

**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
JESSIE L. PUCKET)	DETERMINATION
)	
_____)	Water Right Claim 189

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 October 15, 1990, JESSIE L. PUCKET (Claimant) timely submitted a Statement and Proof of Claim (Claim 189) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication based upon use of water beginning prior to February 24, 1909 (pre-1909 claim).
2. Claim 189 was submitted for 50 gallons per minute of water from the Klamath River, tributary to the Pacific Ocean, for irrigation of 0.7 acres with a season of use "May 1 through September." The claimed priority date is 1873.
3. JESSIE L. PUCKET signed the Statement and Proof of Claim for Claim 189 attesting that the information contained in the claim is true.
4. In 1986, an OWRD field inspection report was prepared, describing the present use of water on the property substantially as stated in Claim 189 (Claim 189, WIP Pages 00010 - 00011).
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 denied for not having established the required Pre-1909 elements.
6. On April 19, 2000, the Claimant timely filed Contest 19 to the Preliminary Evaluation of Claim 189.
7. On May 8, 2000, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District filed Contest 3179 to the Claim and/or Preliminary Evaluation of Claim 189.

8. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 34.
9. On December 20, 2001, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District voluntarily withdrew Contest 3179. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY LANGELL VALLEY, HORSEFLY, MEDFORD AND ROGUE RIVER VALLEY IRRIGATION DISTRICTS (Dec. 20, 2001).
10. On March 6, 2002, the Claimant and OWRD executed one SETTLEMENT AGREEMENT (Settlement Agreement) which resolved the remaining contest (Claimant's Contest 19) to Claim 189.
11. On June 11, 2002, documents (Exhibit B) establishing the elements of a pre-1909 claim were entered into evidence in Case 34 and the case was dismissed. *See* UNOPPOSED MOTION AND ORDER TO ENTER DOCUMENTS INTO EVIDENCE AND DISMISS CASE AND REFER CASE TO THE ADJUDICATOR (June 11, 2002).
12. Based on the OWRD Investigation Map (T 39 S, R 8 E, Insert C), the 0.7 acre claimed is within Lots 3 and 4 in Block 2 of the Riverside Addition to Keno.
13. OWRD finds that the irrigation season, March 1 to October 31, as stipulated in the Settlement Agreement is an impermissible amendment because it is an enlargement of the original claim; the Claimant claimed an irrigation season "May 1 through September."

B. DETERMINATION

1. The Settlement Agreement executed between the Claimant and OWRD is adopted and incorporated as if set forth fully herein, with the exception of the irrigation season that was enlarged by the Settlement Agreement and constitutes an impermissible amendment (described in Finding 13, above); the irrigation season recognized herein is consistent the Claimant's original claim.
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.
3. The GENERAL CONCLUSIONS OF LAW CONCERNING AMENDMENT OF CLAIMS is incorporated as if set forth fully herein.
4. Because there is no evidence on the record to the contrary, the standard duty for irrigation, being 3.5 acre-feet per acre, and 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 189 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 189

CLAIM MAP REFERENCE: OWRD INVESTIGATION MAP – T 39 S, R 8 E, INSERT C

CLAIMANT: JESSIE L. PUCKETT
2815 TAYLOR
EUGENE, OR 97405

SOURCE OF WATER: The KLAMATH RIVER, tributary to the PACIFIC OCEAN

PURPOSE or USE: IRRIGATION OF 0.7 ACRE.

RATE OF USE:

0.02 CUBIC FOOT PER SECOND 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: MAY 1 - SEPTEMBER 30

DATE OF PRIORITY: DECEMBER 31, 1873

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

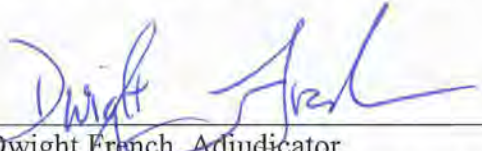
Twp	Rng	Mer	Sec	Q-Q	G Lot	Remarks
39 S	8 E	WM	31	SW SW	1	Lot 4 in Block 2 of Riverside Addition to Keno

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Remarks
39 S	8 E	WM	31	SW SW	3300	0.7	Lots 3 and 4 in Block 2 of Riverside Addition to Keno
39 S	8 E	WM	31	SE SW			

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication