

COPY

**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**

Water Watch of Oregon, Inc.; United States  
of America; The Klamath Tribes;  
Contestants

**STIPULATION TO RESOLVE  
CONTEST**

vs.

Case No. 161  
Claim No. 10

Kenneth J. Hufford and Leslie Hufford;  
Claimants/Contestants

Contests 2816, 3263, 3716, and 4072

The Oregon Water Resources Department (hereinafter "OWRD"),  
Claimants/Contestants Kenneth J. Hufford and Leslie Hufford (hereinafter "Claimants"),  
Contestant the United States of America (hereinafter "United States"), and Contestant the  
Klamath Tribes (hereinafter "Tribes") hereby agree and stipulate as follows:

**A. STIPULATED FACTS**

1. On December 5, 1990, the Claimants' predecessor filed Claim 10 with  
OWRD.
2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of  
Claim 10, preliminarily approving the claim generally as claimed.
3. The following contests were filed to Claim 10: Contest 2816, filed by Water  
Watch of Oregon, Inc., such contest being voluntarily withdrawn on February 20, 2003;  
Contest 3263, filed by the Claimants; Contest 3716, filed by the United States; and  
Contest 4072, filed by the Tribes (referred to jointly as the "Contestants").

4. Claimants, Contestants, and OWRD agree that Contests 3263, 3716, and 4072 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 10 should be approved by the Adjudicator as described below:

POINT OF DIVERSION LOCATIONS: NE ¼ NW ¼, Section 18, Township 30 South, Range 11 East, W.M.

SOURCE: Jackson Creek and an unnamed stream, commingled tributaries to the Williamson River for irrigation; Jackson Creek and an unnamed creek, tributaries to the Williamson River, and the Williamson River, tributary to Upper Klamath Lake for livestock.

USE: Irrigation of 889.4 acres and livestock.

AMOUNT ACTUALLY BENEFICIALLY USED FOR IRRIGATION: 22.24 cubic feet per second (cfs), being a total of 20.02 cfs from two points of diversion on Jackson Creek and 2.22 cfs from an unnamed stream, all measured at the point of diversion.

IRRIGATION PERIOD OF USE: March 1 through October 31.

AMOUNT ACTUALLY BENEFICIALLY USED FOR LIVESTOCK: 9600 gallons per day for 600 pair; stock drink directly from all sources and ditches.

LIVESTOCK PERIOD OF USE: November 1 through the last day of February.

PRIORITY DATE: October 14, 1864.

PLACE OF USE:

NE ¼ SW ¼                      38.4    ACRES IRRIGATION AND LIVESTOCK

NW ¼ SW ¼	40.0	ACRES IRRIGATION AND LIVESTOCK
SW ¼ SW ¼	40.0	ACRES IRRIGATION AND LIVESTOCK
SE ¼ SW ¼	39.0	ACRES IRRIGATION AND LIVESTOCK
NE ¼ SE ¼	12.8	ACRES IRRIGATION AND LIVESTOCK
NW ¼ SE ¼	40.0	ACRES IRRIGATION AND LIVESTOCK
SW ¼ SE ¼	38.4	ACRES IRRIGATION AND LIVESTOCK
SE ¼ SE ¼	8.4	ACRES IRRIGATION AND LIVESTOCK

SECTION 11

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

NE ¼ NE ¼	39.6	ACRES IRRIGATION AND LIVESTOCK
NW ¼ NE ¼	30.4	ACRES IRRIGATION AND LIVESTOCK
SW ¼ NE ¼	40.0	ACRES IRRIGATION AND LIVESTOCK
SE ¼ NE ¼	40.0	ACRES IRRIGATION AND LIVESTOCK
NE ¼ NW ¼	6.5	ACRES IRRIGATION AND LIVESTOCK
NW ¼ NW ¼	3.4	ACRES IRRIGATION AND LIVESTOCK
SW ¼ NW ¼	35.0	ACRES IRRIGATION AND LIVESTOCK
SE ¼ NW ¼	38.2	ACRES IRRIGATION AND LIVESTOCK

SECTION 13

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

NE ¼ NE ¼	21.5	ACRES IRRIGATION AND LIVESTOCK
NW ¼ NE ¼	40.0	ACRES IRRIGATION AND LIVESTOCK
SW ¼ NE ¼	40.0	ACRES IRRIGATION AND LIVESTOCK
SE ¼ NE ¼	30.1	ACRES IRRIGATION AND LIVESTOCK

NE ¼ NW ¼	39.0	ACRES IRRIGATION AND LIVESTOCK
NW ¼ NW ¼	39.4	ACRES IRRIGATION AND LIVESTOCK
SW ¼ NW ¼	14.0	ACRES IRRIGATION AND LIVESTOCK
SE ¼ NW ¼	33.0	ACRES IRRIGATION AND LIVESTOCK

SECTION 14

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

NE ¼ NW ¼	37.8	ACRES IRRIGATION AND LIVESTOCK
LOT 1 NW ¼ NW ¼	39.7	ACRES IRRIGATION AND LIVESTOCK
LOT 2 SW ¼ NW ¼	40.0	ACRES IRRIGATION AND LIVESTOCK
SE ¼ NW ¼	24.8	ACRES IRRIGATION AND LIVESTOCK

SECTION 18

TOWNSHIP 30 SOUTH, RANGE 11 EAST, W.M.

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

POINT OF DIVERSION LOCATION: SE ¼ NW ¼, Section 14, Township 30 South, Range 10 East, W.M.

SOURCE: Williamson River, tributary to Upper Klamath Lake.

USE: Supplemental irrigation of 274.7 acres.

AMOUNT ACTUALLY BENEFICIALLY USED FOR IRRIGATION: 6.87 cubic feet per second (cfs), measured at the point of diversion.

PERIOD OF USE: March 1 through October 31.

PRIORITY DATE: October 14, 1864.

PLACES OF USE:

NE ¼ SW ¼	30.3	ACRES IRRIGATION
NW ¼ SW ¼	40.0	ACRES IRRIGATION
SW ¼ SW ¼	40.0	ACRES IRRIGATION
SE ¼ SW ¼	39.0	ACRES IRRIGATION

SECTION 11

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

NE ¼ NW ¼	39.0	ACRES IRRIGATION
NW ¼ NW ¼	39.4	ACRES IRRIGATION
SW ¼ NW ¼	14.0	ACRES IRRIGATION
SE ¼ NW ¼	33.0	ACRES IRRIGATION

SECTION 14

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

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

2. Claimants, Contestants and OWRD agree that pursuant to the terms and provisions of this Stipulation, Contests 3263, 3716, and 4072 have been satisfactorily resolved, and such resolution ends the need for further proceedings before the Administrative Law Judge on these contests to Claim 10.

3. Based on the Stipulation of Claimants, Contestants and OWRD that Claim 10 and the Contests thereto can be resolved without the need for further proceedings, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 10 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 10 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 10 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 10 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 10.

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.

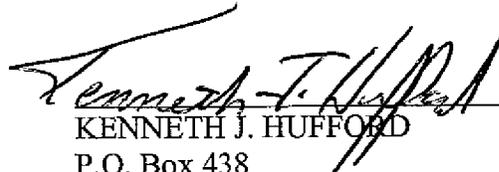
11. The Parties agree to bear their own costs and attorneys' fees.

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

STIPLULATED, AGREED AND APPROVED BY:

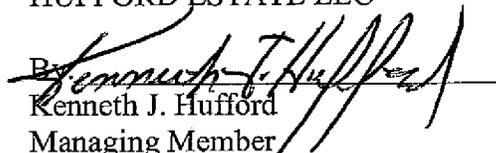
CLAIMANTS/CONTESTANTS:

Dated: April 1<sup>st</sup> 2004

  
KENNETH J. HUFFORD  
P.O. Box 438  
Chiloquin, OR 97624

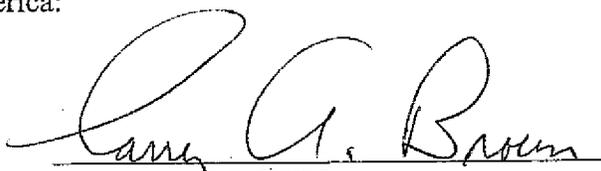
  
LESLIE HUFFORD  
P.O. Box 438  
Chiloquin, OR 97624

HUFFORD ESTATE LLC

  
By Kenneth J. Hufford  
Managing Member  
P.O. Box 438  
Chiloquin, Or 97624

For Contestant, the United States of America:

Dated: March 26<sup>th</sup>, 2004

A handwritten signature in black ink, appearing to read "Larry A. Brown". The signature is written in a cursive style with a horizontal line underneath it.

LARRY A. BROWN  
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Environment & Natural Resources Division  
U.S. Department of Justice  
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e-mail: *[larry.brown@usdoj.gov](mailto:larry.brown@usdoj.gov)*

For Contestants, the Klamath Tribes:

Dated: March 29 2004



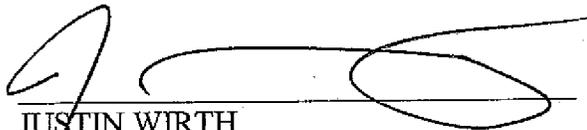
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For the Oregon Water Resources Department:

HARDY MEYERS  
Attorney General

Dated: April 6 2004



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Dated: April 6 2004



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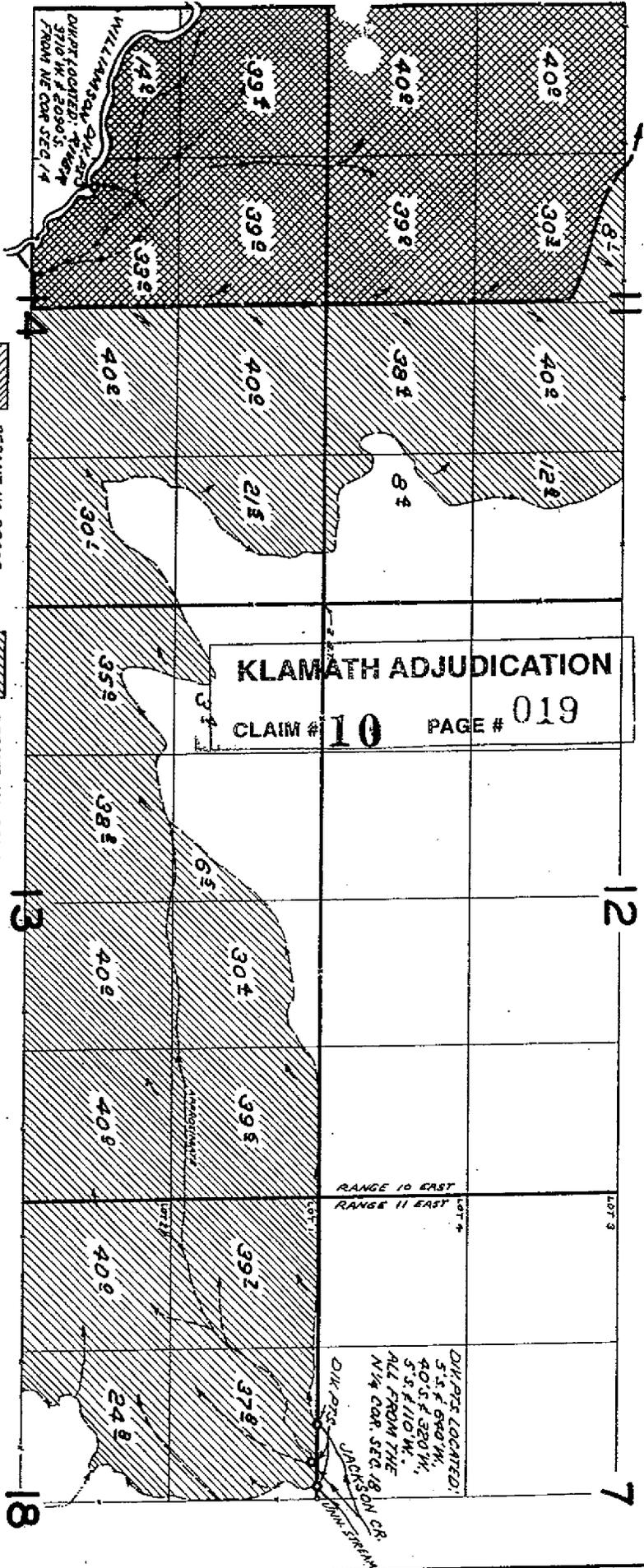
AGENCY REPRESENTATIVE FOR  
OREGON WATER RESOURCES  
DEPARTMENT

RECEIVED

OCT 06 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

T. 30S. R. 10&11E. W. M.



KLAMATH ADJUDICATION  
CLAIM # 10 PAGE # 019

PERMIT NO. 28003

PERMIT NO. 28171

# FINAL PROOF SURVEY

UNDER

APPLICATION NO. 37574, PERMIT NO. 28171  
37587 28003  
IN NAME OF

ESTATE OF MRS. ANNIE FRANCIS

SURVEYED JUN. 25, 1967, BY V. GARNER

*Accepted as Draught  
Kenneth T. Hofford*

OK-198 & 1087-5