

**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
TED T. AND VELMA B. MARTIN)	DETERMINATION
)	
_____)	Water Right Claim 195

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 November 14, 1990, TED T. AND VELMA B. MARTIN (Claimants) timely submitted a Statement and Proof of Claim (Claim 195) 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 195 was submitted for a total 0.04 cubic feet per second (cfs) of water from “Klamath Lake via Klamath Irrigation District,” tributary to the Klamath River, for irrigation of 1.3 acres with a season of use “April 15 – October 15.” The claimed priority date is 1905.
3. Item 13 of the Statement and Proof of Claim incorporates “Exhibit 1,” a copy of EXCESS LAND TRUST DEED No. 49 (Nov. 15, 1905) (Claim # 195, Page 010 - 011), and “Exhibit 2,” a copy of STOCK SUBSCRIPTION AND CONTRACT NO. 588 (Nov. 15, 1905) (Claim # 195, Page 012). These exhibits document an exchange whereby the landowner entrusted land appurtenant to Claim 195 to Klamath Water Users Association for the purpose of developing irrigation on these same lands according to provisions under the Reclamation Act of 1902. Subsequently, the Klamath Water Users Association released and quit claimed to the landowners within the Klamath Irrigation District, land appurtenant to Claim 195. *See* RELEASE OF STOCK SUBSCRIPTIONS AND CONTRACTS AND OF EXCESS LAND TRUST DEEDS, # 2873 (August 15, 1932) (Claim # 195, Page 016).
4. Item 13 of the Statement and Proof of Claim incorporates “Exhibit 3,” a copy of an AGREEMENT TO CONVEY (August 31, 1906) (Claim # 195, Page 013). This exhibit documents that under the Klamath Project, pursuant to the Reclamation Act, the

landowner granted the United States the right to enter, construct and operate irrigation ditches over and across these lands, “substantially over and along the lines of said canals or ditches as the same are now located and staked out over and across said premises.”

5. Item 13 of the Statement and Proof of Claim also incorporates “Exhibit 4,” a copy of a WATER RIGHT APPLICATION made under the Reclamation Act of 1902. (May 2, 1912) for irrigation of lands appurtenant to Claim 195. (Claim # 195, Page 015).
6. TED T. MARTIN AND VELMA B. MARTIN signed the Statement and Proof of Claim for Claim 195 attesting that the information contained in the claim is true.
7. In 1987, a field inspection report was prepared by a private engineer or surveyor, describing the present use of water on the property substantially as stated in the Claim 195 (Claim 195, Page 006). The report indicates that water is delivered via Klamath Irrigation District (K.I.D.) as part of the U.S.B.R. Klamath Project.
8. 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 than claimed.
9. On May 8, 2000, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District filed Contest 3185 to the Claim and/or Preliminary Evaluation of Claim 195.
10. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 38.
11. On January 8, 2002, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District voluntarily withdrew Contest 3185. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY LANGELL VALLEY, HORSEFLY, MEDFORD AND ROGUE RIVER VALLEY IRRIGATION DISTRICTS (Jan. 8, 2002).
12. On February 13, 2002, Contest 3185 was dismissed from the Office of Administrative Hearings. *See* AMENDED ORDER DISMISSING CONTEST AND REFERRAL TO ADJUDICATOR (Feb. 13, 2002).
13. Based on the sworn statements in Claim 195, along with the field inspection report, the following findings are made:
 - a. The Claimants demonstrated intent to apply water to beneficial use prior to February 4, 1909.
 - b. The Claimants created a diversion, where necessary, to divert water from its natural source.
 - c. The Claimants applied water to beneficial use within a reasonable time.

B. DETERMINATION

1. 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.
2. 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.
3. Based on the file and record herein, IT IS ORDERED that Claim 195 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 195

CLAIM MAP REFERENCE: OWRD INVESTIGATION MAP – T 39 S, R 9 E, INSERT 10CD

CLAIMANT: TED T. AND VELMA B. MARTIN
4443 AUSTIN ST.
KLAMATH FALLS OR 97603

SOURCE OF WATER: UPPER KLAMATH LAKE, tributary to the KLAMATH RIVER

PURPOSE or USE:
IRRIGATION OF 1.3 ACRES WITHIN LOTS 58, 61, 62, AND 63 OF CASITAS.

RATE OF USE:
0.03 ACRE-FEET 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 15 - OCTOBER 15

DATE OF PRIORITY: NOVEMBER 15, 1905

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q	GLot	Remarks
38 S	9 E	WM	30	SW NE	8	Klamath Irrigation District - Canal "A"

THE PLACE OF USE IS LOCATED AS FOLLOWS:

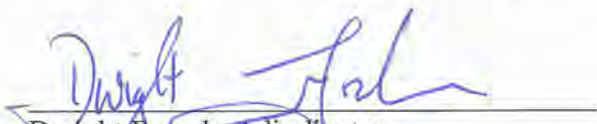
IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Remarks
39 S	9 E	WM	10	SE SW	1.3	Within Lots 58, 61, 62 and 63 of Casitas

FURTHER LIMITATIONS:

USE OF WATER ON THE PLACE OF USE DESCRIBED IN THIS CLAIM, WHEN COMBINED WITH USE OF WATER UNDER ANY OTHER RIGHT ADJUDICATED IN THE KLAMATH BASIN ADJUDICATION FOR ANY PORTION OR ALL OF THE SAME PLACE OF USE, MAY NOT EXCEED THE RATE AND DUTY NECESSARY FOR BENEFICIAL USE AS DETERMINED IN THE KLAMATH BASIN ADJUDICATION.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013


Dwight French, Adjudicator
Klamath Basin General Stream Adjudication