

BEFORE THE HEARING OFFICER PANEL
STATE OF OREGON
for the
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

Horsefly Irrigation District; Langell Valley Irrigation District; Medford Irrigation District; Rogue River Irrigation District; 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 Co.; 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 Company; Winema Hunting Lodge, Inc.; Reames Golf and Country Club; Van Brimmer Ditch Company; Plevna District Improvement Company; Collins Products, LLC,
Contestants,

**STIPULATION TO RESOLVE
CONTEST 3516**

Case No. 267
Claim No. 125
Contests 3130¹ and 3516

v.

The Morgana Hunter Loving Trust,
Claimant.

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 Co., Pine Grove Irrigation District, Pioneer

¹ Contest 3130 was withdrawn by Contestants Langell Valley Irrigation District, Horsefly Irrigation District, Medford Irrigation District and Rogue River Valley Irrigation District on February 3, 2003.

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District Improvement Company, Poe Valley Improvement District, Shasta View Irrigation District, Sunnyside Irrigation District, Don Johnston & Son, Bradley S. Luscombe, Berlva Pritchard², Don Vincent³, Randy Walthall, Inter-County Title Company, Winema Hunting Lodge, Inc., Reames Golf and Country Club, Van Brimmer Ditch Company, Plevna District Improvement Company, and Collins Products, LLC , (collectively referred to as Klamath Project Water Users (“KPWU”)) and the Oregon Water Resources Department (“OWRD”), do hereby agree and stipulate, and request the Adjudicator to resolve the above-captioned claim and contest, as follows:

STIPULATION TO RESOLVE CONTEST

A. STIPULATED FACTS

1. On December 3, 1990, Bettie L. Hunter submitted a Statement and Proof of Claim (Claim 125) to OWRD for a total of 450 gallons per minute from the Sprague River, tributary to the Klamath River, for irrigation. The claimed priority date is 1864, based on the “Klamath Indian Reservation.” The property that is the subject of Claim 125 was subsequently transferred to the Morgana Hunter Loving Trust (Claimant).
2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 125 stating that the elements of an Allottee claim were not established.
3. On May 8, 2000, KPWU filed contest 3516 to Claim 125.
4. The Claimant did not file a contest to the preliminary denial of his claim by the Adjudicator in the Preliminary Evaluation.

² Berlva Pritchard voluntarily withdrew from contest 3516. See Notice of Withdrawal of Claimant dated June 24, 2002.

³ Don Vincent voluntarily withdrew from contest 3516. See Notice of Withdrawal of Claimant dated November 28, 2000.

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5. The contest filed to Claim 125 by KPWU concurred with the Adjudicator's Preliminary Evaluation preliminarily denying Claim 125 and asserted that the Adjudicator should deny the claim in its entirety.

6. On February 12, 2003, the Claimant was sent notice of this stipulation by certified mail with return receipt requested. This notice informed the claimant that if it did not object on or before March 12, 2003, then this stipulation would be executed by KPWU and OWRD, and the Adjudicator would withdraw this case from the Hearing Officer Panel. On February 25, 2003, OWRD received the returned receipt mail card signed by the Claimant. Claimant failed to object by the March 12, 2003 deadline stated in the notice.

7. OWRD and KPWU agree that Contest 3156 can be resolved without the need for a hearing based on the terms described below.

B. TERMS OF THE AGREEMENT

1. OWRD and KPWU agree that the Adjudicator's entry of a Final Order of Determination denying Claim 125 will satisfactorily resolve contest 3156 and vitiate the need for a hearing before the Hearing Officer on this claim.

2. Based on the agreement of OWRD and KPWU that this contest can be resolved without the need for a hearing, OWRD adjudication staff hereby recommends to the Adjudicator that he withdraw the referral of Claim 125 from the Hearing Officer Panel.

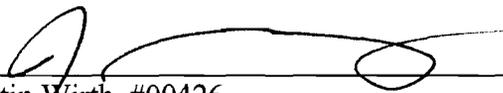
3. Based on its review of the records in this case, OWRD adjudication staff hereby recommends to the Adjudicator that he enter a Final Order of Determination

denying Claim 125 on the basis that the record does not establish the elements necessary to have Claim 125 approved.

4. If the Final Order of Determination issued by the Adjudicator for Claim 125 does not follow the recommendation of OWRD adjudication staff that the claim be denied, as set forth in the preceding paragraph (paragraph 3), KPWU reserve the right to file exceptions to the Final Order of Determination as to Claim 125 in the Circuit Court for Klamath County and reserve the right to participate in any other future proceedings authorized by law.

For the Oregon Water Resources Department

HARDY MEYERS
Attorney General


Justin Wirth, #00426
Walter Perry, III, #83361
Assistant Attorneys General

Date 4/27/03


Kimberly Grigsby, Agency Representative
Oregon Water Resources Department

Date 4/24/03

For Contestants, Klamath Project Water Users


Andrew M. Hitchings, Esq.
Pro Hac Vice; Cal. Bar No. 154554
Of Attorneys for Tulelake Irrigation District,
and on behalf of Klamath Project Water Users

Date 4/22/03

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