

**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
JAMES AND HELEN SCHELHAAS	)	DETERMINATION
	)	
_____	)	Water Right Claim 2

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 December 24, 1990, JAMES AND HELEN SCHELHAAS (Claimants) (RT 2 BOX 92, OMAK, WA 98841) timely submitted a Statement and Proof of Claim (Claim 2) 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 2 was submitted for a total 2.0 cubic feet per second (cfs) from natural overflow of Jack Creek, a tributary of the Williamson River, for irrigation of 218.4 acres, with a “season of use “March 1<sup>st</sup> thru September 30.” The claimed priority date is prior to 1909.
3. JAMES AND HELEN SCHELHAAS signed the Statement and Proof of Claim for Claim 2 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 claim was denied because the required pre-1909 elements were not established.
5. The Claimants did not file a contest to the Preliminary Evaluation of Claim 2.
6. On May 8, 2000, the following parties, hereinafter collectively referred to as the “Klamath Project Water Users,” filed Contest 3380: 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,

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<sup>1</sup> Klamath Hills District Improvement Company voluntarily withdrew from Contest 3434 on January 16, 2004. See VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS 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, Don Vincent 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. On May 8, 2000, the United States of America timely filed Contest 3709 to the Claim and/or Preliminary Evaluation of Claim 2.
8. On May 8, 2000, the Klamath Tribes timely filed Contest 4065 to the Claim and/or Preliminary Evaluation of Claim 2.
9. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 101.
10. On September 12, 2002, the OWRD, and Klamath Project Water Users, the United States of America and the Klamath Tribes executed STIPULATION TO RESOLVE CONTESTS 4065, 3380, AND 3709 (Settlement Agreement) which resolved all contests to Claim 2.
11. On August 6, 2002, the Adjudicator withdrew Case 101 from the Office of Administrative Hearings.

#### **B. DETERMINATION**

1. The Settlement Agreement executed between the OWRD, and Klamath Project Water Users, the United States of America and the Klamath Tribes is adopted and incorporated as if set forth fully herein.
2. The elements of a pre-1909 claim are not established. The GENERAL CONCLUSIONS OF LAW CONCERNING PRE-1909 CLAIMS is incorporated as if set forth fully herein.
3. Based on the file and record herein, IT IS ORDERED that Claim 2 is denied and is of no force or effect.

Dated at Salem, Oregon on March 7, 2013

  
Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication