

BEFORE THE HEARING OFFICER PANEL
FOR THE STATE OF OREGON
WATER RESOURCES DEPARTMENT

COPY

In the Matter of the Determination of the Relative rights of the Waters of the Klamath River
a Tributary of the Pacific Ocean

WaterWatch of Oregon, Inc.; Horsefly Irrigation District; Langell Valley Irrigation District; Medford Irrigation District; Rogue River Valley Irrigation District; Ambrose McAuliffe; Roger Nicholson; Robert Bartell; Margaret Jacobs; William and Ethel Rust; Carolyn Obenchain; Rodney Z. James; Douglas Newman, Newman Enterprise; Hilda Francis, Trustee, Francis Loving Trust; Leonard Baio; John Briggs; Peter Bourdet; Vincent Lee Briggs; Thomas W. Mallams; Thomas H. Bentley; Thomas E. Stephens; Gary Strong; Con and Nora Flynn, John Flynn, Flynn Brothers; Duane F. Martin; J.R. Simplot Self-Declaration of Revocable Trust; Theodore and Patricia Springer;
Contestants,

**STIPULATION TO RESOLVE
CONTEST 2175**

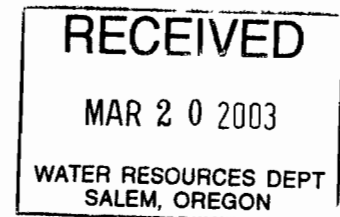
Case No. 010

Claim Nos. 470, 471, 474, 478, 481, 483, 488, 491, 503, 506, 509, 512, 515, 518, 521, 524, 527, 529, 532, 535, 538, 541, 544, 547, 549, 552, 557, 560, 563, 565, 568, 571, 575, 577, 579, 582, 585, 588, 709, 712, 715, 718, 721, 724, and 726

Contest Nos. 139, 140, 143, 147, et al.

v.

United States Forest Service;
Claimant.



The Oregon Water Resources Department (OWRD) and the United States of America, Department of Agriculture, Forest Service (Forest Service) hereby agree and stipulate as follows:

A. STIPULATED FACTS

1. On April 19, 1997, Forest Service submitted a Statement and Proof of Claim (Original Claim 488) to OWRD for "favorable conditions of water flows" under the Organic Act, 16 USC § 473 *et seq.* Claim 488 was amended on August 3, 1999

(Amended Claim 488). Both the Original Claim 488 and the Amended Claim 488 requested a priority date of January 25, 1907.

2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 488 which found that the priority date for this instream use is June 4, 1897, and preliminarily approved the claim with this priority date.

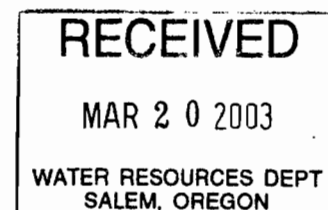
3. On May 5, 2000, the Forest Service filed Contest 2175 to the Preliminary Evaluation.

4. OWRD and the Forest Service agree that Contest 2175 is resolved pursuant to the terms outlined below.

B. TERMS OF THE AGREEMENT

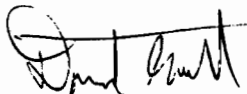
1. OWRD adjudication staff agrees to recommend to the Adjudicator that Claim 488 be approved in the Final Order of Determination issued by the Adjudicator upon the same terms set forth in the Preliminary Evaluation, *except*, that the priority date should be January 25, 1907, instead of June 4, 1897, and *except* that any further amendment by the Forest Service of the claim will not be in excess of the amount allowed in the stipulation.

2. OWRD and the Forest Service agree that pursuant to the terms of this Agreement, Contest 2175 has been satisfactorily resolved, and a hearing before the Hearing Officer is not required. Under these circumstances, the Forest Service waives the right to a contested case hearing before the Hearing Officer Panel for Contest 2175, but explicitly reserves the right to participate in any other future proceedings authorized by law.



3. The Forest Service reserves the right to file exceptions to the Final Order of Determination as to Claim 488 in the Circuit Court for Klamath County if the Final Order of Determination issued by the Adjudicator for Claim 488 does not follow the recommendation of OWRD adjudication staff as indicated in paragraph B1, above.

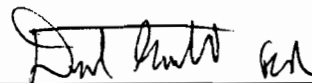
For the United States of America, Department of Agriculture, Forest Service



David Gehlert
General Litigation Section
Environment & Natural Resources Division
U.S. Department of Justice
999 - 18th Street, Suite 945
Denver, CO 80202

3/13/03

Date



Holly R. McLean
Office of the General Counsel
U.S. Department of Agriculture
1734 Federal Building
1220 SW Third Avenue
Portland, OR 97204

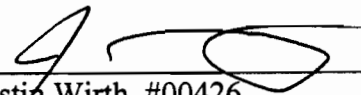
3/13/03

Date

For the Oregon Water Resources Department

HARDY MEYERS
Attorney General


RECEIVED
MAR 20 2003
WATER RESOURCES DEPT
SALEM, OREGON



Justin Wirth, #00426
Walter Perry, III, #83361
Assistant Attorneys General

3/18/03

Date



Kimberly Grigsby, Agency Representative
Oregon Water Resources Department

3/18/03

Date