

**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	)	CORRECTED PARTIAL ORDER OF
CALEDONIA PROPERTIES, LLC	)	DETERMINATION
	)	
	)	
_____	)	Water Right Claim 733

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

**A. FINDINGS OF FACT**

1. For purposes of the Final Order of Determination and any subsequent certificates, OWRD bifurcated a portion of Claim 142 and labeled it Claim 733. OWRD bifurcated Claim 142 after Claim 142 was withdrawn from the Office of Administrative Hearings. Claim 733 includes the property appurtenant to Claim 142 that was transferred to CALEDONIA PROPERTIES, LLC on July 18, 2011.
2. On January 31, 1991, GEARY BROS. CALEDONIA RANCH, A CO- TENANCY, by MARTHA D. SMITH (original Claimant) timely submitted a Statement and Proof of Claim (Claim 142) 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).
3. Claim 142 was submitted for uses of irrigation, livestock watering of 50 pairs, recreation and wildlife. The amount of water claimed is "3 acre-feet per year for irrigation – no additional water is diverted for other uses" from the Upper Klamath Lake, a tributary of the Klamath River, The claimed season of use is "April 15 through January 15." The claimed priority date is 1866.
4. MARTHA D. SMITH signed the Statement and Proof of Claim for Claim 142 attesting that the information contained in the claim is true.
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 required pre-1909 elements were not established for the claim.

6. On May 8, 2000, the original Claimant timely filed Contest 33 to the Preliminary Evaluation of Claim 142.
7. On May 8, 2000, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District filed Contest 3136 to the Claim and/or Preliminary Evaluation of Claim 142.
8. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3400: 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.<sup>1</sup>, 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 Pritchard<sup>2</sup>, Don Vincent<sup>3</sup>, 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 3826 to the Claim and/or Preliminary Evaluation of Claim 142.
10. On May 8, 2000, the Klamath Tribes timely filed Contest 4167 to the Claim and/or Preliminary Evaluation of Claim 142.
11. On May 8, 2000, WaterWatch of Oregon, Inc. filed Contest 2851 to the Claim and/or Preliminary Evaluation of Claim 142.
12. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 118 and subsequently consolidated with Case 3. The consolidation with Case 3 was reversed by INTERIM ORDER (Jan 12, 2006) at 31<sup>4</sup>.
13. On May 28, 2002, Langell Valley Irrigation District and Horsefly Irrigation District voluntarily withdrew from Contest 3136. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY LANGELL VALLEY IRRIGATION DISTRICT AND HORSEFLY IRRIGATION DISTRICT (May 28, 2002).
14. On February 19, 2003, WaterWatch of Oregon, Inc. voluntarily withdrew Contest 2851. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTEST 2851 (Feb. 19, 2003).

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<sup>1</sup> Klamath Hills District Improvement Company voluntarily withdrew from Contest 3400 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

<sup>2</sup> Berlva Pritchard voluntarily withdrew from Contest 3400 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

<sup>3</sup> Don Vincent voluntarily withdrew from Contest 3400 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

<sup>4</sup> This Interim Order was amended by an AMENDED INTERIM ORDER (May 24, 2006) issued *sua sponte* by the Administrative Law Judge to provide clarification of certain matters raised in correspondence and to correct typographical errors noted since the original order was issued.

15. On August 10, 2006, Claim 142 was assigned to the JELD-WEN INC. *See* JELD-WEN, INC.'s UNOPPOSED MOTION TO SUPPLEMENT THE RECORD IN CLAIM 142, CASE 118 (Oct. 18, 2006).
16. On August 14, 2006, the Klamath Tribes withdrew without prejudice Contest 4167. *See* KLAMATH TRIBES' WITHDRAWAL OF CONTESTS (Aug. 14, 2006).
17. On October 17, 2006, OWRD, JELD-WEN, INC, Rogue River Valley Irrigation District, and Medford Irrigation District, executed a STIPULATION TO RESOLVE CONTEST 3136 AGAINST CLAIM NO. 142 thereby resolving Contest 3136.
18. On August 16, 2007, the Klamath Project Water Users withdrew Contest 3400. *See* NOTICE OF WITHDRAWAL OF CONTEST NO. 3400 (Aug. 16, 2007).
19. On September 17, 2007, OWRD, JELD-WEN, INC, and the United States of America, executed a STIPULATION TO RESOLVE CONTESTS 33, 3400, AND 3826 TO CLAIM 142 (Settlement Agreement) thereby resolving all remaining contests to Claim 142.
20. On September 19, 2007, the Adjudicator withdrew Case 118 from the Office of Administrative Hearings.
21. On June 1, 2011, a portion of the property appurtenant to Claim 142, being 71.4 acres, was transferred to RLF RUNNING Y RANCH, LLC from JELD-WEN, INC. *See* SPECIAL WARRANTY DEED, dated May 17, 2011, and CHANGE OF OWNERSHIP FORM (June 1, 2011).
22. On July 18, 2011, the remaining portion of the property appurtenant to Claim 142, being 695.0 acres, was transferred to RUNNING Y DEVELOPMENT, LLC. *See* SPECIAL WARRANTY DEED, dated January 18, 2011 and CHANGE OF OWNERSHIP FORM (July 18, 2011). On July 18, 2011, this same property was then transferred to CALEDONIA PROPERTIES, LLC. *See* CHANGE OF OWNERSHIP FORM (July 18, 2011).
23. As described in Findings 21 and 22, above, Claim 142 has been divided into two separate ownership groups, being (1) RLF RUNNING Y RANCH, LLC, and (2) CALEDONIA PROPERTIES, LLC. Therefore, OWRD finds it practical to bifurcate Claim 142; OWRD has retained the designation of Claim 142 for the portion of the claim pertaining to RLF RUNNING Y RANCH, LLC, and has designated the portion of the claim pertaining to CALEDONIA PROPERTIES, LLC as Claim 733.
24. Section B.1.c. of the Settlement Agreement specifies incidental livestock watering of 100 head of cattle. OWRD prorated the 100 head for incidental livestock watering, based on grazing acres available within the two bifurcated portions of Claim 142<sup>5</sup>. OWRD finds the number of head for incidental livestock watering is limited to 9 head for Claim 142, and 91 head for Claim 733.

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<sup>5</sup> 71.4 acres / 766.4 acres = 9% for Claim 142; and 695.0 acres / 766.4 acres = 91% for Claim 733

## B. DETERMINATION

1. The Settlement Agreement executed between OWRD, JELD-WEN, INC, 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 733 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 733**

**CLAIM MAP REFERENCE:** OWRD INVESTIGATION MAP – T 37 S, R 8 E and T 38 S, R 8 E

**CLAIMANT:** CALEDONIA PROPERTIES, LLC  
1691 CROSS ROAD  
KLAMATH FALLS, OR 97601

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

**PURPOSE or USE:**

IRRIGATION OF 695.0 ACRES WITH INCIDENTAL LIVESTOCK WATERING OF 91 HEAD

**RATE OF USE:**

17.375 CUBIC FEET PER SECOND (CFS) FROM POD 2, 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 15 - JANUARY 15

**DATE OF PRIORITY:** DECEMBER 31, 1889

**THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:**

POD Name	Twp	Rng	Mer	Sec	Q-Q	GLot
POD 2	37 S	8 E	WM	31	SE SW	3

**THE PLACE OF USE IS LOCATED AS FOLLOWS:**

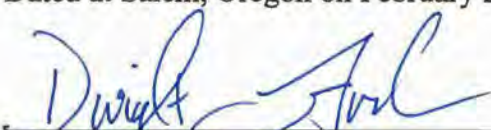
IRRIGATION WITH INCIDENTAL LIVESTOCK WATERING						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
37 S	8 E	WM	31	SW NE	1	4.0
37 S	8 E	WM	31	SE NW	1	2.8
37 S	8 E	WM	31	NE SW	2	21.0
37 S	8 E	WM	31	SE SW	3	25.8
37 S	8 E	WM	31	NW SE	2	27.5
37 S	8 E	WM	31	SW SE	3	40.0
37 S	8 E	WM	31	SE SE		14.4
38 S	8 E	WM	5	NW NW		2.9
38 S	8 E	WM	5	SW NW		25.0
38 S	8 E	WM	5	NE SW		13.7
38 S	8 E	WM	5	NW SW		40.0
38 S	8 E	WM	5	SW SW	4	36.2
38 S	8 E	WM	5	SE SW	4	1.8
38 S	8 E	WM	6	NE NE		35.4
38 S	8 E	WM	6	NW NE		40.0
38 S	8 E	WM	6	SW NE		37.4
38 S	8 E	WM	6	SE NE		37.4
38 S	8 E	WM	6	NE NW	9	38.0
38 S	8 E	WM	6	NW NW	8	1.3
38 S	8 E	WM	6	SW NW	2	0.6
38 S	8 E	WM	6	SW NW	7	1.4
38 S	8 E	WM	6	SE NW	2	1.0
38 S	8 E	WM	6	SE NW	7	35.4
38 S	8 E	WM	6	NE SW	6	22.0
38 S	8 E	WM	6	NE SW	3	5.7
38 S	8 E	WM	6	SE SW	5	2.8
38 S	8 E	WM	6	NE SE		40.0
38 S	8 E	WM	6	NW SE		40.0
38 S	8 E	WM	6	SW SE		33.7
38 S	8 E	WM	6	SE SE		40.0
38 S	8 E	WM	7	NE NE	1	0.5
38 S	8 E	WM	7	NE NE	13	20.7
38 S	8 E	WM	7	NW NE	12	4.3
38 S	8 E	WM	8	NW NW	11	2.3

**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 February 28, 2014

  
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 Dwight French, Adjudicator  
 Klamath Basin General Stream Adjudication