

**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
OSKIE ANDERSON YASANA, AND	)	DETERMINATION
RICHARD DEAN YASANA	)	
_____	)	
	)	Water Right Claim 229

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 31, 1991, RENA ANDERSON, (ON BEHALF OF HERSELF, OSKIE ANDERSON YASANA AND JODEAN ANDERSON BRYANT) timely submitted a Statement and Proof of Claim (Claim 229) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as Indian allottees on the former Klamath Reservation, claiming a vested and inchoate Indian reserved water right (Allottee claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 229 was submitted for a total of 173.1 acre-feet of water from the Sprague River, a tributary of the Williamson River, being 123.8 acre-feet for irrigation of 28.8 acres (including domestic irrigation of 0.5 acres for lawn and garden), 49.0 acre-feet for irrigation of 15.8 practicably irrigable acres, and 0.3 acre-feet for instream livestock watering of 20 head. The duty claimed for current irrigation is 4.3 acre-feet per acre, and the duty claimed for practicably irrigable acres is 3.1 acre-feet per acre. The claimed period of use is year-round for domestic use and livestock watering, and March 1 through October 16 for irrigation. The claimed priority date is October 14, 1864.
3. Counsel signed Claim 229 attesting that the information contained in the claim is true.
4. The claim was subsequently transferred to the OSKIE ANDERSON YASANA AND RICHARD DEAN YASANA (Claimants).
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 vested portion of the claim for instream livestock watering and irrigation was approved, but with a longer irrigation season than claimed; and the inchoate portion of

the claim was denied because the elements for a practicably irrigable acreage right were not established.

6. On May 3, 2000, the Claimants timely filed Contest 1716 to the Preliminary Evaluation of Claim 229.
7. On May 8, 2000, the following parties, hereinafter collectively referred to as the “Klamath Project Water Users,” filed Contest 3520: 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.
8. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 45.
9. On April 7, 2005, the Klamath Project Water Users withdrew Contest 3520. *See* NOTICE OF WITHDRAWAL OF CONTEST NO. 3520 (Apr. 7, 2005).
10. On July 7, 2005, OWRD and the Claimants executed a STIPULATION TO RESOLVE CONTEST 1716 (Settlement Agreement) thereby resolving the remaining contest to Claim 229.
11. On July 8, 2005, the Adjudicator withdrew Case 45 from the Office of Administrative Hearings.
12. OWRD finds that livestock use for Claim 229 is for instream livestock watering only. This is consistent with the statement made in the claim, “[s]tock have access to the full length of the river throughout the property” [*See* RESERVED WATER RIGHTS CLAIM (REVISED REPORT), Oct. 12, 1999 (Claim # 229, Page 65)].
13. OWRD finds that the use of livestock watering as stipulated in the Settlement Agreement is an impermissible amendment because it is an enlargement of the original claim; the Claimant claimed instream livestock watering. The Claimants’ map (Claim # 229, Page 69) shows the Sprague River only crosses Claimants’ property appurtenant to Claim 229 within Government Lot 6 (NENW) and Government Lot 11 (SENW). Therefore, OWRD finds that the correct place of use for instream livestock watering is within Government

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<sup>1</sup> Klamath Hills District Improvement Company voluntarily withdrew from Contest 3520 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

<sup>2</sup> Berlva Pritchard voluntarily withdrew from Contest 3520 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

<sup>3</sup> Don Vincent voluntarily withdrew from Contest 3520 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

Lot 6, (NENW) and Government Lot 11 (SEnw), Section 14, Township 36 South, Range 12 East, W.M; the place of use does not include Government Lot 5 (NWNw), or Government Lot 12 (SWNW), Section 14, Township 36 South, Range 12 East, W.M. as listed in the Settlement Agreement.

## **B. DETERMINATION**

1. The Settlement Agreement executed between OWRD and the Claimants is adopted and incorporated as if set forth fully herein, with the exception of use of livestock watering that was enlarged by the Settlement Agreement and constitutes an impermissible amendment (described in Finding 13, above); livestock watering is restricted to instream livestock watering and is only authorized within Government Lot 6, (NENW) and Government Lot 11 (SEnw), Section 14, Township 36 South, Range 12 East, W.M.
2. The elements of an Allottee claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING ALLOTTEE 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 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 229 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 229**  
FOR A VESTED AND INCHOATE WATER RIGHT

**CLAIM MAP REFERENCE:** CLAIM # 229, PAGE 69

**CLAIMANT:** OSKIE ANDERSON YASANA  
RICHARD DEAN YASANA  
62185 CROWN POINT ROAD  
COOS BAY, OR 97420

### **VESTED (DEVELOPED) PORTION**

**SOURCE OF WATER:** The SPRAGUE RIVER, tributary to the WILLIAMSOM RIVER

### **PURPOSE or USE:**

DOMESTIC FOR ONE HOUSEHOLD INCLUDING IRRIGATION OF 0.5 ACRES OF LAWN AND GARDEN (DOMESTIC EXPANDED) FROM POD 1;

IRRIGATION OF 28.3 ACRES FROM POD 2; AND

INSTREAM LIVESTOCK WATERING OF 20 HEAD

**RATE OF USE:**

0.7204 CUBIC FOOT PER SECOND (CFS) AS FOLLOWS:

0.01 CFS FROM POD 1 FOR DOMESTIC EXPANDED, MEASURED AT THE POINT OF DIVERSION,

0.71 CFS FROM POD 2 FOR IRRIGATION, MEASURED AT THE POINT OF DIVERSION, AND

0.0004 FOR INSTREAM LIVESTOCK WATERING MEASURED AT THE PLACE OF USE, NOT TO EXCEED 240 GALLONS PER DAY.

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:**

4.3 ACRE-FEET PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR

**PERIOD OF ALLOWED USE:**

Use	Period
Domestic Expanded	January 1 - December 31
Irrigation	March 1 - October 16
Livestock Watering	January 1 - December 31

**DATE OF PRIORITY:** OCTOBER 14, 1864

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

Pod Name	Twp	Rng	Mer	Sec	Q-Q	GLot	Remarks
POD 1	36 S	12 E	WM	14	NE NW	6	Domestic Expanded Only
POD 2	36 S	12 E	WM	14	NE NW	6	Irrigation Only
Sprague River	36 S	12 E	WM	14	NE NW	6	Livestock Watering Only– No specific point of diversion for livestock watering, livestock drink directly from the Sprague River
	36 S	12 E	WM	14	SE NW	11	

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

DOMESTIC EXPANDED							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
36 S	12 E	WM	14	SE NW	11	0.5	POD 1

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
36 S	12 E	WM	14	NE NW	6	4.7	POD 2
36 S	12 E	WM	14	NW NW	5	20.0	
36 S	12 E	WM	14	SW NW	12	3.4	
36 S	12 E	WM	14	SE NW	11	0.2	

INSTREAM LIVESTOCK WATERING					
Twp	Rng	Mer	Sec	Q-Q	GLot
36 S	12 E	WM	14	NE NW	6
36 S	12 E	WM	14	SE NW	11

**INCHOATE PORTION**

**SOURCE OF WATER:** The SPRAGUE RIVER, tributary to the WILLIAMSOM RIVER

**PURPOSE or USE:** IRRIGATION OF 15.8 PRACTICABLY IRRIGABLE ACRES FROM POD A.

**RATE OF USE:**

0.28 CFS FROM POD A, 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:**

3.1 ACRE-FEET PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.

**PERIOD OF ALLOWED USE:**

Use	Period
Practicably Irrigable Acreage	March 1 - October 16

**DATE OF PRIORITY:** OCTOBER 14, 1864

**THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:**


Pod Name	Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
POD A	36 S	12 E	WM	14	SE NW	11	1320 FEET NORTH & 1056 FEET WEST FROM C1/4 CORNER, SECTION 14

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

PRACTICABLY IRRIGABLE ACREAGE							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
36 S	12 E	WM	14	NE NW	6	13.6	POD A
36 S	12 E	WM	14	SE NW	11	2.2	

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013

  
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 Dwight French, Adjudicator  
 Klamath Basin General Stream Adjudication