

HARDY MYERS
Attorney General



PETER D. SHEPHERD
Deputy Attorney General

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

May 11, 2006

TO ALL PARTIES

Re: Klamath Adjudication – Case No. 230, Claim Nos. 120, 121 and 122, Contest
Nos. 1689, 1690, 1691, 2843, 3496, 3497, 3498, 3763, 3764, 3765, 4150, 4151
and 4152
DOJ File No. 690-600-GN0201-03

Dear Parties:

Enclosed for your records is a fully executed copy of the Stipulations to Resolve
Contests for Claims 120, 121, and 122 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
Walter Perry III
Assistant Attorneys General
Natural Resources Section

JDR:WNP:tmc/GENQ1097
Enclosure
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; Klamath Irrigation District; Klamath Drainage District; Tulelake Irrigation District; Klamath Basin Improvement District; Ady Ditch Improvement Co.; Enterprise Irrigation District; Klamath Hills District Improvement Co.; Malin Irrigation District; Midland District Improvement Co.; 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.

Con Flynn; Nora P. Flynn; John C. Flynn; Flynn Bros.;

Claimants/Contestants.

Claimants Con Flynn, Nora P. Flynn, John C. Flynn, and the Flynn Brothers

("Claimants"), the United States of America ("United States"), the Klamath Project Water Users ("KPWU"), (collectively "Parties"), 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:

¹ WaterWatch of Oregon, Inc.'s Contest 2843 was dismissed. See ORDER DISMISSING WATERWATCH OF OREGON, INC.'S CONTESTS, May 20, 2003.

² On January 26, 2005, the Klamath Tribes voluntarily withdrew their Contests 4150, 4151, 4152.

**STIPULATION TO RESOLVE
CONTESTS**

Case No. 230

Claim No. 120, *121*, 122

Contests 1690, 2843¹, 3497, and 3764²

A. STIPULATED FACTS

1. On November 16, 1990, Claim 121 was filed with OWRD by the original Claimants, Con Flynn, Nora P. Flynn, and John C. Flynn.
2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 121.
3. In May 2000, the United States filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 3764.
4. In May 2000, the KPWU filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 3497.
5. In May 2000, the Claimants filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 1690.
6. The Parties and OWRD agree that Contests 3764, 3497, and 1690 can be resolved without the need for a hearing pursuant to the terms set forth below.

B. TERMS OF STIPULATION

1. Claimants, the Parties, and OWRD agree that Claim 121 should be approved by the Adjudicator to the extent described below:

POINT OF DIVERSION LOCATION:

POD #	Lot # (¼, ¼)	Sec	Township	Range
1.	Lot 9 (SE ¼ NE ¼)	23	36 S	12 E
2.	Lot 10 (SW ¼ NE ¼)	23	36 S	12 E

SOURCE: Spring located at head of Spring Creek and Brown Creek, tributaries to the Sprague River. These sources are commingled in the Brown Ditch before reaching the Place of Use.

PRIORITY DATE: October 14, 1864

USE: irrigation

RATE: The rate of diversion from the combination of Points of Diversion 1 and 2 shall not exceed 2.16 cubic feet per second, measured at the points of diversion (1/40th cubic feet per second per acre, measured at the points of diversion)

DUTY: 3 acre feet per acre, measured at the point of diversion

PERIOD OF USE: March 15 – October 15

PLACE OF USE: 86.2 acres as shown below and on the attached map.

Acres	Lot # (¼, ¼)	Sec.	Township	Range
4.8	Lot 31 (SW ¼ SE ¼)	14	36 S	12 E
1.4	Lot 26 (SW ¼ SE ¼)	14	36 S	12 E
19.3	Lot 25 (SE ¼ SE ¼)	14	36 S	12 E
18.0	Lot 32 (SE ¼ SE ¼)	14	36 S	12 E
12.7	Lots 17 (NE ¼ SE ¼)	14	36 S	12 E
14.0	Lots 24 (NE ¼ SE ¼)	14	36 S	12 E
12.3	Lots 18 (NW ¼ SE ¼)	14	36 S	12 E
3.7	Lots 23 (NW ¼ SE ¼)	14	36 S	12 E
86.2				

2. The Parties and OWRD agree that pursuant to the terms of this Stipulation, Contests 3764, 3497, and 1690 have been satisfactorily resolved, and such resolution ends the need for a hearing before the Administrative Law Judge on these Contests to Claim 121.

3. Based on the Stipulation of the Parties and OWRD that Claim 121 and the Contests thereto can be resolved without the need for a hearing, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 121 be withdrawn from the Office of Administrative

Hearings. OWRD adjudication staff further recommends that Claim 121 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 121 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 121 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 121.

5. The Parties agree not to oppose or object to this Stipulation or any of its terms, provisions, conditions, or covenants and to support this Stipulation if it is challenged in the administrative or judicial phases of the Adjudication or any appeals thereof.

6. 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 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 to this Stipulation and OWRD 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 or any other judicial or administrative proceeding.

7. 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 relate entities, officers, directors, principals, agents,

employees, assigns, representatives and all persons, firms, associations, and/or corporations connected with them.

8. The Parties to this Stipulation represent, warrant, and agree 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.

9. 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.

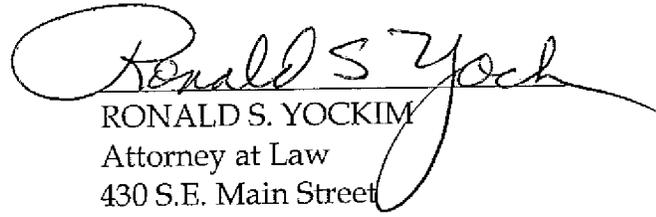
10. This Stipulation may be executed in several counterparts and all documents so executed shall constitute one Stipulation, binding on the Parties, notwithstanding that the Parties did not sign the same original or the same counterparts. Delivery of an executed signature page to this Stipulation by facsimile transmission shall be as effective as delivery of an original signed counterpart of this Stipulation.

11. The Parties agree and acknowledge that this Stipulation has been drafted and reviewed through joint efforts of their respective legal counsel after full and arms-length negotiations; therefore, the usual rule of contractual construction that all ambiguities shall be construed against the drafting party shall not apply to the interpretation of this Stipulation.

12. This Stipulation shall be effective as of the date of the last signature hereto.
Stipulated, agreed and approved by:

For the Claimants:

DATED: ~~February~~ ^{May} 1, 2006



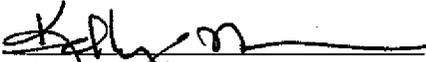
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ATTORNEY FOR CLAIMANTS

For Contestant, the United States of America:

~~March~~
DATED: ~~March~~ May 9, 2006

SUE ELLEN WOOLRIDGE
Assistant Attorney General



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ATTORNEYS FOR THE UNITED STATES OF
AMERICA

For Contestants, the Klamath Project Water Users:

DATED: March 29, 2006

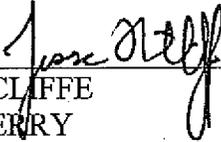


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For the Oregon Water Resources Department:

HARDY MEYERS
Attorney General

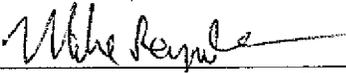
DATED: ^{May} February 10, 2006



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ATTORNEYS FOR OREGON WATER RESOURCES
DEPARTMENT

DATED: ^{May} February 11, 2006



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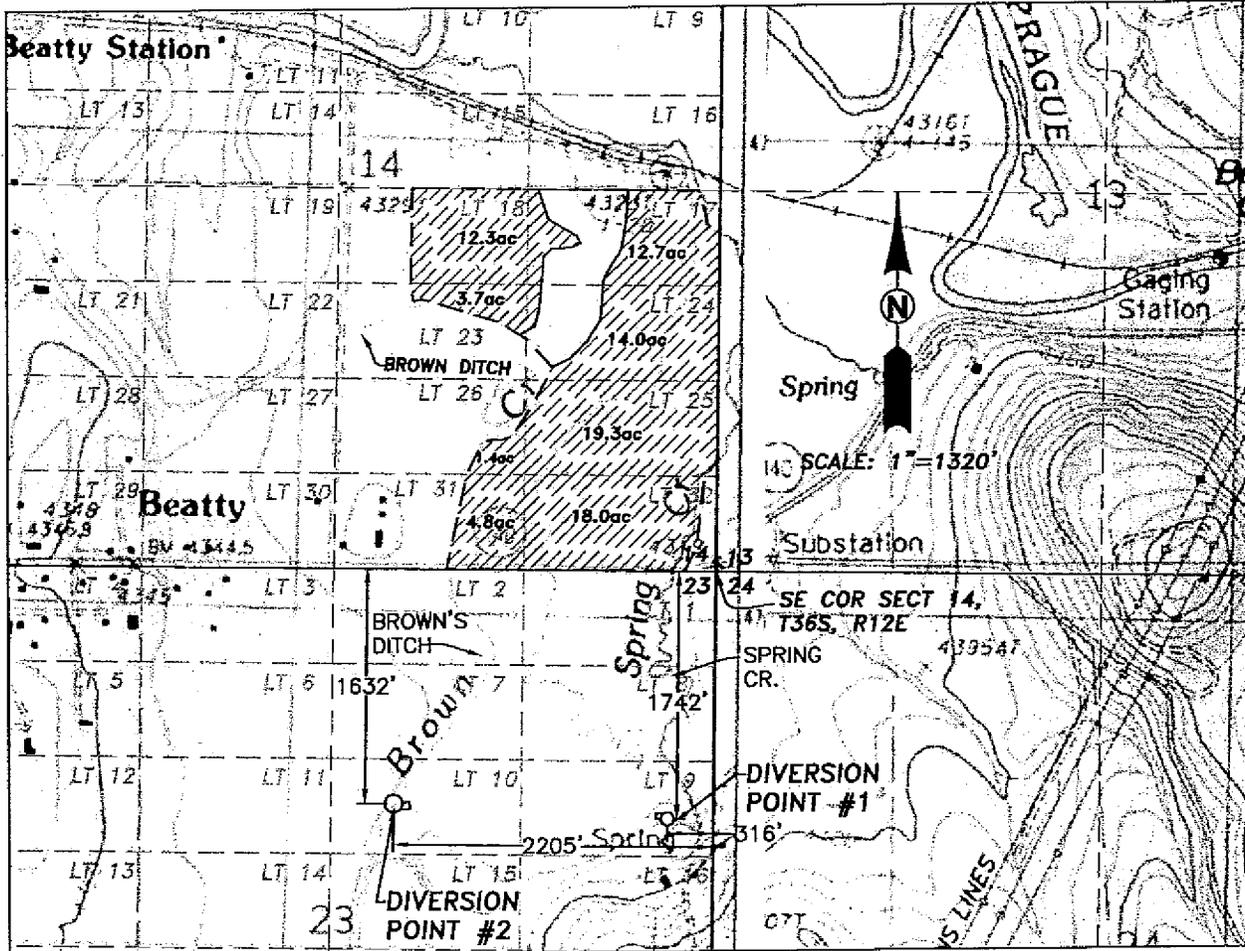
AGENCY REPRESENTATIVE FOR OREGON WATER
RESOURCES DEPARTMENT

ADJUDICATION CLAIM 121 MAP

FOR
 CON FLYNN; NORA P. FLYNN; JOHN C.
 FLYNN; & FLYNN BROS.

CASE NO. 230

LOCATED IN THE SOUTH HALF OF SECTION 14,
 T.36S., R.12E., W.M., KLAMATH COUNTY, OR.



EXPIRES: 12/31/2006

*NOTE:
 BACKGROUND MAP PROVIDED
 THROUGH TERRAIN NAVIGATOR,
 USGS.

○ DIVERSION POINT

▨ IRRIGATED AREA
 (SHOWN IN ACRES)

MAIN DITCH LOCATIONS ARE
 APPROXIMATE

THE PURPOSE OF THIS MAP IS TO
 IDENTIFY THE LOCATION OF THE
 WATER RIGHT ONLY. THERE IS NO
 INTENT TO PROVIDE DIMENSIONS OR
 LOCATIONS OF PROPERTY LINES.

i.e.
 ENGINEERING
 741 SE Jackson Street
 Roseburg, Oregon 97470
 PHONE (541) 673-0166
 FAX (541) 440-9392

PROJECT NO. 2033-01T10

**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; Klamath Irrigation District; Klamath Drainage District; Tulelake Irrigation District; Klamath Basin Improvement District; Ady Ditch Improvement Co.; Enterprise Irrigation District; Klamath Hills District Improvement Co.; Malin Irrigation District; Midland District Improvement Co.; 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.

Con Flynn; Nora P. Flynn; John C. Flynn; Flynn Bros.;

Claimants/Contestants.

**STIPULATION TO RESOLVE
CONTESTS**

Case No.	230
Claim No.	120, 121, 122
Contests	1689, 2843 ¹ , 3498, 3765 ²

Claimants Con Flynn, Nora P. Flynn, John C. Flynn, and the Flynn Brothers (“Claimants”), the United States of America (“United States”), the Klamath Project Water Users (“KPWU”), (collectively “Parties”), 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:

¹ WaterWatch of Oregon, Inc.’s Contest 2843 was dismissed. See ORDER DISMISSING WATERWATCH OF OREGON, INC.’S CONTESTS, May 20, 2003.

² On January 26, 2005, the Klamath Tribes voluntarily withdrew their Contests 4150, 4151, 4152.

A. STIPULATED FACTS

1. On November 14, 1990, Claim 122 was filed with OWRD by the original Claimant, Flynn Brothers.
2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 122.
3. In May 2000, the United States filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 3765.
4. In May 2000, the KPWU filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 3498.
5. In May 2000, the Claimants filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 1689.
6. The Parties and OWRD agree that Contests 3765, 3498, and 1689 can be resolved without the need for a hearing pursuant to the terms set forth below.

B. TERMS OF STIPULATION

1. Claimants, the Parties, and OWRD agree that Claim 122 should be approved by the Adjudicator to the extent described below:

POINT OF DIVERSION LOCATION:

P.O.D.	Lot # (¼, ¼)	Sec.	Township	Range
1 - Brown Creek	SW ¼ NW ¼	36	36 S	12 E
2 - Unnamed Stream	Lot 1 (NE ¼ NE ¼)	3	37 S	12 E

SOURCE: Brown Creek and Unnamed Stream, tributaries to the Sprague River

PRIORITY DATE: October 14, 1864

USE: irrigation

RATE: 1/40th cubic feet per second per acre, measured at the point of diversion:

P.O.D. # 1: 5.68 cubic feet per second

P.O.D. # 2: 2.61 cubic feet per second

DUTY: 3 acre feet per acre measured at the point of diversion

PERIOD OF USE: March 15 – August 1

PLACE OF USE: 331.5 acres as shown below and on the attached map.

Acres	¼, ¼	Sec.	Township	Range	P.O.D.
5.2	NW ¼ SW ¼	26	36 S	12 E	1
5.9	SW ¼ SW ¼	26	36 S	12 E	1
21.5	NE ¼ SW ¼	26	36 S	12 E	1
38.2	SE ¼ SW ¼	26	36 S	12 E	1
6.2	NW ¼ SE ¼	26	36 S	12 E	1
40.1	SW ¼ SE ¼	26	36 S	12 E	1
5.8	SE ¼ SE ¼	26	36 S	12 E	1
1.6	NW ¼ NW ¼	35	36 S	12 E	1
27.1	NE ¼ NW ¼	35	36 S	12 E	1
32.7	NE ¼ NE ¼	35	36 S	12 E	1
38.5	NW ¼ NE ¼	35	36 S	12 E	1
0.2	SW ¼ NE ¼	35	36 S	12 E	1
2.7	SE ¼ NE ¼	35	36 S	12 E	1
1.4	NW ¼ NW ¼	36	36 S	12 E	1
1.5	NW ¼ SW ¼	26	36 S	12 E	2
2.2	SW ¼ SW ¼	26	36 S	12 E	2
7.3	NW ¼ NW ¼	35	36 S	12 E	2
13.5	SW ¼ NW ¼	35	36 S	12 E	2
9.1	NE ¼ NW ¼	35	36 S	12 E	2

30.4	SE ¼ NW ¼	35	36 S	12 E	2
17	NE ¼ SW ¼	35	36 S	12 E	2
23	NW ¼ SW ¼	35	36 S	12 E	2
0.4	NW ¼ NE ¼	35	36 S	12 E	2
331.5					

2. The Parties and OWRD agree that pursuant to the terms of this Stipulation, Contests 3765, 3498, and 1689 have been satisfactorily resolved, and such resolution ends the need for a hearing before the Administrative Law Judge on these Contests to Claim 122.

3. Based on the Stipulation of the Parties and OWRD that Claim 122 and the Contests thereto can be resolved without the need for a hearing, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 122 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 122 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 122 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 122 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 122.

5. The Parties agree not to oppose or object to this Stipulation or any of its terms, provisions, conditions, or covenants and to support this Stipulation if it is challenged in the administrative or judicial phases of the Adjudication or any appeals thereof.

6. 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 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 to this Stipulation and OWRD 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 or any other judicial or administrative proceeding.

7. 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 relate entities, officers, directors, principals, agents, employees, assigns, representatives and all persons, firms, associations, and/or corporations connected with them.

8. The Parties to this Stipulation represent, warrant, and agree 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.

9. 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.

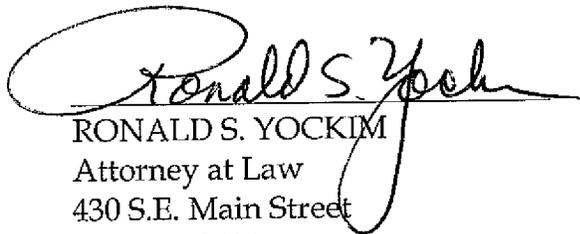
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12. This Stipulation shall be effective as of the date of the last signature hereto.
Stipulated, agreed and approved by:

For the Claimants:

DATED: ~~February~~ ^{May} 1, 2006



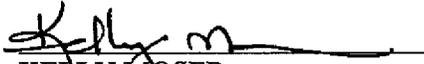
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ATTORNEY FOR CLAIMANTS

For Contestant, the United States of America:

May 9
DATED: *May 9* March __, 2006

SUE ELLEN WOOLRIDGE
Assistant Attorney General

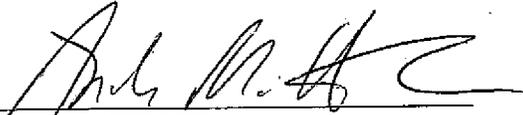


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ATTORNEYS FOR THE UNITED STATES OF
AMERICA

For Contestants, the Klamath Project Water Users:

DATED: March 29, 2006

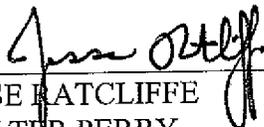


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For the Oregon Water Resources Department:

HARDY MEYERS
Attorney General

DATED: ^{May} February 10, 2006



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ATTORNEYS FOR OREGON WATER RESOURCES
DEPARTMENT

DATED: ^{May} February 11, 2006



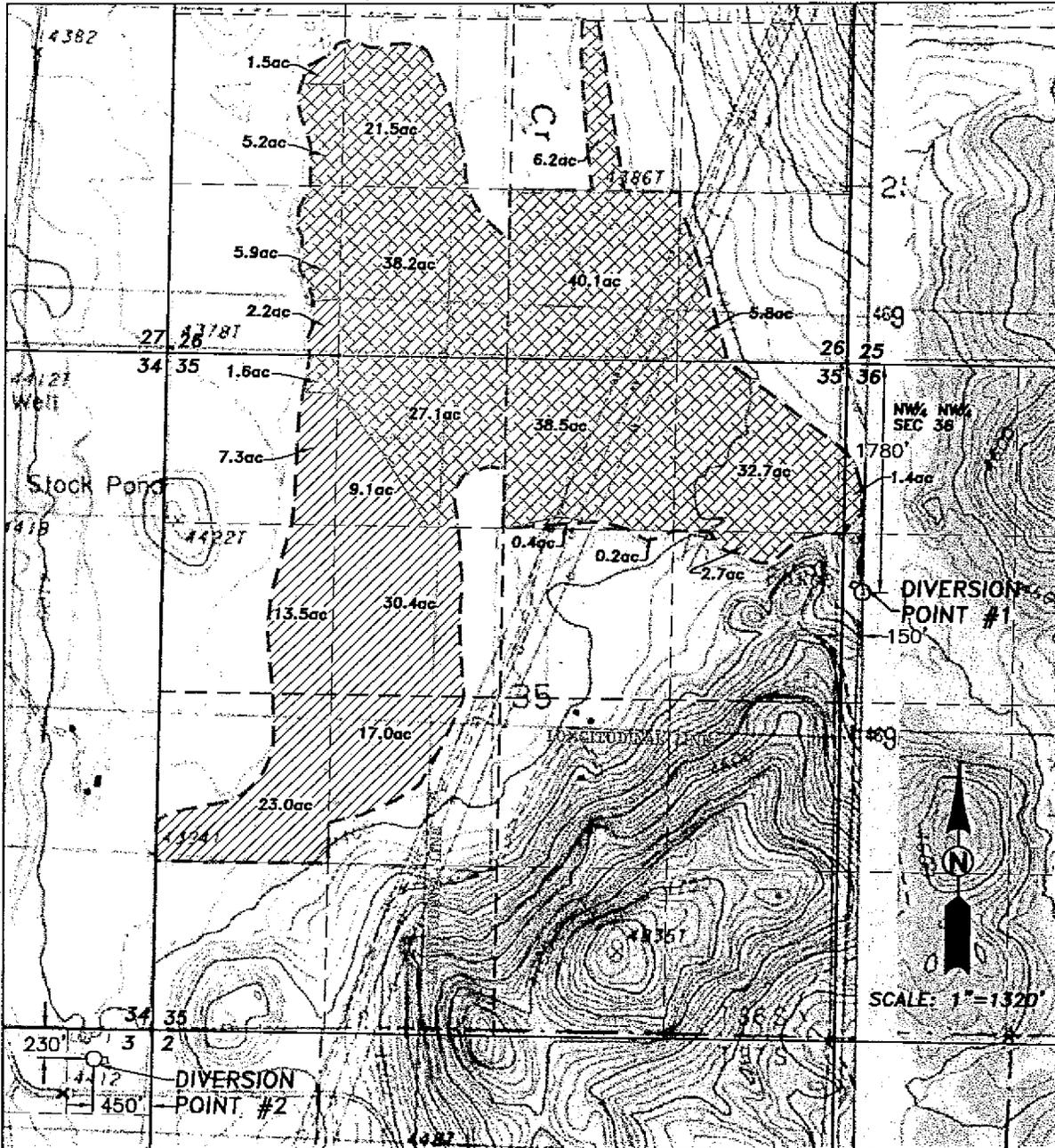
MICHAEL J. REYNOLDS
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email: mike.j.reynolds@wrд.state.or.us

AGENCY REPRESENTATIVE FOR OREGON WATER
RESOURCES DEPARTMENT

ADJUDICATION CLAIM 122 MAP

FOR
 CON FLYNN; NORA P. FLYNN; JOHN C.
 FLYNN; & FLYNN BROS.

CASE NO. 230
 LOCATED IN SEC. 26, 35, 36, T.36S., R.12E, &
 SEC.3, T.37S, R.12E, W.M., KLAMATH COUNTY, OR.



*NOTE:
 BACKGROUND MAP PROVIDED
 THROUGH TERRAIN NAVIGATOR,
 USGS.

THE PURPOSE OF THIS MAP IS TO
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 INTENT TO PROVIDE DIMENSIONS OR
 LOCATIONS OF PROPERTY LINES.



EXPIRES: 12/31/2006

-  DIVERSION POINT
-  IRRIGATED AREA P.O.D. 1
(SHOWN IN ACRES)
-  IRRIGATED AREA P.O.D. 2
(SHOWN IN ACRES)

i.e.
 ENGINEERING
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 Roseburg, Oregon 97470
 PHONE (541) 673-0166
 FAX (541) 440-9392

PROJECT NO. 2033-01T10

**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
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² On January 26, 2005, the Klamath Tribes voluntarily withdrew their Contests 4150, 4151, 4152.

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2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 120.
3. In May 2000, the United States filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 3763.
4. In May 2000, the KPWU filed a Statement of Contest of Claim and/or Preliminary Evaluation of Claim, Contest 3496.
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1. Claimants, the Parties, and OWRD agree that Claim 120 should be approved by the Adjudicator to the extent described below:

POINT OF DIVERSION LOCATION:

POD #	Lot # (¼, ¼)	Sec.	Township	Range
1.	Lot 9 (SE ¼ NE ¼)	23	36 S	12 E
2.	Lot 10 (SW ¼ NE ¼)	23	36 S	12 E

SOURCE: Spring located at head of Spring Creek and Brown Creek, tributaries to the Sprague River. These sources are commingled into the Brown Ditch before reaching the Place of Use.

PRIORITY DATE: October 14, 1864

USE: irrigation

RATE: The rate of diversion from the combination of Points of Diversion 1 and 2 shall not exceed 3.78 cubic feet per second, measured at the points of diversion (1/40th cubic feet per second per acre, measured at the points of diversion)

DUTY: 3 acre feet per acre, measured at the point of diversion

PERIOD OF USE: March 15 – October 15

PLACE OF USE: 151.1 acres as shown below and on the attached map.

Acres	Lot # (¼, ¼)	Sec.	Township	Range
19.5	Lot 1 (NE ¼ NE ¼)	15	36 S	12 E
19.5	Lot 8 (NE ¼ NE ¼)	15	36 S	12 E
1.0	Lot 9 (SE ¼ NE ¼)	15	36 S	12 E
15.7	Lot 3 (NE ¼ NW ¼)	15	36 S	12 E
19.9	Lot 6 (NE ¼ NW ¼)	15	36 S	12 E
1.1	Lot 4 (NW ¼ NW ¼)	15	36 S	12 E
8.4	Lot 5 (NW ¼ NW ¼)	15	36 S	12 E
7.8	Lot 12 (SW ¼ NW ¼)	15	36 S	12 E
5.0	Lot 11 (SE ¼ NW ¼)	15	36 S	12 E
2.6	Lot 30 (SE ¼ SW ¼)	10	36 S	12 E
7.1	Lot 26 (SW ¼ SE ¼)	10	36 S	12 E
20.0	Lot 31 (SW ¼ SE ¼)	10	36 S	12 E
4.2	Lot 25 (SE ¼ SE ¼)	10	36 S	12 E
19.3	Lot 32 (SE ¼ SE ¼)	10	36 S	12 E
151.1				

2. The Parties and OWRD agree that pursuant to the terms of this Stipulation, Contests 3763, 3496, and 1691 have been satisfactorily resolved, and such resolution ends the need for a hearing before the Administrative Law Judge on these Contests to Claim 120.

3. Based on the Stipulation of the Parties and OWRD that Claim 120 and the Contests thereto can be resolved without the need for a hearing, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 120 be withdrawn from the Office of Administrative Hearings. OWRD adjudication staff further recommends that Claim 120 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 120 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 120 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 120.

5. The Parties agree not to oppose or object to this Stipulation or any of its terms, provisions, conditions, or covenants and to support this Stipulation if it is challenged in the administrative or judicial phases of the Adjudication or any appeals thereof.

6. 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 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 to this Stipulation and

OWRD 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 or any other judicial or administrative proceeding.

7. 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 relate entities, officers, directors, principals, agents, employees, assigns, representatives and all persons, firms, associations, and/or corporations connected with them.

8. The Parties to this Stipulation represent, warrant, and agree 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.

9. 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.

10. 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.

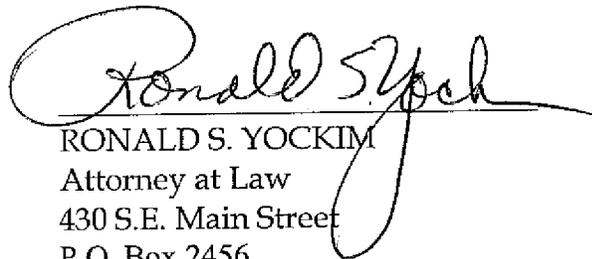
11. The Parties agree and acknowledge that this Stipulation has been drafted and reviewed through joint efforts of their respective legal counsel after full and arms-length negotiations; therefore, the usual rule of contractual construction that all ambiguities shall be construed against the drafting party shall not apply to the interpretation of this Stipulation.

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

Stipulated, agreed and approved by:

For the Claimants:

DATED: ~~February~~ ^{May} 1, 2006



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ATTORNEY FOR CLAIMANTS

For Contestant, the United States of America:

May 9
DATED: ~~March~~ May 9, 2006

SUE ELLEN WOOLRIDGE
Assistant Attorney General


KELLY MOSER

Trial Attorney
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Environment & Natural Resources Division
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AMERICA

For Contestants, the Klamath Project Water Users:

DATED: March 25, 2006



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For the Oregon Water Resources Department:

HARDY MEYERS
Attorney General

DATED: ^{May} February 10, 2006



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walter.perry@doj.state.or.us

ATTORNEYS FOR OREGON WATER RESOURCES
DEPARTMENT

DATED: ^{May} February 11, 2006



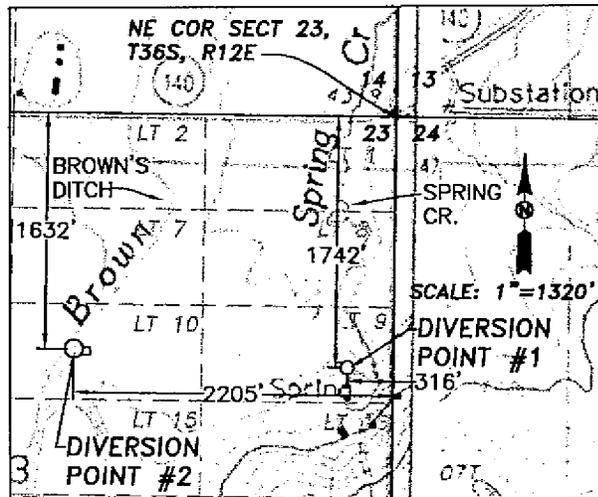
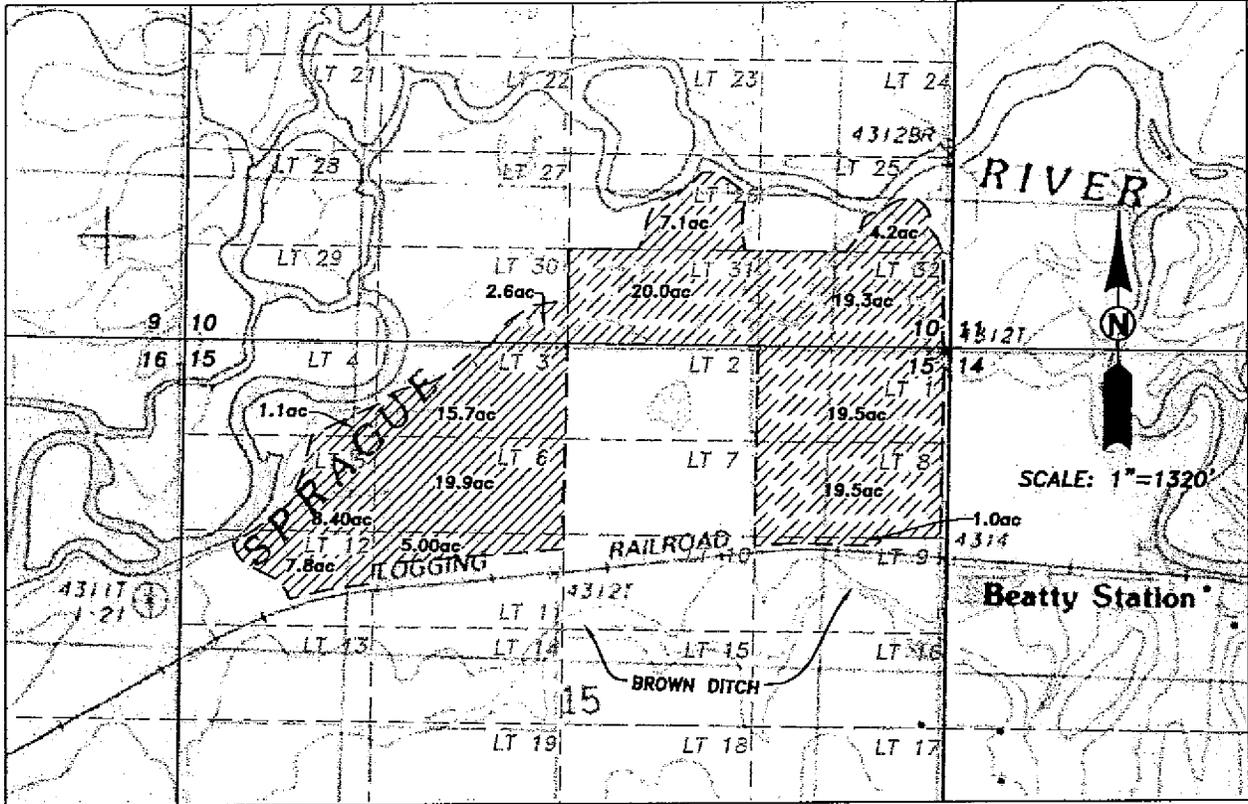
MICHAEL J. REYNOLDS
Oregon Water Resources Department
725 Summer Street, NE, Suite A
Salem, Oregon 97301-1217
Telephone: (503) 986-0820
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AGENCY REPRESENTATIVE FOR OREGON WATER
RESOURCES DEPARTMENT

ADJUDICATION CLAIM 120 MAP

FOR
 CON FLYNN; NORA P. FLYNN; JOHN C.
 FLYNN; & FLYNN BROS.

CASE NO. 230
 LOCATED IN THE SOUTH HALF OF SECTION 10,
 T.36S., R.12E, W.M., KLAMATH COUNTY, OR.



P.O.D. DETAIL

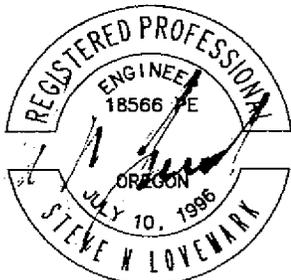
*NOTE:
 BACKGROUND MAP PROVIDED
 THROUGH TERRAIN NAVIGATOR,
 USGS.

○ DIVERSION POINT

▨ IRRIGATED AREA
 (SHOWN IN ACRES)

MAIN DITCH LOCATIONS ARE
 APPROXIMATE

THE PURPOSE OF THIS MAP IS TO
 IDENTIFY THE LOCATION OF THE
 WATER RIGHT ONLY. THERE IS NO
 INTENT TO PROVIDE DIMENSIONS OR
 LOCATIONS OF PROPERTY LINES.



EXPIRES: 12/31/2006

i.e.
 ENGINEERING
 741 SE Jackson Street
 Roseburg, Oregon 97470
 PHONE (541) 673-0166
 FAX (541) 440-9392

PROJECT NO. 2033-01t9

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of May 2006, I served the within
STIPULATIONS TO RESOLVE CONTESTS as to Claims 120, 121, and 122 on the
parties hereto by regular first-class mail and by e-mail (where an e-mail address is listed
below), a true, exact and full copy thereof to:

VIA STATE SHUTTLE MAIL

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