

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

United States of America; The Klamath Tribes;
Medford Irrigation District; Rogue River Valley
Irrigation District;
Contestants

**STIPULATION TO RESOLVE
CONTEST**

Case No. 140

vs.

Claim(s): 208

Diane Elaine Stevenson, Trustee of the D.E. Myers
1999 Trust;
Claimant.

Contest(s): 3194¹, 3415², 3849, and
4191³

The Oregon Water Resources Department (hereinafter "OWRD"), Claimant
Diane Elaine Stevenson, Trustee of the D.E. Myers 1999 Trust (hereinafter "Claimant"),
Contestant the United States of America (hereinafter "United States" or "Contestant")
hereby agree and stipulate as follows:

A. STIPULATED FACTS

1. On January 29, 1991, the Claimant filed Claim 208 with OWRD.
2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of
Claim 208 preliminarily denying the claim.

¹ Horsefly Irrigation District and Langell Valley Irrigation District voluntarily withdrew, without prejudice, from Contest 3194. See STIPULATED AGREEMENT FOR DISMISSAL OF CONTEST NO. 3194, dated December 18, 2003. Medford Irrigation District and Rogue River Valley Irrigation District voluntarily withdrew Contest 3194 on August 30, 2004.

² Don Vincent voluntarily withdrew from Contest 3415 on December 4, 2000. Berlva Pritchard voluntarily withdrew from Contest 3415 on June 24, 2002. The remaining entities of Klamath Project Water Users voluntarily withdrew Contest 3415 on April 7, 2004.

³ The Klamath Tribes voluntarily withdrew Contest 4191 on October 7, 2003.

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3. On May 8, 2000, the United States filed Contest 3849 against Claim 208.

4. Claimant, Contestant and OWRD ("the Parties") agree that Contest 3849 can be resolved without the need for further proceedings, pursuant to the terms set forth below.

B. TERMS AND PROVISIONS

1. Claimant, Contestant and OWRD agree that Claim 208 should be approved by the Adjudicator as described below:

POINT OF DIVERSION LOCATION: Lot 9 NE ¼ NW ¼, Section 8, Township 40 South, Range 8 East, W.M.

SOURCE: Klamath River.

USE: Irrigation of 143.0 acres.

AMOUNT ACTUALLY BENEFICIALLY USED FOR IRRIGATION: 3.58 cubic feet per second (cfs) measured at the point of diversion.

DUTY: 3.0 Acre-Feet/Acre/Year.

IRRIGATION PERIOD OF USE: May 1 through September 30.

PRIORITY DATE: December 31, 1900.

PLACE OF USE:

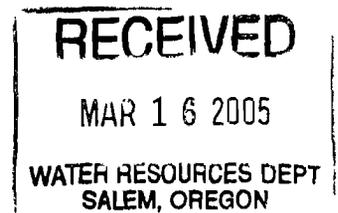
Lot 9 (NE ¼ NW ¼)	29.7	ACRES IRRIGATION
SE ¼ NW ¼	38.6	ACRES IRRIGATION
Lot 10 (SW ¼ SW ¼)	0.5	ACRES IRRIGATION
Lot 10 (NW ¼ SW ¼)	34.3	ACRES IRRIGATION
NE ¼ SW ¼	38.5	ACRES IRRIGATION

SECTION 8

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TOWNSHIP 40 SOUTH, RANGE 8 EAST, W.M.

Lot 4 (NE ¼ SE ¼) 1.4 ACRES IRRIGATION

SECTION 7

TOWNSHIP 40 SOUTH, RANGE 8 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. Claimant, Contestant and OWRD agree that pursuant to the terms and provisions of this Stipulation, Contest 3849 has been satisfactorily resolved, and such resolution ends the need for further proceedings before the Administrative Law Judge on these contests to Claim 208.

3. Based on the Stipulation of Claimant, Contestant and OWRD that Claim 208 and the Contest thereto can be resolved without the need for further proceedings, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 208 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 208 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 208 does not conform to the terms set forth in paragraph B.1. above, Claimant and Contestant reserve any rights they may have to file exceptions to the Finding of Fact and Order of Determination as to Claim 208 in the Circuit Court for Klamath County, and

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reserve any rights they may have to participate in any future proceedings authorized by law concerning Claim 208.

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

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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.

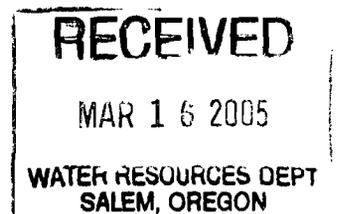
12. This Stipulation shall be effective as of the date of the last signature hereto.

STIPLULATED, AGREED AND APPROVED BY:

CLAIMANT:

Dated: September 21, 2004

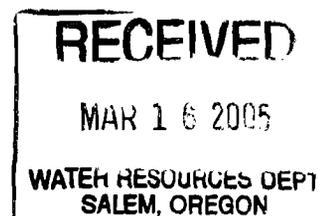
Diane E. Stevenson
Diane Elaine Stevenson, Trustee *Trustee*
D.E. Myers 1999 Trust
3939 South 6th St., #174
Klamath Falls, OR 97603



For Contestant, the United States of America:

Dated: ~~September~~ March 11, 2005, 2004

Stephen R. Palmer
Stephen R. Palmer
United States Department of Interior
2800 Cottage Way, Room E-1712
Sacramento, CA 95825



For the Oregon Water Resources Department:

HARDY MEYERS
Attorney General

Dated: September 13, 2004


JUSTIN WIRTH #00426
WALTER PERRY
Assistant Attorneys General
Oregon Department of Justice
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-4409
Telefax: (503) 947-4500
e-mail: justin.wirth@doj.state.or.us
walter.perry@doj.state.or.us

Dated: September 16 2004


KIMBERLY GRIGSBY
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, Oregon 97301-1271
Telephone: (503) 986-0825
Telefax: (503) 986-0901
e-mail: kimberly.j.grigsby@ wrd.state.or.us

AGENCY REPRESENTATIVE FOR
OREGON WATER RESOURCES
DEPARTMENT

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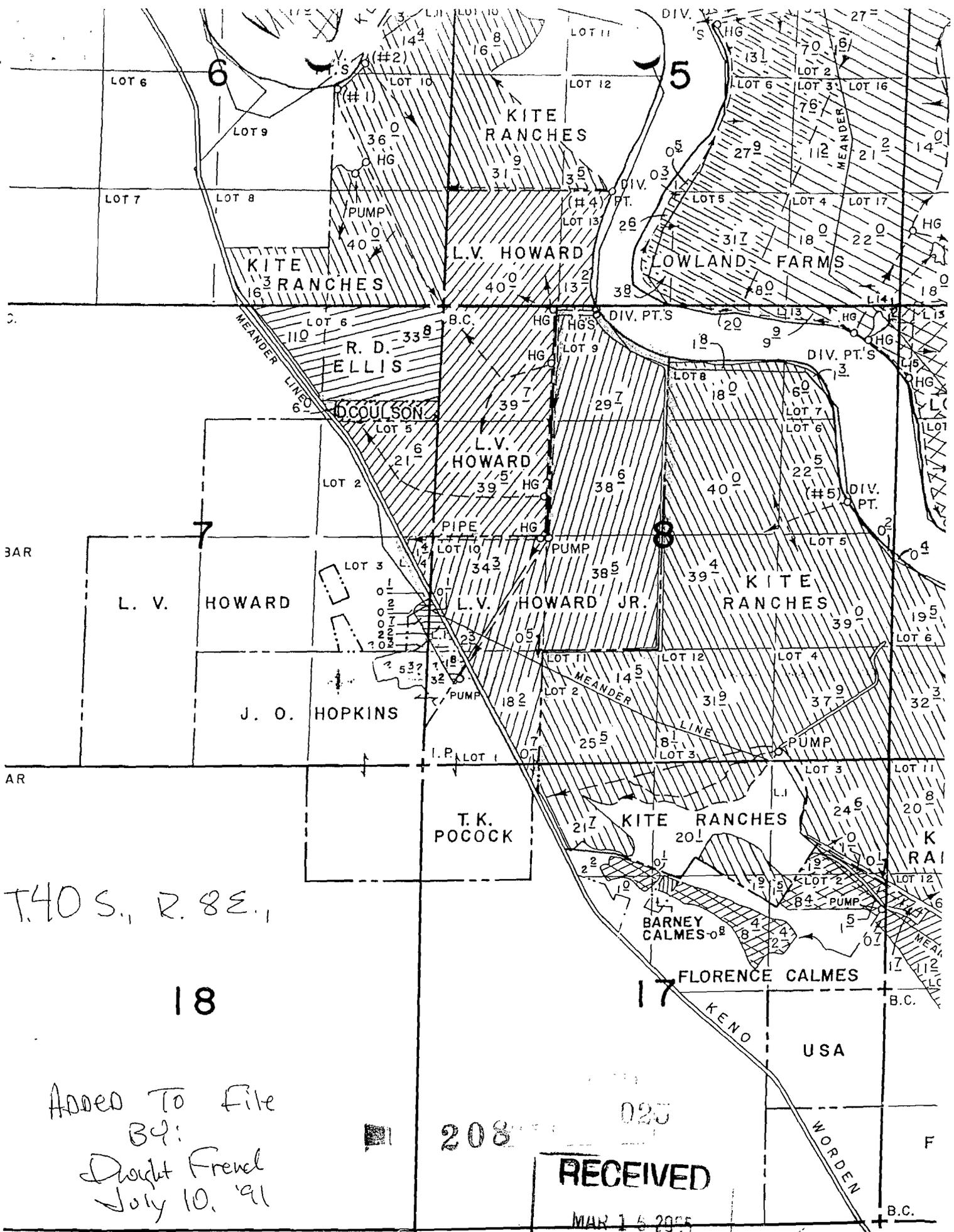
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Added To file
 By:
 Dwight French
 July 10, '91

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