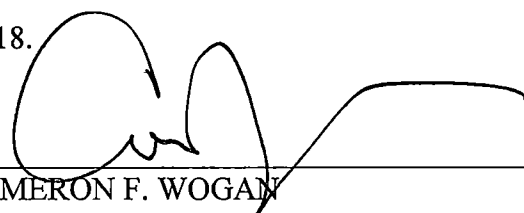
IT IS HEREBY ORDERED that

1. Any arguments in support of or in opposition to the merits of the motion must be filed as set forth in CMO #33 and following the schedule on Page 4 of that CMO as though the motion had not been filed late.

2. Any objections to the timeliness of filing the motion including any requested consequences must also be filed as set forth in CMO #33 and following the schedule on Page 4 of that CMO.

3. The court will rule on objections to the timeliness of filing the motion in the same manner as it rules on arguments on the merits.

Dated this 16th day of August, 2018.



CAMERON F. WOGAN
Circuit Court Judge

Cc:Current Service List

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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

**NOTICE OF E-FILING MISTAKE OF
KLAMATH PROJECT WATER USERS'
MOTION FOR ORDER RULING:
(1) THAT THE ACFFOD'S GENERAL
CONCLUSIONS OF LAW CONCERNING
PRE-1909 CLAIMS (KBA_ACFFOD_00015-
00021) DO NOT PRECLUDE THE
CONSIDERATION OF EXCEPTIONS
UNIQUE TO CLAIMS BASED ON THE
ACT OF FEBRUARY 22, 1905, 1905 OR.
GEN. LAWS CH. 228; AND
(2) ESTABLISHING THE STANDARD TO
BE APPLIED TO EXCEPTIONS RELATED
TO WAIVER OR ABANDONMENT OF A
WATER RIGHT OR CLAIM, OR
APPROPRIATION**

Please take notice that on August 3, 2018, Somach Simmons & Dunn PC, counsel for
Tulelake Irrigation District (TID), on behalf of Klamath Project Water Users (KPWU),
incorrectly double-filed the Declaration of Richard S. Deitchman in Support of Klamath Project
Water Users' Motion for Order Ruling: (1) That the ACFFOD's General Conclusions of Law
Concerning Pre-1909 Claims (KBA_ACFFOD_00015-00021) Do Not Preclude the Consideration
of Exceptions Unique to Claims Based on the Act of February 22, 1905, 1905 Or. Gen. Laws
Ch. 228; and (2) Establishing the Standard to Be Applied to Exceptions Related to Waiver or
Abandonment of a Water Right or Claim, or Appropriation (Declaration), and failed to file the
Klamath Project Water Users' Motion for Order Ruling: (1) That the ACFFOD's General
Conclusions of Law Concerning Pre-1909 Claims (KBA_ACFFOD_00015-00021) Do Not

1 Preclude the Consideration of Exceptions Unique to Claims Based on the Act of February 22,
2 1905, 1905 Or. Gen. Laws Ch. 228; and (2) Establishing the Standard to Be Applied to
3 Exceptions Related to Waiver or Abandonment of a Water Right or Claim, or Appropriation
4 (Motion). *See* Declaration of Crystal Rivera Regarding KPWU's E-Filing Mistake (Rivera
5 Decl.), ¶ 4. The Declaration was filed as filing type "Declaration – DD" at 10:32 a.m. on
6 August 3, 2018. Rivera Decl., ¶ 6. Counsel for TID attempted to file the Motion, which appears
7 as filing type "Motion – MO" in the system at 10:28 a.m. on August 3, 2018, however,
8 inadvertently, the document associated with that filing was a copy of the Declaration, and not the
9 Motion. Rivera Decl., ¶ 5. In addition, on August 3, 2018, counsel for TID served all parties
10 who had not previously agreed to electronic service with the Motion and the Declaration via
11 U.S. Mail. Rivera Decl., ¶ 3.

12 Upon reviewing the filings of all parties on Monday, August 6, 2018, counsel for TID
13 discovered the error. Rivera Decl., ¶ 7. At 1:37 p.m. on August 6, 2018, counsel for TID filed
14 the Motion using the electronic file-and-serve system. *Id.*

15 Should any party object to the timeliness of the Motion, KPWU are prepared to file a
16 separate motion requesting approval for filing the Motion on Monday August 6, rather than
17 Friday, August 3, 2018.

18 Respectfully submitted,

19 SOMACH SIMMONS & DUNN
20 A Professional Corporation

21 DATE: August 8, 2018

By s/ Richard S. Deitchman

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Authorized Representative Attorney for Klamath
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