

**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
EARL M. HARRIS)	DETERMINATION
_____)	
)	Water Right Claim 76

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 December 6, 1990, EARL M. HARRIS (Claimant) timely submitted a Statement and Proof of Claim (Claim 76) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as a non-Indian successor 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 76 was submitted for a total of 4.015 cfs of water from the Sprague River, a tributary of the Williamson River, for irrigation of 139.2 acres. The claimed period of use is April 1 to October 1 for irrigation. The claimed priority date is "1864."
3. EARL M. HARRIS signed Claim 76 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 a portion of the claim was approved, but for fewer acres and a smaller quantity of water than claimed, and with a longer irrigation season than claimed.
5. On April 19, 2000, the Claimant timely filed Contest 0017 to the Preliminary Evaluation of Claim 76.
6. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3468: Klamath Irrigation District, Klamath Drainage District, Tulelake Irrigation District, Klamath Basin Improvement District, Ady District Improvement Company, Enterprise Irrigation District, Klamath Hills District

7. 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.
8. On May 8, 2000, the United States of America timely filed Contest 3744 to the Claim and/or Preliminary Evaluation of Claim 76.
9. On May 8, 2000, the Klamath Tribes timely filed Contest 4125 to the Claim and/or Preliminary Evaluation of Claim 76.
10. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 204.
11. On January 21, 2004, the Klamath Tribes withdrew Contest 4125. *See* KLAMATH TRIBES' VOLUNTARY WITHDRAWAL OF CONTEST (Jan. 21, 2004).
12. On April 8, 2004, the Klamath Project Water Users withdrew Contest 3468. *See* NOTICE OF WITHDRAWAL OF CONTEST NO. 3468 (Apr. 8, 2004).
13. On January 26, 2006, the Claimant, OWRD, and the United States of America executed a STIPULATION TO RESOLVE CONTESTS (Settlement Agreement) thereby resolving the remaining contests to Claim 76.
14. On February 1, 2006, the Adjudicator withdrew Case 204 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between the Claimants, OWRD, and the United States of America is adopted and incorporated as if set forth fully herein.
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.

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3468 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

² Berlva Pritchard voluntarily withdrew from Contest 3468 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3468 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

4. Based on the file and record herein, IT IS ORDERED that Claim 76 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 76
FOR A VESTED WATER RIGHT

CLAIM MAP REFERENCE: CLAIM # 76 MYLAR SETTLEMENT MAP

CLAIMANT: EARL M. HARRIS
BOX 467
CHILOQUIN, OR 97624

SOURCE OF WATER: SPRAGUE RIVER, tributary to WILLIAMSON RIVER

PURPOSE OR USE:
IRRIGATION OF 131.0 ACRES, BEING 68.2 ACRES FROM POD 1 AND 62.8 ACRES FROM POD 2.

RATE OF USE:
3.14 CUBIC FEET PER SECOND (CFS) MEASURED AT THE POINTS OF DIVERSION, BEING 1.57 FROM POD 1, AND 1.57 CFS FROM POD 2.

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

PERIOD OF ALLOWED USE: APRIL 1 - OCTOBER 1

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:

POD Name	Twp	Rng	Mer	Sec	Q-Q	GLot
POD 1	34 S	9 E	WM	30	SE SW	
POD 2	34 S	9 E	WM	30	NW SW	3

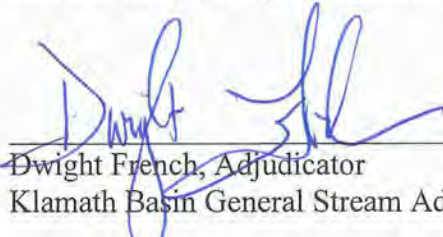
THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
34 S	9 E	WM	30	SE SW		9.0	POD 1
34 S	9 E	WM	30	SE SE		9.4	
34 S	9 E	WM	31	NE NW		33.6	
34 S	9 E	WM	31	NW NW	1	16.2	

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
34 S	9 E	WM	30	SE NE		7.0	POD 2
34 S	9 E	WM	30	NE SW		25.5	
34 S	9 E	WM	30	NW SW	3	4.2	
34 S	9 E	WM	30	NE SE		14.3	
34 S	9 E	WM	30	NW SE		5.8	
34 S	9 E	WM	30	SW SE		6.0	

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication