

**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
D.E. MYERS 1999 TRUST;)	DETERMINATION
DIANE ELAINE STEVENSON, TRUSTEE)	
_____)	
)	Water Right Claim 208

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 29, 1991, T. KEITH POCOCK timely submitted a Statement and Proof of Claim (Claim 208) 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 208 was submitted for an unspecified amount of water from the Klamath River, for irrigation of 149.4 acres with incidental livestock watering, and with a season of use "May to Sept." The claimed priority date is "prior to 1909."
3. T. KEITH POCOCK signed the Statement and Proof of Claim for Claim 208 attesting that the information contained in the claim is true.
4. In 1982, an OWRD field inspection report was prepared, describing the present use of water on the property substantially as stated in Claim 208 (Claim 208, WIP Page 00013).
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 because the rate of water claimed was not provided.
6. On August 23, 2001, the title to the property appurtenant to Claim 208 was transferred to DIANE ELAINE STEVENSON, TRUSTEE OF THE D.E. MYERS 1999 TRUST (Claimant) from T. KEITH POCOCK. *See* WARRANTY DEED, COUNTY OF KLAMATH RECORDS, VOL. M01, PAGE 43736.

7. On May 8, 2000, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District filed Contest 3194 to the Claim and/or Preliminary Evaluation of Claim 208.
8. On May 8, 2000, the following parties, hereinafter collectively referred to as the “Klamath Project Water Users,” filed Contest 3415: 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., Reames Golf and Country Club, Van Brimmer Ditch Co., Plevna District Improvement Co., and Collins Products, LLC.
9. On May 8, 2000, the United States of America timely filed Contest 3849 to the Claim and/or Preliminary Evaluation of Claim 208.
10. On May 8, 2000, the Klamath Tribes timely filed Contest 4191 to the Claim and/or Preliminary Evaluation of Claim 208.
11. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 140.
12. On October 7, 2003, the Klamath Tribes voluntarily withdrew Contest 4191. *See* KLAMATH TRIBES’ VOLUNTARY WITHDRAWAL OF CONTEST (Oct. 7, 2003).
13. On December 18, 2003, the Horsefly Irrigation District and Langell Valley Irrigation District portions of Contest 3194 were dismissed. *See* STIPULATED AGREEMENT FOR DISMISSAL OF CONTEST NO. 3194 (Dec. 18, 2003).
14. On April 7, 2004, Klamath Project Water Users withdrew Contest 3415. *See* NOTICE OF WITHDRAWAL OF CONTEST 3415 (Apr. 7, 2004).
15. On August 9, 2004, the United States of America amended their Statement of Contest to the Claim and/or Preliminary Evaluation of Claim 208 (Contest 3849).
16. On August 30, 2004, Rogue River Valley Irrigation District, and Medford Irrigation District voluntarily withdrew Contest 3194. *See* VOLUNTARY WITHDRAWAL OF CONTEST NO. 3194 BY MEDFORD IRRIGATION DISTRICT AND ROGUE RIVER VALLEY IRRIGATION DISTRICT (Aug. 30, 2004).

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3415 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

² Berlva Pritchard voluntarily withdrew from Contest 3415 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3415 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

17. On March 11, 2005, OWRD, the Claimant, and the United States of America executed a STIPULATION TO RESOLVE CONTEST (Settlement Agreement) thereby resolving the remaining contest to Claim 208.
18. On March 16, 2005, the Adjudicator withdrew Case 140 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD, the Claimant, and the United States of America is adopted and incorporated 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.
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 208 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 208

CLAIM MAP REFERENCE: OWRD INVESTIGATION MAP – T 40 S, R 8 E

CLAIMANT: D.E. MYERS 1999 TRUST
DIANE ELAINE STEVENSON, TRUSTEE
3939 S SIXTH ST 174
KLAMATH FALLS, OR 97603

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

PURPOSE or USE:
IRRIGATION of 143.0 ACRES

RATE OF USE:
3.58 CUBIC FEET 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:
3.0 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, 1900

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:


Twp	Rng	Mer	Sec	Q-Q	GLot
40 S	8 E	WM	8	NE NW	9

THE PLACE OF USE IS LOCATED AS FOLLOWS:

Irrigation						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
40 S	8 E	WM	7	NE SE	4	1.4
40 S	8 E	WM	8	NE NW	9	29.7
40 S	8 E	WM	8	SE NW		38.6
40 S	8 E	WM	8	NW SW	10	34.3
40 S	8 E	WM	8	NE SW		38.5
40 S	8 E	WM	8	SW SW	10	0.5

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication