

BEFORE THE 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.

Horsefly Irrigation District; Langell Valley
Irrigation District; Medford Irrigation District;
Rogue River Irrigation District;
Contestants,

v.

Pacificorp,
Claimant and Contestant

**STIPULATION TO DISMISS
CONTEST 2057**

Case 20

Contests 2057, 3203

Claim 219

The Oregon Water Resources Department ("OWRD") and PacificCorp do hereby
and agree and stipulate as follows:

Stipulated Facts

- I. On January 31, 1991, Pacificorp, doing business as Pacific Power and Light Co., ("Claimant") submitted a statement and proof of claim (no. 219) to the OWRD for 0.2 cubic feet per second ("cfs") from one point of diversion located on an unnamed stream (referred to as Tom Creek), a tributary of the Klamath River, for irrigation of eight (8) acres. The claimed period of use is April 15 through October 31 of each year, and the claimed priority date is 1906.
- II. On October 4, 1999, the Adjudicator issued his preliminary evaluation of claim 219, and found that 0.16 cfs had been beneficially used for irrigation of 6.2 acres. The use was approved for March 1 through October 31 of each year with a priority date of December 31, 1906.
- III. On May 5, 2000, Claimant filed contest 2057 to the preliminary evaluation of claim 219 contesting the Adjudicator's findings regarding the reduced number of acres irrigated, and the concurrent reduction in the amount of water allowed under the claim. Claimant restated the claimed amounts and requested a contested case hearing.
- IV. On December 18, 2001, Claimant met with the OWRD and discussed settlement of contest 2057. Claimant and the OWRD agree that a resolution of the issues raised in the contest are resolved solely pursuant to the terms outlined below.

Terms of the Agreement

1. Claimant and OWRD agree that the terms of claim 219 and any water right that may derived therefrom are as follows:
 - a) Point of diversion location: SE 1/4 SW 1/4, Section 12, Township 41 South, Range 5 East, W.M.
 - b) Source: unnamed stream referred to as "Tom Creek," tributary of the Klamath River
 - c) Use: Irrigation of 6.2 acres.
 - d) Amount beneficially used: 0.16 cubic feet per second, measured at the point of diversion.
 - e) Period of Use: March 1 – October 31 of each year.
 - f) Priority Date: December 31, 1906
 - g) Place of Use:

SW 1/4 SW 1/4 3.1 ACRES OF IRRIGATION
SE 1/4 SW 1/4 3.1 ACRES OF IRRIGATION
SECTION 12
TOWNSHIP 41 SOUTH, RANGE 5 EAST, W.M.

2. The Claimant agrees that pursuant to this agreement its contest to the preliminary evaluation of the claim described in paragraph I has been satisfactorily resolved and agrees that a hearing on contest 2057 before the Hearing Officer is not required.
3. The OWRD staff agree to recommend to the Chief Adjudicator the terms of claim 219 as described above in paragraph 1.
4. If the Findings of Fact and Order of Determination issued by the Adjudicator for claim 219 do not accord with the terms listed in paragraph 1 above, Pacificorp reserves the right to file exceptions to the Findings of Fact and Order of Determination as to claim 219 in the circuit court in Klamath County.


On Behalf of Pacific Power and Light Co.

5-28-02
Date


On Behalf of the Oregon Water Resources Dept.

6/5/02
Date

CERTIFICATE OF SERVICE, CASE NO. 020, Claim 219

I hereby certify that on June 7, 2002, I caused to be served the original copy of the following: *Letter Withdrawing Contested Case 20, Claim 219, from the Hearing Officer Panel* upon the Administrative Law Judge by email, facsimile, and depositing the same in the U.S. Post Office, with first class postage prepaid thereon, and addressed to:

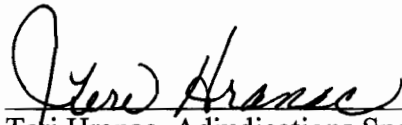
William D. Young
Administrative Law Judge
Hearings Officer Panel
P.O. Box 20010
Salem, OR 97307
Fax: (503) 378-4067
Email: william.d.young@state.or.us
Email: klamath.adjudication@state.or.us

I further hereby certify that on June 7, 2002, I caused to be served a true copy of the following: *Letter Withdrawing Contested Case 20, Claim 219, from the Hearing Officer* upon the following persons by transmitting the electronically to the "email" addresses provided by said parties, and via first-class mail:

Dick Bailey/Renee Moulun (hand delivered)
Oregon Water Resources Department
Klamath Basin Adjudication
158 12th Street, NE
Salem, OR 97301
E-Mail: Richard.d.bailey@wrdd.state.or.us
E-Mail: Renee.m.moulun@wrdd.state.or.us

David E. Van't Hof/Jennie Bricker
Stoel Rives, LLP
900 SW Fifth Ave., Suite 2600
Portland, OR 97204
Phone: 503-224-3380
Fax: 503-220-2480
E-Mail: devanthof@stoel.com
E-Mail: jlbricker@stoel.com

Walter Perry III/Justin Wirth
Oregon Department of Justice
1162 Court Street, NE
Salem, OR 97301
E-Mail: Walter.perry@doj.state.or.us
E-Mail: Justin.wirth@doj.state.or.us


Teri Hranac, Adjudications Specialist