

**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

United States of America; The Klamath Tribes;	)	
Klamath Irrigation District; Klamath Drainage	)	
District; Tulelake Irrigation District; Klamath Basin	)	Case No. 164
Improvement District; Ady District Improvement	)	
Company; Enterprise Irrigation District; Klamath	)	Claim No. 13
Hills District Improvement Company; Malin	)	
Irrigation District; Midland District Improvement	)	Contest No. 1787, 3435, 3719 and
Company; Pine Grove Irrigation District; Pioneer	)	and 4075
District Improvement Company; Poe Valley	)	
Improvement District; Shasta View Irrigation	)	
District; Sunnyside Irrigation District;	)	<b>STIPULATION TO</b>
Don Johnston & Son; Bradley S. Luscombe;	)	<b>RESOLVE CONTESTS</b>
Randy Walthall; Inter-County Title Co.;	)	
Winema Hunting Lodge, Inc.; Van Brimmer Ditch	)	
Company; Plevna District Improvement Company;	)	
and Collins Products, LLC.	)	
Contestants;	)	
	)	
vs	)	
	)	
Steven Lawrence & James Lawrence,	)	
	)	
Claimants.	)	
_____	)	

The Oregon Water Resources Department (OWRD), Claimants Steven Lawrence and James Lawrence (Claimants), United States and Klamath Tribes (Contestants) hereby agree and stipulate as follows:

A. STIPULATED FACTS

1. On January 30, 1991, Claimants filed Claim No. 13 in the Klamath Adjudication.

2. On October 4, 1999, the Adjudicator issued his preliminary evaluation of Claim 13, preliminarily approving the claim, but for less acreage and a smaller quantity of water than was claimed. On May 8, 2000, the Klamath Tribes and the United States of America filed Contests 4075 and 3719, respectively, to both Claim 13 and the Adjudicator's Preliminary Evaluation of Claim 13 for the following reasons:

- a. That there is insufficient title information to establish a Walton right for a portion of the Place of Use;
- b. That there is insufficient information on the development or continuous use of water on this Place of Use to establish a Walton right;
- c. The period of use in the preliminary evaluation exceeds the period of use claimed.

3. On May 4, 2000, Steven Lawrence, James B. Lawrence and John H. Lawrence filed Contest 1787 against the Adjudicator's Preliminary Evaluation of Claim 13.

4. On May 8, 2000, Klamath Irrigation District; Klamath Drainage District; Tulelake Irrigation District; Klamath Basin Improvement District; Ady District Improvement Company; Enterprise Irrigation District; Klamath Hills District Improvement Company; Malin Irrigation District; Midland District Improvement Company; Pine Grove Irrigation District; Pioneer District Improvement Company; Poe Valley Improvement District; Shasta View Irrigation District; Sunnyside Irrigation District; Don Johnston & Son; Bradley S. Luscombe; Berlva Pritchard, Don Vincent, Randy Walthall; Inter-County Title Co.; Winema Hunting Lodge, Inc.; Van Brimmer Ditch

Company; Plevna District Improvement Company; and Collins Products, LLC, filed Contest 3435 to Claim 13 and indicated in said contest that they accepted the Adjudicator's Preliminary Evaluation of Claim 13. Those contestants withdrew their Contest 3435 on December 4, 2000.

5. Ross Waples, Soil Scientist, and L. Ralph Saunders, Aerial Photography Interpreter, both employed by HKM Engineering, Inc, are witnesses for Contestant United States who, if called to testify, will state that aerial photographs from 1952 and 1994 evidence that 112.8 acres north of Road 3149 within the claimed area were under irrigation as of those dates and that all available evidence supports Claimants' Walton Claim for that portion of their claim.

6. OWRD, Claimant and Contestants agree that Contests 1787, 3435 and 4075 can be resolved without the need for a hearing pursuant to the terms outlined below.

#### B. TERMS OF THE AGREEMENT

1. OWRD, Claimant, and Contestants agree that Claim 13 should be approved by the Adjudicator for 112.8 acres of the claimed acreage north of Road 3149 within the Place of Use as described below:

- a. POINT OF DIVERSION LOCATION: SW1/4 SE1/4, Section 1, Township 31 South, Range 10 East, W.M.
- b. SOURCE: Williamson River, tributary to Upper Klamath Lake
- c. USE: Irrigation of 112.8 acres and livestock use
- d. AMOUNT ACTUALLY BENEFICIALLY USED: 2.82 cubic feet per second for irrigation, and 8,122 gallons per day for livestock, measured at the point of diversion.
- e. PERIOD OF USE: March 1 - October 31 for irrigation; January 1 - December 31 for livestock.
- f. PRIORITY DATE: October 14, 1864

g. PLACE OF USE:

T.31S., R. 10E., WM

Section 1:	NWNE	13.4 acres	NWSE	10.4 acres
	SWNE	13.6 acres		

T.30S., R. 10E., WM

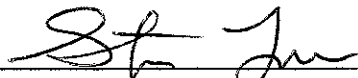
Section 36:	SWNE	7.9 acres	NWSE	33.4 acres
	NESW	0.6 acres	SWSE	26.4 acres
	SESE	2.6 acres	NESE	4.5 acres

2. OWRD, Claimant and Contestants agree that pursuant to the terms of this Agreement, Contests 1787, 3719 and 4075 have been satisfactorily resolved, and such resolution vitiates the need for a hearing before the Administrative Law Judge on these contests to Claim 13.

3. Based upon the agreement of OWRD, Claimant, and Contestants that Claim 13 and the contests thereto, can be resolved without the need for a hearing. OWRD adjudication staff hereby recommend to the Adjudicator that Claim 13 be approved in the Final Order of Determination issued by the Adjudicator in accordance with the terms of paragraph B.1 above.

4. If the Final Order of Determination issued by the Adjudicator for Claim 13 does not follow the terms listed in paragraph B.1 above, Claimant and Contestants reserve any rights they may have to file exceptions to the Final Order of Determination as to Claim 13 in the Circuit Court for Klamath County, and reserve any rights they may have to participate in any future proceedings authorized by law.

For Claimants Steven Lawrence and James Lawrence:

  
\_\_\_\_\_  
Steven Lawrence

1-5-05  
\_\_\_\_\_  
Date

\_\_\_\_\_  
James Lawrence

\_\_\_\_\_  
Date

g. PLACE OF USE:

T.31S., R. 10E., WM

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For Claimants Steven Lawrence and James Lawrence:

\_\_\_\_\_  
Steven Lawrence

  
\_\_\_\_\_  
James Lawrence

\_\_\_\_\_  
Date

1-4-05

\_\_\_\_\_  
Date

For Oregon Water Resources Department:

HARDY MEYERS, Attorney General

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Michael Reynolds, Agency Representative  
Oregon Water Resources Department

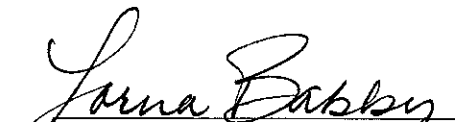
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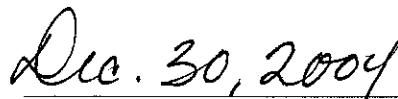
For Contestant United States of America:

\_\_\_\_\_  
LARRY BROWN  
U.S. Department of Justice

\_\_\_\_\_  
Date

For Contestant Klamath Tribes:

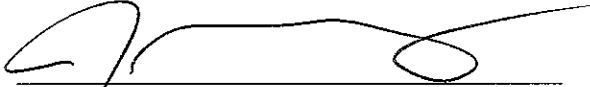
  
\_\_\_\_\_  
LORNA BABBY, MSB #4235  
Native American Rights Fund

  
\_\_\_\_\_  
Date

GENL2557

For Oregon Water Resources Department:

HARDY MEYERS, Attorney General



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

Jan. 18, 2005

Date

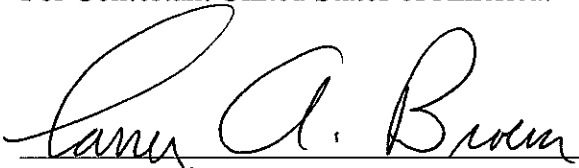


Michael Reynolds, Agency Representative  
Oregon Water Resources Department

1-18-05

Date

For Contestant United States of America:



LARRY BROWN  
U.S. Department of Justice

Dec. 29, 2004

Date

For Contestant Klamath Tribes:

\_\_\_\_\_  
LORNA BABBY, MSB #4235  
Native American Rights Fund

\_\_\_\_\_  
Date

GENL2557

# ADJUDICATION CLAIMS SETTLEMENT MAP

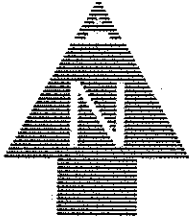
FOR  
CLAIM 13

JOHN H. LAWRENCE, STEVEN LAWRENCE AND JAMES B. LAWRENCE

LOCATED IN THE E 1/2 OF SEC. 36, T.30S., R.10E., W.M.

AND IN THE E 1/2 OF SEC. 1, T.31S., R.10E., W.M.

KLAMATH COUNTY, OREGON

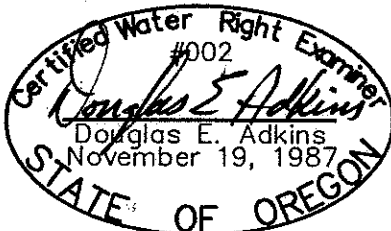


SCALE: 1" = 1320

THIS MAP IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHT ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATION OF PROPERTY LINES.

AREA ARE IN ACRES

 AREA IRRIGATED



EXPIRES 12/31/05

NOTE  
IRRIGATION AREAS AND  
P.O.D. IN S01, T31S, R10E  
TAKEN FROM W.R.D. ADJ. MAP.

**ADKINS**



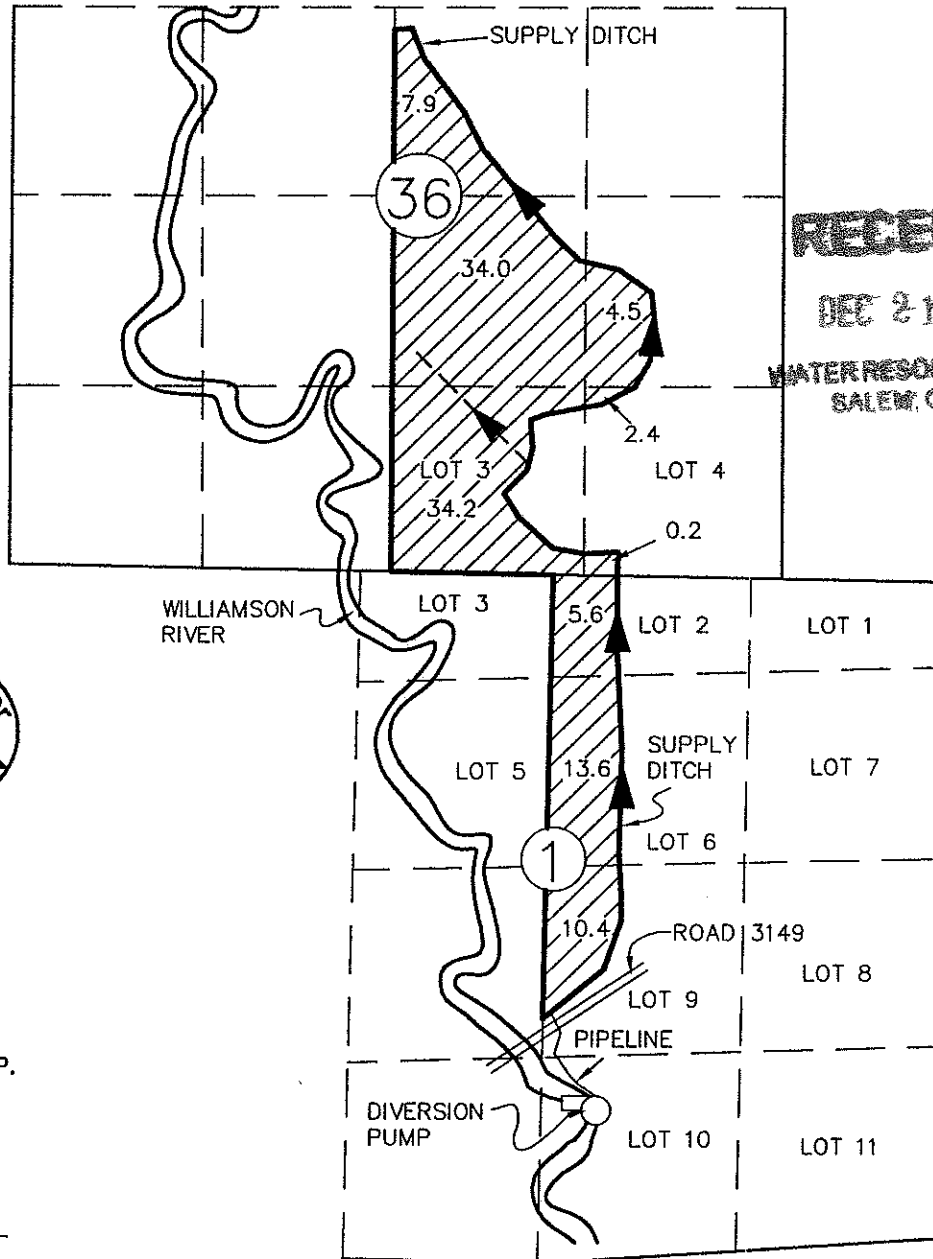
2950 Shasta Way · Klamath Falls, Oregon 97603 · (541) 884-4666 · FAX (541) 884-5335

November 18, 2004

Klamath Falls, OR · Medford, OR · Alturas, CA

Engineers ▲ Planners ▲ Surveyors

JOB No. 1437-0101



RECEIVED  
DEC 21 2004  
WATER RESOURCES DEPT  
SALEM, OREGON