

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
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

United States of America and The Klamath Tribes;
Contestants,

**STIPULATION TO RESOLVE
CONTESTS**

Case No. 189

Claim No. 56

Contests 3732 and 4110¹

vs.

Robert M. Wampler,

Claimant.

The Oregon Water Resources Department (hereinafter "OWRD"), Claimant Robert M. Wampler (hereinafter "Claimant"), and Contestant the United States of America (hereinafter "United States"), hereby agree and stipulate as follows:

A. STIPULATED FACTS

1. On November 27, 1990, the Claimant filed Claim 56 with OWRD.
2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 56.
3. The following contests were filed to Claim 56: Contest 3732, was filed by the United States (hereinafter "Contestant"); and Contest 4110 was filed by the Klamath Tribes and was voluntarily withdrawn on June 8, 2004.

¹ The Klamath Tribes voluntarily withdrew Contest 4110 on June 8, 2004

4. Claimant, Contestant, and OWRD agree that Contest 3732 can be resolved without the need for further proceedings, pursuant to the terms set forth below.

B. TERMS AND PROVISIONS

1. Claimant, Contestant, and OWRD agree that Claim 56 should be approved by the Adjudicator as described below:

POINT OF DIVERSION LOCATION:

Lot 17 (SE ¼ NE ¼), Section 34, Township 34 South, Range 7 East, W.M.

SOURCE: Williamson River, tributary to Upper Klamath Lake

USE: Irrigation of 23.3 acres.

AMOUNT ACTUALLY BENEFICIALLY USED: .58 cubic feet per second (cfs) measured at the point of diversion.

DUTY: 1.97 Acre-Feet/Acre/Year.

IRRIGATION PERIOD OF USE: May 1 through September 15.

PRIORITY DATE: October 14, 1864.

PLACE OF USE:

LOT 17 (SW ¼ NE ¼)	10.1	ACRES IRRIGATION
LOT 17 (SE ¼ NE ¼)	2.0	ACRES IRRIGATION
LOT 19 (SW ¼ NE ¼)	11.2	ACRES IRRIGATION

SECTION 34

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

The place of use is shown more particularly on the map attached hereto as Exhibit 1, which is incorporated by reference as if set forth fully herein.

2. Claimant, Contestant, and OWRD agree that pursuant to the terms and provisions of this Stipulation, Contest 3732 has been satisfactorily resolved, and such resolution ends the need for further proceedings before the Administrative Law Judge on these contests to Claim 56.

3. Based on the Stipulation of Claimant, Contestant, and OWRD that Claim 56 and the Contest thereto can be resolved without the need for further proceedings, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 56 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 56 be approved in the Finding of Fact and Order of Determination issued by the Adjudicator in accordance with the terms of paragraph B.1., above.

4. If the Finding of Fact and Order of Determination issued by the Adjudicator for Claim 56 does not conform to the terms set forth in paragraph B.1., above, Claimant and Contestant reserve any rights they may have to file exceptions to the Finding of Fact and Order of Determination as to Claim 56 in the Circuit Court for Klamath County, and reserve any rights they may have to participate in any future proceedings authorized by law concerning Claim 56.

5. The Parties agree that this Stipulation has been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation. The Parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest. The parties agree that this 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 parties 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.

6. This Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, trustors, trustees, beneficiaries, predecessors, successors, affiliated and related entities, officers, directors, principals, agents, employees, assigns, representatives and all persons, firms, associations, and/or corporations connected with them.

7. Each Party to 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 party and bind that party 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 Parties, notwithstanding that the Parties 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. The Parties agree to 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 CLAIMANT ROBERT M WAMPLER:

Dated: October 18, 2004


J. ANTHONY GIACOMINI
115 N 5th Street, Suite 202
Klamath Falls, OR 97601
Telephone: (541) 884-7728
Telefax: (541) 883-1759
e-mail:

FOR CONTESTANT, THE UNITED STATES OF AMERICA:

Dated: October 12th, 2004

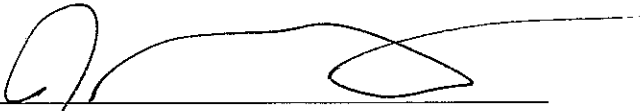
A handwritten signature in cursive script that reads "Larry A. Brown". The signature is written in black ink and is positioned above a horizontal line.

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FOR THE OREGON WATER RESOURCES DEPARTMENT:

HARDY MEYERS
Attorney General

Dated: October 22, 2004



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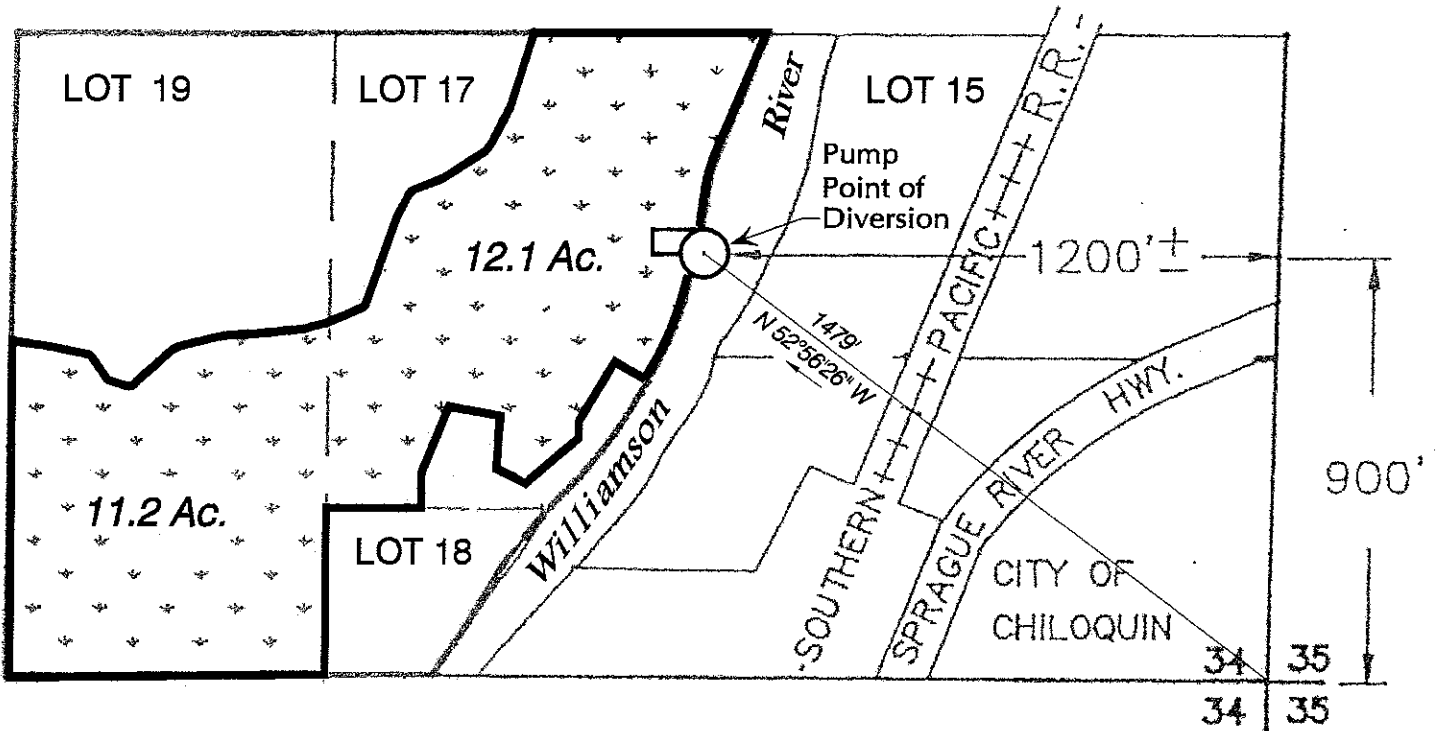
Dated: October 22, 2004



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ROBERT M. & ALICE M. WAMPLER

Located in SW 1/4 NE 1/4, SE 1/4 NE 1/4, Sec. 34, T.34 S., R.07 E., W. M.
 KLAMATH COUNTY, OREGON



LEGEND

-  Settlement Place of Use
-  Diversion Pump

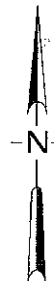
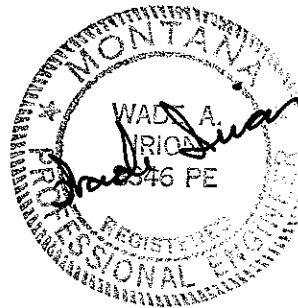
PLACE OF USE

Lot 17 = 12.1 Acres
 Lot 19 = 11.2 Acres
Total = 23.3 Acres

BASE MAP:

Prepared by:
 ADKINS CONSULTING ENGINEERS INC.

Modified by:
 HKM ENGINEERING INC.
 to meet Settlement Map Standards



1 Inch : 400 Feet (approx.)

This map is not intended to provide legal dimensions or locations of property lines.

HKM Project No. 3M137.222 100 N:\Klamath\CLAIMS\CLAIM-56\SettlementClaimr66.dwg BJ October 04, 2004