

HARDY MYERS  
Attorney General



PETER D. SHEPHERD  
Deputy Attorney General

**DEPARTMENT OF JUSTICE**  
GENERAL COUNSEL DIVISION

June 16, 2005

TO ALL PARTIES TO KLAMATH ADJUDICATION CASE 53, CLAIM 252

Re: Klamath Adjudication – Case No. 53, Claim No. 252, Contest Nos. 1731 and  
3535  
DOJ File No. 690-600-GN0288-03

Dear Parties:

Enclosed for your records is a fully executed copy of the Stipulation to Resolve Contests, Exhibits A and B, and Certificate of Service in the above-entitled matter. This agreement resolves all the remaining issues in this case.

Since all issues in this case have been resolved, there is no need to hold a hearing. Accordingly, the Oregon Water Resources Department will withdraw this case from the Office of Administrative Hearings, pursuant to OAR 137-033-0515(4).

Thank you very much for your courtesies and cooperation in resolving this matter.

Sincerely,

Jesse D. Ratcliffe  
Stephen E.A. Sanders  
Assistant Attorneys General  
Natural Resources Section

JDR:tmc/GENM9788  
Enclosure  
c: Service List

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF OREGON  
for the  
WATER RESOURCES DEPARTMENT

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

<del>Klamath Irrigation District; Klamath Drainage District; Tulelake Irrigation District; Klamath Basin Improvement District; Ady District Improvement Company; Enterprise Irrigation District; Malin Irrigation District; Midland District Improvement Co.; Pine Grove Irrigation District; Pioneer District Improvement Company; Poe Valley Improvement District; Shasta View Irrigation District; Sunnyside Irrigation District; Don Johnston &amp; Son; Bradley S. Luscombe; Randy Walthall; Inter-County Title Company; Winema Hunting Lodge, Inc.; Reames Golf and Country Club; Van Brimmer Ditch Company; Plevna District Improvement Company; Collins Products, LLC;</del>	STIPULATION TO RESOLVE CONTEST 1731
Contestants	Case No. 53
	Claim: 252
	Contests: 1731 and 3535 <sup>1</sup>

vs.

Leroy Jackson;  
Claimant/Contestant.

Claimant/Contestant Leroy Jackson, and the Oregon Water Resources Department (OWRD), hereby agree and stipulate, and request the Adjudicator to resolve the above captioned Claim and Contest as follows:

**A. STIPULATED FACTS**

1. On January 31, 1991, Claim 252 for a federal reserved Indian water right was filed with OWRD by the Claimant.

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<sup>1</sup> Don Vincent voluntarily withdrew from Contest 3535 on December 4, 2000. Berlva Pritchard voluntarily withdrew from Contest 3535 on June 24, 2002. Klamath Hills District Improvement Co. voluntarily withdrew from Contest 3535 on January 15, 2004. The remaining entities comprising Klamath Project Water Users voluntarily withdrew Contest 3535 on April 7, 2005.

2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 252.
3. On May 3, 2000, the Claimant filed a Statement of Contest of Preliminary Evaluation of Claim 252, Contest 1731.
4. Claimant/Contestant and OWRD agree that Contest 1731 can be resolved without the need for a hearing pursuant to the following:

**B. TERMS OF STIPULATION**

1. Claimant/Contestant and OWRD agree that the Water Right Claim 252 should be approved to the Adjudicator as a federal reserved Indian water right to the extent described in the Description of Water Right Claim 252, attached hereto as Exhibit A, and which is incorporated by reference as if set forth fully herein.

2. Claimant/Contestant agrees that pursuant to the terms of this Stipulation, Contest 1731 has been satisfactorily resolved, and such resolution vitiates the need for a hearing before the Administrative Law Judge.

3. The OWRD adjudication staff hereby recommends to the Adjudicator that Claim 252 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 252 be approved in the Finding of Fact and Order of Determination issued by the Adjudicator as a federal reserved Indian water right in accordance with the Description of Water Right Claim 252.

4. If the Finding of Fact and Order of Determination issued by the Adjudicator for Claim 252 does not conform to the terms set forth in the attached Description of Water Right Claim 252, Claimant/Contestant reserves any rights they may have to file exceptions to the Finding of Fact and Order of Determination as to Claim 252 in the Circuit Court for Klamath County, and reserves any rights they may have to participate in any future proceedings authorized by law concerning Claim 252.

5. Claimant/Contestant agrees not to oppose or object to this Agreement or any of its terms, provisions, conditions, or covenants and to support this Agreement if it is challenged in the administrative or judicial phases of the Adjudication or any appeals thereof.

6. The signatories to this Stipulation agree that the Stipulation shall not be offered as evidence or treated as an admission regarding any matter herein and may not be used in proceedings on any other claim or contest whatsoever, except that the Stipulation may be used in any future proceeding to interpret and/or enforce the terms of this Stipulation. Further, the signatories to this Stipulation agree that neither the Stipulation nor any of its terms shall be used to establish precedent with respect to any other claim or contest in the Klamath Basin Water Rights Adjudication.

7. Each entity or person entering into this Stipulation represents, warrants, and agrees that the person who executed this Stipulation on its behalf has the full right and authority to enter into this Stipulation on behalf of that entity or person and bind that entity or person to the terms of the Stipulation.

8. The terms, provisions, conditions, and covenants of this Stipulation are not severable, except, if any term, provision, condition, or covenant of this Stipulation is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the terms, provisions, conditions, and covenants shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

9. This Stipulation may be executed in several counterparts and all documents so executed shall constitute one Stipulation, binding on the signatories, notwithstanding that the signatories did not sign the same original or the same counterparts. Delivery of an executed signature page to this Stipulation by facsimile transmission shall be as effective as delivery of an original signed counterpart of this Stipulation.

10. This Stipulation comprises the entire agreement and no promise, inducement, or representation other than herein set forth has been made, offered, and/or agreed upon, and the terms of this Stipulation are contractual and not merely a recital.


11. Claimant/Contestant and OWRD shall each bear their own costs and attorneys' fees.

12. This Stipulation shall be effective as of the date of the last signature hereto.

STIPULATED, AGREED, AND APPROVED BY:

For Klamath Allottee Water Users Association Member  
Claimant/Contestant Leroy Jackson


FREDERICKS, PELCYGER & HESTER, LLC

  
Christopher B. Leahy  
Pro Hac Vice; Colorado Bar 23612


6/10/05  
Date

For the Oregon Water Resources Department

HARDY MYERS  
Attorney General

  
Jesse D. Ratcliffe, #04394  
Stephen E.A. Sanders, #85321  
Assistant Attorneys General

6/15/05  
Date

  
Michael Reynolds  
Agency Representative  
Oregon Water Resources Department

6/15/05  
Date

BEFORE THE STATE OF OREGON  
WATER RESOURCES DEPARTMENT

In the Matter of the Determination of )  
the Relative Rights of the Waters of )  
the Klamath River, a Tributary of the ) Description Of  
Pacific Ocean ) Water Right Claim     **252**  
\_\_\_\_\_)

**Name and Address:**       Leroy Jackson  
                                  1306 Patterson Street  
                                  Klamath Falls, OR 97603

**Source:**                 Spring Creek                                 **Tributary:** Williamson River

**Point Of Diversion:**    Township    Range    Section    Q/Q:    Lot:  
                                  34 S         7 E         9            NWNE

**Priority:**               10/14/1864

**Use, Period Of Use and Quantity:**   Use:                                 Period Of Use:    Rate:  
                                  Domestic Use         01-01 to 12-31     .01 cfs  
                                  for One Family

**Place Of Use:**         Township    Range    Section    Q/Q:    Lot:    Acreage:  
                                  34 S         7 E         15            SESW                 .5

**Source:**                 Spring Creek                                 **Tributary:** Williamson River

**Point Of Diversion:**    Township    Range    Section    Q/Q:    Lot:  
                                  34 S         7 E         9            NENE

**Priority:**               10/14/1864

**Use, Period Of Use and Quantity:**   Use:                                 Period Of Use:    Rate:                 Duty:  
                                  Irrigation             03-01 to 10-16     2.40 cfs               4.3 AFA  
                                  Livestock             01-01 to 12-31     600 gpd

<b>Place Of Use:</b>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Q/Q:</u>	<u>Lot:</u>	<u>Acreage:</u>
	34 S	7 E	15	NESW		.7
	34 S	7 E	15	NWSW		36.6
	34 S	7 E	15	SWSW		20.4
	34 S	7 E	15	SESW		8.7
	34 S	7 E	16	NESE		.4
	34 S	7 E	22	NENW		14.4
	34 S	7 E	22	NWNW		13.1
	34 S	7 E	22	SWNW		.1
	34 S	7 E	22	SESW		1.1

Total Irrigated Acreage 95.5

The Place of Use is set forth more particularly in the map attached hereto as Exhibit B, and which is incorporated by reference as if set forth fully herein.

**INCHOATE WATER RIGHT CLAIM DESCRIPTION**

**Source:** Williamson River                      **Tributary:** Upper Klamath Lake

<b>Point Of Diversion:</b>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Q/Q:</u>	<u>Lot:</u>
	34 S	7 E	15	SESW	

**Priority:** 10/14/1864

<b>Use, Period Of Use and Quantity:</b>	<u>Use:</u>	<u>Period Of Use:</u>	<u>Rate:</u>	<u>Duty:</u>
	Irrigation	03-01 to 10-16	.22 cfs	3.1 AFA

<b>Place Of Use:</b>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Q/Q:</u>	<u>Lot:</u>	<u>Acreage:</u>
	34 S	7 E	15	NWSW		1.6
	34 S	7 E	15	SWSW		6.7
	34 S	7 E	16	NESE		2.2
	34 S	7 E	22	NWNW		1.8

Total Practicably Irrigable Acreage 12.3

The Place of Use is set forth more particularly in the map attached hereto as Exhibit B, and which is incorporated by reference as if set forth fully herein.



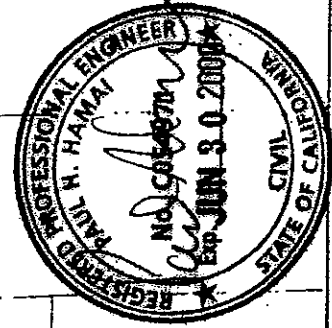
By: Natural Resources Consulting Engineers Inc.  
 1750 Addison St., Suite 204  
 Berkeley, CA 94702  
 Berkeley (510)841-7814

TOWNSHIP 34 SOUTH, RANGE 7 EAST, W. M.

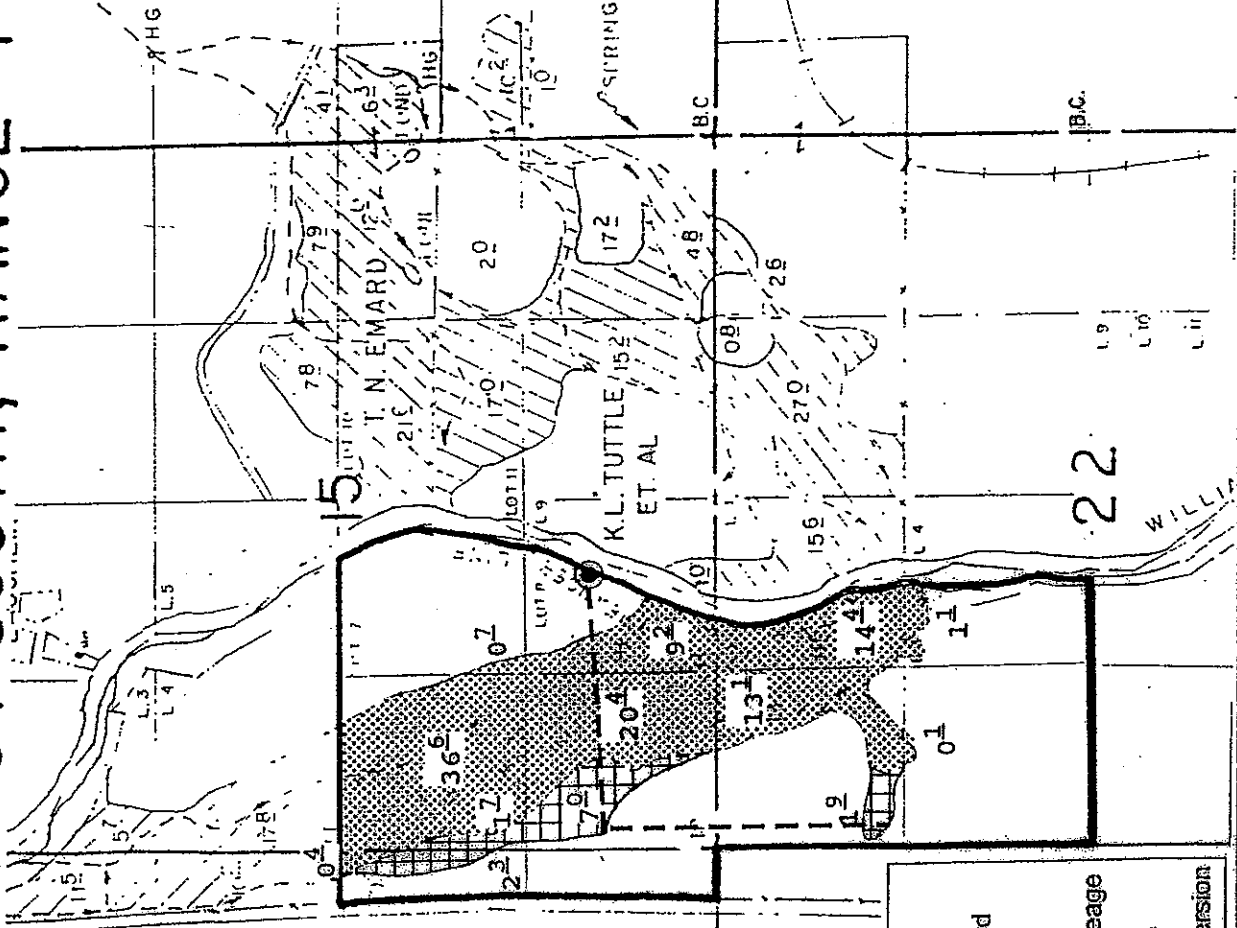
KLAMATH ADJUDICATION

CLAIM # 52 PAGE # 72

Owner # 24A, Property # 1  
 OWRD Claim # 252



WATER RESOURCES DEPT  
 SALEM, OREGON



	Presently Irrigated Land
	Practicably Irrigable Acreage
	Header Pipe
	Point of Diversion

Exhibit B  
 Page 1



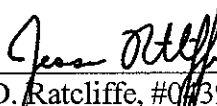
**CERTIFICATE OF SERVICE**

I hereby certify that on the 16th day of June 2005, I served the within  
STIPULATION TO RESOLVE CONTEST AND EXHIBITS on the parties hereto by e-  
mail, where an e-mail address is listed below, or by regular first-class mail, a true, exact  
and full copy thereof to:

**VIA STATE SHUTTLE MAIL**

Dwight W. French / Teri Hranac  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
[dwight.w.french@state.or.us](mailto:dwight.w.french@state.or.us)  
[teri.k.hranac@wrdd.state.or.us](mailto:teri.k.hranac@wrdd.state.or.us)

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\_\_\_\_\_  
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Assistant Attorneys General