

**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
KENNETH KNIGHT/)	DETERMINATION
ESTATE OF LOUIS KNIGHT)	
_____)	
)	Water Right Claim 259

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, KENNETH KNIGHT / ESTATE OF LOUIS KNIGHT (Claimant) timely submitted a Statement and Proof of Claim (Claim 259) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as an Indian allottee 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 259 was submitted for a total of 2870.4 acre-feet of water from the Williamson River, a tributary of Upper Klamath Lake, being 2624.3 acre-feet for irrigation of 610.3 acres, 239.4 acre-feet for irrigation of 77.2 practicably irrigable acres, and 6.7 acre-feet for livestock watering of 500 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 livestock watering, and March 1 through October 16 for irrigation. The claimed priority date is October 14, 1864.
3. Counsel signed Claim 259 attesting that the information contained in the claim is true.
4. 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 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.

5. On May 3, 2000, the Claimant timely filed Contest 1736 to the Preliminary Evaluation of Claim 259.
6. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3541: 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.
7. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 58.
8. On April 7, 2005, the Klamath Project Water Users withdrew Contest 3541. *See* NOTICE OF WITHDRAWAL OF CONTEST NO. 3541 (Apr. 7, 2005).
9. On June 15, 2005, OWRD and the Claimant executed a STIPULATION TO RESOLVE CONTEST 1736 (Settlement Agreement) thereby resolving the remaining contest to Claim 259.
10. On June 20, 2005, the Adjudicator withdrew Case 58 from the Office of Administrative Hearings.
11. OWRD finds that the 40.0 acres listed in the Settlement Agreement as being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 13, TOWNSHIP 30 SOUTH, RANGE 9 EAST, W.M is incorrect; the correct location is within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 13, TOWNSHIP 30 SOUTH, RANGE 9 EAST, W.M.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and the Claimant is adopted and incorporated as if set forth fully herein, with the exception of a scrivener's error in the location of the 40.0 acres described in Finding 11, above; the location of the 40.0 acres is corrected to the NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 13, TOWNSHIP 30 SOUTH, RANGE 9 EAST, W.M.

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3541 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

² Berlva Pritchard voluntarily withdrew from Contest 3541 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3541 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

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. Because there is no evidence on the record to the contrary, the standard rate of 12 gallons of water per head of livestock per day, measured at the place of use, as outlined in the GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION will apply. Diversion of stock water to the place of use is limited to that which has been historically diverted for beneficial use and is reasonably necessary to transport the water.
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 259 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 259

FOR A VESTED AND INCHOATE WATER RIGHT

CLAIM MAP REFERENCE: CLAIM # 259, PAGES 113 AND 114

CLAIMANT: KENNETH KNIGHT / ESTATE OF LOUIS KNIGHT
PO BOX 362
CHILOQUIN OR 97624

VESTED (DEVELOPED) PORTION

SOURCE OF WATER: The WILLIAMSON RIVER, tributary to UPPER KLAMATH LAKE

PURPOSE OR USE:

IRRIGATION OF 610.3 ACRES; AND

LIVESTOCK WATERING OF 500 HEAD FROM POD 1

RATE OF USE:

15.079 CUBIC FEET PER SECOND (CFS) AS FOLLOWS:

15.07 CFS FROM POD 1 FOR IRRIGATION, MEASURED AT THE POINT OF DIVERSION;
AND

0.009 CFS FOR LIVESTOCK WATERING FROM POD 1 MEASURED AT THE PLACE OF
USE, NOT TO EXCEED 6000 GALLONS PER DAY.

DIVERSION OF STOCK WATER TO THE PLACE OF USE IS LIMITED TO THAT WHICH
HAS BEEN HISTORICALLY DIVERTED FOR BENEFICIAL USE AND IS REASONABLY
NECESSARY TO TRANSPORT THE WATER.

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
Irrigation	March 1 - October 16
Livestock Watering	January 1 - December 31

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

POD Name	Twp	Rng	Mer	Sec	Q-Q	GLot
POD 1	30 S	10 E	WM	19	NW NW	1

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION and LIVESTOCK WATERING						
Twp	Rng	Mer	Sec	Q-Q	Acres	Authorized POD
30 S	9 E	WM	11	SE SE	40.0	POD 1
30 S	9 E	WM	12	SW SE	22.4	
30 S	9 E	WM	13	NW NE	38.0	
30 S	9 E	WM	13	SW NE	23.2	
30 S	9 E	WM	13	SW NW	40.0	
30 S	9 E	WM	13	SE NW	40.0	
30 S	9 E	WM	13	NE SW	40.0	
30 S	9 E	WM	13	NW SW	40.0	
30 S	9 E	WM	13	NE SE	0.3	
30 S	9 E	WM	13	NW SE	35.2	
30 S	9 E	WM	13	SW SE	40.0	
30 S	9 E	WM	13	SE SE	15.2	
30 S	9 E	WM	14	NE NE	40.0	
30 S	9 E	WM	14	SE NE	40.0	
30 S	9 E	WM	14	NE SE	40.0	
30 S	9 E	WM	14	SE SE	39.5	
30 S	9 E	WM	24	NE NE	37.6	
30 S	9 E	WM	24	NW NE	1.1	
30 S	9 E	WM	24	SE NE	37.8	

INCHOATE PORTION

SOURCE OF WATER: The WILLIAMSON RIVER, tributary to UPPER KLAMATH LAKE

PURPOSE or USE:

IRRIGATION OF 77.1 PRACTICABLY IRRIGABLE ACRES, BEING 23.9 ACRES FROM POD A, 36.5 ACRES FROM POD B, AND 16.7 ACRES FROM POD C.

RATE OF USE:

1.39 CUBIC FEET PER SECOND (CFS) MEASURED AT THE POINT OF DIVERSION, BEING 0.43 FROM POD A, 0.66 CFS FROM POD B, AND 0.30 CFS FROM POD C

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 POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:

POD Name	Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
POD A	30 S	10 E	WM	18	SW SW	4	132 FEET NORTH AND 1122 FEET EAST FROM SW ¹ / ₄ CORNER, SECTION 18
POD B	30 S	9 E	WM	13	NW SE		792 FEET EAST FROM C ¹ / ₄ CORNER, SECTION 13
POD C	30 S	9 E	WM	12	SW SE		264 FEET NORTH AND 1320 FEET EAST FROM S ¹ / ₄ , SECTION 12

THE PLACE OF USE IS LOCATED AS FOLLOWS:

PRACTICABLY IRRIGABLE ACREAGE							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
30 S	9 E	WM	12	SW SE		16.7	POD C
30 S	9 E	WM	13	NE SE		29.5	POD B
30 S	9 E	WM	13	SE SE		7.0	POD B
30 S	10 E	WM	18	SW SW	4	23.9	POD A

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication