

Davison Van Cleve PC

TEL (503) 241-7242 • FAX (503) 241-8160 • mail@dvclaw.com

Suite 400
333 SW Taylor
Portland, OR 97204

Irion A. Sanger

February 5, 2010

Via Electronic Mail

Ed Sheets
ed@edsheets.com

Re: Klamath Basin Agreements

Dear Ed:

This letter is to summarize our telephone conversation yesterday and to again request that you provide a written response regarding why the Klamath Off Project Water Users Association (“KOPWU”) is not being permitted to join the Klamath Basin Restoration Agreement (“Restoration Agreement”) and the Klamath Basin Hydro Settlement Agreement (“Hydro Agreement”). KOPWU deserves to know in writing why it cannot join the two agreements, which parties have objected to KOPWU’s joining, and the reasons for the parties’ opposition. Because the date for joining the Restoration Agreement is Tuesday, February 9, 2010, I request that you provide a written response by noon on Monday, February 8, 2010.

On January 25, 2010, I sent you a letter requesting that KOPWU be added to the current version of the Hydro Agreement. KOPWU had not yet decided whether to join either agreement, but under the Restoration Agreement, any organization must sign both agreements. Thus, it was necessary for KOPWU to be listed as a potential signator under the Hydro Agreement in order to join the Restoration Agreement. I also requested that, if KOPWU is not allowed to join the Hydro Agreement, that you “please identify the relevant provisions of the Hydro Agreement that would preclude KOPWU’s being listed as a potential signator, a list of all organizations and individuals who objected to KOPWU’s being listed as a signator, and the rationale provided by each organization or individual for excluding KOPWU.”

On January 26, 2010, you sent an email to all the participants in the Restoration Agreement that proposed a process to allow KOPWU to join both agreements. You requested that any party that opposed the process contact you by the close of business on Monday, February 1, 2010. Your proposed process required KOPWU to inform you by February 9, 2010, if KOPWU wanted to sign both agreements. KOPWU would be allowed to join both agreements if notice was provided. Neither you nor any party informed KOPWU that it objected to KOPWU being a party to both agreements. KOPWU, however, received emails from a number of parties stating that they did not object to KOPWU joining the Hydro Agreement.

On February 4, 2010, I sent you an email asking if any party objected to KOPWU joining the Hydro Agreement. Later in the day on February 4, 2010, we spoke on the telephone.

Letter to Ed Sheets
February 5, 2010
Page 2


You informed me that PacifiCorp and other unnamed parties objected to KOPWU being a party to the Hydro Agreement. PacifiCorp objected to KOPWU joining the Hydro Agreement because PacifiCorp wants KOPWU to withdraw a separate, unrelated lawsuit regarding contractual issues. You did not state the reasons why the other unnamed parties objected to KOPWU joining the Hydro Agreement. However, you stated that because parties objected to KOPWU joining the Hydro Agreement, then KOPWU cannot join the Hydro Agreement. Since joining the Hydro Agreement is necessary to join the Restoration Agreement, then KOPWU cannot join either agreement because of the decision to prevent KOPWU from being able to sign the Hydro Agreement. We strongly disagree that any party can legitimately preclude KOPWU's participation in either agreement.

I am sending this letter to request that you put in writing the following information:

- Please identify the process by which it was decided that KOPWU cannot join the Hydro Agreement, including why certain organizations that opposed KOPWU joining have veto power over those who agreed to allow KOPWU to join;
- Please identify the specific provisions of the Hydro Agreement that preclude KOPWU from being a potential signator;
- Please list all organizations and/or individuals that objected to KOPWU joining the Hydro Agreement; and
- Please provided the grounds upon which any organization and/or individual objected to KOPWU joining the Hydro Agreement;

Please provide me with a complete written response to this letter by noon on Monday February 8, 2010.

Sincerely yours,


Irion A. Sanger

cc: Tom Mallams
KOPWU Board
Restoration Agreement Parties