

HARDY MYERS
Attorney General



PETER D. SHEPHERD
Deputy Attorney General

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

November 9, 2007

TO ALL PARTIES

Re: Klamath Adjudication – **Consolidated Case No. 209** -- Case Nos. 51, 59, 62, 63, 69, 71, 88, 98, 209, 243, 244, 250, 252, 269 and 270; Claim Nos. 84, 241, 243, 248, 250, 253, 260, 266, 269, 682, 688, 700, 702, 705 and 706; Contest Nos. 1724, 1725, 1729, 1737, 1742, 1744, 1759, 1769, 1770, 1771, 2839, 3260, 3261, 3278, 3473, 3528, 3529, 3532, 3534, 3542, 3547, 3550, 3565, 3569, 3578, 3580, 3581, 3582, 3635, 3745, 3774, 3775, 3777, 3778, 4129, 4204, 4205, 4239, 4241
DOJ File No. 690-600-GN0276-03

Dear Parties:

Enclosed for your records is a fully executed copy of the STIPULATION TO RESOLVE CONTEST 1742 (Ridenour); STIPULATION TO RESOLVE CONTEST 1729 (Hess); STIPULATION TO RESOLVE CONTEST 1769 (Sheppard-Blair); STIPULATION TO RESOLVE CONTEST 1744 (Sheppard-Blair); STIPULATION TO RESOLVE CONTEST 1737 (Lang); STIPULATION TO RESOLVE CONTEST 3578 (Cauvin, Walch & KPWU); STIPULATION TO RESOLVE CONTEST 1724 (Gallagher); STIPULATION TO RESOLVE CONTEST 1759 (Hicks); and CERTIFICATE OF SERVICE in the above-entitled matter. These agreements resolve all the remaining issues in the case. Accordingly, the Oregon Water Resources Department will withdraw these cases 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/GENV8077
Enclosures
c: Service List

**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**

United States of America; the Klamath Tribes;
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 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.; Reames Golf and
Country Club; Van Brimmer Ditch Co.; Plevna
District Improvement Company; and Collins
Products, LLC,

Contestants,

vs.

Melinda Cauvin and Loren Walch,

Claimants.

**STIPULATION TO RESOLVE
CONTEST NO. 3578**

Claim No. 700

Contest Nos. 3578, 3778 and 4241

The Oregon Water Resources Department (hereinafter "OWRD"), Claimants Melinda
Cauvin and Loren Walch (hereinafter "Claimants"), and Contestant Klamath Project Water Users
(KPWU)² hereby agree and stipulate as follows:

² 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; 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, (hereinafter collectively "KPWU").

A. STIPULATED FACTS

1. On January 31, 1991, the Claimants' predecessors-in-interest filed Claim 700 with OWRD. Claim 700 was originally filed by William and Karen Ray, members of the Klamath Tribes. Melinda Cauvin and Loren Walch, non-Indians, currently own the property described as the place of use in Claim 700.

2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 700.

3. The following contests were filed to Claim 700: Contest 3778, filed by the United States; Contest 4241 filed by the Klamath Tribes; and Contest 3578, filed by KPWU. The Klamath Tribes withdrew Contest 4241 on May 30, 2007, and the United States withdrew Contest 3778 on June 4, 2007.

4. Claimants, KPWU, and OWRD agree that Contest 3578 can be resolved without the need for further proceedings, pursuant to the terms set forth below.

B. TERMS AND PROVISIONS

1. Claimants, KPWU, and OWRD agree that Claim 700 should be approved by the Adjudicator as described below:

POINT OF DIVERSION LOCATION: NE ¼ SE ¼, Section 3, Township 35 South, Range 7 East, W.M.

SOURCE: Sprague River, tributary to Williamson River

USE: Irrigation of 80.0 acres and livestock use.

AMOUNT ACTUALLY BENEFICIALLY USED FOR IRRIGATION AND LIVESTOCK: 2.0 cubic feet per second (cfs) measured at the point of diversion for irrigation; 1920 gallons per day for livestock.

DUTY: 3.5 Acre-Feet/Acre/Year.

IRRIGATION AND LIVESTOCK PERIOD OF USE: March 1 through October 16.

PRIORITY DATE: October 14, 1864.

PLACE OF USE:

LOT 17 (NE ¼ SE ¼)	20.0 ACRES IRRIGATION AND LIVESTOCK
LOT 18 (NW ¼ SE ¼)	20.0 ACRES IRRIGATION AND LIVESTOCK
LOT 23 (NW ¼ SE ¼)	20.0 ACRES IRRIGATION AND LIVESTOCK
LOT 24 (NE ¼ SE ¼)	20.0 ACRES IRRIGATION AND LIVESTOCK

SECTION 5
TOWNSHIP 36 SOUTH, RANGE 7 EAST, W.M.

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

2. Claimants, KPWU and OWRD agree that pursuant to the terms and provisions of this Stipulation, Contest 3578 has been satisfactorily resolved, and such resolution ends the need for further proceedings before the Administrative Law Judge on this contest to Claim 700.

3. Based on the Stipulation of Claimants, KPWU, and OWRD that Claim 700 and the Contest thereto can be resolved without the need for further proceedings, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 700 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 700 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 700 does not conform to the terms set forth in paragraph B.1., above, Claimant and Contestants reserve any rights they may have to file exceptions to the Finding of Fact and Order of Determination as to Claim 700 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 700.

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.

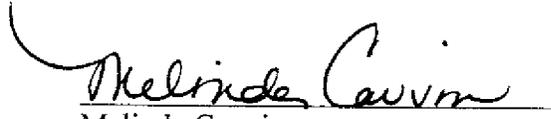
11. The Parties agree to bear their own costs and attorneys' fees.

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

STIPULATED, AGREED AND APPROVED BY:

For Claimants:

Dated: October 13 2007

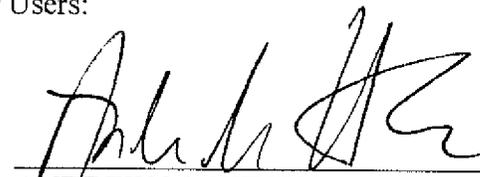

Melinda Cauvin
P.O. Box 519
Chiloquin, OR 97624

Dated: October 13 2007


Loren Walch
P.O. Box 519
Chiloquin, OR 97624

For Contestants, the Klamath Project Water Users:

Dated: October 9 2007


ANDREW M. HITCHINGS
PAUL S. SIMMONS
Somach, Simmons & Dunn
Hall of Justice Building
813 Sixth Street, Third Floor
Sacramento, CA 95814-2403
Telephone: (916) 446-7979
Telefax: (916) 446-8199
e-mail: ahitchings@somachlaw.com
psimmons@somachlaw.com

For Claimants:

Dated: October __ 2007

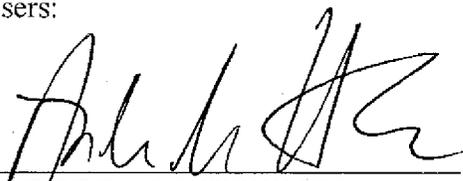
Melinda Cauvin
P.O. Box 519
Chiloquin, OR 97624

Dated: October __ 2007

Loren Walch
P.O. Box 519
Chiloquin, OR 97624

For Contestants, the Klamath Project Water Users:

Dated: October 7 2007



ANDREW M. HITCHINGS
PAUL S. SIMMONS
Somach, Simmons & Dunn
Hall of Justice Building
813 Sixth Street, Third Floor
Sacramento, CA 95814-2403
Telephone: (916) 446-7979
Telefax: (916) 446-8199
e-mail: ahitchings@somachlaw.com
psimmons@somachlaw.com

For the Oregon Water Resources Department:

Dated: ^{November} ~~October~~ 9 2007



HARDY MEYERS
Attorney General
JESSE RATCLIFFE
Assistant Attorney General
Oregon Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
Telephone: (503) 947-4500
Telefax: (503) 378-3802
e-mail: jesse.d.ratcliffe@doj.state.or.us

Dated: October 2007

GERRY CLARK
Oregon Water Resources Department
725 Summer Street, NE, Suite A
Salem, OR 97301
Telephone: (503) 986-0825
Telefax: (503) 986-0901
e-mail: Gerald.e.clark@state.or.us

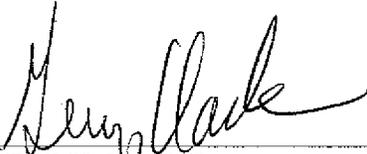
**OREGON WATER RESOURCES
DEPARTMENT STAFF**

For the Oregon Water Resources Department:

Dated: October ___ 2007

HARDY MEYERS
Attorney General
JESSE RATCLIFFE
Assistant Attorney General
Oregon Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
Telephone: (503) 947-4500
Telefax: (503) 378-3802
e-mail: jesse.d.ratcliffe@doj.state.or.us

Nov. 5
Dated: ~~October~~ ___ 2007

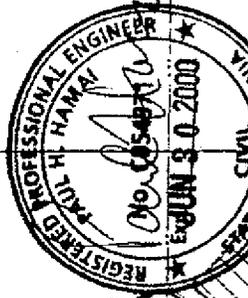
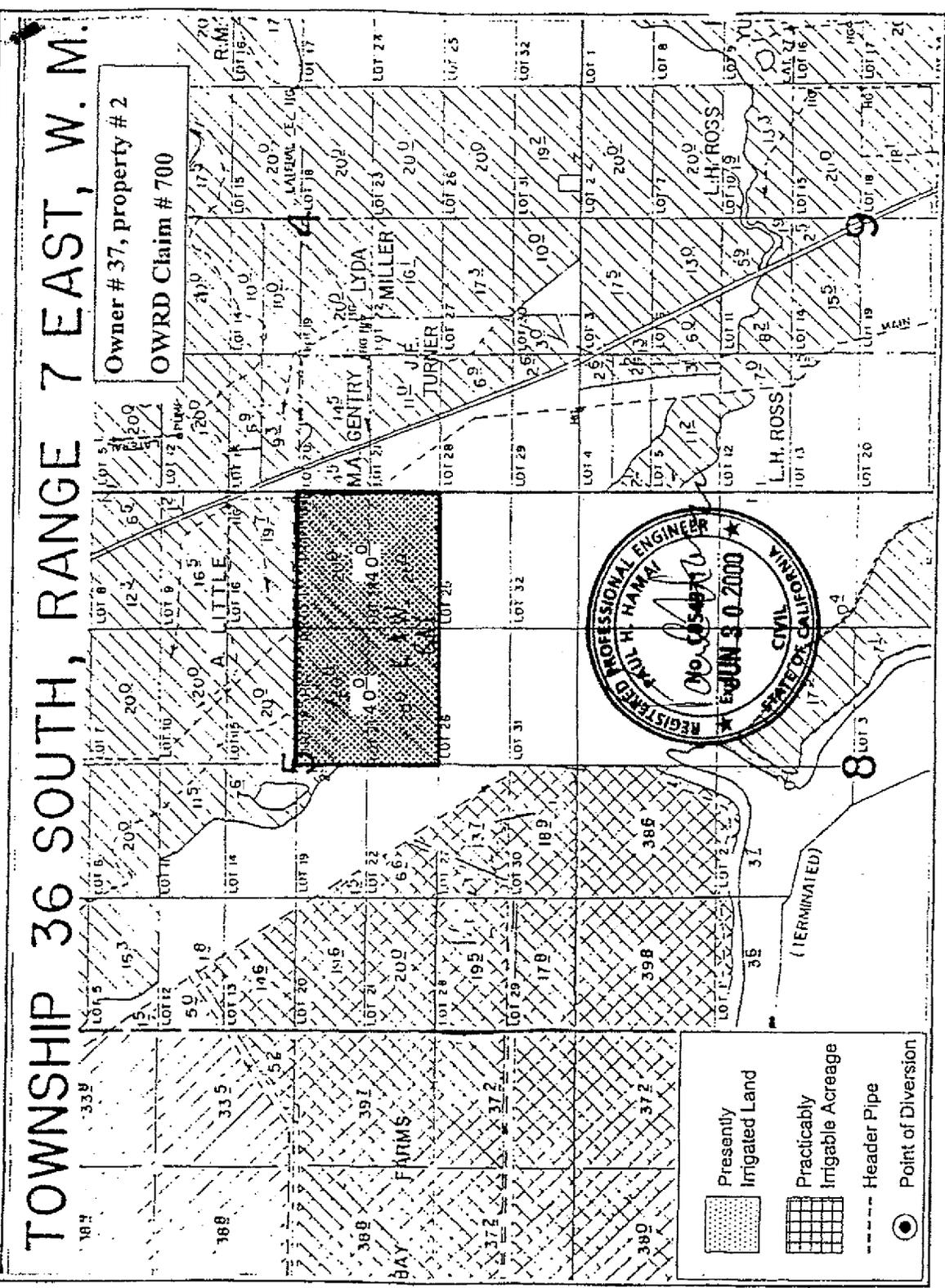


GERRY CLARK
Oregon Water Resources Department
725 Summer Street, NE, Suite A
Salem, OR 97301
Telephone: (503) 986-0825
Telefax: (503) 986-0901
e-mail: Gerald.e.clark@state.or.us

**OREGON WATER RESOURCES
DEPARTMENT STAFF**

TOWNSHIP 36 SOUTH, RANGE 7 EAST, W. M.

Owner # 37, property # 2
 OWRD Claim # 700



- Presently Irrigated Land
- Practically Irrigable Acreage
- Header Pipe
- Point of Diversion



By: Natural Resources Consulting Engineers Inc.
 1250 Adelson St., Suite 204
 Berkeley, Ca. 94702
 Berkeley (510)841-7814

EXHIBIT A

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of November 2007, I served the within
STIPULATION TO RESOLVE CONTEST 1742 (Ridenour); STIPULATION TO
RESOLVE CONTEST 1729 (Hess); STIPULATION TO RESOLVE CONTEST 1769
(Sheppard-Blair); STIPULATION TO RESOLVE CONTEST 1744 (Sheppard-Blair);
STIPULATION TO RESOLVE CONTEST 1737 (Lang); STIPULATION TO
RESOLVE CONTEST 3578 (Cauvin, Walch & KPWU); STIPULATION TO RESOLVE
CONTEST 1724 (Gallagher); STIPULATION TO RESOLVE CONTEST 1759 (Hicks);
and CERTIFICATE OF SERVICE on the parties hereto by e-mail (if an
e-mail address is listed below), and by regular first-class mail, a true, exact and full copy
thereof to:

VIA STATE SHUTTLE MAIL

Dwight W. French / Teri Hranac
Oregon Water Resources Dept.
725 Summer Street NE, Suite A
Salem, OR 97301-1271
dwight.w.french@wrд.state.or.us
teri.k.hranac@wrд.state.or.us

Paul S. Simmons / Andrew M. Hitchings
Somach, Simmons & Dunn
Hall of Justice Building
813 Sixth Street, Third Floor
Sacramento, CA 95814-2403
psimmons@lawssд.com
ahitchings@lawssд.com

Carl V. Ullman
Water Adjudication Project
The Klamath Tribes
P.O. Box 957
Chiloquin, OR 97624
bullman3@earthlink.net

COURTESY COPY:

Maurice L. Russell
Administrative Law Judge
Office of Administrative Hearings
P.O. Box 14020
Salem, OR 97309-4020

David Harder
U.S. Department of Justice
Environment and Natural Resources Div.
1961 Stout Street – 8th Floor
Denver, CO 80294
david.harder@usdoj.gov

Vanessa Boyd Willard
U.S. Department of Justice
Environment and Natural Resources Div.
1961 Stout Street – 8th Floor
Denver, CO 80294
vanessa.willard@usdoj.gov

William M. Ganong
Attorney at Law
514 Walnut Street
Klamath Falls, OR 97601
wganong@aol.com

Claim 248

Stephen Hess
Melissa Hess
P.O. Box 111
Beatty, OR 97621

Claim 700

The Nature Conservancy
821 S.E. 14th Avenue
Portland, OR 97214-2537

Michael P. Rudd
Brandsness, Brandsness & Rudd, PC
411 Pine Street
Klamath Falls, OR 97601
mike@brandsnessrudd.com

James R. Uerlings
Boivin, Uerlings & DiIaconi, PC
803 Main Street, Suite 201
Klamath Falls, OR 97601
jruerlin@cdsnet.net

Claim 253

Edward and Cindy Coombs
27245 Modoc Point Road
Chiloquin, OR 97624

Laura A. Schroeder / Lynn L. Steyaert
Schroeder Law Office, P.C.
1915 NE 39th Ave.
PO Box 12527
Portland, OR 97212
counsel@water-law.com

Richard M. Glick
Davis, Wright, Tremaine
1300 SW Fifth Avenue, Suite 2300
Portland, OR 97201
rickglick@dwt.com

Michael Ratliff
Ratliff & Whitney-Smith
905 Main Street, Suite 200
Klamath Falls, OR 97601
dmratlif@aol.com

Douglas W. MacDougal
Schwabe, Williamson & Wyatt
Pacwest Center, Suite 1900
1211 S.W. 5th Avenue
Portland, OR 97204
dmacdougal@schwabe.com

B.J. Matzen
Attorney at Law
435 Oak Avenue
Klamath Falls, OR 97601
bjmatzen@msn.com

Claim 250

Brian E. & Sharon Allen
37291 Agency Lake Loop Road
Chiloquin, OR 97624

Claim 700

Melinda Cauvin / Loren C. Walsh
P.O. Box 519
Chiloquin, OR 97624-0519

Linda Long-Bourdet
Modoc Point Irrigation District
Agency Representative
24444 Modoc Point Road
Chiloquin, OR 97624
crterlk@aol.com

Claim 243

Peter M. Bourdet
P.O. Box 803
Chiloquin, OR 97624
linda@craterlakerealtyinc.com

Steven L. Shropshire
Jordan Schrader PC
P.O. Box 230669
Portland, OR 97281
steve.shropshire@jordanschrader.com

Claim 682:

L.A. and Pauline Gienger
Gienger Investments, Inc.
Gienger Enterprises
25050 Modoc Point Road
Chiloquin, OR 97624

Claims 269 & 702

Marylyn Sheppard-Blair
P.O. Box 1279
Chiloquin, OR 97624

Claim 260

Stephen and Beverly Lang
29029 Doak Road
Chiloquin, OR 97624

Claim 688

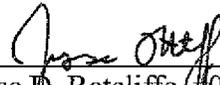
Emmitt W. Hicks
1836 Wiard Street
Klamath Falls, Oregon 97603

Courtesy Copy:

John M. Keller
Keller & Keller P.C.
P.O. Box 14746
Portland, OR 97293

Claim 241

Cecil Gallagher
P.O. Box 647
Chiloquin, OR 97624



Jesse D. Ratcliffe, #04394
Assistant Attorney General