

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF OREGON.
3 PORTLAND DIVISION

4 **Case 3:24-cv-00755-JR**

5 **David White, Pro Se**
6 **18965 NW Illahe St,**
7 **Portland, Oregon**

8 **PLAINTIFF’S RESPONSE TO**
9 **BRIEFING REPLY**
10 **SCHEDULE REQUEST.**
11 **AMENDED**

12 dave@salmonprotectiondevice.com

13 **United States Magistrate**
14 **Judge Jolie A. Russo**

15 Pursuant to Fed. R. Civ. P. 16 and LR 16-3,
16 **Fed. R. Civ. P. 4(e)**

17 **vs.**

18 **Defendant 1. (D1)**
19 **Dave Coffman, as geoscientist**
20 **dcoffman@res.us, sburley@res.us**
21 **Resource Environmental Solutions,**
22 **Corporate Headquarters – Houston**
23 **6575 West Loop South, Suite 300**
24 **Bellaire, TX 77401**
25 **713.520.5400 x6134**

26 **Defendant 2. (D2)**
27 **Mark Bransom in his capacity as Chief Executive Officer of**
28 **Klamath River Dam Renewal Corp.**
29 **info@klamathrenewal.org**

30 **Defendant 3 (D3)**
31 **Klamath River Renewal Corporation**
32 **2001 Addison Street, Suite 317**
33 **Berkeley, CA 94704**
34 **Phone: 510-560-5079**

35
36
37

Legal Counsel for D2 and Klamath River Renewal Corporation (KRRRC),
38 **(D3)**

1 **Julia E. Markley**, Bar No. 000791
 2 JMarkley@perkinscoie.com

3 **Megan Kathleen Houlihan**, OSB No. 161273
 4 MHoulihan@perkinscoie.com

5 **PERKINS COIE LLP**
 6 1120 N.W. Couch Street, Tenth Floor
 7 Portland, Oregon 97209-4128
 8 Telephone: 503.727.2000
 9 Facsimile: 503.727.2222

10 **Laura Zagar**, *Pro Hac Vice Forthcoming*
 11 LZagar@perkinscoie.com

12 **PERKINS COIE LLP**
 13 505 Howard Street, Suite 1000
 14 San Francisco, CA 94105
 15 Telephone: 415.954.3230
 16 Facsimile: 415.344.7050

17 **Richard Roos-Collins**, *Pro Hac Vice Forthcoming*
 18 rrcollins@waterpowerlaw.com

19 Water and Power Law Group PC
 20 2140 Shattuck Avenue
 21 Suite 801
 22 Berkeley, CA 94704

23 Telephone: 510.296.5589
 24 *Attorneys for Defendants Mark Bransom and*
 25 *Klamath River Renewal Corporation*

26

27 **Table of Authorities**

- 28 1) 18 USC 3 accessory after the fact.
 29 2) 16 USCA § 1532(19); see also Goble, D. D.; George, S. M.; Mazaika,
 30 K.; Scott, J. M. & Karl, J. (1999) "Local and national protection of
 31 endangered species: An assessment," Environmental Science &
 32 Policy, 2, pp. 43-59.
 33 3) 18 U.S. Code § 41 - Hunting, fishing, trapping; disturbance or injury
 34 on wildlife refuges. The Endangered Species Act of 1973,
 35 <https://www.fws.gov/laws/endangered-species-act/section-11>
 36 4) 18 U.S.C. § 1001 False Statements, Concealment

37

1 In summary: DEFENDANTS' REPLY IN SUPPORT OF JOINT MOTION
2
3 TO SET BRIEFING SCHEDULE, has wrong use of federal law and wrong
4
5 use of federal case law. Also it contains many instances of False
6
7 Statements, Concealment—18 U.S.C. § 1001. An example of which is:
8
9 “First, despite Plaintiff’s assertions, he still has not properly served any of
10
11 the Defendants with a summons and copy of the Complaint (ECF 1),
12
13 meaning that the time for a responsive pleading has not yet begun to run.
14
15 Second, even if Plaintiff had properly served Defendants, Defendants’
16
17 Motion may be treated as a motion for an extension of time to respond to
18
19 the Complaint and Plaintiff’s Motion for a Preliminary Injunction (ECF 5)
20
21 and, for economy and efficiency reasons, should be granted.”
22
23 Plaintiff already Proved he served Defendants Legal Counsel by email on
24
25 May 7th, 2024. Also defendants motion is not a MOET and must not be

1 treated as such. Many more instances of False Statements,
2
3 Concealment—18 U.S.C. § 1001 in ECF 29.

4
5
6 This case reminds us of David and Goliath in that KRCC has a lot of big
7
8 legal weapons, which are ineffective against the little stones of truth. Their
9
10 deceptive attempts to twist and manipulate the law to buy time in which to
11
12 complete their outrageous criminal activity will become obvious as we
13
14 proceed.

15
16 First, in DEFENDANTS' REPLY IN SUPPORT OF JOINT MOTION TO
17
18 SET BRIEFING SCHEDULE filed 5/24/2024 they stated, "However, a
19
20 complaint may not be served by email." They reference "Fed. R. Civ. P.
21
22 4(e)". Upon examination, the (e)(1) reference limits that restriction to,
23
24 "Following state law for serving a summons in an action brought in courts of
25
26 general jurisdiction in the state where the district court is located or where

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

service is made;”

However, by Oregon law email service is allowed. UTCR 8 21.10 (2)

explains that a document may be a pleading or many other documents. (5)

““Electronic service” means the electronic transmission of a notice of filing by the electronic filing system to the electronic mail (email) address of a party who has consented to electronic service”.

Defendants have not said they don’t want service by email, implying that they approve of email communication. At the very beginning when

Defendant’s filled a pleading, they offered to mail it also. Plaintiff specified by email, that email was fine and defendant did not need a paper copy.

Defendant made no objection, thus giving their implied consent.

Furthermore, the Federal Court system routinely serves documents to

1
2 defendants and plaintiffs by email. Technically email is no less secure than
3
4 snail mail. A physical letter is handed to a mail carrier. The mail system
5
6 carrier “serves” the pleading to the Defendant. Never has Plaintiff seen any
7
8 attorney use return receipt requested in a snail mail. Snail mail offers no
9
10 proof of service. Likewise, Plaintiff writes an email, attaches a document
11
12 and submits it to the local email server. This email server routes it to the
13
14 defendant’s email system for service. The email system allows delivery and
15
16 read receipts which prove delivery and Defendant opening the email.
17
18 Defendants’ legal counsel has not told Plaintiff they do not accept email
19
20 service. Plaintiff served the court a certified, stamped copy of the complaint
21
22 to defendants on May 3rd 2024. Plaintiff served the court a certified,
23
24 stamped injunction on May 7th, 2024 by email with delivery and read
25

1 receipts. Plaintiff then served both items to Defendants a Legal Counsel the
2
3 evening of the 7th. Plaintiff served the summons after the court ordered the
4
5 Federal Marshals to serve the complaint, summons and USM-285.

6
7 Rule 4M states defendants can serve the summons up to 90 days after the
8
9 complaint is filed.

10
11 Defendants also cited *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) “for
12
13 counsel, and for litigants.” Courts also must consider “the public policy
14
15 favoring disposition of cases on their merits” when considering whether to
16
17 resolve a case based on a failure to comply with deadlines. *Pagtalunan v.*
18
19 *Galaza*, 291 F.3d 639, 642 (9th Cir. 2002). Therefore, this Court has
20
21 inherent power to treat the Motion as one for an extension of case
22
23 deadlines under Local Rule 16-3 and should do so to avoid prematurely
24
25 resolving the case without considering the parties’ substantive arguments.

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

The Public overwhelmingly favors the Plaintiff with 500 to 1 in favor and a vote in which 78.8% of residents want to preserve the Klamath River Dams

Defendants used the following case as an excuse to miss their deadline:

Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002) doesn't apply

here. Pagtalunan was Pro Se and fouled up the filing he

<https://casetext.com/case/pagtalunan-v-galaza> In this case 3:24-CV-00755.

By contrast, Defendants have seven trained legal counsel who have no excuse for missing routine deadlines.

Defendants also cited Fed. R. Civ. P. 3. to say: "Further, an action is not commenced until issuance and service of a summons." However, (4) says

"This rule provides that the first step in an action is the filing of the complaint."

1 Therefore, it is the filing of a complaint which started the action. Not the
2
3 summons as Defendants' legal counsel stated in their pleading. That
4 makes the 17th of May the deadline for this case. This is especially
5
6 important given the time-sensitive nature of the case in which irreparable
7
8 damage hangs in the balance.

9
10 The complaint was filed the morning of May 3rd 2024 as can be seen in the
11
12 court record docket.

13
14 Additionally, Defendants said "the Court may treat the Motion as a motion
15
16 to extend the deadlines for any responsive pleadings." Actual Federal law
17
18 says a Motion for an extension must be pleaded. Plaintiff already
19
20 showed in a pleading filed May 22nd, 2024 "This document (ECF 18)
21
22 contains False Statements, Concealment—18 U.S.C. § 1001". This ECF 18
23
24 is not to be considered legal and must be rejected by the court. Plaintiff
25

1 debunked it in pleading ECF 27.

2

3 Another item Defendant's said in ECF 29 pleading is "The Motion complies

4

5 with all the requirements for motions under Local Rule 16-3".

6

7 LR 16-3 Motions to Change or Extend Court-Imposed Deadlines. Unless

8

9 provided

10

11 by LR 16-2(b), objections to any court-imposed deadline must be raised by

12

13 motion and must: "Show good cause why the deadlines should be

14

15 modified. Show effective prior use of time. Recommend a new date for the

16

17 deadline in question."

18

19 Also, Defendants said, "The proposed briefing schedule extends the

20

21 deadline for a responsive pleading only by 10 days (assuming Plaintiff's

22

23 suggested May 21 deadline) and will efficiently move the case toward

24

25 resolution on the merits."

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

This ECF29 is just a delay tactic to allow Defendants to continue wanton destruction of the last dam on the Klamath River and flooding that will happen every spring thereafter.

Also they said “Defendants intend to file a motion to dismiss based on the Court’s lack of subject matter jurisdiction and Plaintiff’s lack of standing.

Such a jurisdictional motion is properly resolved before turning to Plaintiff’s Motion for a Preliminary Injunction. *Linthicum v. Federal Energy Regulatory Commission.*”

Defendants says the court doesn't lack subject matter jurisdiction and Plaintiff’s has lack of standing. The subject matter is not against Federal Energy Regulatory Commission (FERC) like the case cited. It’s about Defendants’ multiple infraction of the FERC document especially when they

1 didn't mitigate on anything. Also, Plaintiff is not requesting the District
2
3 Court to rule the FERC document is null and void. Plaintiff may have said
4
5 that mistakenly previously. However, Plaintiff is asking the District Court to
6
7 rule the FERC document is only applicably used in Plaintiff ECF 40.

8
9
10 Plaintiff legal standing is the federal laws broken by defendants and
11
12 overwhelming support by local stakeholders. Also a log time Oregonian
13
14 who grew up near Klamath Falls. Plaintiffs family hunted, camped and
15
16 fished around the Klamath area. Plaintiff is very distraught to see the
17
18 destruction of an area he loved as a child and still loves. However, Plaintiffs
19
20 love for the Klamath area is growing dim with what Defendants are
21
22 illegally doing. Also Plaintiff is affected by soon to be rolling
23
24 blackout with the Northwest Grid negative 927 megawatts. Losing the 160
25

1 megawatts of the four Klamath River Dams exacerbate the situation

2

3 Conclusion:

4

5 All legal participants are required to follow the same law code, regardless

6

7 of decisions made in other jurisdictions.

8

9 New Rulings requested:

10

1. Plaintiff moves the federal district court honorable Judge Nelson to
Adjudication of D2 and D3 legal counsel for False Statements,
Concealment—18 U.S.C. § 1001

11

12

13

14

15

16

2. Plaintiff moves the federal court honorable Judge Nelson a ruling
which makes May 28th at midnight the last time to file anything
against the complaint or preliminary injunction.

17



18

David C. White Pro Se. 6/01/2024