

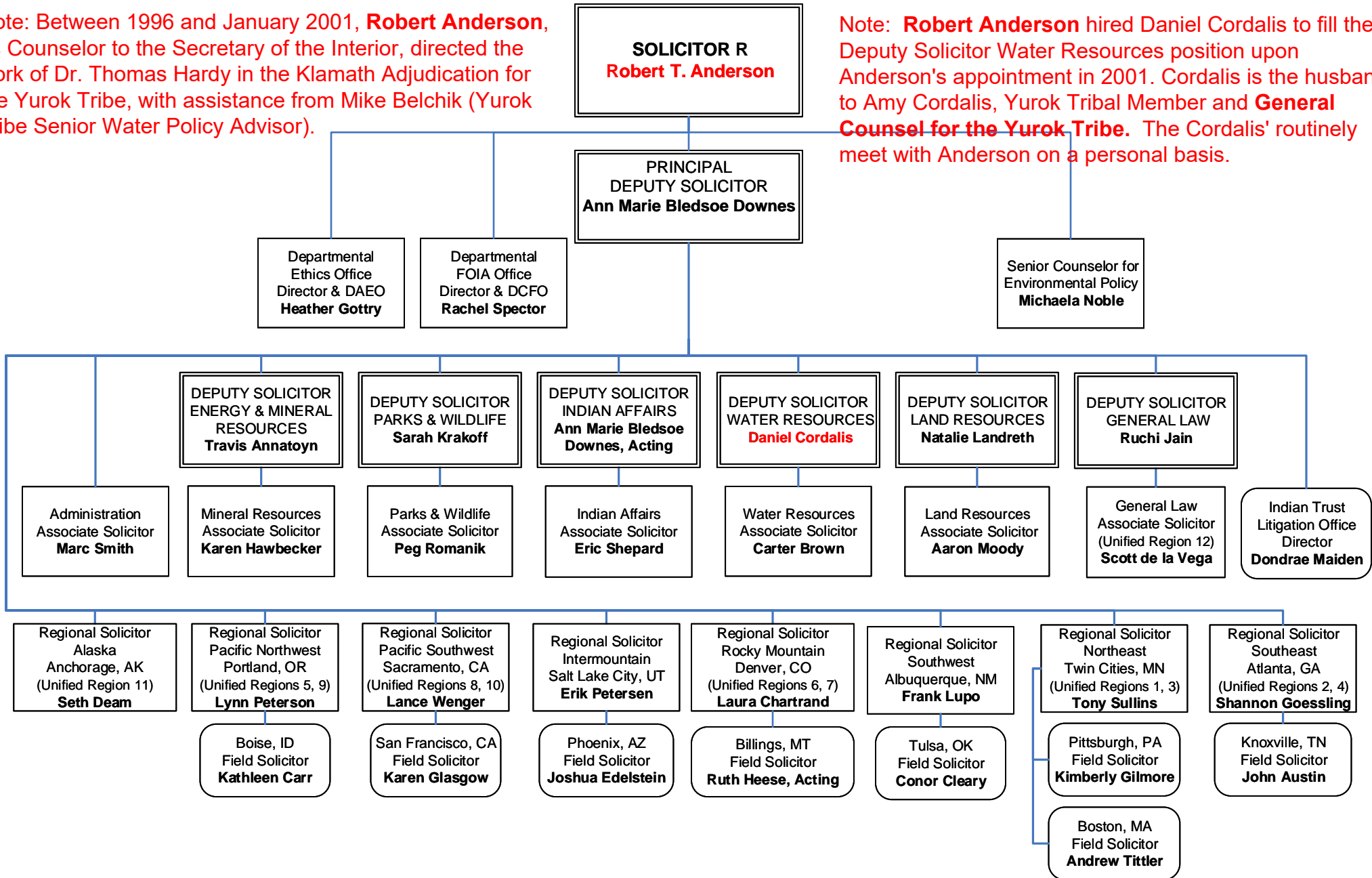
DEPARTMENT OF THE INTERIOR

OFFICE OF THE SOLICITOR

ORGANIZATIONAL CHART

Note: Between 1996 and January 2001, **Robert Anderson**, as Counselor to the Secretary of the Interior, directed the work of Dr. Thomas Hardy in the Klamath Adjudication for the Yurok Tribe, with assistance from Mike Belchik (Yurok Tribe Senior Water Policy Advisor).

Note: **Robert Anderson** hired Daniel Cordalis to fill the Deputy Solicitor Water Resources position upon Anderson's appointment in 2001. Cordalis is the husband to Amy Cordalis, Yurok Tribal Member and **General Counsel for the Yurok Tribe**. The Cordalis' routinely meet with Anderson on a personal basis.



Robert T. Anderson

University of Washington School of Law
Seattle, Washington



EXPERIENCE & MAJOR PROFESSIONAL ACTIVITIES

Law Professor, 2001 to Present

Professor of Law, and Director, Native American Law Center, University of Washington School of Law.

Visiting Professor of Law, Spring 2020, University of Colorado School of Law, Boulder, CO.

Harvard Law School, Oneida Nation Visiting Professor of Law, 2009-2021; annual visitor appointment; teaching one term per year.

Courses taught: American Indian Law, Water Law, Natural Resources Law, Property Law, Public Land Law, and Wildlife Law.

Commission on Indian Trust Administration and Reform, 2011 to 2013

Appointed by Secretary of the Interior Ken Salazar to five-member review Commission. Produced final report and recommendations for administrative reform efforts.

President-Elect Obama's Transition Team, September 2008 to January 2009

Co-lead for *Interior Department Agency Review* — (co-lead of team selected to engage in pre-election and post-election analysis of Department of the Interior and to present the new Administration with options regarding all policy and budget matters affecting Interior and its constituents).

Federal Government Service, March 1995 to December 2000

Counselor to the Secretary of the Interior (1997-2000)

Department of the Interior
Washington, D.C. 20240

Associate Solicitor for Indian Affairs (1995-1997)

Department of the Interior
Washington, D.C. 20240

(Both appointments by Secretary of the Interior, Bruce Babbitt)

Native American Rights Fund, August 1983 to March 1995

Senior Staff Attorney

Native American Rights Fund
Boulder, CO and Anchorage, AK
1506 Broadway
Boulder, CO 80302

Klamath River Basin Fisheries Task Force Technical Work Group
Flow Study Scoping - DRAFT Meeting Notes
Ashland Hills Inn Ashland, Oregon
September 29th - October 1st, 1997

Meeting convened at 10:20 a.m. on September 29, 1997

Participants:

Mike Belchik, Yurok Fisheries (TWG Chair)

Thomas Payne, Thomas R. Payne Associates (Facilitator)

Larry Dugan, U.S. Bureau of Reclamation

Frank Shrier, Pacificorp

Todd Olson, Pacificorp

Mark Pjsano, California Department of Fish and Game

Tom Shaw, U.S. Fish and Wildlife Service

Ross Taylor, Humboldt County

Thom Hardy, Utah State University

Jim Waldvogel, Del Norte County

John Hamilton, U.S. Fish and Wildlife Service, Yreka

Gary De Salvatore, In-River Sport Fishery

Forrest Blake, Hoopa Valley Tribe

James Wroble, Hoopa Valley Tribe

Robert Franklin, Hoopa Valley Tribe

Marcia Armstrong, Siskiyou County

Robert Rohde, Karuk Tribe of California

Ronnie M. Pierce, Karuk Tribe of California

Fran Smith, U.S. Forest Service

Jim Villeponteaux, Salmon River Restoration Council (present 9/29 & 9/30)

Dave Webb, Shasta CRMP (present 9/30)

Don Reck, National Marine Fisheries Service (present 9/30)

Mike Rode, California Department of Fish and Game (present 10/1)

Van Hare, Humboldt State University-TWG Research Assistant

Welcome and Introductions

TWG Chairman, Mike Belchik opened the three day workshop by stating its purpose as 'the creation of a flow study plan to fulfill the Task Force directive'. Belchik placed this effort in context by reiterating the directive from the Task Force as well as the goal of the Klamath River Restoration Act. Belchik pointed out that the TWG has conducted fairly extensive flow study scoping sessions in the past, however entities have gone off on their own direction (funding projects) with the scoping being incomplete. At this time, he explained, the TWG is backing up to complete the scoping of a flow study to focus the direction of its component parts.

Belchik briefly described the proposed structure of the three day workshop and gave some background on the selection of a facilitator. The TWG discussed potential

facilitators at their meeting in Fort Jones, California on September 4, 1997. Thomas Payne was chosen as facilitator for this workshop. Future sessions will be facilitated by Jim Henriksen (USGS). Belchik also explained that Thom Hardy (Utah State University) was present at his request and suggested that the TWG would greatly benefit from both Payne and Hardy's many years of practical experience in IFIM.

Participants briefly introduced themselves - a discussion regarding attendance followed:

Franklin: (to Hardy) what organization do you represent in your capacity at this workshop?

Hardy: I am attending at Mike Belchik's request to provide technical input as an IFIM specialist. My time is being paid for by the U.S. Department of Justice, but that I am 'leaving that hat at the door'. I am an IFIM practitioner from Utah State University.

Franklin: Who isn't here? It is very important that we have full involvement from the TWG.

Belchik: Klamath county and NMFS are missing (though Don Reck was present for NMFS on 9/30). All TWG members were encouraged to attend. I think that a lack of funds to pay consultant fees is probably the main problem.

Hamilton: Klamath County was sent a certified letter regarding this meeting. This problem was brought up at the April 23rd-24th, 1997 Task Force Meeting and at that time Nat Bingham pointed out that if they (Klamath County) didn't have a TWG representative at such meetings the process was still going to move forward.

Hardy: Is the intent of the end of this process a written study scope?

Belchik: Yes

Hardy: Then all that can be done is to send out a draft of that study scope and allow for their input at that time.

Payne: Is it advisable to move forward to the county's process and stress the importance of their involvement to the County Board of Directors?

Franklin: It is of obvious benefit to have Klamath County represented, we should look into what ever it takes to get them to the table.

The group expressed their gratitude to John Hamilton's office for their excellent work in preparing and sending out the background materials packet that participants received in the mail. Thanks was also sent to Kelly Neumeier who is ending her year of service as the TWG Research Assistant at Humboldt State University. Though she was not present, Kelly was awarded a plaque by John Hamilton from the U.S. Fish and Wildlife Service - Yreka Office.

Discussion regarding the agenda:

Belchik: are there any additions to the agenda?

Hardy: I would like to see the agenda reflect a plan to set another meeting date as well as a date for completion of the draft study scope plan. (Belchik agreed).

Bits: I have a letter to pass out (Handout G). [Reads letter] This is from Jimmy Smith one of the prime movers on restoration in Humboldt County, if not the north coast. If I could add a comment on the status of the fishery, whenever the projected population of Klamath chinook is enough to get us off the floor (where we are not managing for the 35k escapement as the objective for that year), the ocean share is about a 20 percent harvest of the age four Klamath Fish. More years than not we get to manage for about 9%, meaning we are about half way. Despite the best efforts of this program and others there are not many Klamath Fish making it to the ocean. The situation is not improving.

Fletcher: It is important to look back to the intent of the Act. Not only are fall chinook populations low, but coho, steelhead, spring chinook, sturgeon populations are also low. They may go extinct but not due to sport, tribal, or commercial harvest. It is important that we look at habitat issues hard.

Wilkinson: Oregon put a supplementation proposal on the table in terms of fall chinook harvest several years ago; that proposal has never even been responded to. It is interesting to me to see the letters from the Klamath Guides association and Jimmy Smith's letter suggesting some specific steps that might be taken. We really have not followed up on the intent of the Act. I can't help but wonder had we embarked on any of these efforts offered then, where would we be now? Hopefully no worse.

Barry: What action you want to entertain or is it mostly for information?

Bits: It is mostly for information. There are some specific suggestions in the last part of the letter that could in the short term increase populations of fish for harvest. I would also direct your attention to the language about lethal water conditions becoming a recurrent problem. Dissolved oxygen in the summer at night is a serious problem. If the Klamath River is killing its children, then whatever else is being done won't matter; we won't get results.

Smith: There has been exponential growth in the number of marine mammals at the mouth of the river; that's an issue that we have not addressed.

Orcutt: There has been discussion on having a joint KC/TF meeting. On agenda should be the question of "What are the management objectives for fall chinook in the Klamath?" There are a lot of misconceptions. The fish managers and habitat people each have their own perceptions. It would be good to air this question; it would speak to some issues including supplementation. Klamath stocks are managed for the wild fish component. They are managed for some harvest rate to see what the productivity is. There are overlaps between the KC and TF missions.

Bulfinch: California Department of Fish and Game (CDFG) is forbidden to run a supplementation hatchery and Pacific Power will only pay for mitigation for the loss of habitat due to the dam under the Federal Energy Regulatory Commission (FERC) license. Supplementation needs to be done which is closer to the ocean so that wildstocks are not impacted by straying. We might need to give thought to two separate objectives: sustainability of present fisheries and restoration in the future.

Barry: How is this addressed in LRP?

Bulfinch: Very vaguely.

14. Status of DOI's flow study report and recommendations (Robert Anderson, Counselor to Secretary, DOI and Dr. Thom Hardy, Utah State University)

Barry: I would like to introduce **Counsel to the Secretary of the DOI, Bob Anderson**, and we will hear from **Dr. Thom Hardy**.

Bob Anderson: Thanks Cindy and TF members. I want to put into perspective what I am doing on the Klamath Adjudication and the associated alternative dispute resolution (ADR). Its a project that is very important to the Secretary's Office and to the DOI as a whole. Generally when we are involved in is state water adjudications, like the Oregon case, **we have a policy** (that Secretary Babbitt has carried forward from Secretary Lujan in the Bush Administration) **to try to settle these disputes rather than litigating them**. We have about 19 of these cases going on throughout the west and there is a procedure in setting up Federal negotiating teams to try and facilitate settlements rather than litigating the issues. Typically, what comes out of these settlements is a definition of relative water rights of the parties that are involved: Indian Tribes, non-Indian irrigation districts, private water users that are not associated with irrigation districts, and any other water right claimants involved in the

adjudication which by law has to have every affected user included in these adjudications. That's what we are facing up in Oregon. The case has been in litigation for about 15 or 16 years. Now we are finally down to the point where claims have been filed by the United States and by all the private interests involved in the case. There are several types of claims. Claims that the United States has are made on behalf of Tribes are two different types: one, instream flow claims that are largely above Upper Klamath Lake (UKL) to maintain fisheries habitat in Sprague, Williamson and other rivers.

Secondly, claims have been made to waters and certain lake levels in UKL in order to preserve habitat for the fish that are also listed under the Endangered Species Act. There is also a biological opinion by the FWS that addresses the minimum lake level for Klamath lake.

Thirdly, the United States filed claims on behalf of the Klamath Project the irrigation district claiming water for irrigation purposes. There are other claimants that are not associated with the irrigation district. They are also before the court and they are also part of this alternative dispute resolution process that Martha Pagel and the State of Oregon are spearheading. That process is set up by the State and has a three year time frame. They are very firm in terms of adhering to this three year time frame. Its parallel to the actual litigation and adjudication time frame that's being conducted before the Oregon Department of Water Resources. The litigation is ongoing, but most of the energy is being devoted to the actual negotiation in an attempt to resolve the issue by consensus. The problem we face is that one year from now the State of Oregon is obligated to report to an administrative judge here as to what its views are with respect to water rights claimed by the United States, the Tribes, and every other claimant involved in the adjudication. As part of the process, we are hopeful we'll have a settlement proposal to offer to the administrative law judge, in lieu of litigating the claims. Such a proposal would lay out first what the stream flows are that can be agreed on in the rivers above UKL. Then secondly, on the lake level and how the irrigation district would be dealt with as well as the other water users. In order to do that, we are going to need to study and obtain funding for water supply augmentation projects. There is a study group considering those alternatives. We have picked seven to eight of those out of that process and are trying to move those along on an accelerated basis.

There is a pretty good consensus between the irrigators and the Tribes of the United States and other affected users in the State of Oregon that certain projects such as raising UKL merit a hard look sooner rather than later. We are trying to get the BOR to study those projects. The problem is that the State of Oregon and the water users want to know that if we reach a settlement on the Oregon side of the border there are assurances that someone is not going to come back in six months, in a year, or in five years and say that more water is needed for tribal claims or require more water under the Endangered Species Act (ESA) for species proposed for listing. That is a reasonable question raised by the Oregon side. My response is to talk with folks within the DOI and get Thom Hardy on board to look at ideas that are already circulating as a result of your work and as a result of work done by the Tribes to provide an initial estimate of what Oregon's contribution to the mainstem should be. I would like to be in a position in about a year to propose a figure that could provide some level of certainty. We are not going to be able to write that in stone in one year, but I would like to be able to move a settlement forward on the Oregon side in two years and say what we expect your contribution to be and have a number based on Thom's work with you.

The Tribes have ideas about habitat improvement along the Sprague and Williamson rivers that will improve water quality flowing into Klamath Lake which will reduce the need to have a higher lake level. The FWS is interested in filling out the boundaries of the wildlife refuges particularly upstream of Klamath Lake. If we can acquire those properties, as anticipated, that will have a beneficial effect on water quality flowing into Klamath Lake as well. With all these water rights settlements that have gone before (there has been about 12 or 13 of them since the early 80's involving Indian water rights, BOR projects, and other interests) there is always an off-ramp. If we get to a point where some unforeseen circumstances arise and we need more water from Oregon, we are going to have to build in a mechanism that all bets are off and go back to court to adjudicate. In order to compensate for the lack of absolute certainty, we are going to have to build some flexibility into the number and the assurances so that Thom can get us a figure in two years, then as the work is going on, we can refine and make adjustments. If the State of Oregon comes back, or the private water users, or the Tribes say that is not enough and they want absolute certainty, then it will have to be resolved through litigation. In contrast to litigation, settlement possibilities will move along water augmentation and this would result in money to accomplish the projects.

Dr. Thomas Hardy (Utah State University): There is some confusion why the Department of Justice (DOJ) is involved. I was already under contract with DOJ, they used an existing contract. But I work for Mr. Anderson and the Bureau of Indian Affairs (BIA). The work needs to occur in two phases. Phase I is in the next few months. We are going to look at the historical context of flow in the basin. We can then make some flow recommendations that can be used within this year for water planning and give it to Mr. Anderson. First, we need to do a study to meet Mr. Anderson's needs under Oregon Alternative Dispute

Resolution (ADR) process. Secondly, we need to meet the ongoing annual needs relative to KPOP. Third, we need to be compatible with the efforts of the TF, U.S. Geological Survey (USGS), and Tribal programs. **There is no secret conspiracy.**

In Phase II, **we need to get in the mainstem, the Scott, and Shasta Rivers to know what flows** out of Oregon need to be to ensure runs. **I cannot do it without the information on the tributaries.** We'll begin with the federal family, BOR and TWG to find out how we can do it in two years and also meet the strategic objective of the TF. The data collection would meet the needs of BOR, KPOP, Tribal programs, and USGS in light of what they have brought to the TF regarding salmon and IFIM. I have talked on the phone with CDFG and Gary Smith on the Habitat Suitability Curves (HSC).

Smith: I have the minutes from the TF meeting in June 97 where **the TF approved the \$50,000 for the mainstem.** At that time, there was no knowledge of another study. **I understand it now to include Shasta and Scott. When did the TF get piggy backed into working in the Tributaries?** Where do the other funds come from? Have you expanded the study? Who owns the data?

Hardy: A little foundation on this. Over one year ago at a TWG meeting, we were asked to give technical opinions. This was the first time we discussed airborne remote sensing. Those discussions went before the TF. Some time later **the study expanded and the National Marine Fisheries Service (NMFS) and BIA felt that would be an opportunity to do more. They both provided pots of money to be used to fund the Tributary work.**

Smith: The first time I met you was in Eureka. We discussed a flow study in the Klamath. Part of the problem is that **we only agreed to Iron Gate Dam (IGD) to the mouth.** The people of Siskiyou County thought the study was from the IGD to the mouth. It has gotten away from this. You know how critical this is. These are critical issues to me. I have worked hard and long to develop trust with landowners. **How can I trust what you are saying now? I want to know if this is part of a lawsuit on behalf of the Tribes.**

Anderson: There is no reason why this information is not made available to everyone in this room. **This data was to be use to facilitate a settlement; we will make it available to you and vice versa. We are not contemplating a lawsuit again anyone in California. The data are for the ADR. If they can be used to accomplish longer term goals, that will be another effort.**

Barry: Is the issue that the \$50,000 was used in way TF did not intend?

Smith: I want it in writing that what we decided here will not come back to bite us. I do not want to hurt people that I represent. You make me real nervous.

Anderson: **Oregon started a lawsuit and dragged us in.** As far as I am concerned the information should be available to TF, citizens, you, the constituents, and irrigation districts. However, if someone takes the information and uses it for lawsuit, I cannot control that. **I represent the DOI. I am here for two more years. We have support from the Tribes and Kitzhaber.**

Smith: What does that have to do with tributaries in the Scott and Shasta?

(Anderson to Hardy). Hardy: FWS says that we need that information. Folks in Oregon say we should not be taking the hit for all of California ourselves.

Smith: There is one more issue. At the ground truthing workshop where CRMPs were called in, **they were led to believe that this is a TF project. This has been misrepresented to local volunteer groups.**

Hardy: **I will take responsibility for any misrepresentation.** The **only part of digital imagery being paid for by the TF is the mainstem.** Decisions on spending TF money elsewhere will come back to the TF. But we also have an opportunity on the tributaries. We are not trying to do anything to destroy trust. My understanding is that the TF approved USGS plan. I have been trying to get the information that achieves the strategic plan of USGS.

Fletcher: **We never decided to limit the study to the mainstem.** This body has known that and will address issues related to fish basin wide. Our position is that we are charged with restoration of anadromous fish.

Russell: For Hardy, you mentioned that you would review data on historic flows, how far back and on what tributaries?



United States Department of the Interior

OFFICE OF THE SOLICITOR
Division of Indian Affairs
1849 C Street N.W., Mail Stop 6456
Washington, D.C. 20240

Phone 202 208-6967
Fax 202 208-3490
Inter-net Scott_Bergstrom@ios.doi.gov

February 3, 2000

NOTE

To: Jim Clear, DOJ Indian Resources
Bob Bruffy (or DOJ Executive Officer)

From: Scott Bergstrom, DOI Solicitor's Office

Re: Klamath Interagency Agreement Modification

Please find enclosed five (5) original modifications to the existing Interagency Agreement between the Bureau of Indian Affairs and DOJ for Klamath River instream flow work. The modification adds funding to the existing Agreement. Jim - I understand from David Harder that you should have his okay via fax this morning (if not already).

Please expedite - the contractor has stopped work vitally needed to address scientific issues in the coming months pending completion of this Agreement, and David and I have Bob Anderson and other DOI types hounding us to get this through asap. If at all possible, please call myself or our secretaries for pick-up, today hopefully, after signing all five originals. Once the BIA contracting officer signs (which he insists must be after DOJ "accepts" the IA), I'll return an original to each of you (or, Jim, to David Harder). Please call my direct line - 208 5928 - if any questions. Thank you!

INTER-AGENCY AGREEMENT

BETWEEN

SPECIAL LITIGATION COUNSEL

UNITED STATES DEPARTMENT OF JUSTICE

AND

BUREAU OF INDIAN AFFAIRS

UNITED STATES DEPARTMENT OF THE INTERIOR

PARTIES:

United States Department of Justice, Special Litigation Counsel (Justice Department), 601 Pennsylvania Avenue N.W., Washington, D.C. 20004 and United States Department of the Interior, Bureau of Indian Affairs (BIA), Director, Trust Responsibilities, 1849 C Street, MS-4559-MIB, Washington, D.C. 20240

PURPOSE

The material and testimony developed under this Inter-Agency Agreement (Agreement) will be used to support United States claims for water on behalf of the Hoopa Valley, Klamath and Yurok Tribes (Tribes) in administrative and potential legal proceedings which affect their fishery and associated water rights in the Klamath Basin, California and/or Oregon with regard to the development and implementation of the Klamath Project Operations Plan (KPOP). In order to assure that future use and development of tribal fishery and associated water rights are possible, non-Indian irrigation practices, as well as other water uses in the Klamath Basin, must be examined.

RECITALS

This Agreement is being entered into under the authority of 31 USC Section 1535 to inventory and evaluate previously conducted technical studies and to recommend additional studies to support water rights claims for the above referenced Tribes. The Justice Department will select a contractor or contractors who will provide the services described in the Scope of Work.

The Justice Department, the Department of the Interior Solicitor's Office (Solicitor's Office) and the BIA Central Office will monitor the work of the contractor or contractors to assure that all material and work is technically and legally acceptable.

Part 1 Request

1. Title of Recommending Official James Clear		1a. Signature Electronically signed by Beverly Schutte for James Clear		2. Date 02/18/2000	
3. Person to be contacted a. Name : David Harder b. Telephone : (303) 312-7328		4. Case Name : Klamath River Basin Adjudication 5. DJ File Number : 90-6-2-70 6. District : Oregon 7. Docket Number :			
8. Section IRS	9. Attorney Location Denver, CO	10. Contract Type Original			
11. Reason for Request Expert Testimony required on behalf of U.S.		12. Funding Source Reimbursable		Debtor Code : 0028 City : Washington, DC	
13. Expert Name Thomas B. Hardy		14. Expertise Hydrology Engineer		15. Rates Per Hour	16a. Preparation \$60.00
17. Mailing Address Dr. Thomas B. Hardy Utah State University Contracts and Grants 2400 Old Main Hall Logan, UT 84322-2400		18. Tax Information Tax Identification Number : 87-6000528 19. Phone : (435) 797-3127 20. Fax : 1-435-797-3102			
21. Anticipated Trial Date		22. Total Estimated S.O.W. Cost : \$550,086.00 Full Funding Reminder : Expert Witnesses are not entitled to advance payments			

23. Additional Information / Comments (Statement of Work attached, includes expense detail)

The discontinued form OBD-47 with original attorney and recommending official authorizing signatures is maintained in the DOJ official contract file.
Agreement No. AG6K0000029; Modification No. 6

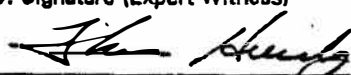
X-Ref **FY99-19065**

ORIGINAL

Part II - Witness Authorization

1. Date : 02/18/2000	6. OBL Month : 0002
2. Authorized Amount : \$ 550,086.00	7. SOC : 2599
3. YREGDOC : 2000 - 01 - 30018	8. Approved by : Electronically signed by Frits Geurtsen
4. Cost Center : OB1595 5. FY : 2000	9. Approved on: 02/18/2000

Part III - Witness Agreement

1. Witness Submit invoice to : USDOJ/ENRD Expert Witness Unit P.O. Box 685, Ben Franklin Station Washington, DC 20044		2. Auditors : (to be completed by Expert) a) None : b) Govt : c) Other (Name, City, State) :	
3. Signature (Government Attorney) Electronically signed by Beverly Schutte for David Harder	4. Name/Title of Government Attorney David Harder, Field Office Attorney	Date 02/18/2000	
5. Signature (Expert Witness) 	6. Name/Title of Expert Witness Thomas B. Hardy	Date MARCH 7, 2000	

The Expert Witness(es) agree(s) to perform the described services and appear as a witness/witnesses on behalf of the Government

All payments relating to this agreement shall be in accordance with the Prompt Payment Act.

ATTORNEY WORK PRODUCT

Watershed **S**ystems **G**roup, Inc.

1656 University Drive
Logan UT 84341
Telephone: 435-797-2824 (voice)
FAX: 435-797-1185

Principals
Craig Addley
Thomas Hardy

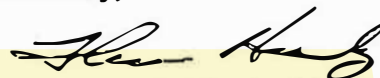
September 7, 2000

Dear Mr. Harder and Mr. MacFarlane:

You have asked me to provide you with a declaration in connection with litigation stemming from the Bureau of Reclamation's actions to ensure that the Klamath Irrigation Project in Oregon is operated in compliance with the Endangered Species Act and Reclamation's responsibilities to protect tribal trust resources. This litigation is directly related to the United States' reserved water rights claims in the Klamath Basin General Stream Adjudication before the Oregon Water Resources Department as well as the United States' ongoing efforts to quantify instream flow requirements for tribal trust resources below Iron Gate Dam. The declaration will be considered by the court to be my testimony.

It will take me 20 hours at a rate of \$130 per hour to complete the declaration. In addition, you will likely require 20 hours of my time for additional expert review and testimony. Thus, \$5,200 will cover my work to assist with this litigation.

Sincerely,



Dr. Thomas B. Hardy, Ph.D.

NOTE: Dr. Hardy at no time expressed his work would be to identify the critical habitat needs or biological needs for the coho salmon. His bias is clear in this statement to David Harder, Field Office Attorney.

Part 1 Request

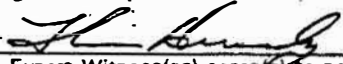
1. Name/Title of Recommending Official James Clear		1a. Signature Electronically signed by Kevin Kidwell for James Clear		2. Date 10/29/2000	
3. Person to be contacted a. Name : Judith Rabinowitz b. Telephone : (415) 744-6486		4. Case Name : Matter -- Yurok Water Rights Adjudication System 5. DJ File Number : 90-6-2-00815 6. District : Oregon 7. Docket Number :			
8. Section IRS	9. Attorney Location San Francisco, CA		10. Contract Type Original		
11. Reason for Request Expert Testimony required on behalf of U.S.		12. Funding Source Reimbursable		Debtor Code : 0028 City : Washington, DC	
13. Expert Name Thomas B. Hardy	14. Expertise Hydrology Engineer	15. Rates Per Hour	16a. Preparation \$44.79	16b. Testimony	
17. Mailing Address Dr. Thomas B. Hardy Utah State University 4110 Old Main Hill Logan, UT 84322-4110		18. Tax Information Tax Identification Number : 87-6000528 19. Phone : (435) 797-3127 20. Fax : 8-435-797-3102			
21. Anticipated Trial Date		22. Total Estimated S.O.W. Cost : \$286,694.37 Full Funding Reminder : Expert Witnesses are not entitled to advance payments			
23. Additional Information / Comments (Statement of Work attached, includes expense detail) The authorized funded amount shown in Part II, Item 2, shall NOT be exceeded without authorization and written modification of the Contract by the Government. Per attorney DJ# changed from 90-6-2-70 to 90-6-2-00815. Funds moved from FY00-30018. IAG #AG6K000029, Mod.06 Contract contact: Utah State--Doug Ringle, (435)797-1065 Dr.Hardy's office--Tammy Peterson					

ORIGINAL

Part II - Witness Authorization

1. Date : 09/29/2000		6. OBL Month : 0009	
2. Authorized Amount : \$ 286,694.37		7. SOC : 2599	
3. YREGDOC : 2000 - 01 - 30132		8. Approved by : Electronically signed by Debra Richardson	
4. Cost Center : 0B1595	5. FY : 2000	9. Approved on: 09/29/2000	

Part III - Witness Agreement

1. Witness Submit invoice to : USDOJ/ENRD Expert Witness Unit P.O. Box 685, Ben Franklin Station Washington, DC 20044		2. Auditors : (to be completed by Expert) a) None : b) Govt : c) Other (Name, City, State) :	
3. Signature (Government Attorney) Electronically signed by Kevin Kidwell for Judith Rabinowitz		4. Name/Title of Government Attorney Judith Rabinowitz, Attorney	Date 10/29/2000
5. Signature (Expert Witness) 		6. Name/Title of Expert Witness Thomas B. Hardy	Date
The Expert Witness(es) agree(s) to perform the described services and appear as a witness/witnesses on behalf of the Government		All payments relating to this agreement shall be in accordance with the Prompt Payment Act.	

Doug Ringle 12/15/00

Part 1 Request

1. Name/Title of Recommending Official James Clear		1a. Signature Electronically signed by Kevin Kidwell for James Clear		2. Date 10/29/2000	
3. Person to be contacted a. Name : Judith Rabinowitz b. Telephone : (415) 744-6486		4. Case Name : Matter -- Klamath Project Curtailment of Water 5. DJ File Number : 90-1-2-10086/1 6. District : Oregon 7. Docket Number :			
8. Section IRS	9. Attorney Location San Francisco, CA	10. Contract Type Original			
11. Reason for Request Expert Testimony required on behalf of U.S.		12. Funding Source FEW			
13. Expert Name Thomas Hardy	14. Expertise Hydrology	15. Rates Per Hour	16a. Preparation \$130.00	16b. Testimony	
17. Mailing Address Dr. Thomas Hardy Watershed Systems Group, Inc. 1656 University Drive Logan, UT 84341		18. Tax Information Tax Identification Number : 87-0560247 19. Phone : (435) 797-3127 20. Fax : 8-435-797-1185			
21. Anticipated Trial Date		22. Total Estimated S.O.W. Cost : \$5,200.00 Full Funding Reminder : Expert Witnesses are not entitled to advance payments			

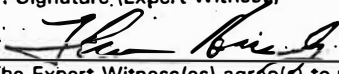
23. Additional Information / Comments (Statement of Work attached, includes expense detail)
The discontinued form OBD-47 with original attorney and recommending official authorizing signatures is maintained in the DOJ official contract file.
The authorized funded amount shown in Part II, Item 2, shall NOT be exceeded without authorization and written modification of the Contract by the Government.

ORIGINAL

Part II - Witness Authorization

1. Date : 09/29/2000	6. OBL Month : 0009
2. Authorized Amount : \$ 5,200.00	7. SOC : 1157
3. YREGDOC : 2000 - 01 - 40218	8. Approved by : Electronically signed by Terri Cahill
4. Cost Center : 0361960413 5. FY : 2000	9. Approved on: 09/29/2000

Part III - Witness Agreement

1. Witness Submit invoice to : USDOJ/ENRD Expert Witness Unit P.O. Box 685, Ben Franklin Station Washington, DC 20044		2. Auditors : (to be completed by Expert) a) None : b) Govt : c) Other (Name, City, State) :	
3. Signature (Government Attorney) Electronically signed by Kevin Kidwell for Judith Rabinowitz		4. Name/Title of Government Attorney Judith Rabinowitz, Attorney	Date 10/29/2000
5. Signature (Expert Witness) 		6. Name/Title of Expert Witness Thomas Hardy	Date 10/4/2000
The Expert Witness(es) agree(s) to perform the described services and appear as a witness/witnesses on behalf of the Government		All payments relating to this agreement shall be in accordance with the Prompt Payment Act.	

Utah State
UNIVERSITY

RECEIVED

JUN 18 2001

FILE

Klamath Irrigation District

CONTRACT/GRANT OFFICE
1415 Old Main Hill
Old Main Room 64
Logan, UT 84322-1415

December 15, 2000

Kevin Kidwell
DOJ/ENRD Expert Witness Unit
PO Box 685, Ben Franklin Station
Washington, DC 20044

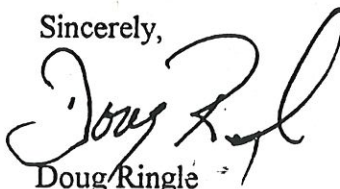
Dear Mr. Kidwell:

SUBJECT: Contract for Matter – Yurok Water Rights Adjudication System, DJ #90-6-2-00815 between the Department of Justice and Utah State University

Enclosed is a copy of the above referenced modification that has been reviewed, approved, and signed by the University. The terms and conditions contained within the modification are acceptable to the University. If you have questions, please contact me at (435)797-3799.

We will proceed as outlined in the contract.

Sincerely,



Doug Ringle
Contract Administrator

aa

Enclosure

c: Thomas Hardy



11507001 Upper Klamath Lake mean daily elevation - 2001

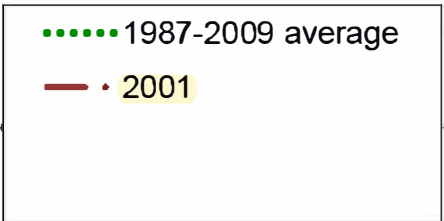
4,143.3 Full Pool of Upper Klamath Lake

Surface Elevation, ft.

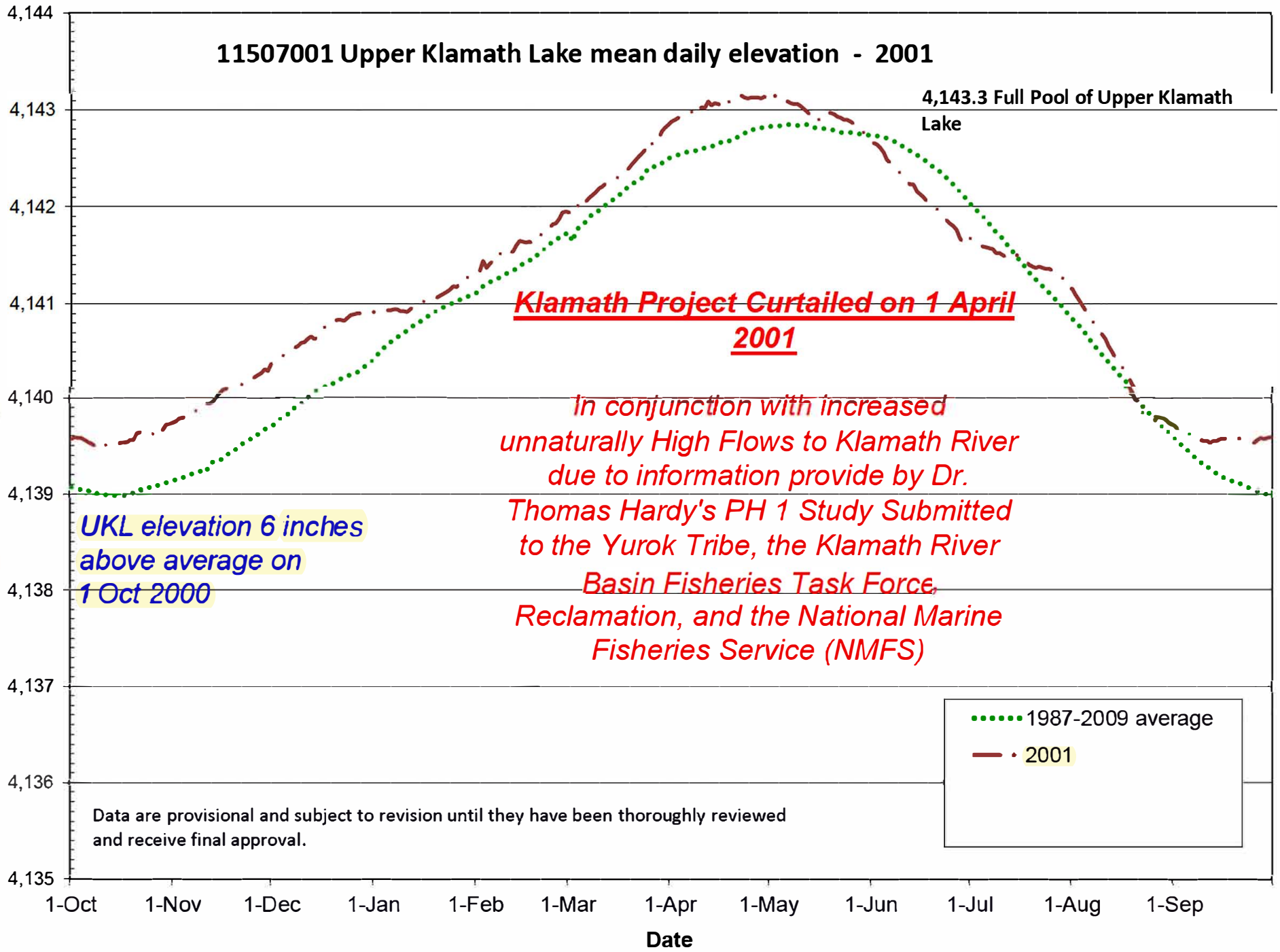
Klamath Project Curtailed on 1 April 2001

In conjunction with increased unnaturally High Flows to Klamath River due to information provide by Dr. Thomas Hardy's PH 1 Study Submitted to the Yurok Tribe, the Klamath River Basin Fisheries Task Force, Reclamation, and the National Marine Fisheries Service (NMFS)

UKL elevation 6 inches above average on 1 Oct 2000



Data are provisional and subject to revision until they have been thoroughly reviewed and receive final approval.



Water Year	Hardy et al (2006) Estimated Annual Flow Changes to the Klamath River due to Klamath Irrigation Project operations predicted by KPOPSIM (Table 3) in 1,000/af¹	Actual Historical Klamath Irrigation Project Diversion² (Includes Lost River diversions which are not natural to the Klamath River) in 1,000/af	Lost River Diversion Channel Additions to Klamath River and Klamath Irrigation Project³ in 1,000/af	Estimated Annual Klamath Irrigation Project Returns to Klamath River from Klamath Straights Drain⁴ in 1,000/af	Estimated Annual Evaporation from Lower Klamath Lake Historically Lost to Klamath River below Keno and added to Klamath River Availability⁵ in 1,000/af	Hardy Model Over Estimation Error in 1,000/af
1981	-323.2	-392	+38	+79	+100	72
1982	-555.5	-343	+127	+149	+79	313
1983	-399.2	-346	+143	+138	+82	130
1984	-363.5	-373	+142	+151	+99	98
1985	-344.4	-408	+84	+110	+98	60
1986	-430.7	-405	+89	+125	+97	158
1987	-395.5	-424	+46	+100	+99	124
1988	-426.2	-429	+42	+100	+99	154
1989	-504.1	-385	+67	+110	+97	259
1990	-380.5	-422	+46	+100	+96	108
1991	-450.9	-422	+22	+79	+97	182
1992	-417.1	-380	+11	+2	+96	124
1993	-533.4	-350	+56	+83	+95	305
1994	-311.2	-419	+19	+49	+100	22
1995	-534.3	-354	+66	+75	+100	289
1996	-393.3	-395	+107	+127	+95	113
1997	-522.6	-417	+91	+100	+99	213
Average	-398.3	-392	+70	+99	+96	130

The Hardy models overestimate the changes to the Klamath River by 130,000 acre-feet per year on average.

¹ Hardy, Thomas B, R. Craig Addley, and Ekaterina Saraeva. 31 July 2006. Evaluation of Instream Flow Needs in the Lower Klamath River. Phase II. Final Report. Prepared for the U.S. Department of the Interior. P. 32

² KBPM Simulation Viewer 071421 provided by MBK Engineering.

³ Data extracted from <https://www.usbr.gov/pn-bin/daily.pl?station=lr&format=html&year=1980&month=10&day=1&year=1997&month=9&day=30&pcode=qd&pcode=qj>

⁴ Davids Engineering Inc. October 1998. Klamath Project Historical Water Use Analysis. Briefing Chart #27. Klamath County, Oregon and Siskiyou County, California.

⁵ Davids Engineering Inc. October 1998. Klamath Project Historical Water Use Analysis. Briefing Chart #33. Klamath County, Oregon and Siskiyou County, California.

Analysis of Dr. Thomas Hardy Flow Studies PH 1 and PH 2 being utilized as the "best available science" for flows in the Klamath River to protect the threatened Southern Oregon Northern California Coast coho salmon.

Timeline (1 of 2)

1992 Drought Conditions in Upper Basin not seen since the 1930s

1994 March - William Trush with Institute for River Ecosystems, Fisheries Department, Humboldt State University publishes a paper focusing on the geomorphic perspective to anadromous fish restoration in the Klamath Basin. Received by the Yurok Tribe on 1 January 1995.

- 5 Principles (don't establish minimum flow requirements - use natural conditions)

1994 Drought Conditions in Upper Basin similar to the 1930s

1994 August - Donald Anglin publishes USFWS / BIA "Lower Klamath River Instream Flow Study" under interagency agreement AG1J5200003 at the behest of Yurok Tribe.

- Numerous shortfalls in data. No known relationship between flows and fish habitat issues

1994 Fall - Vogel Environmental Report

- Critical of flow demands by Yurok

1995 January - "**Tribes are mad**" - hand written note on Klamath River Flow Study Scoping Meeting

1995/1996 - DoJ establishes interagency agreement with BIA AG6K000029 to support claims for Yurok "potential legal proceedings which affect their fishery and associated water rights...with regard to the development and implementation of the Klamath Project Operations Plan...to assure that future use and development of tribal fishery."

1996, November 29 - Scott Bergstrom (Attorney for Division of Indian Affairs) provides a statement of work to Dr. Hardy's Watershed Systems Group, Inc to investigate, evaluate, and analyze [tribal] fishery needs. The investigation of the water supply is necessary for the purpose of determining the source, quantity, and variability of the water resource on the Indian Trust land related to the Klamath Project Operations Plan."

1996, December 31st - **\$25,000 to Dr. Hardy** for expert testimony for U.S. in Klamath Tribes vs U.S. No 96-381

1997, February 10 - Dr. Hardy review of the Klamath River Basin Fisheries is discussed in Task 1 "Develop Water Quantity Model Objectives", Task 2 "Water Quantity Study Design, Task 5 "Develop a Water Quantity Model for the Klamath River"

Timeline Continued

1997, February 12 - Allegations the Klamath River Flow Study was a tribal trust responsibility of USFWS

1997, April 23-24 - Klamath River Basin Fisheries Task Force meets with Hardy. [Initiates flow study for \\$50,000](#)

1997, May 6 Coho listed as threatened

1997, September - Hardy provided testimony for DOJ in Klamath Tribes vs US NO 96-381

1997, September - [\\$15,608 to Hardy](#) for Expert Testimony in Klamath Basin Adjudication for BIA 1997 -

Hardy preparing PH I report for Klamath River Basin Fisheries Task Force

1998, August 19 - [\\$79,997 to Hardy](#) for Klamath Basin Adjudication on behalf of BIA

1998, October 15 - Bob Anderson (DOI Solicitor) and Dr. Hardy provide interaction with BIA activity with Klamath River Basin Fisheries Task Force. Anderson communication with OWRD.

1999, February 3 - [\\$550,860 to Hardy](#) for Klamath Basin Adjudication on behalf of BIA

1999, August 5 - Hardy PH I Study Published for Klamath River Basin Fisheries Task Force

1999, September 13 - [\\$115,000 to Hardy](#) for Klamath Basin Adjudication on behalf of BIA

2000, February 3 - Scott Bergstrom (now DOI solicitor) requests payment to Hardy to continue BIA work

2000, February 18 - [\\$550,860 to Hardy](#) for Klamath Basin Adjudication on behalf of BIA

2000, October 1 - [Upper Klamath Lake above average lake level](#)

2000, October 29 - [\\$286,694 to Hardy](#) for Klamath Basin Adjudication on behalf of BIA

2000, October 29 - [\\$5,200 to Hardy to Expert Testimony to curtail Klamath Project Water for DOJ](#) 2001,

April - [Upper Klamath Lake at almost full pool \(no additional storage available\)](#)

2001, April - Klamath Project Curtailed (no water to farmers)

2001, October - Draft Hardy PH II circulated

2001-2011 - Sever Criticism of Hardy Flow Studies by National Academy of Sciences and others

2013 - ACFFOD Published

2013 May - Richard Whitman (Oregon State appointee under Kitzhaber) and Tom Paul (OWRD)

negotiate a MOU with the Yurok to not enforce the ACFFOD

2021/2022 - Yurok - Hardy Studies are the "best available science"

fees (I)

6067

PART I - REQUEST FOR SERVICES

1. Name/Title of Requesting Official Fred Disheroon		1a. Signature <i>[Signature]</i>	2. Date 12/31/96	2a. DJ File Number 90-2-4-1819
3. Name of Person to be Contacted Fred Disheroon		4. Telephone No. (202) 616-9649	5. Case Name, Court and Court Docket Number KLAMATH TRIBES v. U.S.	
6. Division or District ENRD/GLS-SLU	7. Mailing Address Washington D.C.	8. Request (Circle one) <input checked="" type="radio"/> Original <input type="radio"/> Supplemental		IF SUPPLEMENTAL ENTER ORIGINAL YREGDOC
9. Specialty of Expert Witness, ADR Neutral, or Litigative Consultant Fisheries Biologist				
REASON FOR REQUEST (Check below and explain in Block 13)				
<input checked="" type="checkbox"/> a. Expert testimony required on behalf of U.S.				
<input type="checkbox"/> b. Medical Examination of Plaintiff/Witness/Defendant in Contemplation of Testimony on Behalf of U.S.				
<input type="checkbox"/> c. Examination Under 18 USC Sec. 4241, Mental Competency to stand Trial only				
<input type="checkbox"/> d. Dual Purpose Psychiatric Examination (Time of Offense & Competency to Stand Trial) on the motion of: _____; under Criminal Justice Act YES [] NO []				
<input type="checkbox"/> e. Disposition of other party's expert witness				
<input type="checkbox"/> f. Unusual Fact Witness Expense				
<input type="checkbox"/> g. Alternate Dispute Resolution (ADR) Neutral Expense				
<input type="checkbox"/> h. Alternate Dispute Resolution (ADR) Witness Expense				
<input type="checkbox"/> i. Litigative Consultant				
10. Name, Address, TIN/SSN, and Phone No. of Witness, ADR Neutral, or Litigative Consultant Dr. Thomas B. Hardy WATERSHED SYSTEMS GROUP, INC. 1656 University Drive Logan, UT 84341			11. Anticipated Start and Ending Dates of Service (enter MO/DA/YR) (in conjunction with Block 12)	
			a. Examination of Case _____	
			b. Prep of Testimony _____	
			c. Court Testimony _____	
			d. Neutral/Lit. Consultant Services _____	
12. Expense Detail (Estimated Expenses)			(Other Expenses, Cont'd)	
a. Examination of Case: _____ hrs or _____ days x \$ _____ = \$ _____			Transportation: Check if included in fee [] Common Carrier at Coach Class: (GTA Used [] Yes [] No) \$ _____	
b. Preparation of Testimony: _____ hrs or _____ days x \$ _____ = \$ _____			Taxi To/From Terminal: \$ _____	
c. Court Testimony: _____ hrs or _____ days x \$ _____ = \$ _____			POV: _____ Miles @ \$0. _____ per Mile = \$ _____	
d. Neutral/Lit. Consultant Testimony: _____ hrs or _____ days x \$ _____ = \$ _____			*(This cost shall not exceed cost by common carrier)	
e. Other Expenses: Per Diem - Check if included in Fee [] OR _____ Days x \$ _____ per Day = \$ _____			f. Miscellaneous Expenses (printing, exhibits, etc.) on actual cost basis (itemize on separate page) \$ _____	
			g. Total Estimated Cost: \$ 25,000.00	
13. Explanation and Justification (Attach additional information if space is insufficient)(For Neutral, attach Preliminary Agreement)				
See attached Statement of Work. Money to be transferred from DC# 96-15039, contract with David DeBruyn. Dr. Hardy was once a sub-contractor to Mr. DeBruyn, but is now becoming a Primary Witness for DOJ.				
DOI/BIA/DC Debtor Code 6067				

ORIGINAL

PART II - WITNESS/ADR NEUTRAL/LITIGATIVE CONSULTANT AUTHORIZATION

1. Date 1/10/97	3. Cost Center 6B 1595
2. Approved/Disapproved	6. OBL Month 9609
3. Authorized Amount \$25,000.00	7. SOC 2599
4. YREGDO 15116	8. Remarks: <i>[Signature]</i>
Approved by <i>[Signature]</i>	

PART III - WITNESS/ADR NEUTRAL/LITIGATIVE CONSULTANT AGREEMENT

1. Description of Duties (Explain details of service to be performed)(Attach additional information if space is insufficient)		
2. Witness: Submit Invoice to: (Name/Address of Attorney or Admin/Fiscal Office) US DOJ/ENRD Expert Witness Unit P.O. Box 685, Ben Franklin Station Washington, D.C. 20044		5. Government Attorney: For payment, in accordance with internal procedures, send invoice and Original of this form to: (Check one) [] or [] DOJ/FDSS/EXPERT P.O. Box 50814 Washington, D.C. 20004-0814
3. Signature (Government Attorney) <i>[Signature]</i>	6. Name/Title of Government Attorney Fred Disheroon	Date
4. Signature (Witness/ADR Neutral/Litigative Consultant) <i>[Signature]</i>	7. Name/Title of Witness/ADR Neutral/Litigative Consultant Dr. Thomas B. Hardy	Date 1-29-97
I agree to perform the above services and appear as a witness on behalf of the government		All payments relating to this agreement shall be in accordance with the Prompt Payment Act.

INTER-AGENCY AGREEMENT

BETWEEN

INDIAN RESOURCES SECTION

UNITED STATES DEPARTMENT OF JUSTICE

AND

BUREAU OF INDIAN AFFAIRS

UNITED STATES DEPARTMENT OF THE INTERIOR

PARTIES

United States Department of Justice, Environment and Natural Resources Division, Indian Resources Section (Justice Department), P.O. Box 44378, L'Enfant Plaza Station, Washington, D.C. 20026-4378 and United States Department of the Interior, Bureau of Indian Affairs (BIA), Director, Office of Trust Responsibilities, 1849 C Street, MS-4559-MIB, Washington, D.C. 20240.

PURPOSE

The material and testimony developed under this Inter-Agency Agreement (Agreement) will be used to support United States' claims for or positions concerning water on behalf of the Klamath Basin Tribes (including the Hoopa Valley, Klamath, and Yurok Tribes) (Tribes) in administrative, legal, and other proceedings which may affect their fishing rights and associated water rights, or other trust resources in the Klamath Basin, California and Oregon. In order to assure that future use and development of tribal fishing rights and associated water rights are possible, water-related habitat requirements of the tribal trust fish species and non-Indian irrigation practices, as well as other water uses or issues in the Klamath Basin, must be examined and, if necessary, contested in administrative, legal, or other proceedings. This Agreement, however, does not encompass efforts directed solely toward the Klamath River Basin general stream adjudication in Oregon.

RECITALS

This Agreement is being entered into under the authority of 31 USC Section 1535 to inventory and evaluate previously conducted technical studies, as needed, and to recommend and, upon approval by the parties to this Agreement, perform additional studies to support water rights claims for or positions to be taken on behalf of the Klamath Basin Tribes. The Justice Department, in consultation with the

BIA INTRAGENCY AGREEMENT

NO: AG6K000029 MOD #2

Final Klamath River Basin Fisheries Task Force Minutes
23-24 April 1997
Eureka, California

1. Convene, review agenda, opening remarks.

Bingham: Good Morning. (A quorum was present, Attachment 1). Tom Hardy will be our facilitator for this meeting and once I take care of some routine business, I will be turning over the conduct of this meeting to him.

The topic of this two day session will be to consider the whole issue of in-stream flow studies. This has been a troubling issue for the Task Force (TF); it's one we basically had before us from the very beginning of our restoration program. What I hope we'll be able to do over the next two days is set aside our own agendas. Our basic mission is to restore the anadromous fisheries of the Klamath River Basin. Let's try to collectively come to grips with that so we can move forward with the studies in such a way that people don't feel like any in particular element is aiming right at them. To set the stage for that it's appropriate to hear what it is that our Long Range Plan (LRP) says to this effect.

Fletcher: Objective 2.E.1.C. states that we need to evaluate the in-stream flow needs using state of the art methods of each salmon and steelhead run and life stage affected by flows released from Iron Gate Dam (IGD). 2.E.2.B. and C states that we need to identify and implement methods to rectify habitat problems identified in #1 above including the following: water quality above and below IGD, in-stream flow and habitat below IGD. It goes on at 2.E.7 to say we need to require water flows adequate to achieve optimal productivity of the basin. 2.E.8. says seek the establishment of law that mandates minimum stream flow standards.

2. Business

Bingham: Thank you. Does anyone have any additions to make to the agenda?

****Motion**** (Wilkinson) Approve the agenda.

****Second**** (Bulfinch)

****Motion carries****

Iverson: Mr. Chairman, those minutes [of the meeting of February 20-21, 1997] are drafted but I'm doing a little bit of editing [These minutes were mailed to the TF on May 6, 1997].

****Motion**** (Bulfinch) Mr. Chairman, I move that we defer the approval of the February 20-21, 1997 minutes June meeting.

****Second**** (Smith)

****Motion carries****

3. Brief review of last meeting actions/general correspondence

Hamilton: There's correspondence in the package but rather than drawing from your focus here, I suggest that everybody read them (Attachment 3, Informational Handouts) on their own. The handout that is going around contains all the motions that we're aware of that the TF has passed related to a flow study and should help you understand why we are where we are today with the flow study (Handout A). If anybody is aware of any we missed, let us know.

4. Introduction of Facilitator (Dr. Thomas Hardy, Utah State University)

Hardy: Good Morning. I'd like to take a few minutes to give you some background on who I am for those who don't know me, then deal with some issues about definitions and concepts that became evident from the list of questions that was attached to the announcement of the meeting. (Handout B) I hope to address many of those questions, and then once that's set up we'll begin to move forward I hope in a progressive manner.

I've been involved with in-stream flow research and application since 1977. I'm a fisheries biologist by training. I also have a degree in Environmental Engineering. Much of my efforts at Utah State University in my institute are on the development, testing and real world applications of multi-disciplinary assessment methods primarily working at the issue of what happens when you modify habitat or modify flows in a river. I'm very active internationally, I'm the president of the

9-23-97

Reimb

6067

Asst

Part I - Request for Services			
1. Name/Title of Requesting Official Steven E. Carroll Acting Chief, Indian Resources Section	2a. Signature <i>Steven E. Carroll</i>	2. Date 9/22/97	2a. D. File Number 90-2-4-1819
3. Name of Person to be Contacted David Harder	4. Telephone No. (303)312-7328	5. Case Name, Court and Court Docket Number Klamath Basin Adjudication	
6. Legal Division or USAO ENRD/IRS SLU	7. Mailing Address (Exec/Adm/Budget Officer) Denver, CO (EOSEM)	8. Request (circle one) Original Supplemental	IF SUPPLEMENTAL ENTER ORIGINAL YREGDOC 96-15116

9. Specialty of Expert Witness, ADR Neutral, or Litigative Consultant: Civil Engineer

REASON FOR REQUEST (Check below and explain in Block 13)

a. Expert testimony required on behalf of U.S.

b. Medical Examination of Plaintiff/Witness/Defendant in Contemplation of Testimony on Behalf of U.S.

c. Examination Under 18 USC Sec. 4241, Mental Competency to stand Trial only

d. Dual Purpose Psychiatric Examination (Time of Offense & Competency to Stand Trial) on the mo
under Criminal Justice Act YES NO

e. Disposition of other party's expert witness

f. Unusual Fact Witness Expense

g. Alternate Dispute Resolution (ADR) Neutral Expense

h. Alternate Dispute Resolution (ADR) Witness Expense

i. Litigative Consultant

TIN 87-0560247 Phone: (801) 977-2922 Fax: (801) 797-4485

ORIGINAL

10. Name, Address, TIN or SSN, and Phone Number of Witness, ADR Neutral, or Litigative Consultant Dr. Thomas B. Hardy Watershed Systems Group, Inc. P.O. Box 3352 Loran, UT 84323-3352	11. Anticipated Start and Ending Dates of Service (enter MO/DA/YR) (in conjunction with Block 12) a. Examination of Case _____ b. Prep of Testimony _____ c. Court Testimony _____ d. Neutral/ Lit. Consultant Services _____
--	---

12. Expense Detail (Estimated Expenses)	(Other Expenses, Cont'd)
a. Examination of Case: _____ hrs or _____ days x \$ _____ = \$ _____	Transportation: Check if included in fee <input type="checkbox"/>
b. Preparation of Testimony: _____ hrs or _____ days x \$ _____ = \$ _____	Common Carrier at Coach Class (GTA Used <input type="checkbox"/> Yes <input type="checkbox"/> No) \$ _____
c. Court Testimony: _____ hrs or _____ days x \$ _____ = \$ _____	Taxi To/From Terminal: \$ _____
d. Neutral/ Lit. Consultant Services: _____ hrs or _____ days x \$ _____ = \$ _____	POV: _____ Miles @ \$0. _____ per Mile = \$ _____
e. Other Expenses Per Diem - Check if included in fee <input type="checkbox"/>	* (This cost shall not exceed cost by common carrier)
OR _____ days x \$ _____ per day = \$ _____	f. Miscellaneous Expenses (printing, exhibits, etc.) \$ _____
	g. Total Estimated Cost: \$ <u>15,608.77</u>

REMINDER: Expert Witnesses are not entitled to Advance Payments

13. Explanation and Justification (Attach additional information if space is insufficient) (For Neutral, attach Preliminary Agreement)

Please see attached Scope of work

DOI/BIA/Wash. DC

Part II - Witness/ADR Neutral/Litigative Consultant Authorization			
1. Date <u>9/25/97</u>	5. Cost Center <u>6B1595</u>		
2. Approved/Disapproved	6. OBL Month <u>7.SOC 2599</u>		
3. Authorized Amount \$ <u>15,608.77</u>	8. Remarks: <i>Approved</i>		
4. YREGDOC <u>15116 A</u>	Approved by <i>David W. Harder</i>		

Part III - Witness/ADR Neutral/Litigative Consultant Agreement			
1. Description of Duties (Explain details of service to be performed) (Attach additional information if space is insufficient)			
2. Witness/Neutral/Litigative Consultant Submit invoice to: (Non DOI) ENRD/Expert Witness Unit P.O. Box 685, Ben Franklin Station Washington, D.C. 20044		3. Government Agency: Forward invoice and Original of this form to the appropriate person within your office for processing	
4. Signature (Government Official) <i>David W. Harder</i>	6. Name/Title of Government Official (Print or Type) David Harder	Date <u>9/16/97</u>	
5. Signature (Witness/ADR Neutral/Litigative Consultant) <i>Thomas B. Hardy</i>	7. Name/Title of Witness/ADR Neutral/Litigative Consultant Dr. Thomas B. Hardy		

I agree to perform the above services and appear as a witness on behalf of the government, act as an ADR Neutral, or Litigative Consultant.

All payments relating to this agreement shall be in accordance with the Prompt Payment Act.

8049

K

Part I - Request for Services

1. Signature <i>[Signature]</i>		2. Date 8/13/98	2a. DJ File Number 90-6-2-70
4. Telephone No. (303) 312-7328		5. Case Name, Court and Court Docket Number Klamath Basin Adjudication	
3. Mailing Address (Exec/Admin/Budget Officer) Denver, CO		8. Request (circle one) <input checked="" type="radio"/> Original <input type="radio"/> Supplementa	
9. Witness, ADR Neutral, or Litigative Expert: Civil Engineer		IF SUPPLEMENTAL, ENTER ORIGINAL YREGDOC	
10. Name, Address, TIN or SSN and Phone Number of Witness, ADR Neutral, or Litigative Expert Dr. Thomas B. Hardy, Watersheds & Environmental, Inc. P.O. Box 3352 Logan, UT 84323-3352 1415 Old Main Hill Logan Utah 84302-1415			
11. Anticipated start and ending Dates of Service (enter MO/DA/YR) (in conj. with Block 12) a. Examination of Case b. Prep of Testimony c. Court Testimony d. Neutral/Lit. Expert Services (Other Expenses, Cont'd) Transportation: Check if included in fed [] Common Carrier at Coach Class: (GTA Used [] Yes [] No) \$ Taxi To/From Terminal: \$ POV: Miles @ \$0. per Mile = \$ *(This cost shall not exceed cost by common carrier) e. Miscellaneous Expenses (printing, exhibits, etc.) \$ on actual cost basis: (Itemize on separate page) f. Total Estimated Cost \$79,997			
12. Expense Detail (Estimated Expenses) a. Examination of Case: hrs or days x \$ = \$ b. Preparation of: hrs or days x \$ = \$ c. Court: hrs or days x \$ = \$ d. Neutral/Lit. Expert Services: hrs or days x \$ = \$ e. Other Expenses: Per Diem <input checked="" type="checkbox"/> if included in fee [] OR days x \$ per day = \$ REMINDER: Witnesses are not entitled to Advance Payments			
13. Explanation and Justification (Attach additional information if space is insufficient) (For Neutral, attach Preliminary Agreement) Interagency Agreement #AG6K0000029 Bureau of Indian Affairs/Washington, DC Modification #3 Debtor Code #8049			

ORIGINAL

Part II - Witness/ADR Neutral/Litigative Expert Authorization

1. Date 8/18	5. Cost Center 881595
2. Approved/Disapproved	6. OBL Month 9808
3. Authorized Amount \$ 79,997	7. SOC 2599
4. YREGDOC 18048	8. Remarks:
Approved by <i>[Signature]</i>	

Part III - Witness/ADR Neutral/Litigative Expert Agreement

1. Description of Duties (Explain details of service to be performed) (Attach additional information if space is insufficient)	
2. Witness/ADR Neutral/Litigative Expert: Submit Invoice to: (Name/Address of Attorney or Admin/Fiscal Office) US DOJ/ENRD/EXPERT WITNESS UNIT P.O. BOX 885/BEN FRANKLIN STATION WASHINGTON, DC 20344-0685	5. Government Attorney: Forward invoice and Original of this form to the appropriate person within your office for processing.
3. Signature (Government Official) <i>[Signature]</i>	6. Name/Title of Government Official (Print or Type) David Harder, Trial Attorney
4. Signature (Witness/ADR Neutral/Litigative Expert) <i>[Signature]</i>	7. Name/Title of Witness/ADR Neutral/Lit. Expert Dr. Thomas B. Hardy, Civil Engineer
I agree to perform the above services and appear as a witness on behalf of the Government, act as an ADR Neutral, or Litigative Expert.	
All payments relating to this agreement shall be in accordance with the Prompt Payment Act.	



United States Department of the Interior

FISH AND WILDLIFE SERVICE

911 NE. 11th Avenue
Portland, Oregon 97232-4181

MAY - 6 1998

IN REPLY REFER TO:

Dr. Thom Hardy
Department of Civil and Environmental Engineering
Utah State University
Logan, Utah 84322-4110

Dear Dr. Hardy,

I have reviewed your draft scope of work for evaluation of instream flow needs in the lower Klamath River, which was provided to me by Robert T. Anderson of the U.S. Department of the Interior. I have no specific comments on the document, and no doubts as to its adequacy, considering your high level of expertise in the instream flow field. My purposes in writing are, first, to urge you to coordinate your evaluation of instream flow needs with the Klamath River Basin Fisheries Task Force (Task Force), and, second, to summarize for you the current status of current projects we are involved with that may contribute to the flow needs assessment.

As chair of the Task Force, I am very concerned that all work on instream flow needs in the Klamath basin be adequately coordinated. I know that you are aware of the Task Force flow needs initiative, but I only learned of your work with the Klamath Federal negotiating team through Mr. Anderson's recent memorandum. Please keep the Task Force informed of your progress, and I will ensure that we reciprocate. I suggest that you attend the next meeting of the Task Force, scheduled for June 24-26, 1998, in Klamath Falls, Oregon, to inform the Task Force of your work related to the water adjudication.

Instream flow needs assessment will be a dominant topic at the June Task Force meeting. The Task Force will consider a draft long-term study plan for instream flow needs assessment, to be provided by the technical work group of the Task Force. Your work in getting the study planning underway is appreciated. Other flow study elements which may be of interest to you are identified in an attachment to this letter. This is by no means a complete list, consisting only of projects the Fish and Wildlife Service is directly involved in as funding agency.

For more information on existing flow study projects, or to arrange to attend the June Task Force meeting, please contact John Hamilton of our Klamath River Fish and Wildlife Office, telephone (530) 842-5763.

Sincerely,

Geoffrey L. Barry
Geographic Assistant Regional Director
Klamath/Central Pacific Coast Ecoregion

Attachment

"C": Ron Cluerson ✓

SEP 14 1999

Reim

9107

Part I - Request for Services

1. Name/Title of Requesting Official JAMES CLEAR CHIEF, INDIAN RESOURCES SECTION	1a. Signature <i>James Clear</i>	2. Date 9/13/99	2a. DJ File Number 90-6-2-70
3. Name of Person to be Contacted DAVID HARDER	4. Telephone No. (303) 312-7328	5. Case Name, Court and Court Docket Number KLAMATH BASIN ADJUDICATION	
6. Legal Division or USAO ENRD/MRS	7. Mailing Address (Exec/Adm/Budget Officer) DENVER, CO	8. Request (circle one) (Original) (Supplemental)	IF SUPPLEMENTAL, ENTER ORIGINAL YREGDOC

9. Speciality of Expert Witness, ADR Neutral, or Litigative Expert: CIVIL ENGINEER

REASON FOR REQUEST (Check below and explain in Block 13)

- a. Expert testimony required on behalf of U.S.
- b. Medical Examination of Plaintiff/Witness/Defendant in Contemplation of Testimony on Behalf of U.S.
- c. Examination Under 18 USC § 4241, Mental Competency to Stand Trial only
- d. Dual Purpose Psychiatric Examination (Time of Offense & Competency to Stand Trial) on the motion of
 - under Criminal Justice Act YES [] NO []
- e. Deposition of other party's expert witness
- f. Unusual Fact Witness Expense
- g. Alternate Dispute Resolution (ADR) Neutral Expense
- h. Alternate Dispute Resolution (ADR) Witness Expense
- i. Litigative Expert TIN: 87-6000528

ORIGINAL

PHONE: 435 (303) 797-3127
FAX: 435 (303) 797-3102

10. Name, Address, TIN or SSN and Phone Number of Witness Dr. Thomas Hardy UTAH STATE UNIVERSITY Contracts and Grants 1415 Old Main Hill Logan, UT 84322-1415	11. Anticipated start and ending Dates of Service (in conjunction with Block 12) <ul style="list-style-type: none"> a. Examination of Case _____ b. Prep of Testimony _____ c. Court Testimony _____ d. Neutral/Lit. Expert Services _____ (Other Expenses, Cont'd) Transportation: Check if included in fee [] Common Carrier or Coach Class: (GTA Used) [] Taxi To/From Terminal: POV: _____ Miles @ \$0. _____ per M. *This cost shall not exceed cost by common carrier. f. Miscellaneous Expenses (printing, exhibits, etc) on actual cost basis. (Itemize on separate page) g. Total Estimated Cost _____ REMINDER: Witnesses are not entitled to Advance Payments
--	--

12. Expense Detail (Estimated Expenses)

- a. Examination of Case: hrs or days x \$ _____ = \$ _____
- b. Preparation of _____ hrs or days x \$ 82.12 = \$ _____
- c. Testimony _____ hrs or days x \$ _____ = \$ _____
- d. Neutral/Lit. Expert Services: hrs or days x \$ _____ = \$ _____
- e. Other Expenses: Per Diem - Check if included in fee []
OR _____ days x \$ _____ per day = \$ _____

13. Explanation and Justification (Attach additional information if space is insufficient) (For Neutral, attach Preliminary Agreement)

INTERAGENCY AGREEMENT #AG6K000029
BUREAU OF INDIAN AFFAIRS/WASHINGTON, DC
MODIFICATION NO. 5
DEBTOR CODE NO. 9107

Part II - Witness/ADR Neutral/Litigative Expert Authorization

1. Date 9/20/99	5. Cost Center 981595
2. Approved/Disapproved	6. OBL Month 3307
3. Authorized Amount \$ 115,000.00	7. SOC 2592
4. YREGDOC 19065	8. Remarks: Approved by <i>Flan</i>

Part III - Witness/ADR Neutral/Litigative Expert Agreement

1. Description of Duties (Explain details of service to be performed) (Attach additional information if space is insufficient)	
2. Witness/Neutral/Litigative Expert: Submit Invoice to: (Name/Address of Attorney or Admin/Fiscal Office)	3. Government Attorney: Forward invoice and Original of this form to the appropriate person within your office for processing.
US/DOJ/ENRD/EXPERT WITNESS UNIT P.O. BOX 685/BEN FRANKLIN STATION WASHINGTON, DC 20044-0685	
3. Signature (Government Official)	6. Name/Title of Government Official (Print or Type) Date: DAVID HARDER, TRIAL ATTORNEY 9/10/99
4. Signature (Witness/ADR Neutral/Litigative Expert)	7. Name/Title of Witness/ADR Neutral/Lit. Expert Date: DR. THOMAS B. HARDY, CIVIL ENGINEER 11/16/99
I agree to perform the above services and appear as a witness on behalf of the Government, act as an ADR Neutral, or Litigative Expert.	
All payments relating to this agreement shall be in accord Prompt Payment Act.	

Doug Ringle 11/16/99 Doug Ringle, Contract Administrator

Part 1 Request

1. Name/Title of Recommending Official James Clear		1a. Signature		2. Date	
3. Person to be contacted a. Name : Judith Rabinowitz b. Telephone : (415) 744-6486		4. Case Name : Matter -- Klamath Project Curtailment of Water 5. DJ File Number : 90-1-2-10086/1 6. District : Oregon 7. Docket Number :			
8. Section IRS	9. Attorney Location San Francisco, CA	10. Contract Type Original			
11. Reason for Request Expert Testimony required on behalf of U.S.		12. Funding Source FEW			
13. Expert Name Thomas Hardy	14. Expertise Hydrology	15. Rates Per Hour	16a. Preparation \$115.00	16b. Testimony	
17. Mailing Address Dr. Thomas B. Hardy Watershed Systems Group, Inc. P.O. Box 3352 - 1256 UNIVERSITY DRIVE Logan, UT 84323-3352 - 89341		18. Tax Information Tax Identification Number : 87-0560247 19. Phone : (435) 797-3127 20. Fax : 8-435-797-3102 1185			
21. Anticipated Trial Date		22. Total Estimated S.O.W. Cost : \$5,200.00 Reminder : Expert Witnesses are not entitled to advance payments			
23. Additional Information / Comments (Statement of Work attached, includes expense detail) The discontinued form OBD-47 with original attorney and recommending official authorizing signatures is maintained in the DOJ official contract file. The authorized funded amount shown in Part II, Item 2, shall NOT be exceeded without authorization and written modification of the Contract by the Government.					

Part II - Witness Authorization

1. Date : 9/29/00	6. OBL Month : 0009
2. Authorized Amount : \$0.00 5,200.00	7. SOC : 1157
3. YREGDOC : 2000 - 01 - 40218	8. Approved by : <i>Thomas Hardy 9/29/00</i>
4. Cost Center : 0361960413 5. FY : 2000	9. Approved on:

Part III - Witness Agreement

1. Witness Submit invoice to : USDOJ/ENRD Expert Witness Unit P.O. Box 685, Ben Franklin Station Washington, DC 20044		2. Auditors : (to be completed by Expert) a) None : b) Govt : c) Other (Name, City, State) :	
3. Signature (Government Attorney)	4. Name/Title of Government Attorney Judith Rabinowitz, Attorney	Date	
5. Signature (Expert Witness)	6. Name/Title of Expert Witness Thomas Hardy	Date	
The Expert Witness(es) agree(s) to perform the described services and appear as a witness/witnesses on behalf of the Government		All payments relating to this agreement shall be in accordance with the Prompt Payment Act.	

Kevin F. Kidwell
9/29/00

Part I - Request for Services

1. Name/Title of Requesting Official JAMES J. CLEAR CHIEF, INDIAN RESOURCES SECTION		1a. Signature <i>[Signature]</i>	2. Date 9/12/00	2a. DJ File Number 90-1-2-10086/1
3. Name of Person to be Contacted <i>[Signature]</i> JUDITH RABINOWITZ		4. Telephone No. (415) 744-6486	5. Case Name, Court and Court Docket Number KLAMATH PROJECT CURTAILMENT OF WATER DELIVERIES	
6. Legal Division or USAO ENRD/OL/RES	7. Mailing Address (Exec/Admin/Budget Officer) WASHINGTON, D.C.		8. Request (circle one) Original Supplemental	IF SUPPLEMENTAL, ENTER ORIGINAL YREGDOC
9. Speciality of Expert Witness, ADR Neutral, or Litigative Expert: HYDROLOGY ENGINEER				
REASON FOR REQUEST (Check below and explain in Block 13)				
<input type="checkbox"/> a. Expert testimony required on behalf of U.S. <input type="checkbox"/> b. Medical Examination of Plaintiff/Witness/Defendant in Contemplation of Testimony on Behalf of U.S. <input type="checkbox"/> c. Examination Under 18 USC§4241, Mental Competency to Stand Trial only <input type="checkbox"/> d. Dual Purpose Psychiatric Examination (Time of Offense & Competency to Stand Trial) on the motion of _____ under Criminal Justice Act YES <input type="checkbox"/> NO <input type="checkbox"/> <input type="checkbox"/> e. Deposition of other party's expert witness PHONE: (435) 797-3127 <input type="checkbox"/> f. Unusual Fact Witness Expense FAX: 1(435) 797-3102 <input type="checkbox"/> g. Alternate Dispute Resolution (ADR) Neutral Expense - TIN: 87-6000528 <input type="checkbox"/> h. Alternate Dispute Resolution (ADR) Witness Expense <input type="checkbox"/> i. Litigative Expert				
10. Name, Address, TIN or SSN and Phone Number of Witness, ADR Neutral, or Litigative Expert DR. THOMAS B. HARDY/WATERSHED SYSTEMS GROUP, INC. P.O. BOX 3352 LOGAN, UT 84323-3352			11. Anticipated start and ending Dates of Service (enter MO/DA/YR) (in conjunction with Block 12) a. Examination of Case _____ b. Prep of Testimony _____ c. Court Testimony _____ d. Neutral/Lit. Expert Services _____	
12. Expense Detail (Estimated Expenses)			(Other Expenses, Cont'd)	
a. Examination of Case: hrs or days x \$ = \$			Transportation: Check if included in fee <input type="checkbox"/>	
b. Preparation of Testimony: hrs or days x \$ = \$			Common Carrier at Coach Class: (GTA Used) Yes <input type="checkbox"/> No <input type="checkbox"/> \$	
c. Testimony: hrs or days x \$ = \$			Taxi To/From Terminal: \$	
d. Neutral / Lit. Expert Services: hrs or days x \$ = \$			POV: Miles @ \$0. per Mile = \$	
e. Other Expenses: Per Diem - Check if included in fee <input type="checkbox"/>			* (This cost shall not exceed cost by common carrier)	
OR days x \$ per day = \$			f. Miscellaneous Expenses (printing, exhibits, etc.) on actual cost basis: (Itemize on separate page) \$	
			g. Total Estimated Cost \$ 5,200	
13. Explanation and Justification (Attach additional information if space is insufficient) (For Neutral, attach Preliminary Agreement)				

DEPARTMENT OF JUSTICE FEES CONTRACT

Part II - Witness/ADR Neutral/Litigative Expert Authorization

1. Date _____	5. Cost Center _____
2. Approved/Disapproved _____	6. OBL Month _____ 7. SOC _____
3. Authorized Amount \$ _____	8. Remarks: _____
4. YREGDOC _____	Approved by _____

Part III - Witness/ADR Neutral/Litigative Expert Agreement

1. Description of Duties (Explain details of service to be performed) (Attach additional information if space is insufficient)		
2. Witness/Neutral/Litigative Expert: Submit Invoice to: (Name/Address of Attorney or Admin/Fiscal Office) US DOJ/ENRD/EXPERT WITNESS UNIT P.O. BOX 685/BEN FRANKLIN STATION WASHINGTON, D.C. 20044-0685		5. Government Attorney: Forward invoice and Original of this form to the appropriate person within your office for processing.
3. Signature (Government Official) <i>[Signature]</i>	6. Name/Title of Government Official (Print or Type) JUDITH RABINOWITZ, TRIAL ATTORNEY	Date: 9/12/00
4. Signature (Witness/ADR Neutral/Litigative Expert)	7. Name/Title of Witness/ADR Neutral/Lit. Expert DR. THOMAS B. HARDY, CIVIL ENGINEER	Date:
I agree to perform the above services and appear as a witness on behalf of the Government, act as an ADR Neutral, or Litigative Expert.		All payments relating to this agreement shall be in accordance with the Prompt Payment Act.

Standard Expert Witness Contract Terms and Conditions

I. Contract Contents

The following items are made part of this contract by reference:

- (A) ENRD-236
- (B) Standard Terms and Conditions
- (C) Statement of work
- (D) Resume or CV
- (E) Confidentiality agreement(s)

II. Credentials Check

The government reserves the right to verify your credentials. If false information has been provided, this contract may be declared null and void.

III. Subcontracting

Subcontractors must each be identified in your statement of work. Your contract with each subcontractor must incorporate applicable language from this Expert Witness Contract pertaining to credentials check, conflicts of interest, and confidentiality agreements. If additional subcontractors are needed who were not included in the original statement of work, written notification and approval by the government is required.

IV. Conflict of Interest

(A) The government will provide the expert with the name of the case and the names of parties involved. The expert shall inform the government to the best of his or her knowledge and belief, of any organizational or personal conflicts of interest as defined below:

- (1) An organizational conflict of interest arises when the expert has interests, due to other activities or relationships with other organizations, which place the expert in a position that may be unsatisfactory or unfavorable from the government's standpoint in being able to secure impartial, technically sound, objective assistance and advice from the expert.
- (2) Personal conflicts of interest can arise when staff proposed to work on a case have previously worked for the opposing party (even in a non-related job) or if the staff proposed have a financial interest in the opposing party's business.

(B) The expert agrees that, if a conflict of interest is discovered, the expert shall make an immediate and full disclosure in writing to the government which shall include a description of the action which the expert has taken or proposes to take to avoid, eliminate or neutralize the conflict.



United States Department of the Interior

U.S. GEOLOGICAL SURVEY
Midcontinent Ecological Science Center
4512 McMurry Avenue
Fort Collins, CO 80525-3400

GB566
K56A15
1997
BIOS

In Reply Refer To:
BRD/MESC/82020

November 10, 1997

File:516.07c

Memorandum

To: Technical Work Group Members of the Klamath River Fishery Task Force and Water Quantity Model Partners

From: Dr. Marshall Flug, Hydrologist and Leader, Western Riverine Ecosystems Research Team *MF*

Subject: Task 11: Final Completion Report on Water Quantity Model Development

The attached subject report, Task 11, is provided in accordance with contract requirements of the FY '97 Interagency Agreement for the Development of a Water Quantity Model. This report is revised from the Draft Task 10 report, which was distributed on August 8, 1997, and comments on that Draft were due back to the USGS by September 12, 1997.

This Task 11 report contains an extensive Appendix of printed data files, as well as a computer disk that contains the data files for eight runs using the MODSIM Water Quantity Model. These runs include the Calibration and Validation runs, and six other alternative water management simulations which were provided by the Technical Work Group.

If you have any questions or feedback, please do not hesitate to contact Marshall Flug at (970)226-9391 Voice; (970)226-9230 FAX; or EMAIL: Marshall_Flug@usgs.gov.

Attachment

FILE

Watershed Systems Group, Inc
PO Box 3352
Logan, Utah 84323-3352

Ms. Beverly Schutte
Director Expert Witness
U.S. Department of Justice
DOJ/ENRD EXPERT WITNESS UNIT
Post Office Box 685
Ben Franklin Station
Washington, D.C. 20044

*Approved
B. Schutte
1/5/98*

Date: December 29, 1997

Re: Contract Letter Modification
Case : Klamath Basin Adjudication
DJ #: 90-2-4-1819 /

Dear Ms. Schutte:

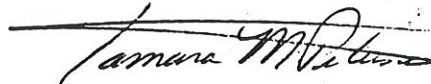
Please accept this letter as a formal request to modify our original Statement of Work to increase our rates for the following individuals:

Name	Title	Rate	Effective Date
Thomas B. Hardy	President	\$80.00/hr	10/1/97

Please note that this modification will in no way increase the cost estimate contained in our original Statement of Work, nor will it adversely affect the interests of the Department of Justice.

If you have any further questions please do not hesitate to contact me at (435) 752-4123.

Sincerely,



Tamara M. Peterson

WATERSHED SYSTEMS GROUP, INC.

P.O. Box 3352
Logan, UT 84323-3352
(435) 797-2824
FAX (435) 797-1185

Ms. Beverly Schutte
Director Expert Witness
U.S. Department of Justice
DOJ/ENRD Expert Witness Unit
PO Box 685
Ben Franklin Station
Washington, D.C. 20044

Date: January 19, 1998

Regarding: Watershed Systems Group, Inc. Overhead Rate Justification

Dear Ms. Schutte:

This letter is to explain our current overhead cost at 38%. Our overhead is calculated on all total direct costs. Total costs consist of all salaries and wages, materials and supplies, services, travel, and subgrants and subcontracts, and rental costs. This rate is effective for the period through December 31, 1998.

The rate of 38% covers our operating expenses not reimbursed directly by contracts and are broken down as follows:

- 1) Operations and Maintenance consists of things such as automobile registration and repairs, dues and subscriptions, equipment, insurance, postage and telephone calls, as primary examples.
- 2) Administration consists of professional fees such as accountants and the bookkeeper, taxes and profit.

The 38% splits out into the two categories in the following increments:

Operations and Maintenance	23%
Administration	<u>15%</u>
	38%

If you have any further questions please contact Dr. Thomas Hardy at (435) 797-2824.

Thank you.

ATTORNEY
WORK PRODUCT

Watershed Systems Group, Inc.
1770 North Research Parkway, Suite #113
Logan, Utah 84341
TIN: 87-0560247

ATTORNEY
WORK PRODUCT

For Scott Bergstrom, Esq
Attorney - Advisor
Division of Indian Affairs
Office of the Solicitor
1849 C Street N.W. , Mail Stop 6456
Washington, DC 20240

November 29, 1996


Statement of work:

Watershed Systems Group will investigate, evaluate, and analyze fishery needs. The investigation of the water supply is necessary for the purpose of determining the source, quantity, and variability of the water resource on the Indian trust lands which is required to support tribal resources, particularly fisheries. The Watershed Systems Group will investigate, review and evaluate in-stream flow requirements to support the Tribes' reserved fishing rights in relation to the KPOP. In our investigation we will include an analysis of past and present utilization of the water supply, in particular the neighboring Bureau of Reclamation Klamath Project. A review of past and present water supply investigations and water data collection activities of Federal, State and Tribal Agencies may be required. Also, surface and ground water will be evaluated as it pertains to other non-agricultural uses, particularly fisheries.

Total sum will not exceed \$25,000 for personal services. Watershed Systems Group services in this contract shall be reimbursed at a rate of \$500 per full workday. This contract is cost reimbursable and all expenses will be reimbursed by actual expenditures incurred, up to a maximum of the applicable federal per diem rate and \$0.31 per mile. We will supply receipts for all miscellaneous expenses incurred while working on this contract.

At present it is anticipated that Dr. Thomas Hardy and R. Craig Addley will be involved in the project. In the event that additional personnel are required DOJ will be contacted and the confidentiality statements will be secured.

HARDY \$ 62.50 / hr
ADDLEY 62.50 / hr



Dr. Thomas B. Hardy

INTER-AGENCY AGREEMENT
BETWEEN
SPECIAL LITIGATION COUNSEL
UNITED STATES DEPARTMENT OF JUSTICE
AND
BUREAU OF INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR

PARTIES:

United States Department of Justice, Special Litigation Counsel (Justice Department), 601 Pennsylvania Avenue N.W., Washington, D.C. 20004 and United States Department of the Interior, Bureau of Indian Affairs (BIA), Director, Trust Responsibilities, 1849 C Street, MS-4559-MIB, Washington, D.C. 20240

PURPOSE

The material and testimony developed under this Inter-Agency Agreement (Agreement) will be used to support United States claims for water on behalf of the Hoopa Valley, Klamath and Yurok Tribes (Tribes) in administrative and potential legal proceedings which affect their fishery and associated water rights in the Klamath Basin, California and/or Oregon with regard to the development and implementation of the Klamath Project Operations Plan (KPOP). In order to assure that future use and development of tribal fishery and associated water rights are possible, non-Indian irrigation practices, as well as other water uses in the Klamath Basin, must be examined.

RECITALS

This Agreement is being entered into under the authority of 31 USC Section 1535 to inventory and evaluate previously conducted technical studies and to recommend additional studies to support water rights claims for the above referenced Tribes. The Justice Department will select a contractor or contractors who will provide the services described in the Scope of Work.

The Justice Department, the Department of the Interior Solicitor's Office (Solicitor's Office) and the BIA Central Office will monitor the work of the contractor or contractors to assure that all material and work is technically and legally acceptable.

The contractor or contractors must be available to consult with the Justice Department, the BIA, and the Solicitor's Office throughout the course of any litigation preparation and litigation and to appear as an expert witness at trial if requested by the Justice Department. Because any potential litigation may take place some time after the work is completed, the Justice Department shall require assurances from contractors that all key personnel assigned to the investigations will be available throughout the course of the litigation. Payment for any actual court testimony and preparation of affidavits are beyond the scope of this Agreement and will be subsequently arranged between the contractor or contractors and the Justice Department.

SCOPE OF WORK:

The Justice Department will employ a contractor or contractors who will perform the following Task. The order in which the contractor or contractors will perform parts of this Task will depend on the course of proceedings and will be based on a joint decision of the Justice Department, Solicitor's Office and BIA.

TASK

The contractor must analyze the effect of the Klamath Project's operations--including those contemplated by the draft or final KPOP--upon tribal trust resources, particularly the Tribes' reserved fishing rights. The contractor must assemble, organize, evaluate, catalog and index all available data/studies related to water requirements and usages on lands receiving water from the Klamath Project. This Task may require field investigation. In particular, this Task includes:

1. **Contractual Obligations of the Bureau of Reclamation**

The contractor will review and evaluate the contractual obligations of the Bureau of Reclamation (BOR) for the Klamath Project, addressing the amount of water from the Project actually obligated by the contracts. Obligations include provisions relating to contracted amount of water and provisions which provide operational discretion to BOR or the Secretary, as well as whether any obligations have been lost due to abandonment, forfeiture, or other common-law water principles. The contractor will also review and evaluate lands receiving water from the Project, addressing whether those lands are actually authorized to receive water from the Project.

2. **Water Requirements for Irrigation**

Water supply, soils, topography, and climate determine the type of crops produced on arable lands. Consumptive use and productivity figures will be derived from the available information for all crops suitable for production on lands receiving water from the Project, differentiating between authorized lands and those lands not authorized to receive water from the Project. Cropping patterns and associated water requirements shall be determined. Evaluation must include any and all information regarding cropping pattern, crop water requirements, irrigation system efficiency and related information.

3. Hydrology

Investigation of the water supply is necessary for the purpose of determining the source, quantity, and variability of the water resource on Indian trust lands which is required to support tribal resources, particularly fisheries. The contractor's investigation must review and evaluate in-stream flow requirements to support the Tribes' reserved fishing rights in relation to the KPOP. The contractor's investigation must include an analysis of past and present utilization of the water supply, in particular the neighboring Bureau of Reclamation Klamath Project. A review of past and present water supply investigations and water data collection activities of Federal, state and tribal agencies may be required. Also, surface and ground water must be evaluated as it pertains to other non-agricultural uses, particularly fisheries.

SCHEDULE FOR COMPLETION:

The Task set out above in the "SCOPE OF WORK" section of this Agreement and the schedule on which the Task shall be completed will be determined pursuant to the joint decision of the Justice Department, the Solicitor's Office and the BIA.

OBLIGATION OF THE PARTIES

Obligations of the Justice Department:

The Justice Department shall select a contractor or contractors to furnish all materials, supplies, equipment, and labor necessary to provide the services defined in the "SCOPE OF WORK" section of this Agreement.

1. The Justice Department shall require the contractor or contractors to perform their work as specified in the "SCOPE OF WORK" section of this Agreement and according to any other specifications jointly developed by the Justice Department, the Solicitor's Office, and the BIA.
2. The Justice Department shall require the contractor or contractors to prepare a draft final report of the work, as defined in the "SCOPE OF WORK" section of this Agreement. The draft final report shall be forwarded to Justice Department, the BIA, and the Solicitor's Office for their approval by time frames to be determined at a later time. The draft final report shall include all written material and copies of all maps, charts, and illustrations planned to be presented in the final report.
3. After review and approval of the draft final report by the Justice Department, the BIA, and the Solicitor's Office, the contractor or contractors shall prepare the final report. The final report shall be approved by the Justice Department, the BIA, and the Solicitor's Office. Fifteen (15) copies of the final report shall be provided to the BIA by the Justice

Department within sixty (60) days of the date of approval of the draft final report. This last requirement may be waived upon a joint decision of the Justice Department, the Solicitor's Office, and the BIA.

The completed final report and all negatives, photos, overlay positives, composites, maps, and all other material and data used in the production of the final report shall be the property of the United States and shall be delivered to the Justice Department. The Justice Department shall maintain this material and shall make the material available to the BIA or the Solicitor's Office upon request.

4. The Justice Department shall ensure that the contractor or contractors and any subcontractor(s) shall keep confidential all materials and information, including but not limited to, documents, reports, data, correspondence, photographs, maps, electronic storage media, calculations, and tabulations that are made available to or produced by the contractor and any subcontractor(s) under this Agreement. In conducting the work under this Agreement, the contractor or contractors and the subcontractor(s) shall not release any information or material derived from or connected with the work performed under this Agreement to any person, corporation, or governmental entity or use the products of the work performed under this Agreement for any purpose, either directly or indirectly, without the express written consent of the Justice Department, BIA, and the Solicitor's Office.

Unauthorized use or release of materials or other information to any person or organization by the contractor or subcontractor(s) will be considered a substantial breach of any Justice Department contract and ground for termination of such contract and or agreement.

The Justice Department, after consultation with the BIA and the Solicitor's Office, may authorize the contractor or contractors to release information or material to the Tribes or others to further the purposes of this Agreement. In the event that information or material is to be released by the contractor or contractors, the Justice Department will provide the contractor or contractors with a signed written authorization. The authorization will specify: the information or material to be released, the date on which the information or material will be released, and the person(s) or organization(s) authorized to received the information or material. Such authorization shall not authorize others to direct, negotiate, change, or modify any work under the contract.

5. The Justice Department shall ensure that the contractor or contractors and any subcontractor(s) do not have a conflict of interest. The contractor or contractors and any subcontractor(s) shall not, during the term of their contract, perform services as an expert or prepare, assist in the preparation of, or present testimony on behalf of any other party involved in any matter involving the waters and watershed of the Klamath River Basin without the express written consent of the Justice Department, the BIA, and the Solicitor's Office.

6. The Justice Department shall require the contractor or contractors to submit and adhere to a work plan and schedule of completion to be determined at a later time by mutual agreement of the Justice Department, the Solicitor's Office, the BIA, and the contractor or contractors. By mutual agreement of the contractor or contractors and the Justice Department, in consultation with the BIA and the Solicitor's office, the work plan and schedule of completion may be amended.

Obligations of BIA:

1. The BIA shall provide technical reviews and input requested by the Justice Department in a timely manner. All requests for technical reviews and input from the Justice Department to the BIA will be presented in writing. BIA review of material in connection with a request from the Justice Department on the work of this Agreement will be provided within 30 working-days of receipt of the material to be reviewed.
2. The BIA will be available to attend any meetings requested by the Justice Department in connection with BIA obligations, subject to 5 working-days notice. Such attendance shall also be subject to the availability of BIA funds to pay for the travel and any travel restrictions or regulations then in effect for the BIA.
3. The BIA shall serve as the lead agency for contact and coordination with the Tribes. The BIA will be responsible for coordination and consolidation of joint BIA/tribal efforts in connection with any issues related to the performance of this Agreement.
4. The BIA, in consultation with the Justice Department, the Solicitor's Office and the contractor or contractors, will render an opinion to the Justice Department as to whether the work of the contractor or contractors is being done in conformance with the technical specifications of any contract issued by the Justice Department.

FUNDING

The Justice Department will be reimbursed by the BIA in an amount not to exceed sixty thousand dollars (\$60,000) for Fiscal Year 1996 for costs associated with the work under this Agreement. Completion of any portion of any work for any subsequent fiscal year shall be subject to the availability of BIA funds.

PAYMENT

Payment by BIA to the Justice Department

Payment shall be made to the Justice Department by the BIA by means of an interagency transfer of funds between the BIA and the Justice Department upon receipt of the appropriate SF-1081 forms from the Justice Department. Any adjustments to estimated costs or the "SCOPE OF

WORK" of this Agreement shall be by mutual agreement between the Justice Department and the BIA, subject to the approval of the BIA's Chief, Branch of Contracting and Grants.

Payment for Work of Justice Department Contractors:

Payment by the BIA to the Justice Department for any work performed by Justice Department contractors under this Agreement shall be made from the funds described above.

SPECIAL PROVISIONS:

Modifications:

This Agreement may be modified by mutual agreement of the Justice Department, the BIA, and the Solicitor's Office, regarding any matters, such as costs, changes in the work plan or time schedule, or changes in completion dates. Modifications to this Agreement will be subject to the availability of BIA funds. All modifications to this Agreement shall be in writing and signed by the Justice Department, the Solicitor's Office, and the BIA.

Initiation of Work:

The Justice Department shall not notify any Justice Department contractor or contractors to initiate work on any portion of any contract that is proposed to be included under this Agreement until notified, in writing, by the BIA that BIA funds are available to support the proposed work. Work on any portion of any program that is included under this Agreement is subject to the availability of BIA funds to support the work.

Agreement Extension or Termination:

This Agreement shall remain in effect until the Task outlined in the "SCOPE OF WORK" section above is completed or until this Agreement is terminated by mutual consent of all parties, pending 60 days notice.

Submission of Billing Statements:

The contractors shall submit copies of billing statements simultaneously to the Justice Department and the BIA for all work performed under the provisions of this Agreement. The billing statements shall contain, at a minimum, the following information:

1. Contractor's name, address and telephone number;
2. A short narrative statement of the work performed by task for the billing statement period;
3. An identification of Contract, Program and Part as relevant;

4. A statement of the budget for the Program;
5. A billing showing by tasks the hours, rates and totals for each contractor staff member; the amount of costs accruing to supplies, materials and expenses; the total due, the previous totals billed and the accumulative total billed for each task.
6. Any other information required by the Justice Department.

The BIA technical representative shall review the bills submitted by the contractor and provide comments to the Justice Department Attorney having responsibility for this Agreement. The comments shall be provided within twenty (20) working days of the receipt of the contractor's bills by the BIA.

For: Bureau of Indian Affairs
Office of Trust Responsibilities

Byron J. Greene Jr.
Chief, Branch of Contracting and Grants

Date: 16 Jul 96

For: United States Department of Justice

[Signature]
Special Litigation Counsel

Date: 18 July 1996

Joe B. Walber
Acting Deputy Commissioner, Bureau of Indian Affairs

Date: 7-16-96

[Signature]
Chief, Financial Management Group

Date: 7/18/96

ECONOMY ACT DETERMINATION

FINDINGS

- A. The Office of Trust Responsibilities enters into a Memorandum of Agreement (MOA) between the Bureau of Indian Affairs (BIA) and the United States Department of Justice. The MOA sets forth the general terms and conditions acceptable to both agencies of the Department of the Interior in a cooperative effort within the limits of available funds. The purpose is to develop material to support United States claims for water on behalf of the Hoopa Valley, Klamath and Yurok Tribes in administrative and potential legal proceedings which affect their fishing and associated water rights in the Klamath Basin, California and/or Oregon with regard to the development and implementation of the Klamath Project Operations Plan (KPOP).
- B. Under the MOA, the BIA will provide to the Department of Justice \$60,000 of the funds appropriated by Congress for Water Rights Litigation/Negotiation in fiscal year 1996 in accordance with the provisions contained in the MOA.
- C. The MOA shall continue in force and effect from the date of signature and will continue on-going work until balance of funds have been obligated in the fiscal year for which funds were appropriated.

DETERMINATION

Based upon the findings and pursuant to the Economy Act of 1932 in accordance with Section 1535, as amended, I hereby determine that it is in the best interest of the Government to acquire the services of the Department of Justice.

Mark Bradford
Acting Chief, Division of Land and Water

Ross Mosey
Acting Director, Office of Trust Responsibilities

7-16-96
Date

7/14/96
Date

9-23-97

Reimb

6067

Part I - Request for Services			
1. Name/Title of Requesting Official Steven E. Carroll Acting Chief, Indian Resources Section		1a. Signature <i>Steven E. Carroll</i>	1b. Date 9/22/97
2a. DJ File Number 90-6270 90-2-4-1819			
3. Name of Person to be Contacted David Harder		4. Telephone No. (303)312-7328	5. Case Name, Court and Court Docket Number Klamath Basin Adjudication
6. Legal Division or USAO ENRD/IRS SLU	7. Mailing Address (Exec/Admin/Budget Officer) Denver, CO (EO/SEM)	8. Request (circle one) Original Supplemental	IF SUPPLEMENTAL ENTER ORIGINAL YREGDOC 96-15116
9. Specialty of Expert Witness, ADR Neutral, or Litigative Consultant: Civil Engineer			
REASON FOR REQUEST (Check below and explain in Block 13)			
[] a. Expert testimony required on behalf of U.S.			
[] b. Medical Examination of Plaintiff/Witness/Defendant in Contemplation of Testimony on Behalf of U.S.			
[] c. Examination Under 18 USC Sec. 4241, Mental Competency to stand Trial only			
[] d. Dual Purpose Psychiatric Examination (Time of Offense & Competency to Stand Trial) on the mo under Criminal Justice Act YES [] NO []			
[] e. Disposition of other party's expert witness			
[] f. Unusual Fact Witness Expense			
[] g. Alternate Dispute Resolution (ADR) Neutral Expense			
[] h. Alternate Dispute Resolution (ADR) Witness Expense			
[] i. Litigative Consultant TIN 87-0560247 Phone:(801)797-3932 Fax:(801)797-4485			
10. Name, Address, TIN or SSN, and Phone Number of Witness, ADR Neutral, or Litigative Consultant Dr. Thomas B. Hardy Watershed Systems Group, Inc. P.O. Box 3352 Logan, UT 84323-3352		11. Anticipated Start and Ending Dates of Service (enter MO/DA/YR) (in conjunction with Block 12)	
		a. Examination of Case _____	
		b. Prep of Testimony _____	
		c. Court Testimony _____	
		d. Neutral/ Lit. Consultant Services _____	
12. Expense Detail (Estimated Expenses)		(Other Expenses, Cont'd)	
a. Examination of Case: _____ hrs or _____ days x \$ _____ = \$ _____		Transportation: Check if included in fee []	
b. Preparation of Testimony: _____ hrs or _____ days x \$ _____ = \$ _____		Common Carrier at Coach Class: (GTA Used [] Yes [] No) \$ _____	
c. Court Testimony: _____ hrs or _____ days x \$ _____ = \$ _____		Taxi To/From Terminal: \$ _____	
d. Neutral / Lit. Consultant Services: _____ hrs or _____ days x \$ _____ = \$ _____		POV: _____ Miles @ \$0. _____ per Mile = \$ _____	
e. Other Expenses: Per Diem - Check if included in fee []		*(This cost shall not exceed cost by common carrier)	
OR _____ days x \$ _____ per day = \$ _____		f. Miscellaneous Expenses (printing, exhibits, etc.) on actual cost basis: (Itemize on separate page) \$ _____	
		g. Total Estimated Cost: \$ 15,608.77	
13. Explanation and Justification (Attach additional information if space is insufficient)(For Neutral, attach Preliminary Agreement)			
Please see attached Scope of work			
DO.I/BIA(Wash.DC)			

ORIGINAL

Part II - Witness/ADR Neutral/Litigative Consultant Authorization			
1. Date 9/25/97	5. Cost Center 6B1595	6. OBL Month	7. SOC 2599
2. Approved/Disapproved	3. Authorized Amount \$ 15,608.77	8. Remarks:	Approved by <i>Philip Smith</i>
4. YREGDOC 15116 A			

Part III - Witness/ADR Neutral/Litigative Consultant Agreement			
1. Description of Duties (Explain details of service to be performed)(Attach additional information if space is insufficient)			
2. Witness/Neutral/Litigative Consultant: Submit Invoice to: (Name) DOJ ENRD/Expert Witness Unit P.O. Box 685, Ben Franklin Station Washington, D.C. 20044		5. Government Attorney: Forward invoice and Original of this form to the appropriate person within your office for processing	
3. Signature (Government Official) <i>David W. Harder</i>	6. Name/Title of Government Official (Print or Type) David Harder	Date 9/16/97	
4. Signature (Witness/ADR Neutral/Litigative Consultant) <i>Dr. Thomas B. Hardy</i>	7. Name/Title of Witness/ADR Neutral/Litigative Consultant Dr. Thomas B. Hardy	Date	
I agree to perform the above services and appear as a witness on behalf of the government, act as an ADR Neutral, or Litigative Consultant.		All payments relating to this agreement shall be in accordance with the Prompt Payment Act.	

0023

**INTERAGENCY AGREEMENT AG6K000029
MODIFICATION 06
BETWEEN
INDIAN RESOURCES SECTION
ENVIRONMENT AND NATURAL RESOURCES DIVISION
UNITED STATES DEPARTMENT OF JUSTICE
AND
BUREAU OF INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR**

1. PURPOSE

This modification amends BIA Interagency Agreement AG6K000029 and Modifications 01, 02, 03, 04 and 05 to the original agreement (the agreement) by adding additional funding. The additional funding will be used to reimburse the Department of Justice (DOJ), Indian Resources Section, for costs incurred in the development of materials and testimony to support United States' claims for or positions concerning water on behalf of the Klamath Basin Tribes (including the Hoopa Valley, Klamath, and Yurok Tribes) in administrative, legal, and other proceedings. The varied proceedings may affect the Klamath Basin Tribes' fishing rights and associated water rights, or other trust resources, in the Klamath Basin, California and Oregon.

This modification applies to those services and associated costs which will continue the effort set forth in the original Interagency Agreement and the five subsequent modifications. The additional funding provided by this modification shall not be used to cover work previously reimbursed under the base agreement and the five previous modifications. The costs which shall be considered for reimbursement include, but are not limited to, contractor(s) salaries and benefits, office expenses, travel, transportation, and subsistence expenses. All travel, transportation, and subsistence expenses shall conform to the provisions of the Federal Travel Regulations and Joint Travel Regulations (JTRs).

2. FUNDING.

- a. BIA, Office of Trust Responsibilities (OTR), agrees to increase the funding for the agreement by \$550,086 from funds appropriated by Congress in Fiscal Year 2000. The original agreement in Fiscal Year 1996 and subsequent modifications (Mod 01 in FY96, Mod 02 in FY97, Mods 03 and 04 in FY98, and Mod 05 in FY99) provided funding not to exceed \$500,000.
- b. BIA shall reimburse DOJ for costs associated with this effort, not to exceed an aggregate total of \$1,050,086 for the Agreement. DOJ shall notify the BIA upon the expenditure of seventy-five percent (75%) of the maximum estimated cost.

- c. At the completion of each year of this Agreement, the BIA and DOJ will jointly review the services rendered as compared to the projected workload on which the fiscal cost projection was based. Year-end deficit or surplus will not be adjusted through assessments or return of advancements. Funds transferred to DOJ and not required for services in the fiscal year committed will be used to offset the following budget year.
- d. DOJ billing shall refer to BIA Interagency Agreement Number AG6K000029 Modification 02 through Modification 06.
- e. Funding to reimburse DOJ in FY00 shall include carry-over funds from prior modifications to this Agreement, determined by DOJ to be \$182,107.51 as remaining in the FY99 funding account as of September 30, 1999, plus \$550,086 in FY00 funding. The combined total FY00 Expenditure Level will be \$732,193.51, consisting of the \$550,086 included under Modification 06 plus the carry-over funds remaining at the end of FY99. For this Agreement, funds shall be expended on a First In - First Out basis (i.e., FY99 used first, then FY00 funds).
- f. BIA agrees to reimburse DOJ via the Department of the Treasury's On-Line Payment and Collection (OPAC) system once all related costs have been calculated. DOJ and BIA-OTR shall receive all original documentation supporting costs as described in the agreement. Reimbursements to DOJ shall be billed against the BIA account or accounts in the amount or amounts indicated:

<u>Office</u>	<u>Accounting Structure</u>	<u>Funding (FY)</u>
BIA-OTR	K00462-99/00-34420-255R	\$ 67,107.51 (99/00)
BIA-OTR	P00340 99/00 99900 P0000031 253G	\$ 90,000 (99/00)
BIA-OTR	P00340 99/00 99900 P0000032 253G	\$ 25,000 (99/00)
BIA-OTR	P00340 00/01 99900 P0000031	\$550,086 (00)
(P accounts via BIA-Portland)		

3. MODIFICATION

Pursuant to the Modification provision of the Agreement, the Agreement shall be amended as follows:

On page 6 under the paragraph entitled FUNDING, *strike one hundred fifteen thousand dollars (\$115,000.00) and insert five hundred fifty thousand eighty-six dollars (\$550,086.00) for an aggregate total of \$1,050,086.00.*

All other provisions of the agreement shall remain in full force and effect.

4. POINTS OF CONTACT

a. DOJ
David W. Harder
999 W. 18th Street, Ste. 945
Denver, CO 80202
Telephone: (303) 312-7328
FAX: (303) 312-7379

b. BIA-OTR
Ross Mooney
1849 C Street, N.W., MS 4510-MIB
Washington, DC 20240
Telephone: (202) 208-5480
FAX: (202) 219-1255

BIA-Portland Area Office
L. Doug Tedrick
911 N.E. 11th
Portland, OR 97232
(503) 231-2326
(503) 231-2275

5. EFFECTIVE PERIOD

The original agreement and all modifications are effective as of the last date of signature which appears on each respective document. The total period of performance for this Interagency Agreement modification shall be from October 1, 1998 to September 30, 2000.

For: Bureau of Indian Affairs
Office of Trust Responsibilities

For: United States Department of Justice

Terrance L. Veider
A Chief
Division of Land and Water Resources

[Signature]
Chief
Indian Resources Section

Date: 2/2/00

Date: 2/3/00

Terrance L. Veider
Director
Office of Trust Responsibilities

[Signature]
Executive Officer

Date: 2/2/00

Date: 2/3/00

Contracting Officer
Bureau of Indian Affairs

Date: _____



Press Releases

[Newsroom](#)

[Press Releases](#)

[Video](#) ▾

[Photos](#)

[Blog](#)

[Archive](#) ▾

Share



Interior Department Welcomes Newest Members of Leadership Team

2/22/2021

Last edited 7/12/2021

Date: Monday, Feb. 22, 2021

Contact: Interior_Press@ios.doi.gov

WASHINGTON — The Department of the Interior today announced additional members of the agency leadership team working to steward America's natural, cultural and historic resources, and honor our nation-to-nation relationship with Tribes.

Daniel Cordalis - Deputy Solicitor, Water

Daniel Cordalis has more than a decade of experience working on natural resource and complex water and land management issues on behalf of Tribal governments and conservation groups. Daniel most recently worked in private practice. He previously was an attorney with Earthjustice, [the Yurok Tribe](#), and clerked for the Colorado Supreme Court and the Native American Rights Fund. After graduating from Rice University, Daniel received a M.A. focused on hydrology and a J.D. from the University of Colorado, Boulder. Raised in southwest Colorado, Daniel is a Navajo Tribal member and lives with his family outside Arcata, California.



PROTECT the PUBLIC'S TRUST

VIA ELECTRONIC MAIL

November 9, 2021

Robert Anderson
Office of the Solicitor
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Mr. Anderson,

As the chief legal officer at the Department of the Interior (Department or DOI), you are responsible for ensuring appropriate oversight and management of the Department's Ethics Office and political appointees within the Office of the Solicitor. You also are charged with monitoring the compliance of Department employees when carrying out their statutory duties, including Tribal consultations. Based on your short time in this role and the multiple alleged violations by senior political appointees that have been reported, the public has cause for concern. Together, these separate instances of potential misconduct raise questions about your supervision and commitment to fostering a culture of compliance within the Office of the Solicitor and among the Department's senior leadership.

Prior to joining the Department, your career has been remarkable in its devotion to the Tribal community and organizations dedicated to representing or advocating for Tribal issues. In fact, according to an online biography, you were one of the two founding members of the Alaska office for Native American Rights Foundation's (NARF) and spent 12 years at the organization representing Tribal clients. You have spent several years in the government, many at the Department of the Interior and at the National Commission on Indian Trust Administration. With such a background you undoubtedly have a thorough understanding of Indian law, the Department's legal obligations to Tribes, and the various restrictions around political appointees' engagement on such issues.

Balancing your experience and expertise with obligations to compliance and preserving the public's trust is a commitment made of every Senate-confirmed presidential appointee. In your case, prudence would dictate a heightened sensitivity when former clients and employers of yourself and your Deputy Solicitors are involved. Your office's impartiality in Tribal and water matters is critical to fulfilling your Constitutional, ethical, and bar duties. Yet this important principle seems to be taking a backseat to advancing the Administration's policy agenda.

We are aware of multiple instances in which political appointees under your supervision may have violated their ethics obligations and undermined the public's perception of your office's impartiality in Tribal matters.



PROTECT the PUBLIC'S TRUST

PPT first became notified of potential misconduct under your watch when it was revealed that your Deputy Solicitor for Water Resources, Daniel Cordalis, was working on a high-profile water issue that effectively overruled an opinion issued by multiple senior career water attorneys at the Department. Putting aside your decision to overrule senior career attorneys, the ethically concerning fact involved Mr. Cordalis's participation in the matter. His action appears to provide direct and predictable financial benefits to a former client. Even worse, his spouse is currently the former client's General Counsel and has been described as the "future of the Tribe," implicating a more substantial financial gain connected to the legal opinion issued by Mr. Cordalis. We filed a complaint with the DOI Inspector General (IG) in July based on the available facts and believe Mr. Cordalis may currently be under investigation for his actions.¹

The second instance was revealed recently during the confirmation hearing of Laura Daniel-Davis. The following exchange occurred between Senator Lisa Murkowski and Ms. Daniel-Davis²:

Sen. Murkowski:

During our meeting, a couple of months ago now, I raised my frustration, and I think you sense not only frustration but real anger about some of the reports that I had received regarding virtual consultations held by BLM with some of our native tribes and corporations to discuss the potential revocations or modifications of our public land orders. I raise these concerns about these tribal consultations because we have learned that **there were uninvited environmental organizations that were listening in on these consultations, including a former employer of one of the [] political officials that was leading the consultation. You indicated that you agreed that this was absolutely inappropriate**, you would find out what was going on, you would report back to us. So this is now your opportunity to report back to us. What did you do when you got back to the Department and raised this? And how can you assure me that really we're...you are going to take tribal consultation as seriously as it needs to be if you're confirmed?

Laura Daniel-Davis:

Thank you, senator, and I appreciated you raising that issue to me because **as I said to you at the time and I will reiterate here, it is inconsistent with appropriate formal consultation practice to have anyone other than tribal leaders or tribal members that the leader has asked to appear**. Or, as you know, sometimes a consultant or a lawyer may appear but again as asked to by the tribal leaders. So, I did go back, and ask, and

¹ <https://www.protectpublictrust.org/wp-content/uploads/2021/07/Cordalis-Complaint.pdf>

² <https://www.energy.senate.gov/hearings/2021/9/full-committee-hearing-to-consider-pending-nominations>



PROTECT the PUBLIC'S TRUST

understood that it may have been that the folks managing the consultation weren't aware... in a timely manner of **unauthorized people on the phone**.

Sen. Murkowski:
Do you find that acceptable?

Laura Daniel-Davis:
I don't. And what we did as we have reminded everyone of the ground rules for formal consultation and we have also reminded people that **it is sort of imperative to police such things**. And that they have the ability and should exercise it to... Dump people off the call. I guess I will say it that way. And **we have had to, you know, talk about this across the Department** because, as you know, every program is engaging in formal tribal consultation. So, I appreciate again you bringing it to our attention. It's allowed us, in this remote environment, to make what we think and hope are improvements to the consultation process. We do take it very seriously.

Sen. Murkowski:
Well, you should take it seriously. I found it shocking. Just really shocking and disturbing. And **it just sends a message, unfortunately, that the consultation is not being handled in a manner that most of us would expect**. Mr. Chairman I have several more questions. My time has expired so I will submit these for the record.

I am sure you agree that the inappropriate conduct acknowledged by Ms. Daniel-Davis should never have occurred. Tribal consultations are important opportunities for a government-to-government conversation to take place in a forum untainted by special interests and "uninvited guests." In fact, it is your office's legal duty to ensure that formal consultations like the one discussed are conducted appropriately. Indeed, your extensive experience with Tribal consultations, along with several of your Deputy Solicitors, should be a sufficient safeguard against such violation.

In her testimony, Ms. Daniel-Davis indicated that internal discussions have occurred across the Department to rectify and prevent future procedural abuses from occurring. The public is right to wonder what your role has been in addressing this inappropriate intrusion into official government business – both to understand the source of the invitation and any corrective action that imposes accountability on those responsible. Absent firm and transparent action by the Department's Chief Legal Officer, Congress and the public are left with the impression that empty promises during a Congressional hearing are the only consequence.



PROTECT the PUBLIC'S TRUST

The need for transparency and accountability may require additional investigation based on internal DOI documents that PPT has obtained. The documents show one of the “uninvited guests” participating in the Tribal consultation was NARF. As you are aware, this organization is both a previous employer of yours and the former employer of Deputy Solicitor for Land Resources, Natalie Landreth. Further, the documents show that Ms. Landreth was one of the senior officials participating in the consultation on behalf of DOI. (Attachment A)

The optics alone raise questions about whether appointees are communicating with NARF, and other former employers or clients, in violation of their ethics agreements. The meeting script for the consultation further indicates that Nada Culver was one of the senior officials leading the meeting for the Department despite the ongoing investigation by the IG into her participation in a decision regarding the precise Public Land Order at issue during the consultation³. Is it a standard practice that investigated officials continue to work on matters under investigation until cleared? Have you endorsed or weighed in on this position?

Today, we have filed a Freedom of Information Act request to better understand how these potential violations occurred and attempt to bring transparency to this apparent pattern of misconduct and abdication of supervision. Until we know more, the public will be left wondering what assurance the Department can provide that its Chief Legal Officer is properly upholding the law, supervising direct reports, and ensuring impartiality in Tribal matters.

This is a challenging time to run the government. The Department of the Interior has several important statutory mandates to protect and responsibly steward the country’s natural resources as well as maintain its sacred Trust obligations. At a time when the public’s trust in their government is at an all-time low, it is imperative that they know leaders such as yourself and your subordinates are acting ethically and lawfully in the execution of their duties. We look forward to receiving documents requested in order to ensure the public that transparency and integrity in government remain more than just an empty promise in a public hearing.

Sincerely,

Michael Chamberlain
Director

³ <https://www.eenews.net/articles/ig-investigating-complaint-against-top-blm-official/>

From: Tom Paul
Sent: Sunday, June 16, 2013 8:31 PM
To: WHITMAN Richard M * GOV
Cc: RATCLIFFE Jesse D; [WARD Phillip C](#); [PAUL Thomas J](#)
Subject: Re Dispute Resolution Yurok

Richard, the document looks fine to me. Phil, Jesse and I will need to discuss WRD's requirements under #2 The flows will only change when the BOR notifies the Watermaster that their releases from Link River dam change.

Tom

Sent from my iPhone

On Jun 16, 2013, at 6:12 PM, "WHITMAN Richard M * GOV" <richard.m.whitman@state.or.us> wrote:

Please take a quick look and let me know if this looks ok I'd like to send it to Troy on Monday morning.

Richard Whitman
Governor Kitzhaber's Natural Resources Advisor
(503)881-7093 (cell)
richard_m_whitman@state.or.us

Begin forwarded message

From: Richard Whitman <rmwpdx@msn.com>
Date: June 16, 2013, 6 02 06 PM PDT
To: Work <richard.m.whitman@state.or.us>

<Yurok Dispute Resolution Notice 6-15-2013.docx>

DISPUTE RESOLUTION NOTICE – DRAFT Background

Pursuant to Section 6.5.1 of the Klamath Basin Restoration Agreement (“KBRA”), on May 14, 2013, the Yurok Tribe provided a Dispute Initiation Notice to the Oregon Water Resources Department (“OWRD”) (collectively, the “Parties”). In the KBRA, a Dispute Initiation Notice provides an opportunity for KBRA parties to collaboratively resolve issues that may arise in the course of the implementation of the KBRA. The Parties have followed the dispute resolution procedures set forth in the KBRA and successfully resolved the issues raised in the Dispute Initiation Notice. Pursuant to KBRA Section 6.5.5, this Dispute Resolution Notice: (i) restates the disputed matter as described in the Dispute Resolution Notice, (ii) describes the terms of the resolution of the dispute, and (iii) describes any alternatives considered for resolution.

Summary of Dispute Resolution Notice

The Dispute Initiation Notice states that OWRD does not recognize flows that the U.S. Bureau of Reclamation (“BOR”) is required to release downstream in the Klamath River under applicable federal law as an authorized use of water, and that OWRD will require the BOR to cease releasing these flows under certain circumstances. The Dispute Initiation Notice also asserts that OWRD has insufficiently engaged the Yurok Tribe in addressing Klamath River flows.

Terms of Resolution

To resolve the dispute described above, OWRD makes and the Yurok Tribe acknowledges the following statements. These statements do not require a final agency action by OWRD, and do not constitute such an action.

1. OWRD has recognized and continues to recognize that the BOR must comply with its obligations under federal law concerning flows in the Klamath River. OWRD is not interfering with BOR's obligations under the Biological Opinion for the Klamath Irrigation Project, and does not intend to do so, unless otherwise directed to do so by order of a court with proper jurisdiction. Finally, OWRD acknowledges that various parties may have differences of opinion concerning a range of legal issues pertaining to BOR's release of water in order to comply with the Biological Opinion for the Klamath Irrigation Project. This paragraph reflects OWRD's position only.

2. OWRD confirms its intent to communicate with the Yurok Tribe on issues pertaining to flows in the Klamath River as they relate to implementation of the KBRA. OWRD and the Yurok Tribe will notify each other of substantive communications with other KBRA parties regarding Klamath River flows as they relate to implementation of the KBRA. OWRD and the Yurok Tribe acknowledge that a range of factors may bear on the precise timing and nature of these communications.

Alternatives Considered

By relying on the dispute resolution procedures set forth in the KBRA, the Parties swiftly and successfully resolved the issues raised by the Yurok Tribe, consistent with terms of the KBRA and applicable law. The Parties did not find it necessary to present or consider alternatives to the Terms of Resolution set forth above.