Ref. No. 163 F 000 40002

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

Steven Lawrence; James B. Lawrence; John H. Lawrence; WaterWatch of Oregon, Inc.; 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
Contestants

vs.

Lynda Hunt, Richard Sanford; Jennifer Sanford; Claimants, and G Bar W Land and Cattle Company; Jeff Hunt,
Claimant/Contestant.

STIPULATION TO RESOLVE CONTESTS

Case No. 163

Claim No. 12

Contests 29, 1786, 1789, 2817, 3434, 3718, and 4074

Claimants/Contestants, G Bar W Land and Cattle Company, Richard Sanford, Jennifer Sanford, Jeff Hunt and Lynda Hunt, Contestants, the United States of America (the "United States"), the Klamath Tribes (the "Tribes"), and the Klamath Project Water Users ("KPWU"),[1]

[1] The group of Contestants herein known as the "Klamath Project Water Users" currently includes the following Contestants: Tulelake Irrigation District, Klamath Irrigation District,

KBA_ACFFOD_06379

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 November 19, 1990, Diane Taylor, Manager of the Dennis Ranch, filed this Claim No. 12 in the Klamath Adjudication. In 1993, the land subject to this claim was sold to the G Bar W Land and Cattle Company. OWRD Exhibit 1 at 41-42. In 1999, the G Bar W Land and Cattle Company sold 320 acres of the claimed lands (in undivided interest) to Richard Sanford, Jennifer Sanford, Jeff Hunt and Lynda Hunt. OWRD Exhibit 1 at 66, 69-70.

2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 12, preliminarily approving the claim for a smaller quantity of water than was claimed.

3. The following contests were filed to Claim 12: Contest 29, filed by Jeff Hunt; Contest 1786, filed by Steve and James Lawrence; Contest 1789, filed by G Bar W Land and Cattle Company; and Contest 2817, filed by WaterWatch of Oregon; Contest 3434, filed by KPWU; Contest 3718, filed by the United States; and Contest 4074, filed by the Tribes. No other contests were filed to Claim 12 or the Preliminary Evaluation of the claim.

Klamath Drainage District, Klamath Basin Improvement District, Ady District Improvement Company, Enterprise Irrigation District, 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., Van Brimmer Ditch Co., Plevna District Improvement Company, and Collins Products, LLC. This group of Contestants formerly included Don Vincent, Berlva Pritchard and Klamath Hills District Improvement Co., however, Don Vincent withdrew his contest on December 4, 2000, Berlva Pritchard withdrew her contest on June 24, 2002, and Klamath Hills District Improvement Co. withdrew its contest on January 16, 2004.

KBA_ACFFOD_06380

4. On February 25, 2003, Contest 1786 was withdrawn by Steve and James Lawrence. On July 14, 2003, Contest 1789 was withdrawn by the G Bar W Land and Cattle Company. On February 20, 2003, Contest 2813 was withdrawn by WaterWatch of Oregon.

5. The only remaining Contests to Claim 12 are: Contest 29, filed by Jeff Hunt; Contest 3434, filed by KPWU; Contest 3718, filed by the United States; and Contest 4074, filed by the Tribes.

6. Claimants/Contestants, G Bar W Land and Cattle Company, Richard Sanford, Jennifer Sanford, Jeff Hunt and Lynda Hunt, Contestants, KPWU, the United States and the Tribes, and OWRD agree that Contests 29, 3434, 3718 and 4074 can be resolved without the need for a hearing pursuant to the terms set forth below.

B. TERMS OF STIPULATION

1. Claimants/Contestants, G Bar W Land and Cattle Company, Richard Sanford, Jennifer Sanford, Jeff Hunt and Lynda Hunt, Contestants, the United States, the Klamath Tribes and KPWU, and OWRD agree that Claim 12 should be approved by the Adjudicator to the extent described below. Claimants/Contestants, Contestants and OWRD agree that Claim 12 should be approved as follows:

(a) Right to be adjudicated to Claimant G Bar W Land and Cattle Company:

<u>Point of Diversion No. 1:</u>

(1) POINT OF DIVERSION LOCATION: SE1/4SW1/4, Section 24, Township 30 South, Range 11 East, W.M.

(2) SOURCE: Irving Creek, tributary to Williamson River

(3) USE: irrigation of 144.2 acres

KBA_ACFFOD_06381

(4) AMOUNT ACTUALLY BENEFICIALLY USED: 3.58 cubic feet per second, measured at the point of diversion.

(5) PERIOD OF USE: April 1 - October 31 for irrigation; January 1 - December 31 for livestock

(6) PRIORITY DATE: October 14, 1864

(7) PLACE OF USE:

NE1/4NE1/4	8.0	ACRES IRRIGATION AND LIVESTOCK
NW1/4NE1/4	28.0	ACRES IRRIGATION AND LIVESTOCK
SW1/4NE1/4	40.0	ACRES IRRIGATION AND LIVESTOCK
SE1/4NE1/4	37.6	ACRES IRRIGATION AND LIVESTOCK
NE1/4SW1/4	20.0	ACRES IRRIGATION AND LIVESTOCK
NW1/4SW1/4	1.2	ACRES IRRIGATION AND LIVESTOCK
SE1/4SW1/4	0.6	ACRES IRRIGATION AND LIVESTOCK

SECTION 24
TOWNSHIP 30 SOUTH, RANGE 10 EAST, W.M.

LOT 2 SW1/4NW1/4 8.8 ACRES IRRIGATION AND LIVESTOCK
SECTION 19
TOWNSHIP 30 SOUTH, RANGE 11 EAST, W.M.

Point of Diversion No. 2:

(1) POINT OF DIVERSION LOCATION: NE1/4NW1/4, Section 18, Township 30 South, Range 11 East, W.M.

(2) SOURCE: Jackson Creek, tributary to Williamson River

(3) USE: irrigation of 9.4 acres

(4) AMOUNT ACTUALLY BENEFICIALLY USED: 0.24 cubic feet per second, measured at the point of diversion.

(5) PERIOD OF USE: April 1 - October 31 for irrigation; January 1 - December 31 for livestock

(6) PRIORITY DATE: October 14, 1864

KBA_ACFFOD_06382

(7) PLACE OF USE:

NW1/4NE1/4	9.4	ACRES IRRIGATION AND LIVESTOCK

SECTION 24
TOWNSHIP 30 SOUTH, RANGE 10 EAST, W.M.

Livestock Use:

AMOUNT ACTUALLY BENEFICIALLY USED FOR LIVESTOCK: 2400 gallons per day from all sources, measured at the point of diversion. Livestock drink directly from ditches located within the above-described places of use.

(b) Right to be adjudicated to Claimants Richard Sanford, Jennifer Sanford, Jeff Hunt and Lynda Hunt:

Point of Diversion (Same as Point of Diversion No. 2 above for G Bar W Land and Cattle Company):

(1) POINT OF DIVERSION LOCATION: NE1/4NW1/4, Section 18, Township 30 South, Range 11 East, W.M.

(2) SOURCE: Jackson Creek, tributary to Williamson River

(3) USE: irrigation of 196.4 acres

(4) AMOUNT ACTUALLY BENEFICIALLY USED: 2.50 cubic feet per second, measured at the point of diversion.

(5) PERIOD OF USE: April 1 - October 31 for irrigation; January 1 - December 31 for livestock

(6) PRIORITY DATE: October 14, 1864

(7) PLACE OF USE:

NE1/4SW1/4	40.0	ACRES IRRIGATION AND LIVESTOCK
NW1/4SW1/4	40.0	ACRES IRRIGATION AND LIVESTOCK
NE1/4SE1/4	36.4	ACRES IRRIGATION AND LIVESTOCK
NW1/4SE1/4	40.0	ACRES IRRIGATION AND LIVESTOCK

SECTION 13
TOWNSHIP 30 SOUTH, RANGE 10 EAST, W.M.

KBA_ACFFOD_06383

NE1/4SE1/4 40.0 ACRES IRRIGATION AND LIVESTOCK
SECTION 14
TOWNSHIP 30 SOUTH, RANGE 10 EAST, W.M.

Livestock Use:

AMOUNT ACTUALLY BENEFICIALLY USED FOR LIVESTOCK: 2400 gallons per day from all sources, measured at the point of diversion. Livestock drink directly from ditches located within the above-described places of use.

2. Claimants, Contestants and OWRD agree that pursuant to the terms of this Stipulation, Contests 29, 3434, 3718 and 4074 have been satisfactorily resolved, and such resolution vitiates the need for a hearing before the Administrative Law Judge on these contests to Claim 12.

3. Based on the agreement of Claimants, Contestants and OWRD that Claim 12 and the contests thereto can be resolved without the need for a hearing, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 12 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 12 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 12 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 12 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 163.

5. 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

KBA_ACFFOD_06384

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.

6. This Stipulation may be executed in any number of counterparts, any and all of which may contain the signatures of less than all of the parties, and all of which shall be construed together as but a single instrument.

KBA_ACFFOD_06385

For Claimant G BAR W Land & Cattle Company:

Dated: _____, 2004

_____

WALLACE WATKINS
President
1059 Crews Rd.
Medford, Oregon 97501
Telephone: (541) 773-5309

For Claimant Richard Sanford:

Dated: _____, 2004

_____

RICHARD SANFORD
P.O. Box 937
Wadsworth, Nevada 89442
Telephone: (775) 575-0975

For Claimant Jennifer Sanford:

Dated _____, 2004

_____

JENNIFER SANFORD
P.O. Box 937
Wadsworth, Nevada 89442
Telephone: (775) 575-0975

For Claimant Jeff Hunt:

Dated: _____, 2004

_____

JEFF HUNT
P.O. Box 98
Silver Lake, Oregon 97638
(541) 576-2178

For Claimant Lynda Hunt:

Dated: _____, 2004

_____

LYNDA HUNT
P.O. Box 98
Silver Lake, Oregon 97638
(541) 576-2178

KBA_ACFFOD_06386

For Claimant G BAR W Land & Cattle Company:

Dated: March 1, 2004

Wallace Watkins, Pres.

WALLACE WATKINS
President
1059 Crews Rd.
Medford, Oregon 97501
Telephone: (541) 773-5309

For Claimant Richard Sanford:

Dated: _____, 2004

_____

RICHARD SANFORD
P.O. Box 937
Wadsworth, Nevada 89442
Telephone: (775) 575-0975

For Claimant Jennifer Sanford:

Dated _____, 2004

_____

JENNIFER SANFORD
P.O. Box 937
Wadsworth, Nevada 89442
Telephone: (775) 575-0975

For Claimant Jeff Hunt:

Dated: _____, 2004

_____

JEFF HUNT
P.O. Box 98
Silver Lake, Oregon 97638
(541) 576-2178

For Claimant Lynda Hunt:

Dated: _____, 2004

_____

LYNDA HUNT
P.O. Box 98
Silver Lake, Oregon 97638
(541) 576-2178

KBA_ACFFOD_06387

For Claimant G BAR W Land & Cattle Company:

Dated: _____, 2004

_____
WALLACE WATKINS
President
1059 Crews Rd.
Medford, Oregon 97501
Telephone: (541) 773-5309

For Claimant Richard Sanford:

Dated: March 12, 2004

Richard Sanford
RICHARD SANFORD
P.O. Box 937
Wadsworth, Nevada 89442
Telephone: (775) 575-0975

For Claimant Jennifer Sanford:

Dated March 12, 2004

JENNIFER SANFORD
P.O. Box 937
Wadsworth, Nevada 89442
Telephone: (775) 575-0975

For Claimant Jeff Hunt:

Dated: _____, 2004

_____
JEFF HUNT
P.O. Box 98
Silver Lake, Oregon 97638
(541) 576-2178

For Claimant Lynda Hunt:

Dated: _____, 2004

_____
LYNDA HUNT
P.O. Box 98
Silver Lake, Oregon 97638
(541) 576-2178

KBA_ACFFOD_06388

For Claimant G BAR W Land & Cattle Company:

Dated: _____, 2004

_____
WALLACE WATKINS
President
1059 Crews Rd.
Medford, Oregon 97501
Telephone: (541) 773-5309

For Claimant Richard Sanford:

Dated: _____, 2004

_____
RICHARD SANFORD
P.O. Box 937
Wadsworth, Nevada 89442
Telephone: (775) 575-0975

For Claimant Jennifer Sanford:

Dated _____, 2004

_____
JENNIFER SANFORD
P.O. Box 937
Wadsworth, Nevada 89442
Telephone: (775) 575-0975

For Claimant Jeff Hunt:

Dated: March 5, 2004

Jeff Hunt
JEFF HUNT
P.O. Box 98
Silver Lake, Oregon 97638
(541) 576-2178

For Claimant Lynda Hunt:

Dated: 3/5, 2004

Lynda Hunt
LYNDA HUNT
P.O. Box 98
Silver Lake, Oregon 97638
(541) 576-2178

KBA_ACFFOD_06389

For Contestant, the United States of America:

Dated: June 23, 2004

BRUCE D. BERNARD
General Litigation Section
Environment & Natural Resources Division
U.S. Department of Justice
999 - 18th Street, Suite 945
Denver, Colorado 80202
Telephone: (303) 312-7319
Telefax: (303) 312-7379
e-mail: *bruce.bernard@usdoj.gov*

KBA_ACFFOD_06390

For Contestants, the Klamath Tribes:

Dated: June 24, 2004

LORNA K. BABBY
WALTER ECHO-HAWK
Native American Rights Fund
1506 Broadway
Boulder, Colorado 80302
Telephone: (303) 447-8760
Telefax: (303) 447-7776
e-mail: *babby@narf.org*
wechohawk@narf.org

KBA_ACFFOD_06391

For Contestants, the Klamath Project Water Users

Dated: August 13, 2004

ANDREW M. HITCHINGS
Somach, Simmons & Dunn, P.C.
Hall of Justice Building
813 Sixth Street, Third Floor
Sacramento, California 95814-2403
Telephone: (916 446-7979
Telefax: (916) 446-8199
e-mail: *ahitchings@lawssd.com*

Pro Hac Vice; Cal. Bar No. 154554
Of Attorneys for Tulelake Irrigation District,
And on behalf of Klamath Project Water Users

KBA_ACFFOD_06392

For the Oregon Water Resources Department:

HARDY MEYERS
Attorney General

Dated: June 24, 2004

JUSTIN WIRTH
WALTER PERRY
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: *justin.wirth@doj.state.or.us*
walter.perry@doj.state.or.us

Dated: June 24, 2004

KIMBERLY GRIGSBY
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, Oregon 97301
Telephone: (503) 986-0825
Telefax: (503) 986-0901
e-mail: *kimberly.j.grigsby@wrd.state.or.us*

AGENCY REPRESENTATIVE FOR OREGON
WATER RESOURCES DEPARTMENT

KBA_ACFFOD_06393