



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department
North Mall Office Building
725 Summer St. NE, Suite A
Salem, OR 97301
Phone 503-986-0900
FAX 503-986-0904
www.wrd.state.or.us

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE PROPOSED) FINAL ORDER INCORPORATING
CANCELLATION OF THE WATER) THE SETTLEMENT AGREEMENT
RIGHT EVIDENCED BY CERTIFICATE) OAH Case No.: WR-09-005
50474 FOR USE OF WATER FROM THE) Agency Case No.: PC-04-09
SOUTH FORK CROOKED RIVER,)
TRIBUTARY OF CROOKED RIVER FOR)
IRRIGATION OF 57.0 ACRES, STOCK)
AND DOMESTIC, COO K COUNTY)
OREGON)
)
Otto and Fay Keller,)
Protestants)
)
Rick Delamarter,)
Proponent)
)
Harold Delamarter,)
Proponent)
)
Kirk D. Winebarger,)
Proponent)

Based on the attached "Parties Stipulation to Dismissal of OWRD Case No.: PC-04-09 and OAH Case no.: WR 09-005", which is incorporated herein, (1) Rick Delamarter, Harold Delamarter and Kirk Winebarger ("Proponents") have withdrawn their affidavits of cancellation in this matter, (2) the Oregon Water Resources Department has withdrawn its notice of proposed cancellation with respect to the portion of Certificate 50474 at issue in this matter, (3) the Proponents have withdrawn their exceptions to the Administrative Law Judge's Proposed Order in this matter, and (4) Otto and Fay Keller ("Protestants") have withdrawn their response to the Proponents exceptions in this matter. Accordingly, no further proceedings are necessary in this matter.

Dated this 6/12/2012 day of June, 2012.

Phillip C. Ward, Director
Water Resources Department

CERTIFICATE OF SERVICE

On the 15th day of June, 2012, I mailed the foregoing **FINAL ORDER INCORPORATING THE SETTLEMENT AGREEMENT** in reference to OAH Case No. WR-09-005 and Agency Case No. PC 04-09 by depositing a copy of said document in the United States Mail at Salem, Oregon with certified mail, postage prepaid thereon, and addressed to:

Otto C. and Fay M. Keller 13280 SE Mountain Gate Rd Portland, OR 97236	Rick Delamarter Proponent 62400 SE Paulina Hwy Post, OR 97752
Edward Fitch Counsel for Proponents Bryant Emerson & Fitch, LLP 888 SW Evergreen Avenue P.O. Box 457 Redmond, OR 97756	Tom Buchele Pacific Environmental Advocacy Center 10015 S.W. Terwilliger Blvd. Portland, OR 97219
Kirk D. Winebarger HC 68 Box 3310 Post, OR 97752	Jesse Ratcliffe Department of Justice 1162 Court Street NE Salem, OR 97301-4096
Harold Delamarter Proponent 2411 NE 128 St Brush Prairie, Washington 98606	Dove Gutman, ALJ Office of Administrative Hearings P.O. Box 14020 Salem, OR 97309-4020

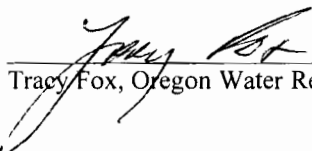

Tracy Fox, Oregon Water Resources Department

Exhibit D

**Parties Stipulation to Dismissal of OWRD Case No.: PC-04-09 and
OAH Case no.: WR-09-005**

Regarding OWRD Case No.: PC-04-09 and OAH Case No.: WR-09-005, the parties stipulate to the following:

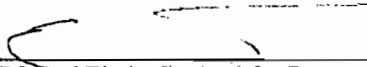
1. Proponents Rick Delamarter, Harold Delamarter, and Kirk Winebarger hereby withdraw their June 2009 affidavits of cancellation of Protestants Otto and Fay Keller's water right described in Water Rights Certificate No. 50474, attached to this stipulation;
2. The Oregon Water Resources Department hereby withdraws the part of its August 20, 2009 notice of proposed cancellation that pertains to the portion of Certificate No. 50474 held by Protestants Otto and Fay Keller;
3. Proponents hereby withdraw their September 2, 2011 exceptions to ALJ Gutman's August 4, 2011 proposed order;
4. Protestants hereby withdraw their September 12, 2011 response to Proponents' exceptions to ALJ Gutman's August 4, 2011 proposed order;

Based on the above stipulations, Proponents, Protestants, and the Oregon Water Resources Department hereby agree that no further proceedings are necessary in the matter of OWRD Case No.: PC-04-09 and OAH Case No.: WR-09-005.

The Oregon Water Resources Department will issue a final order in the matter of OWRD Case No.: PC-04-09 and OAH Case No.: WR-09-005 which incorporates these stipulations.

May ~~30~~ 2012

Proponents:



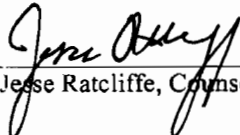
Edward Fitch, Counsel for Proponents

Protestants:



Tom Buchele, Counsel for Protestants

Oregon Water Resources Department:



Jesse Ratcliffe, Counsel for OWRD