



DEPARTMENT OF JUSTICE  
GENERAL COUNSEL DIVISION

November 9, 2007

TO ALL PARTIES

Re: Klamath Adjudication – **Consolidated Case No. 209** -- Case Nos. 51, 59, 62, 63, 69, 71, 88, 98, 209, 243, 244, 250, 252, 269 and 270; Claim Nos. 84, 241, 243, 248, 250, 253, 260, 266, 269, 682, 688, 700, 702, 705 and 706; Contest Nos. 1724, 1725, 1729, 1737, 1742, 1744, 1759, 1769, 1770, 1771, 2839, 3260, 3261, 3278, 3473, 3528, 3529, 3532, 3534, 3542, 3547, 3550, 3565, 3569, 3578, 3580, 3581, 3582, 3635, 3745, 3774, 3775, 3777, 3778, 4129, 4204, 4205, 4239, 4241  
DOJ File No. 690-600-GN0276-03

Dear Parties:

Enclosed for your records is a fully executed copy of the STIPULATION TO RESOLVE CONTEST 1742 (Ridenour); STIPULATION TO RESOLVE CONTEST 1729 (Hess); STIPULATION TO RESOLVE CONTEST 1769 (Sheppard-Blair); STIPULATION TO RESOLVE CONTEST 1744 (Sheppard-Blair); STIPULATION TO RESOLVE CONTEST 1737 (Lang); STIPULATION TO RESOLVE CONTEST 3578 (Cauvin, Walch & KPWU); STIPULATION TO RESOLVE CONTEST 1724 (Gallagher); STIPULATION TO RESOLVE CONTEST 1759 (Hicks); and CERTIFICATE OF SERVICE in the above-entitled matter. These agreements resolve all the remaining issues in the case. Accordingly, the Oregon Water Resources Department will withdraw these cases 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  
Assistant Attorney General  
Natural Resources Section

JDR:tmc/GENV8077  
Enclosures  
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; the Klamath Tribes;  
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 Company;  
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.; Reames Golf and  
Country Club; Van Brimmer Ditch Co.; Plevna  
District Improvement Company; and Collins  
Products, LLC,

Contestants,

vs.

Melinda Cauvin and Loren Walch,

Claimants.

**STIPULATION TO RESOLVE  
CONTEST NO. 3578**

Claim No. 700

Contest Nos. 3578, 3778 and 4241

The Oregon Water Resources Department (hereinafter "OWRD"), Claimants Melinda  
Cauvin and Loren Walch (hereinafter "Claimants"), and Contestant Klamath Project Water Users  
(KPWU)<sup>2</sup> hereby agree and stipulate as follows:

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<sup>2</sup> Klamath Irrigation District; Klamath Drainage District; Tulelake Irrigation District; Klamath Basin Improvement  
District; Ady District Improvement Co.; Enterprise Irrigation District; Klamath Hills District Improvement Co.;  
Malin Irrigation District; Midland District Improvement District; Pine Grove Irrigation District; Pioneer District  
Improvement Co.; Poe Valley Improvement District; Shasta View 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, (hereinafter collectively "KPWU").

### **A. STIPULATED FACTS**

1. On January 31, 1991, the Claimants' predecessors-in-interest filed Claim 700 with OWRD. Claim 700 was originally filed by William and Karen Ray, members of the Klamath Tribes. Melinda Cauvin and Loren Walch, non-Indians, currently own the property described as the place of use in Claim 700.

2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 700.

3. The following contests were filed to Claim 700: Contest 3778, filed by the United States; Contest 4241 filed by the Klamath Tribes; and Contest 3578, filed by KPWU. The Klamath Tribes withdrew Contest 4241 on May 30, 2007, and the United States withdrew Contest 3778 on June 4, 2007.

4. Claimants, KPWU, and OWRD agree that Contest 3578 can be resolved without the need for further proceedings, pursuant to the terms set forth below.

### **B. TERMS AND PROVISIONS**

1. Claimants, KPWU, and OWRD agree that Claim 700 should be approved by the Adjudicator as described below:

POINT OF DIVERSION LOCATION: NE  $\frac{1}{4}$  SE  $\frac{1}{4}$ , Section 3, Township 35 South, Range 7 East, W.M.

SOURCE: Sprague River, tributary to Williamson River

USE: Irrigation of 80.0 acres and livestock use.

AMOUNT ACTUALLY BENEFICIALLY USED FOR IRRIGATION AND LIVESTOCK: 2.0 cubic feet per second (cfs) measured at the point of diversion for irrigation; 1920 gallons per day for livestock.

DUTY: 3.5 Acre-Feet/Acre/Year.

IRRIGATION AND LIVESTOCK PERIOD OF USE: March 1 through October 16.

PRIORITY DATE: October 14, 1864.

PLACE OF USE:

LOT 17 (NE ¼ SE ¼)	20.0 ACRES IRRIGATION AND LIVESTOCK
LOT 18 (NW ¼ SE ¼)	20.0 ACRES IRRIGATION AND LIVESTOCK
LOT 23 (NW ¼ SE ¼)	20.0 ACRES IRRIGATION AND LIVESTOCK
LOT 24 (NE ¼ SE ¼)	20.0 ACRES IRRIGATION AND LIVESTOCK

SECTION 5

TOWNSHIP 36 SOUTH, RANGE 7 EAST, W.M.

The place of use is shown more particularly on the map attached hereto as Exhibit A, which is incorporated by reference as if set forth fully herein.

2. Claimants, KPWU and OWRD agree that pursuant to the terms and provisions of this Stipulation, Contest 3578 has been satisfactorily resolved, and such resolution ends the need for further proceedings before the Administrative Law Judge on this contest to Claim 700.

3. Based on the Stipulation of Claimants, KPWU, and OWRD that Claim 700 and the Contest thereto can be resolved without the need for further proceedings, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 700 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 700 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 700 does not conform to the terms set forth in paragraph B.1., above, Claimant and Contestants reserve any rights they may have to file exceptions to the Finding of Fact and Order of Determination as to Claim 700 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 700.

5. The Parties agree that this Stipulation has been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation. The Parties

agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest. The parties agree that this 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 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.

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

7. 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.

8. 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.

9. 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.

10. This Stipulation comprises the entire agreement and no promise, inducement, or representation other than herein set forth has been made, offered, and/or agreed upon, and the terms of this Stipulation are contractual and not merely a recital.

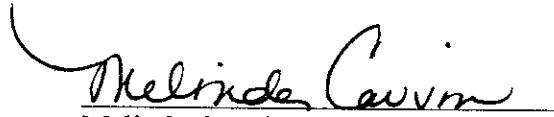
11. The Parties agree to bear their own costs and attorneys' fees.

12. This Stipulation shall be effective as of the date of the last signature hereto.

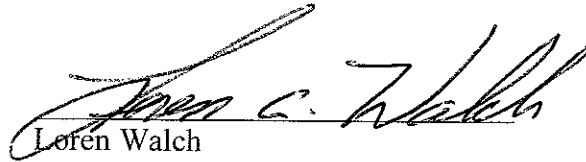
STIPULATED, AGREED AND APPROVED BY:

For Claimants:

Dated: October 13 2007

  
Melinda Cauvin  
P.O. Box 519  
Chiloquin, OR 97624

Dated: October 13 2007

  
Loren Walch  
P.O. Box 519  
Chiloquin, OR 97624

For Contestants, the Klamath Project Water Users:

Dated: October 9 2007

  
ANDREW M. HITCHINGS  
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Somach, Simmons & Dunn  
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[psimmons@somachlaw.com](mailto:psimmons@somachlaw.com)

For Claimants:

Dated: October \_\_ 2007

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Melinda Cauvin  
P.O. Box 519  
Chiloquin, OR 97624

Dated: October \_\_ 2007

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Loren Walch  
P.O. Box 519  
Chiloquin, OR 97624

For Contestants, the Klamath Project Water Users:

Dated: October 7 2007



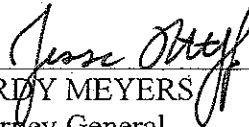
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For the Oregon Water Resources Department:

Dated: <sup>November</sup> ~~October~~ 9 2007

  
\_\_\_\_\_  
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Dated: October     2007

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**OREGON WATER RESOURCES  
DEPARTMENT STAFF**

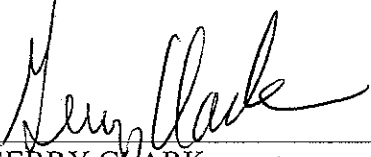
For the Oregon Water Resources Department:

Dated: October \_\_ 2007

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*Nov. 5*  
Dated: ~~October~~ \_\_ 2007



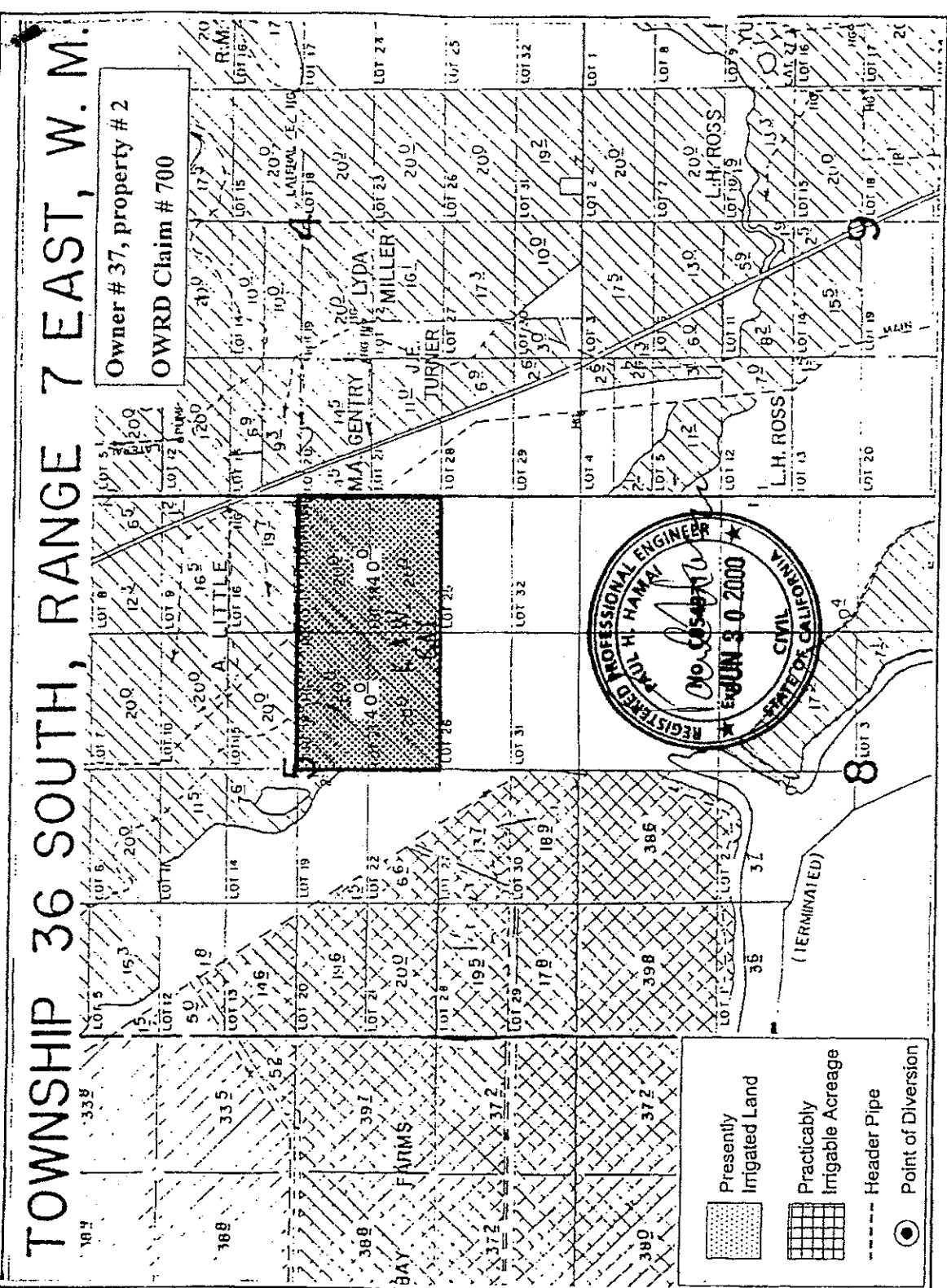
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**OREGON WATER RESOURCES  
DEPARTMENT STAFF**

# TOWNSHIP 36 SOUTH, RANGE 7 EAST, W. M.

Owner # 37, property # 2  
 OWRD Claim # 700



By: Natural Resources Consulting Engineers Inc.  
 1250 Addison St., Suite 204  
 Berkeley, Ca. 94702  
 Berkeley (510)841-7814

## CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of November 2007, I served the within  
STIPULATION TO RESOLVE CONTEST 1742 (Ridenour); STIPULATION TO  
RESOLVE CONTEST 1729 (Hess); STIPULATION TO RESOLVE CONTEST 1769  
(Sheppard-Blair); STIPULATION TO RESOLVE CONTEST 1744 (Sheppard-Blair);  
STIPULATION TO RESOLVE CONTEST 1737 (Lang); STIPULATION TO  
RESOLVE CONTEST 3578 (Cauvin, Walch & KPWU); STIPULATION TO RESOLVE  
CONTEST 1724 (Gallagher); STIPULATION TO RESOLVE CONTEST 1759 (Hicks);  
and CERTIFICATE OF SERVICE on the parties hereto by e-mail (if an  
e-mail address is listed below), and by regular first-class mail, a true, exact and full copy  
thereof to:

**VIA STATE SHUTTLE MAIL**

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**COURTESY COPY:**

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Claim 248

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Melissa Hess  
P.O. Box 111  
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Claim 700

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Claim 700

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Agency Representative  
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Steven L. Shropshire

Jordan Schrader PC  
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[steve.shropshire@jordanschrader.com](mailto:steve.shropshire@jordanschrader.com)

Claim 682:

L.A. and Pauline Gienger  
Gienger Investments, Inc.  
Gienger Enterprises  
25050 Modoc Point Road  
Chiloquin, OR 97624

Claims 269 & 702

Marylyn Sheppard-Blair  
P.O. Box 1279  
Chiloquin, OR 97624

Claim 260

Stephen and Beverly Lang  
29029 Doak Road  
Chiloquin, OR 97624

Claim 688

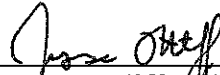
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1836 Wiard Street  
Klamath Falls, Oregon 97603

Courtesy Copy:

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Keller & Keller P.C.  
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Claim 241

Cecil Gallagher  
P.O. Box 647  
Chiloquin, OR 97624



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Jesse D. Ratcliffe, #04394  
Assistant Attorney General