

**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
RICHARD NICHOLSON, AND	)	DETERMINATION
ROGER NICHOLSON	)	
_____	)	
	)	Water Right Claim 42

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 February 1, 1991, RICHARD NICHOLSON AND ROGER NICHOLSON (Claimants) (PO BOX 458, FORT KLAMATH, OR 97626) timely submitted a Statement and Proof of Claim (Claim 42) 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 42 was submitted for a total 2.0 cubic feet per second (cfs) of water from Seven Mile Creek, tributary to Agency Lake, for "Fish and Wildlife" with a "year round" season of use. The claimed priority date is 1891.
3. 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.
4. On May 8, 2000, the Claimants timely filed Contest 3268 to the Claim and/or Preliminary Evaluation of Claim 42.
5. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3387: 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

<sup>1</sup> Klamath Hills District Improvement Co. voluntarily withdrew from Contest 3387 on January 20, 2004. See NOTICE OF WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY.

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.

6. On May 8, 2000, the United States of America timely filed Contest 3787 to the Claim and/or Preliminary Evaluation of Claim 42.
7. On May 8, 2000, the Klamath Tribes timely filed Contest 4097 to the Claim and/or Preliminary Evaluation of Claim 42.
8. On May 8, 2000, WaterWatch of Oregon, Inc. filed Contest 2826 to the Claim and/or Preliminary Evaluation of Claim 42.
9. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 107.
10. On April 2, 2002, the Claimants withdrew Claim 42 and their Contest 3268 which thereby rendered all contests moot. *See CLAIMANT'S WITHDRAWAL OF CLAIM AND CONTEST (Apr. 2, 2002).*
11. On April 8, 2002, the Adjudicator withdrew Case 107 from the Office of Administrative Hearings.

## **B. DETERMINATION**

Based upon the file and record herein, including the withdrawal of Claim 42 by the Claimants, IT IS ORDERED that Claim 42 is denied and is of no force or effect.

Dated at Salem, Oregon on March 7, 2013

  
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Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication