

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. 237, Claim No. 130, Contest Nos. 2847, 3109,
3771, and 4159
DOJ File No. 690-600-GN0208-03

Dear Parties:

Enclosed for your records is a fully executed copy of the Stipulation to Resolve Contests and Certificate of Service in the above 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/GENOO353
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 Contestant, vs. River Springs Ranch Co.; Claimant/Contestant. | } | STIPULATION TO RESOLVE CONTESTS Case: 237 Claim: 130 Contests: 3109 ¹ , and 3771 ² |
|--|---|--|

Claimant River Springs Ranch Co., (collectively "Claimant"), the United States of America ("United States") 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 31, 1991, Claim 130 was filed with OWRD by the original Claimant, River Springs Ranch Co.
2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 130.
3. On May 8, 2000, the Claimant filed a Statement of Contest of Claim and Preliminary Evaluation of Claim, Contest 3109.

¹ WaterWatch of Oregon, Inc.'s Contest 2847 was dismissed. See ORDER DISMISSING WATERWATCH OF OREGON, INC.'S CONTESTS, May 20, 2003

² The Klamath Tribes voluntarily withdrew their Contest No. 4159 on March 24, 2005.

4. On May 8, 2000, the United States filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 3771.

5. Claimant, Contestant, and OWRD agree that Contests 3109 and 3771 can be resolved without the need for a hearing pursuant to the terms set forth below.

B. TERMS OF STIPULATION

1. Claimant, Contestant, and OWRD agree that Claim 130 should be approved by the Adjudicator to the extent described below:

POINT OF DIVERSION LOCATIONS:

No. 1. NE1/4NW1/4, Section 22, Township 36 South, Range 13 East, Willamette Meridian.

No. 2. SESW, Section 14, Township 36 South, Range 13 East.

The Points of Diversion are set forth more particularly in the attached map.

SOURCE: Sprague River, tributary to the Williamson River

PRIORITY DATE: October 14, 1864

USE: irrigation of 336.5 acres

RATE: 8.41 cubic feet per second total, measured at the point of diversion, with a rate of 3.11 cubic feet per second at POD No. 1 and 5.3 cubic feet per second at POD No. 2.

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

PERIOD OF USE: April 15 – November 15

PLACE OF USE: 336.5 acres; see two tables below and the attached map.

For POINT OF DIVERSION No. 1, the PLACE OF USE is:

| Acres | ¼, ¼ | Sec. | Township | Range |
|--------------------|------|------|----------|-------|
| 13.9 | SESW | 15 | T36S | R13E |
| 36.7 | SWSE | 15 | T36S | R13E |
| 30.5 | SESE | 15 | T36S | R13E |
| 11.2 | NWSE | 15 | T36S | R13E |
| 1.2 | NESE | 15 | T36S | R13E |
| 9.6 | NESW | 15 | T36S | R13E |
| 10.1 | NWNE | 22 | T36S | R13E |
| 6.1 | NENW | 22 | T36S | R13E |
| 5.2 | NENE | 22 | T36S | R13E |
| Total Acres: 124.5 | | | | |

For POINT OF DIVERSION No. 2, the PLACE OF USE is:

| Acres | ¼, ¼ | Sec. | Township | Range |
|--------------------|------|------|----------|-------|
| 30.7 | SWSW | 14 | T36S | R13E |
| 19.0 | SESW | 14 | T36S | R13E |
| 11.9 | SWSE | 14 | T36S | R13E |
| 20.5 | SESE | 14 | T36S | R13E |
| 3.5 | SESE | 15 | T36S | R13E |
| 3.7 | NENE | 22 | T36S | R13E |
| 31.5 | NWNW | 23 | T36S | R13E |
| 31.3 | NENW | 23 | T36S | R13E |
| 22.9 | NWNE | 23 | T36S | R13E |
| 37.0 | NENE | 23 | T36S | R13E |
| Total Acres: 212.0 | | | | |

2. Claimant, Contestant and OWRD agree that pursuant to the terms of this Stipulation, Contests 3109 and 3771 have been satisfactorily resolved, and such resolution ends the need for a hearing before the Administrative Law Judge on these Contests to Claim 130.

3. Based on the Stipulation of Claimant, Contestant and OWRD agree that Claim 130 and the Contests thereto can be resolved without the need for a hearing. OWRD adjudication staff hereby recommends to the Adjudicator that Claim 130 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 130 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 130 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 130 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 130.

5. Claimant and Contestant 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 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.

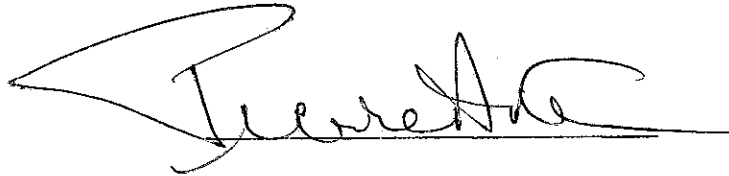
11. The Parties agree and acknowledge that this Stipulation has been drafted and reviewed through joint efforts of their respective legal counsel after full and arms-length negotiations; therefore, the usual rule of contractual construction that all ambiguities shall be construed against the drafting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

DATED: August __, 2005

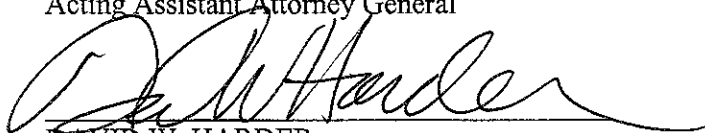
A handwritten signature in black ink, appearing to read "Pierre Kern", written over a horizontal line. The signature is stylized and cursive.

PIERRE KERN, for River Springs Ranch Co

For Contestant, the United States of America:

September 15,
DATED: August , 2005

KELLY JOHNSON
Acting Assistant Attorney General



DAVID W. HARDER
Trial Attorney
Indian Resources Section
Environment & Natural Resources Division
U.S. Department of Justice
999 - 18th Street, Suite 945
Denver, CO 80202-2449
Telephone: 303.312.7328
Telefax: 303.312.7379
david.harder@usdoj.gov

ATTORNEY FOR THE UNITED STATES OF
AMERICA

For the Oregon Water Resources Department:

HARDY MEYERS
Attorney General

DATED: ^{September} ~~August~~ 27th, 2005



STEPHEN E.A. SANDERS
JESSE D. RATCLIFFE
Assistant Attorneys General
Oregon Department of Justice
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-4409
Telefax: (503) 378-3802
e-mail: steve.sanders@doj.state.or.us
jesse.d.ratcliffe@doj.state.or.us

ATTORNEYS FOR OREGON WATER
RESOURCES DEPARTMENT

DATED: ^{Sept. 29} ~~August~~ __, 2005



MICHAEL J. REYNOLDS
Oregon Water Resources Department
725 Summer Street, NE, Suite A
Salem, Oregon 97301-1217
Telephone: (503) 986-0825
Telefax: (503) 986-0901
e-mail: michael.j.reynolds@wrд.state.or.us

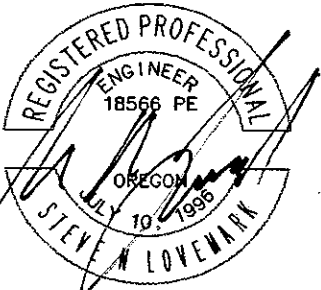
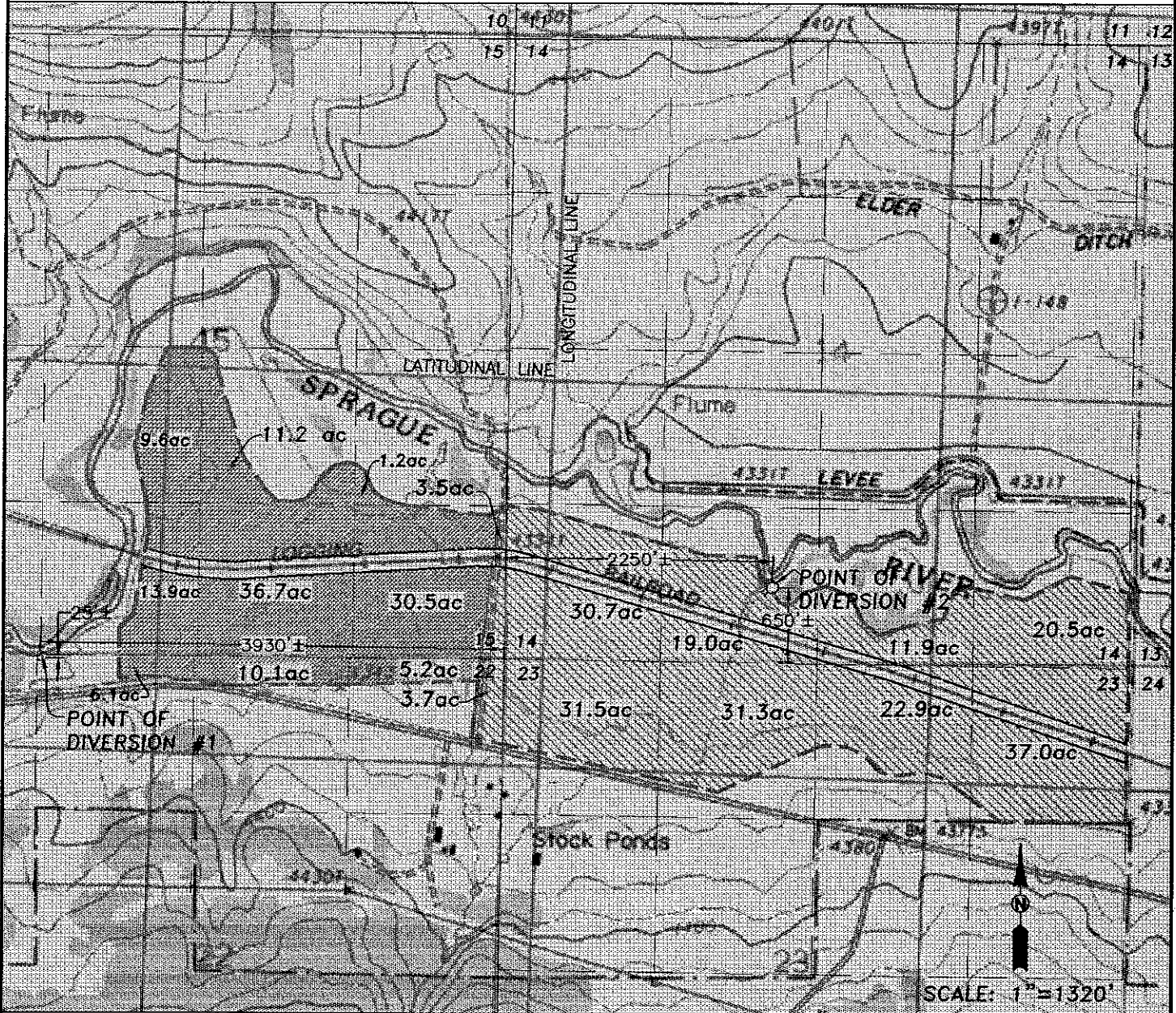
AGENCY REPRESENTATIVE FOR OREGON
WATER RESOURCES DEPARTMENT

ADJUDICATION CLAIM 130 MAP

FOR
RIVER SPRINGS RANCH CO.




CASE NO. 237

LOCATED IN SECTION 15 & THE SOUTHERLY HALF OF SECTION 14,
THE NORTHERLY HALF OF SECTION 22, AND THE NORTHERLY HALF OF
SECTION 23, T.36S., R.13E, W.M., KLAMATH COUNTY, OR.



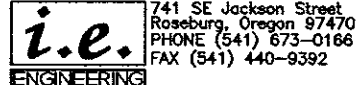
EXPIRES: 12/31/2006

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

-  DIVERSION PUMP
-  IRRIGATED AREA ON DIVERSION PUMP #1
-  IRRIGATED AREA ON DIVERSION PUMP #2

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.



PROJECT NO. 2033-01t3

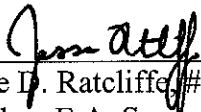
CERTIFICATE OF SERVICE

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
dwight.w.french@state.or.us
teri.k.hranac@wrdd.state.or.us

David Harder
U.S. Department of Justice
Environment and Natural Resources Div.
999 18th Street, Suite 945
Denver, CO 80202
david.harder@usdoj.gov

Ronald S. Yockim
Attorney at Law
548 SE Jackson, Suite 7
P.O. Box 2456
Roseburg, OR 97470
ryockim@mcsi.net



Jesse D. Ratcliffe, #04394
Stephen E.A. Sanders, #85321
Assistant Attorneys General