

**BEFORE THE DIRECTOR  
OF THE WATER RESOURCES DEPARTMENT  
OF THE STATE OF OREGON**

**KLAMATH BASIN GENERAL STREAM ADJUDICATION**

In the Matter of the Claim of	)	PARTIAL ORDER OF
STEVEN LAWRENCE AND	)	DETERMINATIO
JAMES LAWRENCE	)	
_____	)	Water Right Claim 13
	)	

The GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION is incorporated as if set forth fully herein.

**A. FINDINGS OF FACT**

1. On January 30, 1991, STEVEN LAWRENCE (ON BEHALF OF HIMSELF AND JAMES LAWRENCE) (Claimants) timely submitted a Statement and Proof of Claim (Claim 13) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as a non-Indian successors to allotted Klamath Reservation lands, claiming a vested Indian reserved water right (Walton claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 13 was submitted for a total of 3.8 cfs of water from the Williamson River, a tributary of Upper Klamath Lake, for irrigation of 152.4 acres and for livestock watering of 300 head. The claimed period of use is "April through October." The claimed priority date is "1864."
3. STEVEN LAWRENCE signed Claim 13 attesting that the information contained in the claim is true.
4. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating the claim was approved for livestock watering and irrigation, but with longer seasons of use than claimed, and for fewer acres than claimed.
5. On May 4, 2000, the Claimants timely filed Contest 1787 to the Preliminary Evaluation of Claim 13.
6. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3435: 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.<sup>1</sup>, 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, Berlva Pritchard<sup>2</sup>, Don Vincent<sup>3</sup>, Randy Walthall, Inter-County Title Co., Winema Hunting Lodge, Inc., Van Brimmer Ditch Co., Plevna District Improvement Co., and Collins Products, LLC.

7. On May 8, 2000, the United States of America timely filed Contest 3719 to the Claim and/or Preliminary Evaluation of Claim 13.
8. On May 8, 2000, the Klamath Tribes timely filed Contest 4075 to the Claim and/or Preliminary Evaluation of Claim 13.
9. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 164.
10. On April 1, 2004, the Klamath Project Water Users withdrew Contest 3435. *See* NOTICE OF WITHDRAWAL OF CONTEST NO. 3435 (Apr. 1, 2004).
11. On January 18, 2005, the Claimants, OWRD, the United States of America, and the Klamath Tribes, executed a STIPULATION TO RESOLVE CONTESTS (Settlement Agreement) thereby resolving the remaining contests to Claim 13.
12. On January 26, 2005, the Adjudicator withdrew Case 164 from the Office of Administrative Hearings.
13. OWRD finds that the location of the 112.8 acres described as the place of use listed in Paragraph B.1 of the Settlement Agreement is inconsistent with location of the 112.8 acres shown on the Settlement Map for Claim 13 (Dec. 21, 2004). OWRD finds that the Settlement Map is consistent with testimony from L. Ralph Saunders including Attachment 2, a depiction of the irrigated lands within Claim 13. Therefore, OWRD makes the following corrections to the place of use listing for irrigation and livestock watering:
  - a. 13.4 acres within the NW¼ NE¼ , Section 1, Township 31 South, Range 10 East, W.M. is corrected to 5.6 acres,
  - b. 0.06 acres within the NE¼ SW¼, Section 36, Township 30 South, Range 10 East, W.M. is deleted,
  - c. 33.4 acres within the NW¼ SE¼, Section 36, Township 30 South, Range 10 East, W.M. is corrected to 34.0 acres, and

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<sup>1</sup> Klamath Hills District Improvement Company voluntarily withdrew from Contest 3435 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

<sup>2</sup> Berlva Pritchard voluntarily withdrew from Contest 3435 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

<sup>3</sup> Don Vincent voluntarily withdrew from Contest 3435 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

- d. 26.4 acres within the SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 36, Township 30 South, Range 10 East, W.M. is corrected to 34.2 acres.
14. OWRD finds that the following locations referenced in the Settlement Agreement are within certain Government Lots as listed below:
    - a. SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 1, Township 31 South, Range 10 East, W.M. is within Government Lot 10,
    - b. SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 36, Township 30 South, Range 10 East, W.M. is within Government Lot 3,
    - c. SE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 36, Township 30 South, Range 10 East, W.M. is within Government Lot 4,
    - d. NW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 36, Township 30 South, Range 10 East, W.M. is within Government Lot 2,
    - e. SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 36, Township 30 South, Range 10 East, W.M. is within Government Lot 6, and
    - f. NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 36, Township 30 South, Range 10 East, W.M. is within Government Lot 9.
  15. OWRD finds that the irrigation season, March 1 to October 31, as stipulated in the Settlement Agreement is an impermissible amendment because it is an enlargement of the original claim; the Claimant claimed an irrigation season “April through October.”
  16. The Claimants did not include payment of the fee required by ORS 539.081 for livestock use by the January 31, 1991 deadline for filing a Statement and Proof of Claim. Therefore, OWRD finds that the livestock watering use as stipulated in the Settlement Agreement is an impermissible amendment to the claim; livestock watering approved under Claim 13 must be limited to incidental livestock watering during the irrigation season.

## **B. DETERMINATION**

1. The Settlement Agreement executed between the Claimants, OWRD, the United States of America, and the Klamath Tribes is adopted and incorporated as if set forth fully herein, with four exceptions:
  - a. The location and acreage of any place of use that does not agree with Settlement Map for Claim 13 (Dec. 21, 2004) as described in Finding 14, above; the place of use is corrected to reflect the Settlement Map for Claim 13 (Dec. 21, 2004);
  - b. Government Lots are assigned as described in Finding 14, above;

- c. The irrigation season that was enlarged by the Settlement Agreement and constitutes an impermissible amendment as described in Finding 15, above; the irrigation season recognized herein is consistent the Claimant's original claim; and
  - d. The 8122 gallons per day for livestock watering that is an impermissible amendment as described in Finding 16, above; livestock watering is limited to incidental livestock watering during the irrigation season.
2. The GENERAL CONCLUSIONS OF LAW CONCERNING AMENDMENT OF CLAIMS is incorporated as if set forth fully herein.
3. The Claimants' claim for a separate right of use for livestock watering is denied because Claimants failed to timely file fees for livestock use. ORS 539.210 provides that "it shall be the duty of all claimants ... to appear and submit proof of their respective claims, *at the time and in the manner required by law...*" ORS 539.210 (Emphasis added). Otherwise they will be "barred and estopped from subsequently asserting any rights theretofore acquired upon the stream or other body of water embraced in the proceedings ...." ORS 539.210. The payment of fees by a set deadline is required by law as a component of a claim in the Klamath Basin Adjudication; therefore, the scope of a claim can only extend to the amount of fees timely paid. *See* ORS 539.081; OAR 690-028-0028(1); OAR 690-028-0065(5). For Claimants, the deadline for the filing of claims, and therefore the deadline for payment of fees, was February 1, 1991. Because OWRD did not receive payment for a separate right of use for livestock watering by the deadline, this portion of Claimants' claim must be denied. Livestock watering approved under Claim 13 must be limited to incidental livestock watering during the irrigation season.
4. The number of livestock allowed for incidental livestock watering is 300 head, the number of head claimed by the Claimant.
5. Because there is no evidence on the record to the contrary, the standard duty for irrigation, being 3.5 acre-feet per acre, and the standard rate for irrigation, being 1/40 of one cubic foot per second per acre, as outlined in the GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION will apply.
6. Based on the file and record herein, IT IS ORDERED that Claim 5 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 13**  
FOR A VESTED WATER RIGHT

**CLAIM MAP REFERENCE:** CLAIM # 13 SETTLEMENT MAP (Dec. 21, 2004)

**CLAIMANT:** STEVEN LAWRENCE  
JAMES LAWRENCE  
60 JENNIFER LANE  
ALAMO, CA 94507

**SOURCE OF WATER:** The WILLIAMSON RIVER, tributary to UPPER KLAMATH LAKE

**PURPOSE OR USE:**

IRRIGATION OF 112.8 ACRES WITH INCIDENTAL LIVESTOCK WATERING OF 300 HEAD.

**RATE OF USE:**

2.82 CUBIC FEET PER SECOND (CFS) MEASURED AT THE POINT OF DIVERSION.

THE RATE OF USE FOR IRRIGATION MAY NOT EXCEED 1/40 OF ONE CUBIC FOOT PER SECOND PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.

**DUTY:**

3.5 ACRE-FEET PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.

**PERIOD OF ALLOWED USE:** APRIL 1 - OCTOBER 31

**DATE OF PRIORITY:** OCTOBER 14, 1864

**THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:**


Twp	Rng	Mer	Sec	Q-Q	GLot
31 S	10 E	WM	1	SW SE	10

**THE PLACE OF USE IS LOCATED AS FOLLOWS:**

IRRIGATION WITH INCIDENTAL LIVESTOCK WATERING						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
30 S	10 E	WM	36	SW NE		7.9
30 S	10 E	WM	36	NE SE		4.5
30 S	10 E	WM	36	NW SE		34.0
30 S	10 E	WM	36	SW SE	3	34.2
30 S	10 E	WM	36	SE SE	4	2.6
31 S	10 E	WM	1	NW NE	2	5.6
31 S	10 E	WM	1	SW NE	6	13.6
31 S	10 E	WM	1	NW SE	9	10.4

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013

  
Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication