

**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
HUGH D. STEVENSON)	DETERMINATION
)	
_____)	Water Right Claim 116

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

**A. FINDINGS OF FACT AND DESCRIPTION OF MODIFICATIONS
TO THE PROPOSED ORDER**

1. Claim 116 (Claimant: HUGH D. STEVENSON, 7906 HWY 140 E, KLAMATH FALLS, OR 97603) and its associated contests (3492, 3759, and 4146) were referred to the Office of Administrative Hearings for a contested case hearing which was designated as Case 226.
2. The Office of Administrative Hearings conducted contested case proceedings and ultimately issued an ORDER GRANTING MOTION FOR SUMMARY JUDGMENT; PROPOSED ORDER DENYING CLAIM on November 5, 2004 (Proposed Order).
3. No exceptions were filed to the Proposed Order.
4. The Proposed Order is adopted and incorporated in its entirety as if set forth fully herein, with the exception that the section titled "Opinion" is adopted with modifications, as set forth in Section A.5, below.
5. **Opinion.** Within the subsection titled "Walton Water Right Claim" OWRD removed the ALJ's discussion regarding the elements of a *Walton* Claim. In its place, OWRD incorporates into the Opinion section the GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS.

In addition, OWRD has modified the final paragraph of the Opinion section as follows: (additions are shown in "underline" text):

Claimant is deemed to have admitted, among other things, that he has not provided sufficient title information regarding Indian ownership of the claimed place of use and/or transfer of the property to a non-Indian, that the claimed place of use was not irrigated by the last Indian owner, that the claimed place of use

was not developed for irrigation by the first non-Indian owner within a reasonable period of time, and that the claimed place of use has not been continually irrigated since it was first owned by a non-Indian. In addition, considering the record in a manner most favorable to the non-moving party, the record does not establish that water was beneficially used on the lands appurtenant to Claim 116 by any Indian owner of the claimed place of use. Therefore, Claimant in Claim 116 has failed to prove the basic elements of a *Walton* water right. Consequently, Claim 116 should be denied.

Reason for Modifications: To correct and clarify the elements of a Walton water right; to provide additional detail concerning the bases for denial of the claim.

B. DETERMINATION

1. The Proposed Order is adopted and incorporated in its entirety as if set forth fully herein, with the exception that the section titled "Opinion" is adopted with modifications, as set forth in Section A.5, above.
2. The elements of a Walton claim are not established. The GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS is incorporated as if set forth fully herein.
3. Based on the file and record herein, IT IS ORDERED that Claim 116 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