

HARDY MYERS
Attorney General



PETER D. SHEPHERD
Deputy Attorney General

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

November 17, 2005

TO ALL PARTIES

Re: Klamath Adjudication – Case No. 220, Claim No. 108, Contest No. 3105, 3486,
3753 and 4140
DOJ File No. 690-600-GN0192-03

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. 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 Attorney General
Natural Resources Section

JDR:tmc/GENO4631
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**

<p>United States of America; The Klamath Tribes; Klamath Irrigation District; Klamath Drainage District; Tulelake Irrigation District; Klamath Basin Improvement District; Ady Ditch Improvement Co.; Enterprise Irrigation District; Klamath Hills District Improvement Co.; Malin Irrigation District; Midland District Improvement Co.; Pine Grove Irrigation District; Pioneer District Improvement Co.; 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 Co.; and Collins Products, LLC;</p> <p style="text-align:center">Contestants,</p> <p style="text-align:center">vs.</p> <p>Thomas Wall Griffith; Lisa Gaye Griffith; Douglas Eugene Parker; Judy Ann Parker; Claimants.</p>	}	<p>STIPULATION TO RESOLVE CONTESTS</p> <p>Case No. 220</p> <p>Claim No. 108</p> <p>Contests 3105, 3486, 3753, and 4140</p>
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Claimants Thomas Wall Griffith, Lisa Gaye Griffith, Douglas Eugene Parker, and Judy Ann Parker (“Claimants”), the United States of America (“United States”), the Klamath Tribes (“Tribes”), 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:

A. STIPULATED FACTS

1. On January 30, 1991, Claim 108 was filed with OWRD by the original Claimant, Steven N. Beck. Current Claimants are successors in interest to the property at issue in Claim 108.
2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 108.
3. In May 2000, the Tribes filed a Statement of Contest of Claim and Preliminary Evaluation of Claim, Contest 4140.
4. In May 2000, the United States filed a Statement of Contest of Claim and Preliminary Evaluation of Claim, Contest 3753.
5. In May 2000, the KPWU filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 3486.
6. In May 2000, the Claimants filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 3105.
7. The Parties and OWRD agree that Contests 4140, 3753, 3105, and 3486 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 108 should be approved by the Adjudicator to the extent described below:

POINT OF DIVERSION LOCATION: SW1/4SE1/4, Section 3, Township 36
South, Range 10 East, Willamette Meridian.

SOURCE: Slough on the Sprague River, tributary to the Williamson River

PRIORITY DATE: October 14, 1864

USE: irrigation

///

RATE: 3.75 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 1

PLACE OF USE: 150 acres as shown below and on the attached map.

Acres	¼, ½	Sec.	Township	Range
10.4	SWSW	2	T36S	R10E
40.0	NWSW	2	T36S	R10E
31.4	NESW	2	T36S	R10E
17.4	SESW	2	T36S	R10E
24.8	SWNW	2	T36S	R10E
26.0	SESE	3	T36S	R10E
Total Acres: 150				

2. The Parties and OWRD agree that pursuant to the terms of this Stipulation, Contests 4140, 3753, 3105, and 3486 have been satisfactorily resolved, and such resolution ends the need for a hearing before the Administrative Law Judge on these Contests to Claim 108.

3. Based on the Stipulation of the Parties and OWRD that Claim 108 and the Contests thereto can be resolved without the need for a hearing, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 108 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 108 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 108 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 108 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 108.

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.

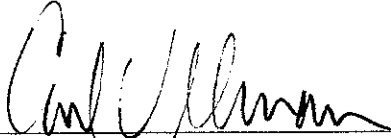
10. This Stipulation may be executed in several counterparts and all documents so executed shall constitute one Stipulation, binding on the Parties, notwithstanding that the Parties did not sign the same original or the same counterparts. Delivery of an executed signature page to this Stipulation by 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 Contestants, the Klamath Tribes:

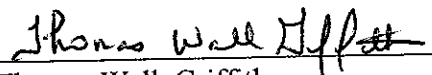
DATED: June 1, 2005



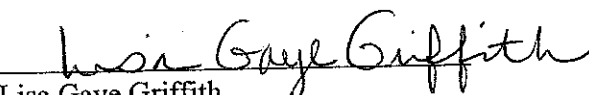
Carl V. Ullman
THE KLAMATH TRIBES
P.O. Box 957
Chiloquin, Oregon 97624
Phone: 541.783.3081
bullman3@earthlink.net

For the Claimants:

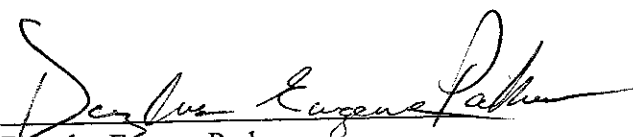
DATED: June 8, 2005


Thomas Wall Griffith


DATED: June 8, 2005


Lisa Gaye Griffith

DATED: June 9, 2005


Douglas Eugene Parker


DATED: June 9, 2005


Judy Ann Parker

For Contestant, the United States of
America:

DATED: June 1st, 2005

KELLY A. JOHNSON
Acting Assistant Attorney General

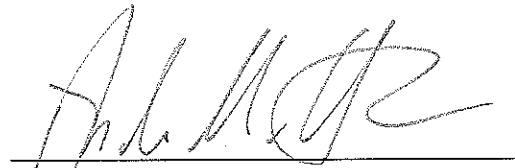
A handwritten signature in black ink, appearing to read "D.W. Harder", written over a horizontal line.

David W. Harder
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ATTORNEY FOR THE UNITED STATES OF
AMERICA

For Contestants, the Klamath Project Water Users:

DATED: June 1, 2005




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For the Oregon Water Resources Department:

HARDY MEYERS
Attorney General


October
DATED: ~~June~~ 7, 2005



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ATTORNEYS FOR OREGON WATER
RESOURCES DEPARTMENT

Nov.
DATED: ~~June~~ 14, 2005



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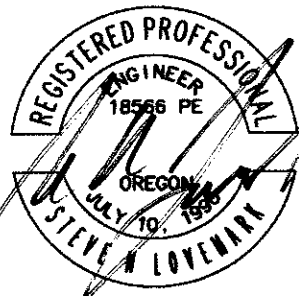
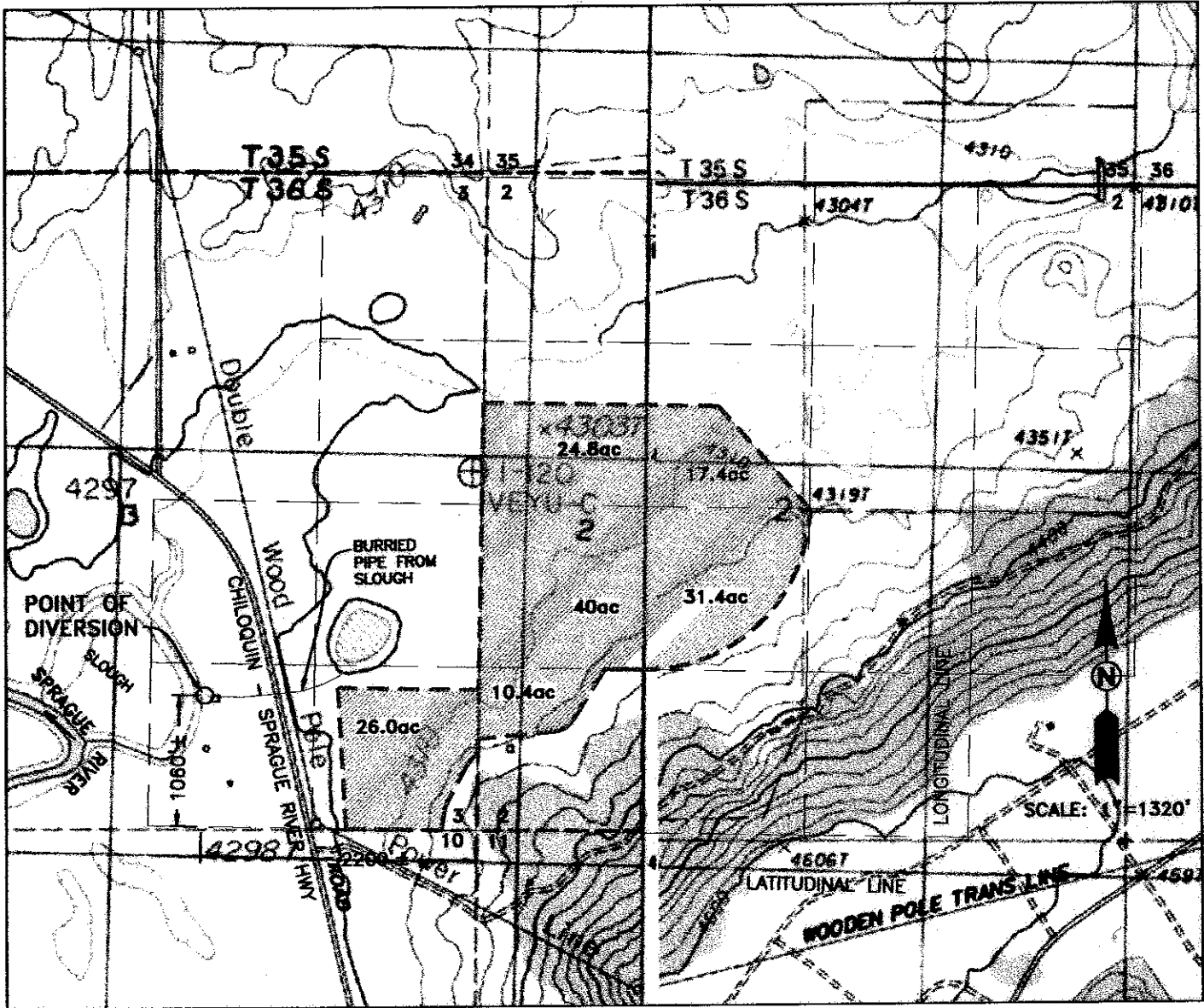
AGENCY REPRESENTATIVE FOR OREGON
WATER RESOURCES DEPARTMENT

ADJUDICATION CLAIM MAP

FOR
**THOMAS W. GRIFFITH &
 DOUGLAS PARKER**

CLAIM# 108 CASE# 220

LOCATED IN SECTION 2 & THE S.E. 1/4 OF SECTION 3,
 T.36S., R.10E, W.M. KLAMATH COUNTY, OREGON



*NOTE:
 BACKGROUND MAP PROVIDED
 THROUGH TERRAIN NAVIGATOR, USGS.
 IRRIGATED AREAS SHOWN IN ACRES.

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.

- DIVERSION PUMP
- IRRIGATED AREA

RECEIVED

NOV 14 2005

WATER RESOURCES DEPT
 SALEM, OREGON

i.e.
 ENGINEERING
 741 SE Jackson Street
 Roseburg, Oregon 97470
 PHONE (541) 673-0168
 FAX (541) 440-9392

PROJECT NO. 2033-0117

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of November 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
dwright.w.french@state.or.us
teri.k.hranac@wrdd.state.or.us

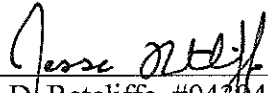
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