

BEFORE THE HEARING OFFICER PANEL  
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

Klamath Irrigation District; Klamath Drainage District; Tulelake Irrigation District; Klamath Basin Improvement District; Ady District Improvement Company; Enterprise Irrigation District; Klamath Hills District Improvement Co.; 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 & Son; Bradley S. Luscombe; Randy Walthall; Inter-County Title Company; Winema Hunting Lodge, Inc.; Van Brimmer Ditch Company; Plevna District Improvement Company; Collins Products, LLC,  
Contestants,

**STIPULATION TO RESOLVE  
CONTESTS 3474 AND 3476**

Case Nos. 263 and 264

Claim Nos. 90 and 93

Contests 3474 and 3476

v.

Silverbow Ranch, LLC,  
Claimant.

The Oregon Water Resources Department (OWRD), Claimant Silverbow Ranch, LLC (Claimant), and Contestants Klamath Project Water Users (KPWU) (Contestants) hereby agree and stipulate as follows:

**A. STIPULATED FACTS**

1. On December 7, 1990, Kendall A. Tait filed Claim 90 in the Klamath Adjudication. Silverbow Ranch, LLC (Claimant), subsequently purchased the property that is the subject of Claim 90.

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2. On October 30, 1990, Raleigh and Diane L. Wirth, Trustees of the Wirth Family Trust, filed Claim 93 in The Klamath Adjudication. Silverbow Ranch, LLC (Claimant), subsequently purchased the property that is the subject of Claim 93.

3. On October 4, 1999, the Adjudicator issued his Preliminary Evaluations of Claims 90 and 93, preliminarily approving both claims, but for a smaller quantity of water than was claimed.

4. On May 8, 2000, the KPWU filed Contests 3474 and 3476 to Claims 90 and 93, respectively, and indicated in said contests that the KPWU accepted the Adjudicator's Preliminary Evaluations of Claims 90 and 93. No other contests were filed to Claims 90 and 93, or the Preliminary Evaluations for these claims.

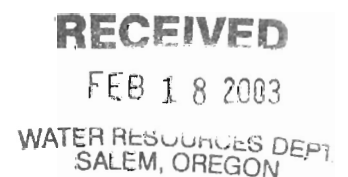
5. OWRD, Claimant, and Contestants agree that Contests 3474 and 3476 can be resolved without the need for a hearing pursuant to the terms outlined below.

## **B. TERMS OF THE AGREEMENT**

1. OWRD, Claimant, and Contestants agree that Claims 90 and 93 should be approved by the Adjudicator according to the terms of the Adjudicator's October 4, 1999 Preliminary Evaluations for these claims, as follows:

(a) Claim 90:

1. POINT OF DIVERSION LOCATION: Government Lot 14, Section 21, Township 35 South, Range 7 East, W.M.
2. SOURCE: Williamson River, tributary to Upper Klamath Lake
3. USE: irrigation of 15.4 acres
4. AMOUNT ACTUALLY BENEFICIALLY USED: 0.39 cubic feet per second, measured at the point of diversion.
5. PERIOD OF USE: March 1 - October 31



6. PRIORITY DATE: October 14, 1864

7. PLACE OF USE:

LOT 4	4.5 ACRES IRRIGATION
LOT 7	5.8 ACRES IRRIGATION
LOT 14	0.5 ACRES IRRIGATION
LOT 15	4.1 ACRES IRRIGATION
LOT 41	0.5 ACRES IRRIGATION

SECTION 21

TOWNSHIP 35 SOUTH, RANGE 7 EAST, W.M.

(b) Claim 93:

1. POINT OF DIVERSION LOCATION: SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , Section 21, Township 35 South, Range 7 East, W.M.
2. SOURCE: Williamson River, tributary to Upper Klamath Lake
3. USE: irrigation of 13.6 acres.
4. AMOUNT ACTUALLY BENEFICIALLY USED: 0.34 cubic feet per second, measured at the point of diversion.
5. PERIOD OF USE: March 1 - October 31
6. PRIORITY DATE: October 14, 1864
7. PLACE OF USE:

NE $\frac{1}{4}$ NW $\frac{1}{4}$	4.0 ACRES IRRIGATION
SE $\frac{1}{4}$ NW $\frac{1}{4}$	9.6 ACRES IRRIGATION

SECTION 21

TOWNSHIP 35 SOUTH, RANGE 7 EAST, W.M.

2. OWRD, Claimant, and Contestants agree that pursuant to the terms of this Agreement, Contests 3474 and 3476 have been satisfactorily resolved, and such resolution vitiates the need for a hearing before the Hearing Officer on these contests to Claims 90 and 93.

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3. Based upon the agreement of OWRD, Claimant, and Contestants that Claims 90 and 93, and the contests thereto, can be resolved without the need for a hearing, OWRD adjudication staff hereby recommends to the Adjudicator that Claims 90 and 93 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 Claims 90 and 93 do 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 Claims 90 and 93 in the Circuit Court for Klamath County, and reserve any rights they may have to participate in any future proceedings authorized by law.



Silverbow Ranch, LLC, by its  
Manager, Daniel Re

2-7-03

Date

For the Oregon Water Resources Department


HARDY MEYERS  
Attorney General



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

2/13/03

Date

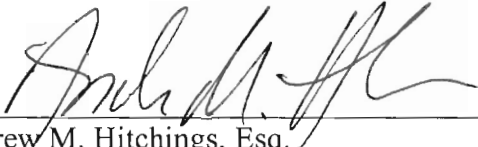


Kimberly Grigsby, Agency Representative  
Oregon Water Resources Department

2/13/03

Date

For Contestants, Klamath Project Water Users



Andrew M. Hitchings, Esq.  
*Pro Hac Vice*; Cal. Bar No. 154554  
Of Attorneys for Tulelake Irrigation District,  
and on behalf of Klamath Project Water Users

2/10/03

Date

**RECEIVED**  
FEB 18 2003  
WATER RESOURCES DEPT.  
SALEM, OREGON