

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:	) Case No. WA1300001
	)
WATERS OF THE KLAMATH RIVER	) CORRECTED CASE MANAGEMENT
BASIN	) ORDER #65 SETTING HEARING ON
	) MOTIONS TO RESOLVE REMAINING
	) EXCEPTIONS TO <i>WALTON</i> AND KLAMATH
	) TERMINATION ACT CLAIMS (PHASE 3,
	) PART 3

SUMMARY OF ISSUES ADDRESSED BY THIS CASE MANAGEMENT ORDER

I. Information about the hearings to resolve the remaining issues raised in exceptions to the *Walton* and Klamath Termination Act claims. As stated in Case Management Order #63, the hearings will be held on January 29, 2025, beginning at 9:00 a.m. via Webex, and continuing into a second day on January 31, 2025, starting at 9:00 a.m. via Webex. The undersigned judge will preside over the hearings via Webex; attorneys and parties may appear by telephone, by video conference, or in person at the Klamath County courthouse.

Call in number: 1-503-388-9555 (Portland) or 1-408-418-9388 (Toll)

Meeting number (access code): Day One: 2488 907 4369; **Day Two:** 2491 562 9979

Meeting password: Day One: Ew6EZ XVf*82; **Day Two:** 8ZvcZHMx3@3

Video conference link:

Day One:

<https://oregonjudicial.webex.com/oregonjudicial/j.php?MTID=m04a580043c314c36213b4cee272afc61>

Day Two:

<https://oregonjudicial.webex.com/oregonjudicial/j.php?MTID=m6b45c8c92d63a11accdca5f2e381686>

II. Motions to be Addressed at the Hearings

Claim Nos.	Moving Parties	Responding Parties
Claim 4	The Klamath Tribes	None
	United States of America	
	Klamath Project Water Users (KPWU)	
Claim 9	The Klamath Tribes	United States of America
	United States of America	The Klamath Tribes
Claim 11	The Klamath Tribes	None
	United States of America	
	KPWU	
Claim 18	The Klamath Tribes	Mosby Family Trust
	United States of America	
	KPWU	
	Mosby Family Trust	The Klamath Tribes
		United States of America
Claim 19	Joint Stipulated Motion, United States of America, The Klamath Tribes, and Scott and Margie Runels	None
Claim 21	The Klamath Tribes	Edward D. Tompkins and Merrie L. Tompkins, as Trustees of the Don and Merrie L. Tompkins Family Revocable Trust
	United States of America	
Claim 34	Joint Motion, The Nature Conservancy, The Klamath Tribes, and United States of America, Bureau of Indian Affairs	None
Claim 74	Joint Stipulated Motion, KPWU, United States of America, The Klamath Tribes, and Wayne Ranch, LLC	None
Claim 95	Joint Stipulated Motion, KPWU, United States of America, The Klamath Tribes, and Clifford C. Rabe and Mary A. Rabe	None
Claim 97	The Klamath Tribes	None
	United States of America	
	KPWU	

Claim Nos.	Moving Parties	Responding Parties
Claim 105	The Klamath Tribes	Five Mile Ranch, LLC
	United States of America	
	KPWU	
Claim 114	Joint Stipulated Motion, KPWU, United States of America, The Klamath Tribes, and Duane Martin	None
Claim 124	Joint Stipulated Motion, KPWU, United States of America, The Klamath Tribes, and Sprague River Cattle Company	None
	The Klamath Tribes	Richard Duarte
	United States of America	
	KPWU	
Claims 301-307 (collectively)	KPWU	United States of America
Claim 676	KPWU	None
Claim 703	The Klamath Tribes	Bonanza Conservation, LLC
	United States of America	
	KPWU	
	Bonanza Conservation, LLC	Joint Response, The Klamath Tribes and United States of America

III. Oral Argument Schedule.

The Case Management Committee proposed a schedule for the oral arguments. No party filed objections to the proposed schedule, so the court adopts the proposed schedule, as set forth below. Any party may cede all or part of their allotted time to another party by orally advising the court of that choice on or before the day of the hearing. Movants may reserve additional time

from their initial arguments for use in their reply arguments. The hearing will be open to the public via the Webex hearing line listed above and at the Klamath County courthouse.

IV. Day One: Wednesday, January 29, 2025

INTRODUCTION 9:00 – 9:15 AM

A. Unopposed Motions 9:15 – 9:45 AM

The Case Management Committee proposes to allot 30 minutes at the beginning of the first day of hearings for brief remarks on each of the following ten unopposed, joint, or joint stipulated motions¹.

Claim 4	• The Klamath Tribes
	• United States of America
	• KPWU
Claim 11	• The Klamath Tribes
	• United States of America
	• KPWU
Claim 19	• Joint Stipulated Motion, United States of America, The Klamath Tribes, and Scott and Margie Runels
Claim 34	• Joint Motion, The Nature Conservancy, The Klamath Tribes, and United States of America, Bureau of Indian Affairs
Claim 74	• Joint Stipulated Motion, KPWU, United States of America, The Klamath Tribes, and Wayne Ranch, LLC
Claim 95	• Joint Stipulated Motion, KPWU, United States of America, The Klamath Tribes, and Clifford C. Rabe and Mary A. Rabe
Claim 97	• The Klamath Tribes
	• United States of America
	• KPWU
Claim 114	• Joint Stipulated Motion, KPWU, United States of America, The Klamath Tribes, and Duane Martin
Claim 124	• Joint Stipulated Motion, KPWU, United States of America, The Klamath Tribes, and Sprague River Cattle Company
Claim 676	• KPWU

¹ The parties are prepared to allot additional time as necessary to respond to the Court's questions.

B. Opposed Motions

1. Claim 21 9:45 -- 10:25 AM

• Opening, United States of America
• Opening, The Klamath Tribes
• Response, Edward D. Tompkins and Merrie L. Tompkins, as Trustees of the Don and Merrie L. Tompkins Family Revocable Trust
• Rebuttal, United States of America
• Rebuttal, The Klamath Tribes

2. Claim 9 10:35 -- 11:40 AM

• Opening, The Klamath Tribes
• Response, United States of America
• Rebuttal, The Klamath Tribes

LUNCH BREAK

11:40 AM -- 12:40 PM

3. Claim 18 12:40 -- 3:05 PM

• Opening, United States of America	25 minutes
• Opening, The Klamath Tribes	10 minutes
• Opening, KPWU	10 minutes
• Opening, Mosby Family Trust	20 minutes
• Response, United States of America	15 minutes
• Response, The Klamath Tribes	10 minutes
• Response, KPWU	10 minutes
• Response, Mosby Family Trust	15 minutes
• Rebuttal, United States of America	10 minutes
• Rebuttal, The Klamath Tribes	5 minutes
• Rebuttal, Mosby Family Trust	10 minutes
• Rebuttal, KPWU	5 minutes

BREAK

3:05 -- 3:15 PM

4. Claim 105 3:15 -- 4:30 PM

• Opening, United States of America
• Opening, The Klamath Tribes
• Opening, KPWU
• Response, Five Mile Ranch, LLC
• Rebuttal, United States of America
• Rebuttal, The Klamath Tribes
• Rebuttal, KPWU

CLOSING

4:30 -- 4:45 PM

V. Day 2: Friday, January 31, 2025

INTRODUCTION

9:00 -- 9:15 AM

B. Opposed Motions (continued)

5. Claim 124 9:15 -- 11:00 AM

• Opening, United States of America	20 minutes
• Opening, The Klamath Tribes	20 minutes
• Opening, KPWU	10 minutes
• Response, Richard Duarte	25 minutes
• Rebuttal, United States of America	10 minutes
• Rebuttal, The Klamath Tribes	15 minutes
• Rebuttal, KPWU	5 minutes

LUNCH BREAK

11:00 AM -- 12:00 PM

6. Claims 301-307 (Collectively) 12:00 -- 1:25 PM

• Opening, KPWU	30 minutes
• Response, United States of America	40 minutes
• Rebuttal, KPWU	15 minutes

BREAK

1:25 -- 1:35 PM

7. Claim 703

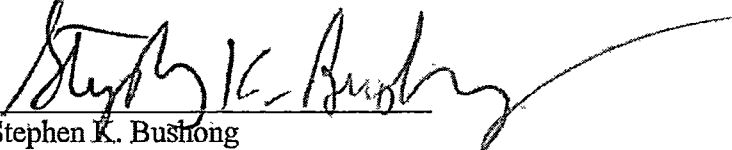
1:35 -- 4:05 PM

• Opening, United States of America	25 minutes
• Opening, The Klamath Tribes	25 minutes
• Opening, KPWU	10 minutes
• Opening, Bonanza Conservation, LLC	20 minutes
• Joint Response, The Klamath Tribes and United States of America	20 minutes
• Response, Bonanza Conservation, LLC	15 minutes
• Rebuttal, United States of America	10 minutes
• Rebuttal, The Klamath Tribes	10 minutes
• Rebuttal, KPWU	5 minutes
• Rebuttal, Bonanza Conservation, LLC	10 minutes

CLOSING

4:05 -- 4:20 PM

Dated January 29, 2025, *nunc pro tunc*, December 12, 2024.


Stephen K. Bushong
Klamath County Circuit Court Judge *pro tem*