



DEPARTMENT OF JUSTICE
TRIAL DIVISION

March 28, 2014

TO: Current Service List

Re: Klamath Basin Adjudication
Case No. WA1300001

Enclosed please find a DVD that contains a *Bates*-numbered copy of the Amended and Corrected Findings of Fact and Order of Determination (“ACFFOD”) in the Klamath Basin Adjudication, including the Appendices.

You are receiving this mailing because your name is on the Current Service List maintained by the Klamath County (Oregon) Circuit Court. If you wish to be removed from the List or your address has changed, you can use the enclosed form which is also available on the court’s Klamath Basin Adjudication website, <http://courts.oregon.gov/Klamath/pages/water.aspx>

On March 7, 2013, the State of Oregon¹ filed with the Klamath County Circuit Court the Klamath Basin Adjudication Findings of Fact and Order of Determination (“March 2013 FFOD”) and the Record of the Adjudication compiled by the Oregon Water Resources Department (OWRD). Parties to the administrative proceedings leading up to the March 2013 FFOD received copies of the FFOD and other documents on DVD.²

On January 15, 2014, OWRD asked the court for permission to make certain corrections to the March 2013 FFOD to fix typographical and technical errors. The court allowed OWRD to make those corrections and also required OWRD to create a copy of the amended and corrected March 2013 FFOD with page numbers (known as “*Bates* numbering” or “*Bates* Nos.”).

OWRD is filing the Amended and Corrected Findings of Fact and Order of Determination (“ACFFOD”). The ACFFOD includes *Bates* numbering. Your copy is on the enclosed DVD.

If you decide to file exceptions to OWRD’s Findings of Fact and Order of Determination (i.e. exceptions to the ACFFOD), you can refer specifically to the *Bates* nos. of the pages that contain anything about which you are filing an exception. This is explained more fully below. Exceptions are due prior to the initial hearing in this matter, which is set for 9:00 am on **May 30, 2014**.

¹ Mr. Dwight French signed the Final Order on behalf of the Oregon Water Resources Department, as the “Adjudicator” under authority delegated to him by the Director of the Department.

² In addition to the March 2013FFOD, the State filed other documents March 7, 2013 such as certificates of authenticity and a motion asking the court to set a hearing date. All of these documents were on the DVD sent to the parties in March of 2013.

DESCRIPTION OF DVD CONTENTS

Included on the enclosed DVD is a document named "KBA Index." The Index allows you to find any part of the ACFFOD by using the Claim Number.

The Index has three columns: (1) the water right Claim Number, (2) the type of document and (3) a hyperlink to the document. If you click on the hyperlink, it should open up a PDF of the corresponding document. To access the documents using the hyperlink you must leave the DVD in your computer. Here is a sample from the Index:

CLAIM NUMBER	DOCUMENT TYPE	BATES #
ALL	Findings of Fact and Order of Determination	KBA ACFFOD 00001
1	Partial Order of Determination	KBA ACFFOD 00071
1	Stipulation (Settlement Agreement)	KBA ACFFOD 00074
2	Partial Order of Determination	KBA ACFFOD 00084
2	Stipulation (Settlement Agreement)	KBA ACFFOD 00086
3	Partial Order of Determination	KBA ACFFOD 00095
3	Stipulation (Settlement Agreement)	KBA ACFFOD 00099
4	Partial Order of Determination	KBA ACFFOD 00105
4	Amended Proposed Order	KBA ACFFOD 00111
5	Partial Order of Determination	KBA ACFFOD 00120
5	Stipulation (Settlement Agreement)	KBA ACFFOD 00125
6	Partial Order of Determination	KBA ACFFOD 00137
7	Partial Order of Determination	KBA ACFFOD 00139
8	Partial Order of Determination	KBA ACFFOD 00141
9	Partial Order of Determination	KBA ACFFOD 00143
9	Proposed Order	KBA ACFFOD 00187
10	Partial Order of Determination	KBA ACFFOD 00212
10	Stipulation (Settlement Agreement)	KBA ACFFOD 00218
37	Partial Order of Determination	KBA ACFFOD 00723
37	Order in Case 900	KBA ACFFOD 06241
37	Proposed Order	KBA ACFFOD 00726
38	Partial Order of Determination	KBA ACFFOD 00735
39	Partial Order of Determination	KBA ACFFOD 00737
39	Order in Case 900	KBA ACFFOD 06241
39	Proposed Order	KBA ACFFOD 00741
285	Reference	KBA ACFFOD 03533
285	Case 003 Partial Order of Determination	KBA ACFFOD 07017
285	111406 Proposed Order	KBA ACFFOD 06461
285	021413 Stipulation (Settlement Agreement)	KBA ACFFOD 07580
285	022513 Stipulation (Settlement Agreement)	KBA ACFFOD 07624
625-640	Partial Order of Determination	KBA ACFFOD 05063
625-640	Proposed Order	KBA ACFFOD 05106
641-657	Partial Order of Determination	KBA ACFFOD 05159

641-657	Proposed Order	<u>KBA_ACFFOD_05195</u>
	APPENDICES	
	Appendix A	<u>KBA_APP_000001</u>
	Appendix B	<u>KBA_APP_000582</u>
	Appendix C	<u>KBA_APP_000583</u>

The first part of the ACFFOD is the general “Findings of Fact and Order of Determination” that is applicable to and incorporates all of the Partial Orders of Determination. The document name on the DVD is KBA_ACFFOD_00001, which is the Bates number on the first page. Each page has its own Bates number. Because the document is 70 pages long, the last page is numbered KBA_ACFFOD_00070.

Then, for each water right Claim Number, there is a Partial Order of Determination relating to that claim. Some of the Partial Orders of Determination incorporate other documents such as Proposed Orders (like Claim 9), or Amended Proposed Orders (like Claim 4), or Stipulations referred to as Settlement Agreements (like Claims 1, 2, 3, 5 and 10).³ Some Partial Orders stand alone (like Claims 6-8). Some of the Partial Orders resolve more than one claim and in the Claim Number column the range of Claim Numbers is listed (like Claims 625-640 and 641-657).

Some incorporated documents are incorporated into more than one Partial Order of Determination. The DVD contains one copy of the document and it has only one Bates number range. However, each time it is incorporated, there is a link. For example, the “Order in Case 900” is incorporated in the Partial Orders of Determination for Claims 37 and 39 (and others).

The Case 003 Partial Order of Determination resolves multiple claims and is linked to each claim along with its incorporated documents. On the March 2013 DVD, placeholders were used to direct parties to the Case 003 Partial Order of Determination. These were single pages and they are reproduced here with the name “Reference.” See, Claim 285 in the same index above.

In addition, the general Findings of Fact and Order of Determination includes references to Appendices A-P. These appendices were included on the March 2013 DVD. These appendices are also included on the enclosed DVD, and are now Bates numbered (KBA_APP_000001 et seq). A hyperlink to each appendix is provided at the end of the Index.

³ The administrative process leading to the ACFFOD involved evaluation of water right claims by OWRD, an opportunity for interested parties to object to claims (“file contests”) and, if contests were filed, for a contested case hearing at the Office of Administrative Hearings (OAH). The Adjudicator considered the Proposed Orders issued by the OAH or Stipulations reached by the parties that settled the disputes. Also, in some cases there was a Corrected Proposed Orders or an Amended (or even Second Amended) Proposed Order, or an Amended Stipulation. Where a Partial Order of Determination incorporates any of these types of documents, that underlying document is part of the ACFFOD and there is a link to it in the Index.

DESCRIPTION OF EXCEPTIONS PROCESS

You may take exception to any “paragraph or part” of the general Findings of Fact and Order of Determination (KBA_ACFOD_00001) and/or a Partial Order of Determination and/or something that is set forth in one of the incorporated documents pertinent to the water rights claim being excepted to. For every exception, the person(s) filing the exception (“Exceptor(s)”) should identify the page by using the *Bates* no. and also say which paragraph on that page contains an alleged error. In some cases filing an exception to a Partial Order may require a party to identify page(s) and paragraph(s) of the Partial Order that adopts or incorporates another document and also the pages and paragraphs of the other incorporated document(s) (such as a Proposed Order or Stipulation).

We expect that the court will send out a Case Management Order that provides more information and direction on the filing of exceptions. Among other things, the Case Management Order is expected to instruct that exceptions must identify pages (using *Bates* nos.) and paragraphs and state with reasonable certainty the grounds for the exception.

The ACFOD disc includes only the parts of the ACFOD itself and the Appendices. It does not include all of documents on the original DVD served on March 7, 2013.

Sincerely,



Darsee Staley
Sarah Weston
Assistant Attorneys General
Attorneys for the Oregon Water Resources Department

Enclosures: Change of Address Form
DVD: Amended & Corrected FFOD 2/28/14

cc: Honorable Cameron F. Wogan
Updated Service List

4982319

**CHANGE OF ADDRESS FORM
FOR CLAIMANTS AND CONTESTANTS
IN THE KLAMATH RIVER BASIN ADJUDICATION**

This form is to be used to notify the Klamath County Circuit Court of changes of address for Claimants and Contestants in the Klamath River Basin Adjudication. Deliver or mail completed form to Klamath County Circuit Court, 316 Main Street, Klamath Falls, Oregon 97601.

I/We filed the following claims in the Klamath River Basin Adjudication:

Please change the address to:

Name: _____
New Address: _____
City/State/Zip: _____
Daytime Phone: _____
E-Mail Address: _____

Complete if represented by an attorney:

Attorney Name: _____
Address: _____
City/State/Zip: _____
Attorney Phone: _____

From:

Name: _____
Old Address: _____
City/State/Zip: _____

Dated this _____ day of _____, 201__

(Signature)

CERTIFICATE OF MAILING

I certify that a true and correct copy of the CHANGE OF ADDRESS FORM was mailed on _____, 201____, with sufficient first-class postage prepaid to the following:

ORIGINAL TO:
Klamath County Circuit Court
316 Main Street
Klamath Falls, Oregon 97601

ONE COPY TO:
Sarah Weston, Trial Division
Oregon Department of Justice
1515 S.W. Fifth Avenue, Suite 410
Portland, Oregon 97201

ONE COPY TO:
Each party that filed a contest:

(Attach additional pages if necessary)

(Signature)