

**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
DAVID C. AND ELOISE J. ELLIOT; AND)	DETERMINATION
PACIFICORP, DBA PACIFIC POWER)	
AND LIGHT CO.)	
_____)	Water Right Claim 152

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

A. FINDINGS OF FACT

1. Claim 152 (Co-Claimants: DAVID C. AND ELOISE J. ELLIOT; AND PACIFICORP, DBA PACIFIC POWER AND LIGHT CO.) and its associated contest (3146) were referred to the Office of Administrative Hearings for a contested case hearing which was designated as Case 08.
2. The Office of Administrative Hearings conducted contested case proceedings and ultimately issued a PROPOSED ORDER (Proposed Order) for Claim 152 on December 12, 2002, and on February 10, 2003, issued an ADDENDUM TO PROPOSED ORDER (Addendum) to include the summary of Claim 156.
3. Exceptions were filed to the Proposed Order within the exception filing deadline by Medford and Rogue River Valley Irrigation Districts.
4. The exceptions filed to the Proposed Order have been reviewed and considered in conjunction with the entire record for Claim 152, and are found to be unpersuasive. Accordingly, changes were not made to the Proposed Order to accommodate any exceptions.
5. On February 6, 2012, the Adjudicator issued an AMENDED PROPOSED ORDER (Amended Proposed Order) to modify certain portions of the Proposed Order.
6. No exceptions were filed to the Amended Proposed Order.

7. The Amended Proposed Order contains a scrivener's error in the section "Modifications to the 'Findings of Fact'" and is corrected as follows (deletions are shown in "strikethrough" text):

Additional Findings of Fact

Findings of Fact #25 through #38 are added as follows (additions are shown in "underline" text): Need to add findings for all claims that the ALJ did not make findings for, specifically: Claims 149, 150, 152, 152, 153, 155, 156, 157, 158, 152, 161, 163

Reasons for Correction: Findings of Facts #25 and #26 apply to all claims, and Findings of Facts #27 through #38 apply to specific claims as noted in these specific finding of facts. The deleted portion was an internal reminder and should have been deleted from the text before the Amended Proposed Order was issued.

8. The Proposed Order and Addendum, as modified by the Amended Proposed Order (as corrected by Finding of Fact #7, above), is adopted and incorporated in its entirety as if set forth fully herein.

B. DETERMINATION

1. The Proposed Order and Addendum, as modified by the Amended Proposed Order (as corrected by Finding of Fact #7, above), is adopted and incorporated in its entirety as if set forth fully herein.
2. The elements of a pre-1909 claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING PRE-1909 CLAIMS is incorporated as if set forth fully herein. To the extent that there are any inconsistencies between the GENERAL CONCLUSIONS OF LAW CONCERNING PRE-1909 CLAIMS and the conclusions of law or opinion in the AMENDED PROPOSED ORDER, the GENERAL CONCLUSIONS OF LAW CONCERNING PRE-1909 CLAIMS control.
3. Based on the file and record herein, IT IS ORDERED that Claim 152 is approved as set forth in the following Water Right Claim Description.

CLAIM NO. 152

CLAIM MAP REFERENCE:

OWRD INVESTIGATION MAP – T 38 S, R 9 E, INSERT PAGE 32 BC-BD

CLAIMANTS:

DAVID C. AND ELOISE J. ELLIOT
200 MACKLYN COVE DRIVE, APT 11
BROOKINGS, OR 97415

PACIFICORP, DBA PACIFIC POWER AND LIGHT CO.
825 NE MULTNOMAH, SUITE 1700
PORTLAND, OR 97232

SOURCE OF WATER: The LINK RIVER, tributary to the KLAMATH RIVER

PURPOSE OR USE:

IRRIGATION OF 0.1 ACRES

RATE OF USE:

0.01 CUBIC FOOT 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 30

DATE OF PRIORITY: NOVEMBER 1, 1895

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:


Twp	Rng	Mer	Sec	Q-Q	GLot	Remarks
38 S	9 E	WM	30	NW SE	4	DIVERSION AT LINK RIVER DAM THROUGH EASTSIDE CANAL

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Tax Lot	Remarks
38 S	9 E	WM	32	SW NW	8	0.1	2400	616 Conger Avenue

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication