

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 #35
SCHEDULE AND GUIDELINES FOR ORAL
ARGUMENTS ON PHASE 3, PART 1, GROUP
A MOTIONS

January 14, 2019

SUMMARY OF ISSUES ADDRESSED BY THIS CASE MANAGEMENT ORDER

**I. Inventory of and Schedule for Oral Arguments for Phase 3, Part 1, Group A
Motions.**

II. Guidelines for Oral Arguments for Phase 3, Part 1, Group A Motions.

This Case Management Order #35 will be mailed to those listed on the current service list
provided by the Court on September 12, 2018.

**I. Inventory of and Schedule for Oral Arguments for Phase 3, Part 1, Group A
Motions.**

INVENTORY OF PHASE 3, PART 1, GROUP A MOTIONS

Court's Label
(M-Motion)

Party
Kite

Issues
2, 3

Date-Time Filed
8/3/18 9:03 am



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1	M2	Natural Irrigation			
2		Water Users	3	8/3/18	10:10 am
3	M3	KPWU	5	8/3/18	10:19 am
4	M4	KPWU	4	8/3/18	10:24 am
5	M5	PacifiCorp	2, 6	8/3/18	10:35 am
6	M6	AgriWater	1	8/3/18	11:57 am
7	M7	USA	3	8/3/18	1:49 pm
8	M8	Flowers	3	8/3/18	3:22 pm
9	M9	Moates	1	8/3/18	3:28 pm
10	M10	Tulesmoke	3	8/3/18	3:33 pm
11	M11	KPWU	1, 2	8/6/18	1:37 pm

SCHEDULE FOR ARGUMENTS FOR PHASE 3, PART 1, GROUP A MOTIONS,
RESPONSES IN SUPPORT, RESPONSES IN OPPOSITION, AND REPLIES

8:30 a.m. – 10:30 a.m. – February 26, 2019

Court's Introduction

**Issue #1 – The propriety of the Adjudicator's General Conclusions of law
concerning Pre-1909 claims (KBA_ACFFOD_00015-00021).**

**Response in opposition to ALL Motions for Issue #1 --
OWRD**

10 minutes

M 6 -- AgriWater

10 minutes

Responses in opposition –

KPWU

10 minutes

PacifiCorp

10 minutes

USA

10 minutes

Rogue River Valley

10 minutes

AgriWater reply --

5 minutes

M 9 -- Moates

10 minutes

M 11 – KPWU

Responses in support -- USA

KPWU reply --

10:30 a.m. – 12:00 noon and 1:30 p.m. – 5:00 p.m. – February 26, 2019

Issue #2 – The legal standard for waiver or abandonment of a Pre-1909 water right or appropriation.

Responses in opposition to ALL or listed Motions for Issue #2 – OWRD

USA

Rogu

Rogue River (opposition to Kite and KPWU)

Taylor Ranch

M 1 -- Kite

Responses in support – Tulesmoke

Keno

Flowers

NBCC

PacifiCorp

Kite reply --

M 5 -- PacifiCorp

Responses in support – Tulesmoke

Keno

Flowers

NBCC

Kite

PacifiCorp reply -

M 11 -- KPWU

10 minutes

Responses in support --

Tulesmoke

10 minutes

Keno

10 minutes

Flowers

10 minutes

NBCC

10 minutes

Kite

10 minutes

PacifiCorp

10 minutes

Response in opposition --

AgriWater

10 minutes

KPWU reply --

5 minutes

8:30 a.m. -- 2:30 p.m. -- February 27, 2019

Issue #3 -- Whether or the extent to which the issuance of Swamp Act deeds or other similar conveyances of real property constitutes evidence of beneficial use of water (see e.g. KBA_ACFFOD 02386, KBA_ACFFOD_07087-7089, KBA_ACFFOD_07105-07106).

Responses in opposition to ALL or listed Motions for Issue #3 --

OWRD

10 minutes

USA (opposition to all motions but own)

10 minutes

Rogue River (opposition to Kite, NIWU, Tulesmoke)

10 minutes

M 1 -- Kite

10 minutes

Responses in support --

Tulesmoke

10 minutes

Keno

10 minutes

Flowers

10 minutes

Kite reply --

5 minutes

1	M 2 – Natural Irrigation Water Users	10 minutes
2	Responses in support –	
3	Tulesmoke	10 minutes
4	Keno	10 minutes
5	Flowers	10 minutes
6	Kite	10 minutes
7	Natural Irrigation Water Users reply --	5 minutes
8	M 7 – USA	10 minutes
9	Responses in opposition –	
10	NIWU	10 minutes
11	Keno, Flowers, Tulesmoke	10 minutes
12	USA reply --	5 minutes
13	M 8 – Christy Flowers	10 minutes
14	Responses in support –	
15	Keno	10 minutes
16	Kite	10 minutes
17	Christy Flowers reply --	5 minutes
18		
19	M 10 – Tulesmoke	10 minutes
20	Responses in support –	
21	Keno	10 minutes
22	Kite	10 minutes
23	Tulesmoke reply --	5 minutes
24		
25		
26		

2:30 pm. – 3:30 p.m. – February 27, 2019

Issue #4 – General conclusions of law concerning Federal Reserved Water Rights (at KBA_ACFFOD_00039).

M 4 – KPWU 10 minutes

Response in support –
AgriWater 10 minutes

Responses in opposition –
USA 10 minutes
OWRD 10 minutes

KPWU reply -- 5 minutes

3:30 p.m. – 5:00 p.m – February 27, 2019

Issue #5 – General conclusions of law concerning Acquired Lands (at KBA_ACFFOD_00042-00044).

M 3 -- KPWU 10 minutes

Response in support –
AgriWater 10 minutes

Responses in opposition –
USA 10 minutes
OWRD 10 minutes

KPWU reply -- 5 minutes

8:30 a.m. – 11:00 a.m. – February 28, 2019

Issue #6 – Whether a party may be entitled to attorney fees or costs in the KBA Circuit Court proceedings, and what standards apply to the entitlement of such fees or costs.

M 5 – PacifiCorp

10 minutes

Responses in support --

AgriWater

10 minutes

Tulesmoke

10 minutes

Keno

10 minutes

Flowers

10 minutes

NBCC

10 minutes

Responses in opposition --

OWRD

10 minutes

Taylor Ranch

10 minutes

PacifiCorp reply --

5 minutes

II. Guidelines for Oral Arguments for Phase 3, Part 1, Group A Motions.

1. In its discretion the court may increase a party's time for argument and will announce recesses for lunch and other breaks.

2. A party can give their time for argument to another party. If they do so, please announce the arrangements on the record just before arguments begin.

3. Parties can listen to the proceedings via telephone but must be in court to present arguments. To attend by telephone, please call the court's conference line at (866)921-1127,

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conference code #2727429741.

Dated this 14 day of January, 2019.



CAMERON F. WOGAN
Circuit Court Judge