

HARDY MYERS
Attorney General



PETER D. SHEPHERD
Deputy Attorney General

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

September 20, 2006

TO ALL PARTIES

Re: Klamath Adjudication – Case No. 85, Claim No. 683, Contest Nos. 1757 and
3566
DOJ File No. 690-600-GN0320-03

Dear Parties:

Enclosed for your records is a fully executed copy of the Stipulation to Resolve Contests and Certificate of Service in the above-entitled matter. This agreement resolves all the remaining issues in this case. 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
Assistant Attorney General
Natural Resources Section

JDR:tmc/GENR3288
Enclosure
c: Service List

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
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

Klamath Irrigation District; Klamath Drainage District; Tulelake Irrigation District; Klamath Basin Improvement District; Ady District Improvement Company; Enterprise Irrigation District; 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;	STIPULATION TO RESOLVE CONTEST 1757
Contestants	Case No. 85 Claim: 683 Contests: 1757 and 3566 ¹

vs.

Edward Logan Case, Jr.; Charles A. Case, Sr.;
Edward Lalo Case, IV;
Claimants/Contestants.

Claimants/Contestants Edward Logan Case, Jr., Charles A. Case, Sr., and Edward Lalo Case, IV, and the Oregon Water Resources Department (OWRD), hereby agree and stipulate, and request the Adjudicator to resolve the above captioned Claim and Contest as follows:

¹ Don Vincent voluntarily withdrew from Contest 3566 on December 4, 2000. Berlva Pritchard voluntarily withdrew from Contest 3566 on June 24, 2002. Klamath Hills District Improvement Company voluntarily withdrew from Contest 3566 on January 15, 2004. The remaining entities comprising Klamath Project Water Users voluntarily withdrew Contest 3566 on April 7, 2005.

A. STIPULATED FACTS

1. On January 31, 1991, Claim 683 for a federal reserved Indian water right was filed with OWRD by Edward Lalo Case and Cassie Lalo Case. Subsequently through Probate proceedings, the property was acquired by Edward Logan Case, Jr., Betty A. Case, Charles A. Case, Sr., Edward Lalo Case, IV, and Tori Lynn Scott. By deed dated June 2, 2005, Betty A. Case and Tori Lynn Scott conveyed their interests in the property to Edward Logan Case, Jr., Charles A. Case, Sr., and Edward Lalo Case, IV.

2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 683.

3. On May 3, 2000, the Claimants filed A Statement of Contest of Preliminary Evaluation of Claim 683, Contest 1757.

4. Claimants/Contestants and OWRD agree that Contest 1757 can be resolved without the need for a hearing pursuant to the following:

B. TERMS OF STIPULATION

1. Claimants/Contestants and OWRD agree that the Water Right Claim 683 should be approved to the Adjudicator as a federal reserved Indian water right to the extent described in the attached Description of Water Right Claim 683.

2. Claimants/Contestants agree that pursuant to the terms of this Stipulation, Contest 1757 has been satisfactorily resolved, and such resolution vitiates the need for a hearing before the Administrative Law Judge.

3. The OWRD adjudication staff hereby recommends to the Adjudicator that Claim 683 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 683 be approved in the Finding of Fact and Order of Determination issued by the Adjudicator as a federal reserved Indian water right in accordance with the

Description of Water Right Claim 683, attached hereto as Exhibit A, and which is incorporated by reference as if set forth fully herein.

4. If the Finding of Fact and Order of Determination issued by the Adjudicator for Claim 683 does not conform to the terms set forth in the attached Description of Water Right Claim 683, Claimants/Contestants reserve any rights they may have to file exceptions to the Finding of Fact and Order of Determination as to Claim 683 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 683.

5. Claimants/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. 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. Each entity or person entering into 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 entity or person and bind that entity or person 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 signatories, notwithstanding that the signatories 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.

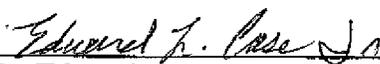
10. This Stipulation comprises the entire agreement and no promise, inducement, or representation other than herein set forth has been made, offered, and/or agreed upon, and the terms of this Stipulation are contractual and not merely a recital.

11. Claimants/Contestants and OWRD shall each 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:

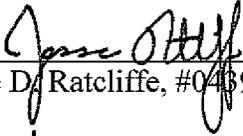
For the Claimant/Contestants Edward Logan Case, Jr., Charles A. Case, Sr., and Edward Lalo Case, IV


By Edward Logan Case, Jr.

9-6-06
Date

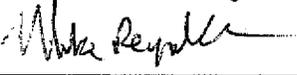
For the Oregon Water Resources Department

HARDY MYERS
Attorney General



Jesse D. Ratcliffe, #04394

9/12/06
Date



Michael Reynolds
Agency Representative
Oregon Water Resources Department

9-13-06
Date

**BEFORE 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) Description Of
Pacific Ocean) Water Right Claim **683**
_____)

Name and Address: Edward Logan Case, Jr.
Charles A. Case, Sr.
Edward Lalo Case, IV
PO Box 333
Chiloquin, OR 97624

Source: Kamkaun Spring **Tributary:** Sprague River

Point Of Diversion: Township Range Section Q/Q: Lot:
34 S 8 E 25 NESE

Priority: 10/14/1864

Use, Period Of Use and Quantity: Use: Period Of Use: Rate:
Domestic Use 01-01 to 12-31 .01 cfs
for One Family

Place Of Use: Township Range Section Q/Q: Lot: Acreage:
34 S 8 E 25 NESE .5

Source: Sprague River **Tributary:** Williamson River

Point Of Diversion: Township Range Section Q/Q: Lot:
34 S 8 E 25 NESE

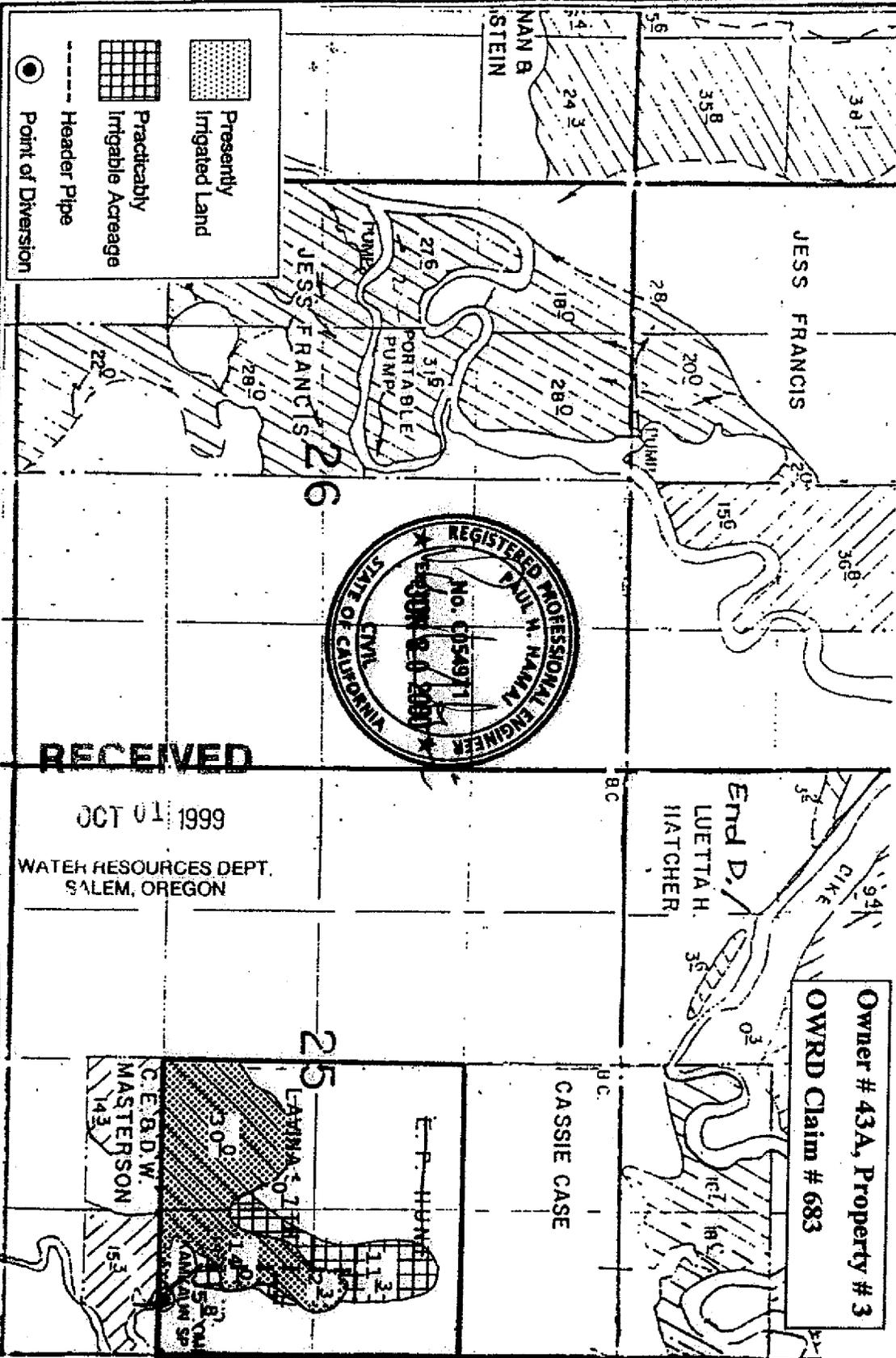
Priority: 10/14/1864

Use, Period Of Use and Quantity: Use: Period Of Use: Rate: Duty:
Irrigation 03-01 to 10-16 1.14 cfs 4.3 AFA
Livestock 01-01 to 12-31 240 gpd

Place Of Use: Township Range Section Q/Q: Lot: Acreage:
34 S 8 E 25 SENE 2.3
34 S 8 E 25 NESE 13.5
34 S 8 E 25 NWSE 30.0

Total Irrigated Acreage 45.8

TOWNSHIP 34 SOUTH, RANGE 8 EAST, W. M.



OWRD EXHIBIT 1

EXHIBIT "B" Page 1 of 1

By: Natural Resources Consulting Engineers Inc.

1220 Audubon St., Suite 204 Berkeley, Ca. 94702 Berkeley (510)841-7814

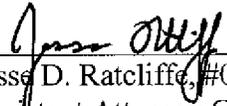


CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of September 2006, I served the within
LETTER TO ALL PARTIES WITH COPY OF STIPULATION TO RESOLVE
CONTESTS on the parties hereto by e-mail, or by regular first-class mail (where no 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@wrд.state.or.us
teri.k.hranac@wrд.state.or.us

Edward L. Case
P.O. Box 333
Chiloquin, OR 97624



Jesse D. Ratcliffe #04394
Assistant Attorney General