

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 #45
SCHEDULE AND GUIDELINES FOR ORAL
ARGUMENTS ON PHASE 3, PART 1, GROUP
B MOTIONS

November 7, 2019

This Case Management Order (CMO) #45 will be mailed to those on the current service list provided by the court on May 31, 2019.

INVENTORY OF PHASE 3, PART 1, GROUP B FILINGS

Motions

Party (Motion Number)	Date/Time Filed	Issue Category(s) noted in caption	Attorney
KPWU (M1)	5.23.19 9:58 a.m.	6	Deitchman et al.
KPWU (M2)	5.23.19 10:01 a.m.	2	Deitchman et al.
Klamath Tribes (M3)	5.23.19 1:31 p.m.	1, 2, 3	Tenorio
United States (M4)	5.23.19 2:57 p.m.	1, 2, 3	Harder et al.
NBCC (M5)	5.23.19 3:55 p.m.	4	Carollo



Responses in support

Party	Date/Time Filed	Issue Category(s) noted in caption	Attorney
KPWU	6.11.19 10:24 a.m.	1, 2, 3	Deitchman et al.

Responses in opposition

Party	Date/Time Filed	Issue Category(s) noted in caption	Attorney
KPWU	7.31.19 10:43 a.m.	4	Deitchman et al.
OWRD	7.31.19 1:08 p.m.	1, 2, 3, 4, 5, 6	Staley, Weston
United States	7.31.19 1:49 p.m.	2	Guarino et al.
United States	7.31.19 1:49 p.m.	4	Snodgrass et al.
United States	7.31.19 1:49 p.m.	6	Guarino et al.
Famoso Cattle Co., Inc et al	7.31.19 2:00 p.m.	1	Maag
Root and Thomas	7.31.19 2:09 p.m.	2	Maag
Runels	7.31.19 2:25 p.m.	1, 3	Bricker
Mosby	7.31.19 2:57 p.m.	2	Carollo
NBCC	7.31.19 5:06 p.m.	1	Carollo

Replies

Party	Date/Time Filed	Issue Category(s) noted in caption	Attorney
KPWU	10.3.19 10:13 am.	6	Deitchman et al.
KPWU	10.3.19 10:18 a.m.	2	Deitchman et al.
United States	10.3.19 11:48 a.m.	1, 2, 3	Guarino et al.
Klamath Tribes	10.3.19 12:45 p.m.	1, 2, 3	Tenorio
NBCC	10.3.19 2:19 p.m.	4	Carollo

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

Tuesday November 19, 2019

- 8:30-8:45: Court's introduction

Issue Categories 1 & 3:

- Issue Category 1: General Conclusions of Law Concerning *Walton* Claims

- **Issue Category 3: Whether federal or state law, or both, controls the quantification of a *Walton* water right**

Motions and Responses in Support

- 8:45 – 9:10: Klamath Tribes (Tenorio) (M3) (25 mins)
- 9:10 -- 9:35: United States (Harder) (M4) (25 mins)
- 9:35 -- 9:45: KPWU (Deitchman) (10 mins)
- **9:45 – 9:55: BREAK (10 mins)**

Responses in Opposition

- 9:55 – 10:20: OWRD (Staley) (25 mins)
- 10:20 – 10:35: Famoso (Maag) (15 mins)
- 10:35 – 11:00: Runels (Bricker) (25 mins)
- 11:00 - 11:25: NBCC (Carollo) (25 mins)
- **11:25 – 11:35: BREAK (10 mins)**

Replies

- 11:35 – 11:50: Klamath Tribes (Tenorio) (15 mins)
- 11:50 – 12:05: United States (Harder) (15 mins)
- **12:05 – 1:30: LUNCH**

Issue Category 2: General Conclusions of Law Concerning Klamath Termination Act Claims

Motions

- 1:30 – 1:35: United States (Philpott) (M4) (5 mins)
- 1:35 – 1:55: KPWU (Deitchman) (M2) (20 mins)

Responses in Opposition

- 1:55 – 2:10: OWRD (Staley) (15 mins)
- 2:10 – 2:20: Root and Thomas (Maag) (10 mins)
- 2:20 – 2:35: Mosby (Carollo) (15 mins)
- **2:35 – 2:50: BREAK (15 mins)**

Replies

- 2:50 – 3:10: United States (Philpott) (20 mins)
- 3:10 – 3:20: Klamath Tribes (Tenorio) (10 mins)
- 3:20 – 3:30: KPWU (Deitchman) (10 mins)

Wednesday November 20, 2019

- 8:30 – 8:35: Court's introduction

Issue Category 4: Exceptions concerning denial of claims filed in areas within previously adjudicated sub-basins (associated with Case 900 claims), including but not limited to whether the Wood River decree has res judicata/claim preclusion effects

Motion

- 8:35 – 8:50: NBCC (Carollo) (M5) (15 mins)

Responses in Opposition

- 8:50 – 9:05: KPWU (Deitchman) (15 mins)
- 9:05 – 9:20: OWRD (Weston) (15 mins)
- 9:20 – 9:35: United States (Snodgrass) (15 mins)

Reply

- 9:35 – 9:45: NBCC (Carollo) (10 mins)
- 9:45 – 10:00: BREAK (15 mins)

Issue Category # 6: Whether the U.S. Fish & Wildlife Service's use of its *Walton* and Klamath Termination Act rights (Claims 301-307; Klamath Marsh National Wildlife Refuge) is a permissible use of a Walton right or a Klamath Termination Act right or if it constitutes an impermissible change in use (e.g., from irrigation to waterfowl management)

Motion

- 10:00 – 10:15: KPWU (Deitchman) (M1) (15 mins)

Responses in Opposition

- 10:15 – 10:30: OWRD (Weston) (15 mins)
- 10:30 – 10:45: United States (Philpott) (15 mins)

Reply

- 10:45 – 10:55: KPWU (Deitchman) (10 mins)

GUIDELINES FOR ORAL ARGUMENTS ON PHASE 3, PART 1, GROUP B, MOTIONS

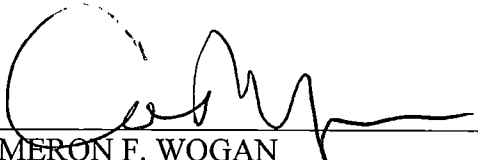
In its discretion the court may increase a party's time for argument and will announce that on the day of the hearing.

Any party may cede all or part of their allotted time to another party by orally advising the court of that choice on the day of the hearing.

The parties can participate or listen to the conference by calling the court's conference line - (605)313-5662, access code 117160. If a party is participating in arguments by telephone, they must notify the court's judicial assistant, Beth Dunaway, (541)883-5505 ext 244, email Bethamy.dunaway@ojd.state.or.us prior to 5:00 p.m. November 18, 2019.

IT IS SO ORDERED.

Dated this 7th day of November, 2019.



CAMERON F. WOGAN
Circuit Court Judge

Cc: current service list