

**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
LYNNE R. CABRAL, AND	)	DETERMINATION
D. G. AND JEAN RICHARDSON	)	
_____	)	Water Right Claim 109

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 22, 1991, RICHARD CABRAL timely submitted a Statement and Proof of Claim (Claim 109) 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 109 was submitted for a total of 12.2 cfs of water from the Sprague River, a tributary of the Williamson River, for irrigation of approximately 500 acres. The claimed period of use is April 15 to October 15. The claimed priority date is "1864."
3. RICHARD J. CABRAL signed Claim 109 attesting that the information contained in the claim is true.
4. The property appurtenant to Claim 109 was transferred to LYNNE R. CABRAL, and D. G. AND JEAN RICHARDSON (Claimants) from RICHARD J. CABRAL. *See* BARGAIN AND SALE DEED, COUNTY OF KLAMATH RECORDS, VOL. M93, PAGE 12026 (April 29, 1993) (Claim # 109, Page 0025).
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, but for a smaller quantity of water and fewer acres than claimed, and with a longer season of use than claimed.
6. On May 1, 2000, the Claimants timely filed Contest 42 to the Preliminary Evaluation of Claim 109.

7. On May 8, 2000, the following parties, hereinafter collectively referred to as the “Klamath Project Water Users,” filed Contest 3487: 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.
8. On May 8, 2000, the United States of America timely filed Contest 3754 to the Claim and Preliminary Evaluation of Claim 109.
9. On May 8, 2000, the Klamath Tribes timely filed Contest 4141 to the Claim and Preliminary Evaluation of Claim 109.
10. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 221.
11. On March 15, 2005, the Claimants, OWRD, the United States of America, the Klamath Tribes, and the Klamath Project Water Users executed a STIPULATION TO RESOLVE CONTESTS (Settlement Agreement) thereby resolving all contests to Claim 109.
12. On March 17, 2005, the Adjudicator withdrew Case 221 from the Office of Administrative Hearings.

## **B. DETERMINATION**

1. The Settlement Agreement executed between the Claimants, OWRD, the United States of America, the Klamath Tribes, and the Klamath Project Water Users 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.

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<sup>1</sup> Klamath Hills District Improvement Company voluntarily withdrew from Contest 3487 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY.

<sup>2</sup> Berlva Pritchard voluntarily withdrew from Contest 3487 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

<sup>3</sup> Don Vincent voluntarily withdrew from Contest 3487 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

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 109 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 109**  
FOR A VESTED WATER RIGHT

**CLAIM MAP REFERENCE:** CLAIM # 109, PAGE 60

**CLAIMANT:** LYNNE R. CABRAL  
D. G. AND JEAN RICHARDSON  
21910 SPRAGUE RIVER ROAD  
CHILOQUIN, OR 97624

**SOURCE OF WATER:** The SPRAGUE RIVER, tributary to the WILLIAMSON RIVER

**PURPOSE OR USE:** IRRIGATION OF 312.8 ACRES FROM PUMP #2.

**RATE OF USE:**

7.82 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:**

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

**PERIOD OF ALLOWED USE:** APRIL 15 - OCTOBER 15

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

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

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
36 S	10 E	WM	3	NW SW	SOUTH 9 DEGREES 50 MINUTES EAST, 3480 FEET FROM NW CORNER, SECTION 3

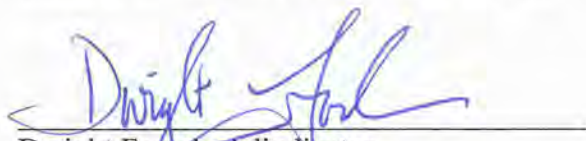
**THE PLACE OF USE IS LOCATED AS FOLLOWS:**

IRRIGATION FROM PUMP #2					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	10 E	WM	3	NW SW	2.0
36 S	10 E	WM	4	SW NE	20.0
36 S	10 E	WM	4	SW NW	14.7
36 S	10 E	WM	4	SE NW	37.0

IRRIGATION FROM PUMP #2					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	10 E	WM	4	NE SW	40.0
36 S	10 E	WM	4	NW SW	35.0
36 S	10 E	WM	4	SW SW	35.0
36 S	10 E	WM	4	SE SW	36.0
36 S	10 E	WM	4	NE SE	16.1
36 S	10 E	WM	4	NW SE	39.0
36 S	10 E	WM	4	SW SE	20.0
36 S	10 E	WM	4	SE SE	18.0

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013

  
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 Dwight French, Adjudicator  
 Klamath Basin General Stream Adjudication