

HARDY MYERS  
Attorney General



PETER D. SHEPHERD  
Deputy Attorney General

**DEPARTMENT OF JUSTICE**  
GENERAL COUNSEL DIVISION

October 7, 2005

TO ALL PARTIES:

Re: Klamath Adjudication – Case No. 213, Claim No. 98, Contest Nos. 3479, 3748,  
and 4133  
DOJ File No. 690-600-GN0184-03

Dear Parties:

Enclosed for your records is a fully executed copy of the Stipulation to Resolve Contests 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/GENO0321  
Enclosure  
c: Service List

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
FOR 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 Pacific Ocean**

United States of America; Klamath Irrigation District; Klamath Drainage District; Tulelake Irrigation District; Klamath Basin Improvement Company; 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 Co.; Winema Hunting Lodge, Inc.; Van Brimmer Ditch Co.; Plevna District Improvement Company; Collins Products, LLC; Contestants	)	<b>STIPULATION TO RESOLVE CONTESTS</b>  Case No.      213  Claim No.     98  Contests      3479 <sup>1</sup> and 3748 <sup>2</sup>
vs.		
James R. Goold, Trustee, Tillie L. Goold Trust  Claimants/Contestants.	)	

Claimants James R. Goold, Trustee, Tillie L. Goold Trust (“Claimants”), the United States of America (“United States”), the Klamath Project Water Users (“KPWU”), (collectively “Parties”), and the Oregon Water Resources Department (“OWRD”), hereby agree and stipulate, and request the Adjudicator to resolve the above-captioned Claim and Contests as follows:

<sup>1</sup> Don Vincent voluntarily withdrew from Contest 3479 on December 4, 2000. Berlava Pritchard voluntarily withdrew from Contest 3479 on June 24, 2002. Klamath Hills District Improvement Co. voluntarily withdrew from Contest 3479 on January 15, 2004.

<sup>2</sup> The Klamath Tribes voluntarily withdrew their Contest No. 4133 on January 28, 2005.

**A. STIPULATED FACTS**

1. On December 7, 1990, Claim 98 was filed with OWRD by the original Claimants, Del Parks, Trustee, Tillie L. Goold Trust.
2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 98.
3. In May 2000, the United States filed a Statement of Contest of Claim and Preliminary Evaluation of Claim, Contest 3748.
4. In May 2000, the KPWU filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 3479.
5. The Claimants did not file a Statement of Contest of Claim and/or Preliminary Evaluation of Claim.
6. The Parties and OWRD agree that Contest 3479 and 3748 can be resolved without the need for a hearing pursuant to the terms set forth below.

**B. TERMS OF STIPULATION**

1. Claimants, the Parties, and OWRD agree that Claim 98 should be approved by the Adjudicator to the extent described below:

POINT OF DIVERSION LOCATION: NW1/4, NE1/4, Section 36,  
Township 35 South, Range 9 East, Willamette Meridian.

SOURCE: The Sprague River

PRIORITY DATE: October 14, 1864

USE: irrigation

RATE: 4.13 cubic feet per second, measured at the point of diversion

DUTY: 3 acre feet per acre measured at the point of diversion

PERIOD OF USE: May 1 – October 15

PLACE OF USE: 165 acres as shown below and on the attached map.

Acres	¼, ¼	Sec.	Township	Range
28.4	SE1/4 SE1/4	30	T35S	R10E
40	SW1/4 SE1/4	30	T35S	R10E
40	SE1/4 SW1/4	30	T35S	R10E
37.7	Lot 4 SW1/4 SW1/4	30	T35S	R10E
18.9	SE1/4 SE1/4	25	T35S	R9E

2. The Parties and OWRD agree that pursuant to the terms of this Stipulation, Contests 3479 and 3748 have been satisfactorily resolved, and such resolution ends the need for a hearing before the Administrative Law Judge on these Contests to Claim 98.

3. Based on the Stipulation of the Parties and OWRD that Claim 98 and the Contests thereto can be resolved without the need for a hearing, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 98 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 98 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 98 does not conform to the terms set forth in paragraph B.1., above, Claimants and Contestants reserve any rights they may have to file exceptions to the Finding of Fact and Order of Determination as to Claim 98 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 98.

5. The Parties agree not to oppose or object to this Stipulation or any of its terms, provisions, conditions, or covenants and to support this Stipulation if it is challenged in the administrative or judicial phases of the Adjudication or any appeals thereof.

6. This Stipulation is entered into for the purpose of resolving a disputed claim. 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 Parties to this Stipulation and OWRD 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 or any other judicial or administrative proceeding.

7. 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 relate entities, officers, directors, principals, agents, employees, assigns, representatives and all persons, firms, associations, and/or corporations connected with them.

8. 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.

9. 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.

10. 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.


11. The Parties agree and acknowledge that this Stipulation has been drafted and reviewed through joint efforts of their respective legal counsel after full and arms-length negotiations; therefore, the usual rule of contractual construction that all ambiguities shall be construed against the drafting party shall not apply to the interpretation of this Stipulation.

12. This Stipulation shall be effective as of the date of the last signature hereto.  
Stipulated, agreed and approved by:

For Contestant, the United States of America:

DATED: Aug 17, 2005

KELLY A. JOHNSON  
Acting Assistant Attorney General



VANESSA BOYD WILLARD  
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[vanessa.boydwillard@usdoj.gov](mailto:vanessa.boydwillard@usdoj.gov)

ATTORNEY FOR THE UNITED STATES OF AMERICA

For Contestants, the Klamath Project Water Users:

DATED: 8/22, 2005



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ANDREW HITCHINGS  
Somach, Simmons & Dunn  
Hall of Justice Building  
813 Sixth Street, Third Floor  
Sacramento, CA 95814-2403  
Telephone: (916) 446-7979  
Telefax: (916) 446-8199  
email: [ahitchings@lawssd.com](mailto:ahitchings@lawssd.com)



For the Claimants:

DATED: 8-29, 2005



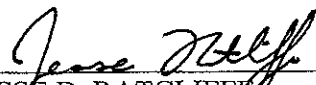
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Willie Goold Trust  
c/o James R. Goold  
P.O. Box 89  
Sprague River, OR. 97639

For the Oregon Water Resources Department:


HARDY MEYERS  
Attorney General

DATED: September 27, 2005

  
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[steve.sanders@doj.state.or.us](mailto:steve.sanders@doj.state.or.us)

ATTORNEYS FOR OREGON WATER  
RESOURCES DEPARTMENT

DATED: Sept 29, 2005

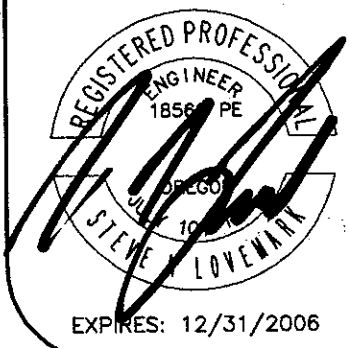
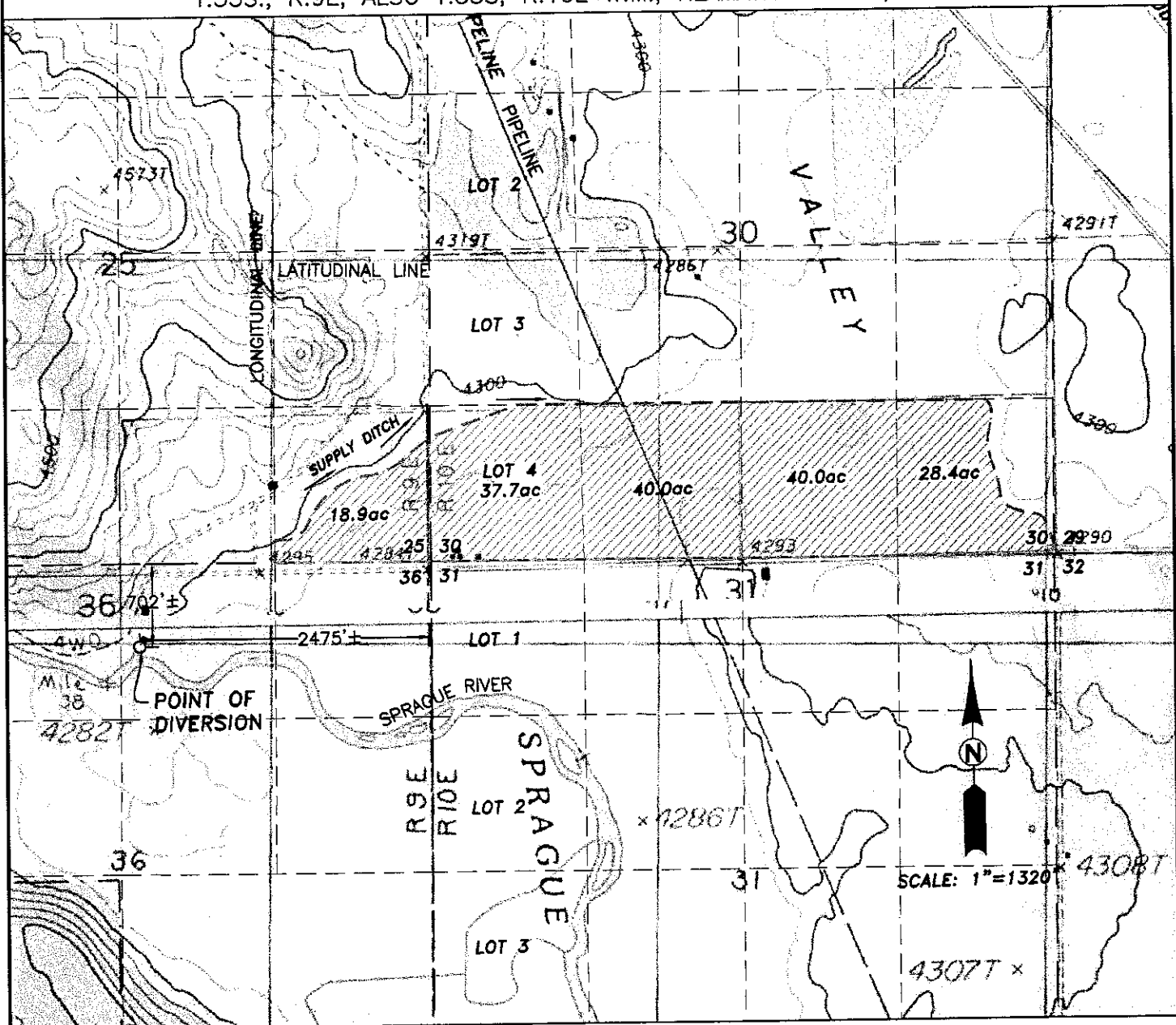
  
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MICHAEL J. REYNOLDS  
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Salem, Oregon 97301-1217  
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AGENCY REPRESENTATIVE FOR OREGON  
WATER RESOURCES DEPARTMENT



# ADJUDICATION CLAIM 98 MAP

FOR  
TILLIE L. GOULD TRUST  
CASE NO. 213

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 25,  
AND THE SOUTH HALF OF SECTION 30,  
T.35S., R.9E, ALSO T.35S, R.10E W.M., KLAMATH COUNTY, OR.



\*NOTE:  
BACKGROUND MAP PROVIDED  
THROUGH TERRAIN NAVIGATOR, USGS.

-  DIVERSION PUMP
-  IRRIGATED AREA (SHOWN IN ACRES)
- MAIN DITCH LOCATIONS ARE APPROXIMATE

THE PURPOSE OF THIS MAP IS TO  
IDENTIFY THE LOCATION OF THE  
WATER RIGHT ONLY. THERE IS NO  
INTENT TO PROVIDE DIMENSIONS OR  
LOCATIONS OF PROPERTY LINES.

**i.e.**  
ENGINEERING  
741 SE Jackson Street  
Roseburg, Oregon 97470  
PHONE (541) 873-0166  
FAX (541) 440-9392

PROJECT NO. 2033-01t5

## CERTIFICATE OF SERVICE

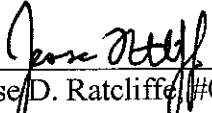
I hereby certify that on the 7th day of October 2005, I served the within  
STIPULATION TO RESOLVE CONTESTS on the parties hereto by regular first-class  
mail and by e-mail where an e-mail address is listed below, a true, exact and full copy  
thereof to:

**VIA STATE SHUTTLE MAIL**  
Dwight W. French / Teri Hranac  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
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