

**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
BRIAN ALLEN AND SHARON ALLEN	)	DETERMINATION
	)	
_____	)	Water Right Claim 250

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 30, 1991, LEROY HICKS timely submitted a Statement and Proof of Claim (Claim 250) 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 250 was submitted for a total of 501.1 acre-feet of water from the Sprague River, a tributary of the Williamson River, being 91.2 acre-feet for irrigation of 21.2 acres, 408.8 acre-feet for irrigation of 131.9 practicably irrigable acres, and 1.1 acre-feet for livestock watering of 80 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 250 attesting that the information contained in the claim is true.
4. The property appurtenant to Claim 250 was ultimately transferred to non-Indian successors, BRIAN ALLEN AND SHARON ALLEN (Claimants) (37291 AGENCY LAKE LOOP ROAD, CHILOQUIN, OR 97624). *See* WARRANTY DEED, COUNTY OF KLAMATH, VOL. M99, PAGE 17534 (May 7, 1999), and CHANGE OF OWNERSHIP FORM (Feb. 26, 2007).
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 irrigation and livestock watering was approved, but

with a longer irrigation season than claimed and a shorter season for livestock watering than claimed; and the inchoate portion of the claim was denied because the elements for a practicably irrigable acreage right were not established.

6. The Claimants did not file a contest to the Preliminary Evaluation of Claim 250.
7. On May 8, 2000, the following parties, hereinafter collectively referred to as the “Klamath Project Water Users,” filed Contest 3534: 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. On May 8, 2000, the United States of America timely filed Contest 3774 to the Claim and/or Preliminary Evaluation of Claim 250.
9. On May 8, 2000, the Klamath Tribes timely filed Contest 4204 to the Claim and/or Preliminary Evaluation of Claim 250.
10. These matters were referred to the Office of Administrative Hearings for a contested case hearing. The Office of Administrative Hearings designated these matters as Case 243, which was subsequently consolidated into Case 209. *See* ORDER GRANTING MOTION TO CONSOLIDATE (Oct. 15, 2003). Claim 250 was consolidated into Case 209 because lands appurtenant to this claim are partially or fully coextensive with the Modoc Point Irrigation District’s claimed place of use in Claim 84, or may involve the delivery of water through District facilities serving lands appurtenant to the claims.
11. Brian Allen and Sharon Allen elected to incorporate the acres claimed under Claim 250 into Modoc Point Irrigation District’s (MPID) Claim 84. On November 9, 2007, Brian Allen, MPID, OWRD, the United States of America, and the Klamath Tribes executed a STIPULATION TO RESOLVE CONTESTS; CLAIM 84 (Settlement Agreement) in which BRIAN ALLEN agreed to withdraw Claim 250 and thereby resolved Contests 3774 and 4204, and rendered the remaining Contest 3534 to Claim 250 moot. [*See* STIPULATION TO RESOLVE CONTESTS; CLAIM 84, Pages 4, 7, and 26, and Exhibit C (Nov. 9, 2007)].
12. On November 21, 2007, the Adjudicator withdrew Case 243 from the Office of Administrative Hearings.

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<sup>1</sup> Klamath Hills District Improvement Company voluntarily withdrew from Contest 3534 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

<sup>2</sup> Berlva Pritchard voluntarily withdrew from Contest 3534 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

<sup>3</sup> Don Vincent voluntarily withdrew from Contest 3534 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

## B. DETERMINATION

1. The Settlement Agreement executed between Brain Allen, MPID, OWRD, United States of America, and the Klamath Tribes is adopted and incorporated as if set forth fully herein.
2. Based upon the file and record herein, including the voluntary withdrawal of Claim 250 by the Claimant, IT IS ORDERED that Claim 250 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