

**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
HICKEY RANCHES, INC)	DETERMINATION
)	
_____)	Water Right Claim 113

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 7, 1990, HICKEY RANCHES, INC (Claimant) timely submitted a Statement and Proof of Claim (Claim 113) 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 113 was submitted for a total of 17.3 cfs of water as follows: 11.06 cfs from the Whiskey Creek, a tributary of the Sprague River, being 11.0 cfs for irrigation and 0.06 cfs for livestock watering; and 6.24 cfs from the Sprague River, a tributary of the Williamson River, being 6.19 cfs for irrigation and 0.05 cfs for livestock watering. The claim did not specify the number of acres claimed for irrigation. The number of head claimed for livestock watering is "600-1000." The claimed period of use is April 1 to October 15. The claimed priority date is "1864."
3. ANDY HICKEY, as secretary of HICKEY RANCHES, INC signed Claim 113 attesting that the information contained in the claim is true.
4. On June 28, 1991, Claim 113 was amended to specify the number of acres irrigated as 370.
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 portion of the claim from Whiskey Creek was approved for irrigation and livestock watering, but for but for a smaller quantity of water and fewer acres than claimed for irrigation, and with a longer season of use than claimed for irrigation and livestock watering.

6. On May 8, 2000, the following parties, hereinafter collectively referred to as the “Klamath Project Water Users,” filed Contest 3489: 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 3757 to the Claim and Preliminary Evaluation of Claim 113.
8. On May 8, 2000, the Klamath Tribes timely filed Contest 4144 to the Claim and Preliminary Evaluation of Claim 113.
9. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 224.
10. On December 8, 2004, the Office of Administrative Hearings issued an ORDER ON RECONSIDERATION which limited the Claimant to a total of 186.9 acres based on payment of filing fees.
11. On January 28, 2005, the Klamath Tribes withdrew Contest 4144. *See* KLAMATH TRIBES’ VOLUNTARY WITHDRAWAL OF CONTEST (Jan. 28, 2005).
12. On October 10, 2005, the Claimant, OWRD, the United States of America, and Klamath Project Water Users executed a STIPULATION TO RESOLVE CONTESTS (Settlement Agreement) thereby resolving the remaining contests to Claim 113.
13. On October 11, 2005, the Adjudicator withdrew Case 224 from the Office of Administrative Hearings.

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3489 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

² Berlva Pritchard voluntarily withdrew from Contest 3489 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3489 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

B. DETERMINATION

1. The Settlement Agreement executed between the Claimant, OWRD, the United States of America, and 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.
3. The ORDER ON RECONSIDERATION (Dec. 8, 2004), referenced in Finding 10, above, is adopted and incorporated as if set forth fully herein.
4. 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.
5. Based on the file and record herein, IT IS ORDERED that Claim 113 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 113
FOR A VESTED WATER RIGHT

CLAIM MAP REFERENCE: CLAIM # 113 SETTLEMENT MAP (Oct. 4, 2005)

CLAIMANT: HICKEY RANCHES, INC.
PO BOX 67
MERRILL OR 97633

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

PURPOSE OR USE: IRRIGATION OF 186.9 ACRES.

RATE OF USE:
4.67 CUBIC FEET PER SECOND (CFS) FOR IRRIGATION 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 1 - OCTOBER 15

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:


Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
36 S	11 E	WM	11	NE SE	24	1691 FEET NORTH AND 56 FEET WEST FROM SE CORNER, SECTION 11

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
36 S	11 E	WM	11	NE SE	24	16.2
36 S	11 E	WM	11	SW SE	26	4.5
36 S	11 E	WM	11	SE SE	25	18.8
36 S	11 E	WM	14	NE NE	1	14.3
36 S	11 E	WM	14	NE NE	8	18.8
36 S	11 E	WM	14	NW NE	2	18.5
36 S	11 E	WM	14	NW NE	7	20.0
36 S	11 E	WM	14	SW NE	10	17.3
36 S	11 E	WM	14	SE NE	9	12.0
36 S	11 E	WM	14	NW NW	5	12.5
36 S	11 E	WM	14	SW NW	12	11.0
36 S	11 E	WM	14	SE NW	11	18.8
36 S	11 E	WM	14	SE NW	14	4.2

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication