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FILED

MAR 18 2015

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

8 IN THE UNITED STATES DISTRICT COURT
9
10 EASTERN DISTRICT OF CALIFORNIA

11 PIT RIVER TRIBE, ET AL.,

12 Plaintiffs,

13 v.

14 BUREAU OF LAND MANAGEMENT, ET
15 AL.,

16 Defendants.

Case No.: 2:04-CV-00956-JAM-JFM

**JOINT MOTION FOR THE DEPOSIT OF
FUNDS INTO THE COURT'S REGISTRY; AND
ORDER THEREON**

[No Hearing Requested]

17 Plaintiff Pit River Tribe and the United States defendants (collectively "Movants"), through their
18 authorized representatives, hereby move for an order authorizing Pit River Tribe to deposit funds into
19 the court's registry pending the outcome of Pit River Tribe's appeal to the Ninth Circuit Court of
20 Appeals. The funds will be deposited on behalf of the Pit River Tribe through the Kwhan Coropration, a
21 Federally Chartered Section 17 Corporation, wholly owned by the Pit River Tribe. The Movants further
22 request that the order authorize the deposit of funds into an interest bearing account. This Motion is
23 based on the following grounds:

24 1. On July 29, 2013, the Court granted the United States' motion for judgment on the
25 pleadings and for summary judgment against the plaintiffs. ECF No. 84. Judgment in the United States'
26 favor was entered on July 30, 2013.

27 2. The United States thereafter submitted a cost bill in the amount of \$19,851.60. The Court

1 overruled the Plaintiff's objections to the cost bill and awarded the United States' \$19,851.60 in costs.
2 ECF No. 96.

3 3. Plaintiffs, including Pit River Tribe, filed notices of appeal from both the judgment and
4 the order awarding costs as USCA Appeal Nos. 13-16961 and 14-15123, respectively.

5 4. The United States, as the judgment creditor, recorded an abstract of judgment in Shasta
6 County on June 12, 2014 against the Pit River Tribe's real property interests (the "Judgment Lien").

7 5. Pit River Tribe has requested that the United States release its Judgment Lien. Following
8 negotiations, the United States agrees that it will release the Judgment Lien upon Pit River Tribe's
9 payment and deposit of \$19,851.60 into the Court's Registry (the "Deposited Funds"), to be deposited
10 by the Kwhan Corporation. The Movants thus agree that:

11 A. Pit River Tribe through the Kwhan Corporation shall, within five days following the
12 Court's order approving the deposit, pay to the Clerk, United District Court, \$19,851.60 via
13 cashier's check;

14 B. Upon Pit River Tribe's payment by the Kwhan Corporation of the \$19,851.60 to the
15 Clerk, the United States shall release its Judgment Lien;

16 C. The Deposited Funds shall remain in the Court's Registry pending the adjudication of
17 Pit River Tribe's Appeal No. 14-15123 as set forth below, or further order of the Court;

18 D. If the Court of Appeals affirms the District Court's order awarding the United States'
19 Costs, or dismisses the appeal of the order awarding costs, the United States will seek an order
20 for the disbursement of the Deposited Funds plus any accrued interest; and

21 E. Pit River Tribe will not oppose the United States' application for an order disbursing
22 the Deposited Funds and interest thereon provided the Court of Appeals adjudicates Appeal No.
23 14-15123 as stated in paragraph 5D, above.

24 F. If the Court of Appeals reverses the District Court's order awarding the United States'
25 Costs, or grants the appeal of the order awarding costs, or if the Court of Appeals reverses the
26 District Court's judgment in the related merits appeal, Ninth Circuit Case No. 13-16961, the Pit
27 River Tribe will seek an order for release of the Deposited Funds plus interest to the Kwhan

1 Corporation; and

2 G. The United States will not oppose an application for release of the Deposited Funds
3 and interest thereon provided the Court of Appeals adjudicates Appeal No. 14-15123 as stated in
4 paragraph 5F, above.

5 6. The Movants request that the Deposited Funds be placed into an interest bearing account.

6 Respectfully submitted,

7 FOR THE UNITED STATES:

BENJAMIN B. WAGNER
United States Attorney

8 Dated: March 13, 2015

9 By: /s/ Kurt A. Didier
10 KURT A. DIDIER
11 Assistant United States Attorney

12 FOR PIT RIVER TRIBE:

13 Dated: March 13, 2015

14 By: /s/ Matt Elmore
15 MATT ELMORE
16 Chairman, Kwhan Corporation

17 APPROVED AS TO FORM AND CONTENT:

18 Dated: March 13, 2015

19 By: /s/ Darcie L. Houck
20 DARCIE L. HOUCK, ESQ.
21 Attorney for Kwhan Corporation

22 APPROVED AS TO FORM:

23 Dated: March 16, 2015

24 By: /s/ Jeremy J. Donati
25 JEREMY J. DONATI
26 Operations Supervisor, U.S. District Court

ORDER

The Court, having reviewed the court files and the Movants' Joint Motion for Deposit of Funds into the Court's Registry (the "Motion"), and good cause appearing therefrom, hereby GRANTS the Motion. Accordingly, IT IS ORDERED that:

1. The Kwhan Corporation shall pay on behalf of the Pit River Tribe to the Clerk, United States District Court, via cashier's check, \$19,851.60, within five days after the filing of this Order.

2. The United States shall release its Abstract of Judgment recorded in Shasta County against Pit River Tribe upon Kwhan Corporation's payment of the \$19,851.60.

3. The Clerk shall promptly deposit the \$19,851.60 into an interest bearing account (the "Deposited Funds").

4. The Deposited Funds shall not be disbursed until further order of this Court.

IT IS SO ORDERED.

Dated: March 17, 2015


JOHN A. MENDEZ,
United States District Judge