

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UW 120

THE PUBLIC UTILITY COMMISSION OF)
OREGON,)

Complainant,)

vs)

CROOKED RIVER RANCH WATER)
COMPANY; and JAMES R. ROOKS,)
Director, RANDOLPH M. SCOTT, Director,)
BRIAN ELLIOT, President, RICHARD A.)
KEEN, Vice President, and RICHARD J.)
MILLER, Secretary/Treasurer, in their)
capacities as the CROOKED RIVER RANCH)
WATER COMPANY BOARD OF)
DIRECTORS,)

Defendants.)

ANSWER AND AFFIRMATIVE
DEFENSES TO COMPLAINT FOR
CIVIL PENALTIES

(Hearing Requested)

ANSWER

Comes now Crooked River Ranch Water Company answers the Public Utility
Commissions complaint for civil penalties as follows:

1.

CRRWC admits the allegations of paragraphs 1, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 27, 28,
29, 30, 31, and 32.

2.

CRRWC denies the allegations of paragraphs 4, 10, 11, 12, 13, 14, 15, 21, 22, 23, 24, 25,
33, 34, 35, 36, 37, 39, 41 and 42.

1 3.

2 CRRWC admits the allegations of paragraph 2 in that CRRWC is governed by a
3 collective Board of Directors. CRRWC denies that the Company is operated by individual
4 members of the Board of Directors. CRRWC denies that the Board of Directors is a proper party
5 to this suit either individually or collectively.

6 4.

7 CRRWC is without sufficient information to either admit or deny the content of
8 paragraph 3 as it does not conform to the proper form and substance of an allegation in a civil
9 complaint. .

10 5.

11 CRRWC denies under paragraph 38 that ORS 757.994(1) allows for imposition of civil
12 penalties against the named Defendants. CRRWC further denies under the text of that ORS that
13 “the commission may require that penalties imposed under this section be sued for the benefit of
14 the customers of water utilities effected by the violation”.

15 6.

16 CRRWC denies the allegations of paragraph 40 in that the status of CRRWC as an
17 association subject to the provisions of ORS 757.994(1) is an issue currently before the Court of
18 Appeals and adjudication of this issue is not timely at the administrative level.

19 **AFFIRMATIVE DEFENSES**

20 7.

21 The Public Utility Commission is without jurisdiction to bring this action while the issue
22 of jurisdiction is pending before the Oregon Court of Appeals.

23 8.

24 The Public Utility Commission is without jurisdiction to impose civil penalties against
25

1 the named defendants.

2 9.

3 Crooked River Ranch Water Company hereby requests a hearing on this matter.

4 WHEREFORE, Defendant having fully answered the Complaint prays for a judgment as
5 follows:

- 6 1. No violation has been committed by the named Defendant's.
- 7 2. The Public Utility Commission is without Jurisdiction to impose civil penalties
8 against the named Defendant's.
- 9 3. The Public Utility Commission is without Jurisdiction to file this action while the
10 issue of jurisdiction is pending before the Oregon Court of Appeals.

11
12 Dated this _____ day of May, 2008.

13 GLENN, SITES, REEDER & GASSNER, LLP

14
15 _____
16 TIMOTHY R. GASSNER OSB 02309
17 Of Attorneys for Defendant
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE

I certify that on May _____ 2008, I served the foregoing upon the following, by mailing a copy by postage prepaid first class to:

Charles G. Nichols
PO Box 1594
Redmond, OR 97756

Crooked River Ranch Water Co.
Brian Elliott, President Board of Directors
PMB 313-1604 S. Hwy 97
#2
Redmond, OR 97756

Public Utility Commission of Oregon
Michael Dougherty
550 Capitol St. NE
Ste. 215
Salem, OR 97301

James R.Rooks, General Manager
Crooked River Ranch Water Company
PO Box 2319
Terrebonne, OR 97760

Steven Cook
PO Box 1111
Terrebonne, OR 97760

Department of Justice
Jason Jones
Regulated Utility & Business Section
1162 Court St. NE
Salem, OR 97301-4096

Craig Soule
11953 SW Horny Hollow
Terrebonne, OR 97760

TIMOTHY R. GASSNER OSB 02309
GLENN, SITES, REEDER & GASSNER, LLP
205 SE 5th St.
Madras, OR 97741
(541) 475-2272
Fax: 541-475-3394