

**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)	CORRECTED PARTIAL ORDER OF
RON COLE AND LISA COLE)	DETERMINATION
)	
_____)	Water Right Claim 75

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, GORDON A. AND KAREN R. WEBB timely submitted a Statement and Proof of Claim (Claim 75) 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 75 was submitted for a total of 7.42 cfs of water from the Sprague River, a tributary of the Williamson River, for irrigation of 296.6 acres with incidental livestock watering of 250 head. The claimed period of use is April 1 through October 31. The claimed priority date is "1864."
3. KAREN WEBB AND GORDON WEBB signed Claim 75 attesting that the information contained in the claim is true.
4. The property appurtenant to Claim 75 was ultimately transferred to RON COLE AND LISA COLE (Claimants) from GORDON WEBB. *See* WARRANTY DEED – STATUTORY FORM, COUNTY OF KLAMATH RECORDS, VOL. M04, PAGE 76381 (Nov. 3, 2004) and CHANGE OF OWNERSHIP FORM (Feb. 14, 2005).
5. 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.
6. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3467: 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.¹, 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 Pritchard², Don Vincent³, 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 3743 to the Claim and/or Preliminary Evaluation of Claim 75.
8. On May 8, 2000, the Klamath Tribes timely filed Contest 4124 to the Claim and/or Preliminary Evaluation of Claim 75.
9. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 203.
10. On April 7, 2004, the Klamath Project Water Users withdrew Contest 3467. *See* NOTICE OF WITHDRAWAL OF CONTEST NO. 3467 (Apr. 7, 2004).
11. On April 1, 2005, the Claimants, OWRD, the United States of America, and the Klamath Tribes executed a STIPULATION TO RESOLVE CONTESTS 3743 AND 4124 (Settlement Agreement) thereby resolving the remaining contests to Claim 75.
12. On April 5, 2005, the Adjudicator withdrew Case 203 from the Office of Administrative Hearings.
13. The Settlement Agreement contains two sets of terms of the agreement, being one set of terms in Paragraph B.1., and a second set of terms in Paragraph B.2. The terms in Paragraph B.2. are effective only in the event that the Claimants, the United States of America, and/or the Klamath Tribes submit to OWRD document(s) as set forth in Paragraph B.2.b. OWRD finds the terms of the water right derived for Claim 75 must be consistent with the terms set forth in Paragraph B.1. because that events set forth in Paragraph B.2.b. have not occurred.

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3467 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

² Berlva Pritchard voluntarily withdrew from Contest 3467 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3467 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

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 the exception of paragraph B.3.; this paragraph is not pertinent to the determination of a water right claim.
2. The elements of a Walton claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS is incorporated as if set forth fully herein.
3. Because there is no evidence on the record to the contrary, 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.
4. Based on the file and record herein, IT IS ORDERED that Claim 75 is approved according to terms set forth in Paragraph B.1. of the Settlement Agreement, as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 75
FOR A VESTED WATER RIGHT

CLAIM MAP REFERENCE: OWRD INVESTIGATION MAPS – T 34 S, R 8 E and T 34 S R 9 E

CLAIMANT: RON COLE
LISA COLE
61682 BROKEN TOP DR
BEND OR 97702

SOURCE OF WATER: SPRAGUE RIVER, tributary to WILLIAMSON RIVER

PURPOSE OR USE:
IRRIGATION OF 262.2 ACRES, BEING 61.6 ACRES FROM POD 1, 40.0 ACRES FROM POD 2, AND 160.6 ACRES FROM POD 3.

RATE OF USE:
6.56 CUBIC FEET PER SECOND (CFS) MEASURED AT THE POINTS OF DIVERSION, BEING 1.54 CFS FROM POD 1, 1.0 CFS FROM POD 2, AND 4.02 FROM POD 3.

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:
3.0 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:

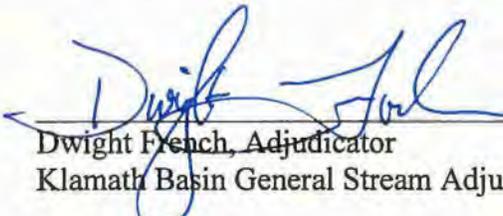
POD Name	Twp	Rng	Mer	Sec	Q-Q
POD 1	34 S	9 E	WM	19	NE SW
POD 2	34 S	8 E	WM	24	NE SE
POD 3	34 S	8 E	WM	24	NE SE

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
34 S	9 E	WM	19	NE NE		18.0	POD 1
34 S	9 E	WM	19	NW NW	1	8.0	
34 S	9 E	WM	19	SW NW	2	9.0	
34 S	9 E	WM	19	SE NW		7.6	
34 S	9 E	WM	19	NE SW		10.2	
34 S	9 E	WM	19	NW SW	3	8.8	
34 S	9 E	WM	19	NW SW	3	4.8	POD 2
34 S	8 E	WM	24	SE NE		9.2	
34 S	8 E	WM	24	NE SE		26.0	
34 S	8 E	WM	24	SW NE		27.6	POD 3
34 S	8 E	WM	24	SW NW		20.8	
34 S	8 E	WM	24	SE NW		33.8	
34 S	8 E	WM	24	NE SW		36.5	
34 S	8 E	WM	24	NW SW		9.4	
34 S	8 E	WM	24	SE SW		0.3	
34 S	8 E	WM	24	NW SE		32.2	

[End of Water Right Claim Description]

Dated at Salem, Oregon on February 28, 2014


 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication