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CLERK OF DISTRICT COURT

BY 10

UNITED STATES DISTRICT COURT
 Dated October 20, 1986
 Robert M. Christ, Clerk
 By Henry B. Worley, Deputy

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA

Plaintiff,

and

THE KLAMATH INDIAN TRIBE,

Plaintiff-Intervenor,

v.

BEN ADAIR, et al.,

Defendants,

and

THE STATE OF OREGON

Defendant-Intervenor.

CIVIL NO. 75-914-SO

SUPPLEMENTAL DECLARATORY
 JUDGMENT AND STIPULATION
 OF CONSENT

This Court having entered the original Declaratory Judgment in this case on April 21, 1980, which was affirmed as modified by the Court of Appeals in its opinion of January 24, 1984, 723 F.2d 1394, and this Court having subsequently allowed the filing of plaintiff's Second Amended Complaint, which was filed July 23, 1985, to assert a claim of a Federal reserved water right for the Klamath Forest National Wildlife Refuge (Refuge) arising from the

1 Klamath Termination Act of 1954, as amended, 25 U.S.C. § 564 et seq., and the
2 defendants appearing herein, upon the advice of counsel, having consented to
3 the making and entry of this final judgment, and this Court being fully
4 advised in the premises,

5 IT IS ORDERED AND ADJUDGED:

6 1. The plaintiff, United States of America (hereinafter Government)
7 has a water right of a quantity of water for the proper mix of free water
8 surfaces, emerging vegetation, and meadow essential to the operation of the
9 Refuge for the purposes set forth in the Orders and Laws creating the Klamath
10 Forest National Wildlife Refuge. This water right shall be sufficient to
11 enable the Fish and Wildlife Service to maintain the Refuge as a marsh in an
12 ecological state, which is classified as partly palustrine emergent wetlands
13 and partly lacustrine littoral aquatic bed wetlands. See Classification of
14 Wetlands and Deepwater Habitats of the United States, Fish and Wildlife
15 Service, U.S. Department of the Interior (1979). Actual quantification of
16 the water right shall occur in the Klamath Adjudication of the State of
17 Oregon.

18 2. The priority date of the water right for the Refuge is July 23,
19 1985.

20 3. The water right declared by this supplemental judgment pertains
21 to all Klamath Marsh lands now within the Refuge, which has a land area of
22 16,377 acres.

23 4. The provisions of this supplemental judgment shall apply to and
24 be binding upon the defendants who are, by their attorneys, signatory hereto,
25 their agents, servants, successors and assigns and all persons, firms and
26 corporations acting under, through, or for them, and upon all other persons.

PAGE 2 - SUPPLEMENTAL DECLARATORY JUDGMENT AND STIPULATION OF CONSENT

1 firms, and corporations in active concert or privity with them who receive
2 notice of this supplemental judgment. This supplemental judgment shall also
3 apply to and be binding upon all defendants to this action who are in default
4 by reason of not appearing herein and as to whom an order of default is
5 heretofore entered. This supplemental judgment is binding on the defendant-
6 intervenor, State of Oregon, as an owner of property within the litigation
7 area. However, this supplemental judgment will not bind officials of the
8 State as to decisions to be made in their official capacity affecting the
9 rights or interests of nonparties to this litigation. This supplemental
10 judgment will bind State officials acting in their official capacity as to
11 decisions concerning interests within the litigation area affecting actual
12 parties to this litigation and their successors in interest. The parties
13 defendant hereto do not waive their rights to claim, assert and perfect any
14 water rights they may have in the litigation area, regardless of their
15 priority dates.

16 5. As to all persons who are not parties to this action and the
17 judgments entered herein, the Government retains the right to claim a federal
18 reserved water right for the Refuge with a priority date of September 7,
19 1960.

20 6. This supplemental judgment shall not be construed to prevent
21 present or future domestic uses of water in the litigation area for
22 single-family residences, as specified in O.R.S. 537.545, including but not
23 limited to, use of ground water for watering any lawn or noncommercial garden
24 not exceeding one-half acre in area and single or group domestic purposes in
25 an amount not exceeding 15,000 gallons a day.

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PAGE 3 - SUPPLEMENTAL DECLARATORY JUDGMENT AND STIPULATION OF CONSENT

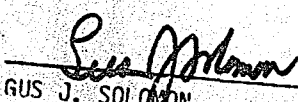
1 7. Water rights within the litigation area having a priority date
2 prior to July 23, 1985, are not affected by this supplemental judgment.

3 8. The Government will not assert claims of additional water rights
4 in this case. Water rights of the Winema National Forest within the
5 boundaries of the former Klamath Indian Reservation will be determined in the
6 Klamath Adjudication of the State of Oregon.

7 9. This Court retains jurisdiction of this case for a period of one
8 year from the date a final judgment is entered in the State court, or if that
9 judgment is appealed, from the date of the final judgment on appeal, for the
10 purpose of enabling the parties or their successors in interest to apply to
11 this Court at any time for such orders and directions as may be necessary or
12 appropriate for the construction and effectuation of this judgment, for the
13 modification of any of the provisions hereof, and for the enforcement of
14 compliance with this judgment. Subject to the continuing jurisdiction of this
15 Court, quantification of the rights to the use of the waters of the Williamson
16 River and its tributaries within the litigation area will be performed by the
17 State of Oregon within its applicable procedures.

18 10. The Court directs that none of the parties or intervenors
19 recover costs, disbursements, or attorneys fees in this case.

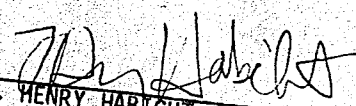
20 Dated this 16th day of October, 1986.

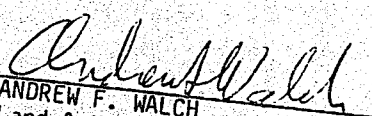
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GUS J. SOLOMON
U.S. Senior District Judge

STIPULATION

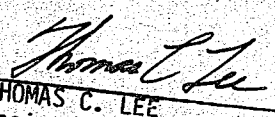
The parties to this stipulation, in the interest of terminating this litigation, hereby consent to the entry of this supplemental judgment. By so stipulating, the parties agree that they will accept the foregoing declaration of a water right with priority date of July 23, 1985 and further agree that the Government does not, as to any persons not parties to this stipulation, waive its rights or recede from its position that, by operation of law, it would be entitled to a federal reserved water right with priority date of September 7, 1960. The parties defendant hereto do not waive their rights to claim, assert and perfect any water rights they may have in the litigation area, regardless of their priority dates. IT IS SO STIPULATED:

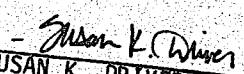
20101


F. HENRY HABICHT II
Assistant Attorney General
Land & Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530
Sept. 23, 1986
Date


ANDREW F. WALCH
Land & Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530
Sept. 24, 1986
Date

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United States Attorney
District of Oregon
312 U.S. Courthouse
620 S.W. Main
Portland, OR 97205


THOMAS C. LEE
Assistant U.S. Attorney
Sept. 26, 1986
Date


SUSAN K. DRIVER
Special Assistant U.S. Attorney
U.S. Department of the Interior
Lloyd 500 BG, Suite 607
500 N.E. Multnomah
Portland, OR 97232
Sept. 29, 1986
Date

Of Attorneys for plaintiff

20102

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PAGE 7 - SUBSTITUTE PAGE FOR SUPPLEMENTAL DECLARATORY JUDGMENT AND STIPULATION
OF CONSENT

20103

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2
3 Robert D. Boivin
4 Boivin, Mc Cobb, Uerlin, P.C.
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7/29/86
Date

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following defendants:

KLAMATH COUNTY

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PAGE 8 - SUPPLEMENTAL DECLARATORY JUDGMENT AND STIPULATION OF CONSENT

20104

1
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3 Brandsness & Huffman, P.C.
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Date

5 Attorney for the
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9 Mary Ann Robinson
10 Richard W. Robinson
11 Brian Daniel Sherrill
12 Gregory Clay Sherrill
13 Leslie Ann Sherrill
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William B. Freck 9/25/86
Date

William B. Freck
Attorney at Law
~~Crown Zellerbach Corp.~~
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Attorney for the
following defendants:
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1 Beverly Lynne K. Hiramatsu 7/31/86
2 Date

3 Attorney at Law
4 Lyons, Hagerman & Brandt
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7 Attorney for the
8 following defendants:

9 CELINE KAPIOLANI SOUZA, fka
10 Celine Kapiolani Toledo
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20107

1 Darryl E. Johnson 9/15/86
2 Darryl E. Johnson Date
3 840 SE Rose St.
4 Roseburg, OR 97470

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6 following defendants: Yamsey Duck Club, Inc.
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20108

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PAGE 13 - SUBSTITUTE PAGE FOR SUPPLEMENTAL DECLARATORY JUDGMENT AND STIPULATION
OF CONSENT

20109

1 
2 R.L. Marceau
3 Johnson, Marceau, Karnopp
4 and Petersen
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6 Bend, OR 97701

Date 8/14/86

7 Attorney for the
8 following defendants:

9 LURA MARTIN
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PAGE 14 - SUPPLEMENTAL DECLARATORY JUDGMENT AND STIPULATION OF CONSENT

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PAGE 15 - SUBSTITUTE PAGE FOR SUPPLEMENTAL DECLARATORY JUDGMENT AND STIPULATION
OF CONSENT

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PAGE 16 - SUBSTITUTE PAGE FOR SUPPLEMENTAL DECLARATORY JUDGMENT AND STIPULATION
OF CONSENT

20112

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George H. Proctor Date
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Attorney for the
following defendants:

1. Francis, Hilda
2. Francis, Jesse F.
3. Givan, Ida (Cunningham)
4. Grupe Company
5. Lightner, Howard Now deceased
6. Lightner, Darlene (Wolff) - - Trustee
7. Osborn, Clifford
8. Riffey, Jeannie
9. Sand Creek Ranch
10. Smith, Maureen (Harrison)
11. Glessner, James
12. Estate of Harry Clarkston, deceased

20113

Bruce M. Pym
Graham & Dunn
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Date

8/19/86

Attorney for the
following defendants:

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Helmut Wallenfels *7-25-86*
Date
Helmut Wallenfels
Attorney at Law
Weyerhaeuser Company
Tacoma, WA 98477

Attorney for the
following defendants:

*Weyerhaeuser Company, a
Washington corporation*

1 *Jere M. Webb* 9-23-96
 2 Jere M. Webb Date
 3 Charles F. Adams
 4 Stoel, Rives, et al
 5 2300 Georgia Pacific BG
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 7 Portland, OR 97204

8 Attorney for the
 9 following defendants:

10 Cliff L. Ambers, Jr.
 11 Dorothy G. Bell
 12 Estate of Hugh T. Bell, Deceased
 13 Kristine Bush
 14 Jack R. Chapman
 15 James L. Chapman, Trustee
 16 Sandra L. Chapman, Trustee
 17 Donal H. Dean
 18 Donal M. Dean
 19 Ernest E. Dennis
 20 Everett R. Dennis, Deceased
 21 Frances M. Dennis
 22 Bruce Emery
 23 Dorothy Emery
 24 Kenneth Lester Emery
 25 Tina Kay Emery
 26 Ehrman Danell Giustina
 Viola M. Gouldin
 Estate of Viola M. Gouldin
 John C. Horton, Trustee
 Dayton O. Hyde
 Gerda V. Hyde
 Carolyn J. Johnson
 James B. Lawrence
 Steven E. Lawrence
 Lloyds Bank of California,
 Trustee (Mathis Trust)
 John M. Mosby
 Marilyn J. Mosby
 The Bank of California,
 Trustee (Mt. Scott
 Properties)
 Richard A. Myers, Trustee
 Dana Marie (Nicol) Morasch
 Donovan L. Nicol

Mark Edward Nicol
 Nicol Land and Cattle Company
 Oscar Nicol Kittredge
 William A. Pingley
 Diane F. Taylor
 Margie B. Runels
 Scott Lee Runels
 Edward Donal Tompkins,
 Trustee (Under the Will of
 H. Willis Tompkins)
 Willis Stanley Tompkins,
 Trustee (Under the Will of
 H. Willis Tompkins)
 Mabel L. Tompkins
 Edward D. Tompkins
 Merrie Linda Tompkins
 Willis Stanley Tompkins

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2 Jose T. Agustin 8-8-86
3 Jose T. Agustin Date
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6 Walpahu, HI 96797

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9 Ana B. Agustin Date
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14 Joselito B. Agustin 8/11/86
15 Joselito B. Agustin Date
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18 Walpahu, HI 96797

19
20 Erlinda A. Agustin 8-11-86
21 Erlinda A. Agustin Date
22 Pro Se
23 94-1045 Hapapa St.
24 Walpahu, HI 96797

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20117

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2 Bernaldo B. Bicoy, Esq. AUG - 1 1986
3 Suite 304 Territorial Savings Building Date
4 98-084 Kamehameha Highway
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6 Attorney for the
7 following defendants:

8 MIRIAM BICOY
9 RANNIER PRYNNE BICOY
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20118

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William K Davies 7-29-86
Date

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2053 N. Long Lake Rd.
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Constance Wolverton 7-29-86
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Pro Se

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PAGE 23 - SUPPLEMENTAL DECLARATORY JUDGMENT AND STIPULATION OF CONSENT

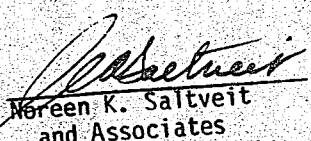
20119

1
2 David B. Frohnmayer
3 State Attorney General
4 James E. Mountain, Jr.
5 Mark Braverman

6  9/24/86
7 Michael D. Reynolds Date
8 100 Justice BG
9 Salem, OR 97310
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Date
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20121

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Betty L. Zoelger 7-29-86
Pro Se Date
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20122

Shane D. Hostbjoer

Date

8-4-86

Pro Se

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Debora A. Hostbjoer

Date

8-4-86

Pro Se

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2 Robert D. Greaves 3/4/86
3 Date
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6 following defendants:

7 Steven Brooks Anderson	Terri Lynn Anderson
8 C. E. Asher, Jr.	Glenna M. Asher
9 G. P. Beauchaine	Lois J. Beauchaine
10 Sandra J. Beeman	Thomas M. Beeman
11 Petra G. Bendele	Ronald W. Bendele
12 Dennis Betzer	Earlynn Betzer
13 Lucy A. Breeden	William L. Breeden
14 Estrella E. Bright	R. C. Bright
15 J. N. Brogger	Michael J. Brown
16 Rodney G. Bybee	Jill Anne Cable
17 Alfredo S. Callo	Ida G. Callo
18 Lina M. Cardinal	Thomas C. Cardinal
19 Grant A. Christiansen	Anna S. Clark
20 Janice E. Clark	R. J. Clark
21 Russell Clark, Jr.	Patrick J. Cooper
22 Vickie L. Cooper	Margaret A. Cozart
23 R. W. Cozart	Elva M. Creel
24 John B. Creel	Sunday N. Dargel
25 Thomas K. Dargel	Lauren M. De Laura
26 Richard A. De Laura	Charlene A. DeWeese

- 1 Paul M. DeWeese
- 2 Thelma M. Dunn
- 3 Marjorie H. Elliott
- 4 Vicencia Esquerria
- 5 Kenneth E. Friday
- 6 J. K. Fyfe
- 7 Charles K. Giudice
- 8 Earl N. Jones, Jr.
- 9 Becky L. Kersch
- 10 C. Kircher
- 11 Russel P. La Guardia
- 12 Glenndia G. Lemoine
- 13 Curt Liles
- 14 Ramona C. Manibusan
- 15 Deborah J. Meisner
- 16 Donna Morton
- 17 Mary F. Mulkey
- 18 Lynne M. Patton
- 19 Melvin J. Perricone
- 20 Marsha Ann Power
- 21 O. Reams
- 22 F. J. Rising
- 23 B. J. Roethle
- 24 John C. Ruane
- 25 R. G. Runne
- 26 Gary D. Runyan

James P. Dunn
Darrell A. Elliott
B. Esquerria
Anita P. Friday
Barrie O. Fyfe
J. E. Gilbert
R. G. Hodges
Lianne P. Jones
Dan O. Kersch
Yu Cha Kircher
Terry La Guardia
Alecia Liles
A. U. Manibusan
Jennifer F. Means
Thomas J. Mich
Donald R. Mulkey
Peter E. Muller
Micheal L. Patton
J. R. Power
Clayton Franklin Putman, Jr.
Quelle Reams
Terry A. Rising
Conni L. Roethle
Julia A. Ruane
Rebecca E. Runne
Teresa M. Runyan

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STIPULATION OF CONSENT

20125

1	Cheryl D. Ruska	R. W. Ruska
2	Johnny R. Smith	Katherine L. Smith
3	Lydia F. Stifle	Richard L. Stifle
4	Debra S. Troen	Kirk E. Troen
5	Francisco O. Valdez	Sylvia R. Valdez
6	Lawrence E. Veerkamp	Thomas B. Vergne
7	Daniel J. West	Bonnie L. Wilson
8	Steven R. Wilson	Marian E. Yancey
9	R. T. Yancey	E. R. Young
10	Rose Young	
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STIPULATION OF CONSENT

Chi-Hung A. Chan
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 Suite 1600
 655 Montgomery
 San Francisco, CA 94111

8-29-86

Date

Attorney for the
 following defendants: Nobuo Suzuki

Re: Charles H. Turner, U.S. Atty
 Attn: Thomas C. Lee
 312 U.S. Courthouse
 620 S.W. Main St.
 Portland, Ore 97205

PAGE 31 - SUPPLEMENTAL DECLARATORY JUDGMENT AND STIPULATION OF CONSENT

FORM ORD-183
 MAR 83

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the 6th day
 of November A.D., 19 86 at 8:42 o'clock A.M., and duly recorded in Vol. 186
 of Deeds on Page 20096

FEE \$125.00

Evelyn Biehn, County Clerk
 By *[Signature]*