



**DEPARTMENT OF JUSTICE**  
GENERAL COUNSEL DIVISION

February 11, 2011

Administrative Law Judge, Patrick Power  
Public Utility Commission of Oregon  
550 Capitol St NE – Suite 215  
Salem OR 97301

Re: WJ 8 – Staff Response Testimony; Motion to Take Official Notice; Request that Hearing Be Deemed Unnecessary; and Request for Commission Order  
DOJ File No. 860125-GB0106-11

Dear ALJ Power:

The Public Utility Commission Staff (“Staff”) has had the opportunity to review the testimony filed by the Crooked River Ranch Water Company (“Company”) on February 4, 2011. Staff does not feel the need to respond to the Company’s testimony and generally agrees that the public interest supports asserting jurisdiction over the Company. In addition, Staff has no intention of conducting cross-examination of the Company’s testimony and, as such, does not believe a hearing is necessary.

In your prehearing conference memorandum issued January 26, 2011, you requested that Staff propose a schedule for briefing or oral argument. Staff believes the official notice of the circuit court documents (see Staff motion attached), as well as the Company’s testimony, clearly establish that the Company is not a cooperative. Furthermore, Staff believes the Company’s testimony establishes the “public interest” for regulation. As such, Staff does not believe briefing or oral argument is necessary and would, therefore, submit the record for an expeditious Commission decision. However, if the ALJ or the Commission feels briefing or oral argument are helpful to its process, Staff is willing to abide by any schedule adopted by your Honor.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Jason W. Jones  
Assistant Attorney General  
Business Activities Section

JWJ:nal/2550655-v1  
Enclosures  
cc: Service list

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 WJ 8

4 In the Matter of

5 CROOKED RIVER RANCH WATER  
6 COMPANY

7 An Investigation Pursuant to ORS 756.515  
8 To Determine Jurisdiction.


STAFF MOTION TO TAKE OFFICIAL NOTICE

9 The Public Utility Commission of Oregon Staff respectfully requests that the  
10 Commission take official notice, pursuant to OAR 860-001-0460, of the following (attached)  
11 document: Stipulated General Judgment signed by Judge Williams on November 22, 2010.

12 DATED this 11<sup>th</sup> day of February 2011.

13 Respectfully submitted,

14 JOHN R. KROGER  
15 Attorney General

16   
17 Jason W. Jones, #00059  
18 Assistant Attorney General  
19 Of Attorneys for Staff of the Public Utility  
20 Commission of Oregon  
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REC'D NOV 10 2010

FILED  
JEFFERSON COUNTY  
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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF JEFFERSON

Case No. 09-CV-0049  
STATE OF OREGON

CHARLES NICHOLS, PETER NEUFELD,  
LAURENCE ROBBINS, RICHARD  
CARNER, DENNIS KIRK, HAROLD LEE,  
JIMMY QUIRICONI, KEIGHT BUCKLEY,  
ROBERT RANDIS, BARBARA ROBERTS,  
CHARLIE VAWTER, PENNY PIAZZA,  
MARY ANN CROSSLEY, SHERIDAN  
LOSTER, GEORGE BENTLEY, WILBUR  
DURFEE, STAN KIRK, JAMES  
McCAWLEY, DALTON CLARK, MIKE  
DRUMMN, DON BLACK, JACK C.  
DEWING, KEVIN SMITH, KAREN  
SINIZER, and RONALD MEISNER,

Plaintiffs,

v.

CROOKED RIVER RANCH WATER  
COMPANY, an Oregon non-profit  
corporation; CROOKED RIVER RANCH  
WATER COOPERATIVE, an Oregon  
cooperative; RICHARD A. KEEN JR.,  
RANDOLPH SCOTT, BRIAN A.  
ELLIOTT, and RICHARD J. MILLER, in  
their capacity as board members of the  
Crooked River Ranch Water Company and  
the Crooked River Ranch Water Cooperative;  
JOHN COMBS, in his capacity as a board  
member of the Crooked River Ranch Water  
Company; JAMES H. ROOKS, in his  
capacity as general manager of the Crooked  
River Ranch Water Company and as a board  
member of the Crooked River Ranch Water  
Cooperative; and the OREGON PUBLIC  
UTILITY COMMISSION, an administrative  
agency of the State of Oregon,

Defendants.

STIPULATED GENERAL JUDGMENT  
OF DISMISSAL WITH PREJUDICE

1- STIPULATED GENERAL JUDGMENT OF DISMISSAL WITH PREJUDICE

**GLENN, REEDER & GASSNER, LLP**  
ATTORNEYS AT LAW  
205 S.E. Fifth Street, Madras, OR 97741 Ph: (541) 475-2272  
Fax: (541) 475-3944

RCP # 147385

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| STATE OF OREGON, by and through John R. Kroger, Attorney General,<br><br>Intervenor-Plaintiff<br><br>v.<br><br>CROOKED RIVER RANCH WATER COMPANY, an Oregon non-profit corporation; CROOKED RIVER RANCH WATER COOPERATIVE, an Oregon cooperative; RICHARD A. KEEN JR., RANDOLPH SCOTT, BRIAN A. ELLIOTT, and RICHARD J. MILLER, in their capacity as board members of the Crooked River Ranch Water Company and the Crooked River Ranch Water Cooperative; JOHN COMBS, in his capacity as a board member of the Crooked River Ranch Water Company; JAMES H. ROOKS, in his capacity as general manager of the Crooked River Ranch Water Company and as a board member of the Crooked River Ranch Water Cooperative<br><br>Defendants. | Case No. 09-CV-0049 |
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**It has been represented that the parties agree, and the Court finds as follows:**

**STIPULATED FACTS**

On or about August 18 to August 22, 2010, the Parties entered into a settlement agreement ("Settlement Agreement") to resolve all claims in this litigation. The Settlement Agreement set forth a process for the election of a Board of Directors for the Crooked River Ranch Water Company ("Company"). On August 23, 2010, the Court entered a Limited Judgment requiring the Parties' compliance with the Settlement Agreement. On September 3, 2010, the Court appointed the Honorable Gregory Foote to serve as a Neutral to oversee the election process pursuant to the terms of the Settlement Agreement.

On November 2, 2010, the Neutral announced the results of the election and determined

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1 that Dennis Kirk, Michael Drum, Sheridan Loster, James McCawley and Charles Vawter  
2 received the most votes. No member filed an objection to the results of the election and,  
3 according to the terms of the Settlement Agreement, the newly-elected directors took office on  
4 November 9, 2010.

5 According to the Limited Judgment, this Court retains jurisdiction of this matter pending  
6 "full performance" of the Settlement Agreement. The Settlement Agreement requires  
7 performance of only two obligations that arise after the election: 1) the newly-elected board is to  
8 consider whether to submit a plan for conversion to a cooperative to the membership for a vote;  
9 and 2) the newly-elected board is to consider a request by Plaintiffs for reimbursement of  
10 attorney fees accrued in this action. Without waiving any other rights in the Limited Judgment or  
11 the Settlement Agreement, the Parties agree that the remaining obligations in the Settlement  
12 Agreement do not require the Court to retain jurisdiction over this matter and the recently-elected  
13 board has all authority invested in it by state law to continue operation of the Company.

14 Based on the above stipulations, the Parties' performance of the Settlement Agreement  
15 and the terms of the Limited Judgment, the Parties request the Court to enter Judgment as  
16 follows, and the Court finds the same to be appropriate; now therefore

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17  
18 **IT IS ADJUDGED**

19 1. Dennis Kirk, Michael Drum, Sheridan Loster, James McCawley and Charles Vawter  
20 constitute the Board of Directors for the Crooked River Ranch Water Company as of November  
21 9, 2010;

22 2. The duration of the term for each new director will be set forth in the Settlement  
23 Agreement;

24 3. Defendants shall make available to the newly elected board, without delay, all  
25 information and property of the Company that remains in the possession and control of any

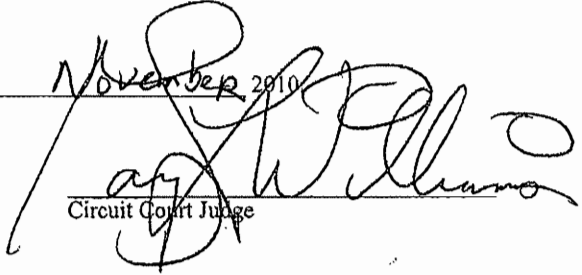
26 3- STIPULATED GENERAL JUDGMENT OF DISMISSAL WITH PREJUDICE

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1 defendant, including but not limited to the following - financial account numbers and passwords,  
2 credit cards, all account login information and passwords, passwords for software used for the  
3 operation of the Company, operating manuals, instructions, keys, and equipment, all of which the  
4 Court finds to be essential to the operation of the Company; and

5 4. All claims in the above captioned litigation that were not decided by the Limited  
6 Judgment entered August 23, 2010, are hereby dismissed with prejudice and without costs to any  
7 party.

8 DATED THIS 22 day of November, 2010.

9  
10   
11 Circuit Court Judge

12 Submitted By:  
13 TIMOTHY R. GASSNER  
14 GLENN, REEDER, & GASSNER, LLP  
15 205 SE 5<sup>TH</sup> STREET  
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26 4- STIPULATED GENERAL JUDGMENT OF DISMISSAL WITH PREJUDICE

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1 **CERTIFICATE OF SERVICE**

2 I certify that on February 11, 2011, I served the foregoing Staff Response upon all parties  
3 of record in this proceeding by delivering a copy by electronic mail to those parties with email  
4 addresses, and by mailing a copy by first class postage prepaid mail or by hand delivery/shuttle  
5 mail to the parties accepting paper service.

6 WJ 8:

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10 PORTLAND OR 97204-1136  
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**CROOKED RIVER RANCH WATER CO**  
BRIAN ELLIOTT  
PRESIDENT, BOARD OF DIRECTORS  
PMP 313 - 1604 S HWY 97 #2  
REDMOND OR 97756

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