

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 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; 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;

**STIPULATION TO VOLUNTARY  
WITHDRAWAL OF CLAIM 30**

Contestants;

vs.

Case No. 174  
Claim No. 30

Alvin R. Marengo and Peggy A. Marengo;

Contests 3265, 3442, 3727, and 4086

Claimants/Contestants.

The Oregon Water Resources Department (hereinafter "OWRD"),  
Claimants/Contestants Alvin R. Marengo and Peggy A. Marengo (hereinafter  
"Claimants"), Contestant the United States of America (hereinafter "United States"),  
Contestants Klamath Irrigation District; Klamath Drainage District; Tulelake Irrigation  
District; Klamath Basin Improvement District; Ady District Improvement Co.; Enterprise

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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; 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 (hereinafter collectively “Klamath Project Water Users”), and Contestant the Klamath Tribes (hereinafter “Tribes”) hereby agree and stipulate as follows:

**A. STIPULATED FACTS**

1. On December 3, 1990, the Claimants filed Claim 30 with OWRD.
2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 30 preliminarily denying the claim.
3. The following contests were filed to Claim 30: Contest 3265, filed by the Claimants; Contest 3442, filed by the Klamath Project Water Users; Contest 3727, filed by the United States; and Contest 4086, filed by the Tribes (hereinafter collectively “Contestants”).
4. Claimants, Contestants, and OWRD agree that Contests 3265, 3442, 3727, and 4086 can be resolved without the need for further proceedings, pursuant to the terms set forth below.

**B. TERMS AND PROVISIONS**

1. Claimants, Contestants, and OWRD agree that Claim 30 is voluntarily withdrawn and should be dismissed, with prejudice.

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2. Claimants, Contestants and OWRD agree that pursuant to the terms and provisions of this Stipulation, Contests 3265, 3442, 3727, and 4086 have been satisfactorily resolved, and such resolution ends the need for further proceedings before the Administrative Law Judge on these contests to Claim 30.

3. Based on the Stipulation of Claimants, Contestants and OWRD that Claim 30 and the Contests thereto can be resolved without the need for further proceedings, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 30 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 30 be dismissed, with prejudice, 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 30 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 30 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 30.

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

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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.

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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.

STIPLULATED, AGREED AND APPROVED BY:

CLAIMANTS/CONTESTANTS:

Dated: July 19, 2004

*Withdrawal of Claim #30  
does not affect certificate #  
29625*

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Red Bluff, CA 96080

*Peggy A. Marengo*  
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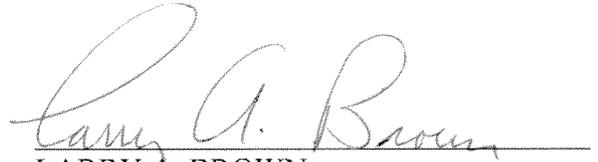
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For Contestant, the United States of America:

Dated: July \_\_, 2004



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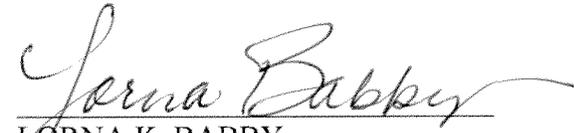
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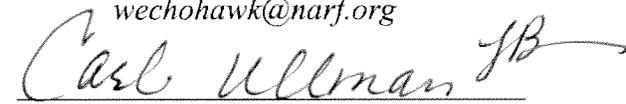
WATER RESOURCES DEPT  
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For Contestants, the Klamath Tribes:

Dated: July 13, 2004



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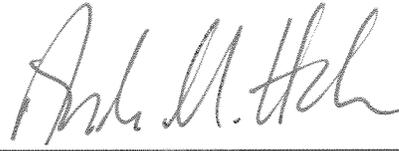
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For Contestants, the Klamath Project Water Users:

Dated: July 14, 2004



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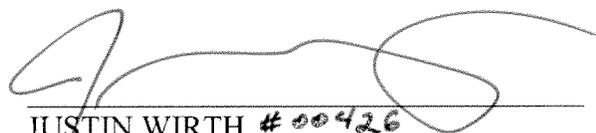
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For the Oregon Water Resources Department:

HARDY MEYERS  
Attorney General

Dated: July 23, 2004



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Dated: July 23, 2004



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AGENCY REPRESENTATIVE FOR  
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DEPARTMENT

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