

**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; 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;  
Contestants,

vs.

Lynne R. Cabral; D. G. Richardson; Jean Richardson  
Claimants/Contestants.

**STIPULATION TO RESOLVE  
CONTESTS**

Case No. 221  
Claim No. 109  
Contests 42, 3487, 3754, and 4141

Claimants Lynne R. Cabral, D. G. Richardson, and Jean Richardson (collectively  
“Claimants”), the United States of America (“United States”), the Klamath Tribes (“Tribes”), the  
Klamath Project Water Users (“KPWU”), (collectively Contestants), 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**

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1. On January 18, 1991, Claim 109 was filed with OWRD by the original Claimant, Richard Cabral. Current Claimants are successors in interest to the property at issue in Claim 109.
2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 109.
3. On May 5, 2000, the Tribes filed a Statement of Contest of Claim and Preliminary Evaluation of Claim, Contest 4141.
4. On May 4, 2000, the United States filed a Statement of Contest of Claim and Preliminary Evaluation of Claim, Contest 3754.
5. On May 2, 2000, the KPWU filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 3487.
6. On April 27, 2000, the Claimants filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 42.
7. Claimants, Contestants, and OWRD agree that Contests 4141, 3754, 42, and 3487 can be resolved without the need for a hearing pursuant to the terms set forth below.

**B. TERMS OF STIPULATION**

1. Claimants, Contestants, and OWRD agree that Claim 109 should be approved by the Adjudicator to the extent described below:

POINT OF DIVERSION LOCATION: NW1/4SW1/4, Section 3, Township 36 South, Range 10 East, Willamette Meridian.

The Point of Diversion is set forth more particularly in the map found in OWRD Exhibit 1 at 9 and which is incorporated by reference as if set forth fully herein.

SOURCE: Sprague River, tributary to the Williamson River

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PRIORITY DATE: October 14, 1864

USE: irrigation

RATE: 7.82 cubic feet per second, measured at the point of diversion

DUTY: 3 acre feet per acre

PERIOD OF USE: April 15 – October 15

PLACE OF USE: Table below and the lands crosshatched from SW to NE in  
OWRD Exhibit 1 at 9 and which is incorporated by reference as if set forth fully  
herein.

Acres	¼, ¼	Sec.	Township	Range
20	SWNE	4	T36S	R10E
14.7	SWNW	4	T36S	R10E
37	SENW	4	T36S	R10E
40	NESW	4	T36S	R10E
35	NWSW	4	T36S	R10E
35	SWSW	4	T36S	R10E
36	SESW	4	T36S	R10E
16.1	NESE	4	T36S	R10E
39	NWSE	4	T36S	R10E
20	SWSE	4	T35S	R10E
18	SESE	4	T35S	R10E
2.0	NWSW	3	T35S	R10E
Total Acres: 312.8				

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2. Claimants, Contestants and OWRD agree that pursuant to the terms of this Stipulation, Contests 4141, 3754, 42, and 3487 have been satisfactorily resolved, and such resolution ends the need for a hearing before the Administrative Law Judge on these Contests to Claim 109.

3. Based on the Stipulation of Claimants, Contestants and OWRD that Claim 109 and the Contests thereto can be resolved without the need for a hearing, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 109 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 109 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 109 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 109 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 109.

5. Claimants and Contestants agree not to oppose or object to this Agreement or any of its terms, provisions, conditions, or covenants and to support this Agreement 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

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interpret and/or enforce the terms of this Stipulation. Further, the signatories to this Stipulation 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.

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.

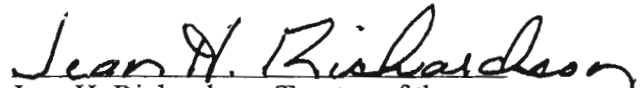
11. The Parties agree and acknowledge that this Stipulation has been drafted and reviewed through joint efforts of their respective legal counsel after full and arms-length negotiations; therefore, the usual rule of contractual construction that all ambiguities shall be construed against the drafting 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 the Claimants:

DATED: January \_\_, 2005

  
Lynne Richardson Cabral

  
Jean H. Richardson, Trustee of the  
D. G. Richardson and Jean H. Richardson  
Revocable Trust

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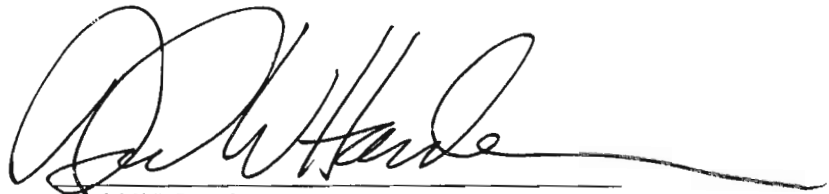
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For Contestant, the United States of America:

DATED: February 16, 2005

THOMAS L. SANSONETTI  
Assistant Attorney General

A handwritten signature in black ink, appearing to read "D. Harder", with a long horizontal flourish extending to the right.

David W. Harder  
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ATTORNEY FOR THE UNITED STATES OF  
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For Contestants, the Klamath Tribes:

DATED: February 16, 2005



LORNA K. BABBY, Montana State Bar No. 4235

Native American Rights Fund

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Facsimile: (303) 443-7776

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For Contestants, the Klamath Project Water Users:

DATED: February 16, 2005



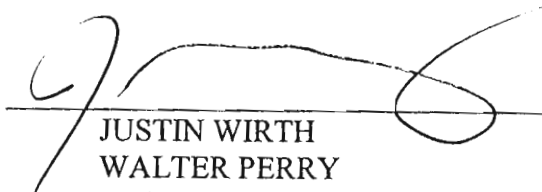
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For the Oregon Water Resources Department:

HARDY MEYERS  
Attorney General

DATED: <sup>March</sup> ~~January~~ 14, 2005

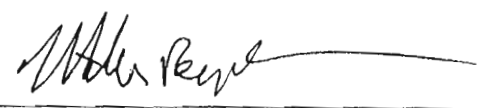


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ATTORNEYS FOR OREGON WATER  
RESOURCES DEPARTMENT

DATED: <sup>March</sup> ~~January~~ 15, 2005



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AGENCY REPRESENTATIVE FOR OREGON  
WATER RESOURCES DEPARTMENT

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## CERTIFICATE OF SERVICE

I hereby certify that on the 15<sup>th</sup> day of March 2005, I served the within LETTER TO ALL PARTIES WITH COPY OF STIPULATION TO RESOLVE CONTESTS 42, 3487, 3754 and 4141 on the parties hereto by regular first-class mail (with a courtesy copy by e-mail where an e-mail address is listed below), a true, exact and full copy thereof to:

### VIA STATE SHUTTLE MAIL

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[babby@narf.org](mailto:babby@narf.org)

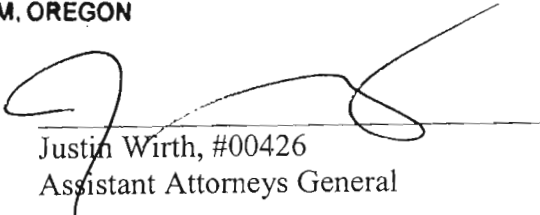
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