

**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
ESTATE OF ALICE HOBBS/	)	DETERMINATION
DONNA FENSLER, PERSONAL	)	
REPRESENTATIVE	)	
	)	
	)	
_____	)	Water Right Claim 251

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, RAY AND ALICE HOBBS timely submitted a Statement and Proof of Claim (Claim 251) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as Indian allottees on the former Klamath Reservation, claiming a vested Indian reserved water right (Allottee claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 251 was submitted for a total of 31.6 acre-feet of water from Agency Lake, a tributary of the Klamath River, being 30.1 acre-feet (at a rate of 0.18 cubic foot per second) for irrigation of 7.0 acres with a duty of 4.3 acre-feet per acre, and 1.5 acre-feet for domestic use including irrigation of 0.5 acres for lawn and garden. The claimed period of use is year-round for domestic use and March 1 through October 16 for irrigation. The claimed priority date is October 14, 1864.
3. Counsel signed Claim 251 attesting that the information contained in the claim is true.
4. On November 1, 1992, counsel for the original claimants submitted a field inspection report and claim map prepared by Natural Resources Consulting Engineers, Inc. describing the present use of water on the property (Claim # 251, Pages 014 through 020).
5. The claim was subsequently transferred to the ESTATE OF ALICE HOBBS/ DONNA FENSLER, PERSONAL REPRESENTATIVE (Claimant). See CHANGE OF OWNERSHIP FORM (Sept. 12, 2003).

6. 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 approved for irrigation of 7.0 acres, but with a longer irrigation season claimed.
7. On May 8, 2000, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District filed Contest 3199 to the Claim and/or Preliminary Evaluation of Claim 251.
8. On September 29, 2003, Medford Irrigation District and Rogue River Valley Irrigation District voluntarily withdrew from Contest 3199. *See* VOLUNTARY WITHDRAWAL OF CONTESTS BY MEDFORD IRRIGATION DISTRICT AND ROGUE RIVER VALLEY IRRIGATION DISTRICT (Sept. 29, 2003).
9. On October 20, 2003, the Horsefly Irrigation District and Langell Valley Irrigation District portions of Contest 3199 were dismissed, thereby resolving the only contest to Claim 251. *See* STIPULATED AGREEMENT FOR DISMISSAL OF CONTEST NO. 3199 (Oct. 20, 2003).
10. Based on the claimant's map (Claim # 251, Page 18) which shows a maximum total of 7.0 acres, OWRD finds 6.5 acres of irrigation, rather than the 7.0 acres claimed to allow for the 0.5 acres of irrigation of lawn and garden under domestic use.
11. OWRD finds a duty of 4.3 acre-feet per acre per year, as claimed.
12. Based on the sworn statements in Claim 251, along with the field inspection report, the following findings are made:
  - a. The land appurtenant to Claim 251 is part of the former Klamath Indian Reservation.
  - b. The Claimant is a Klamath Indian.
  - c. The Claimant has applied water to beneficial use.
  - d. The land is arable.
  - e. The land appurtenant to Claim 251 has not had more than five successive years of non-Indian ownership.

## **B. DETERMINATION**

1. The elements of an Allottee claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING ALLOTTEE CLAIMS is incorporated as if set forth fully herein.
2. The duty for irrigation is 4.3 acre-feet per acre per year as claimed.

3. 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.
4. Based on the file and record herein, IT IS ORDERED that Claim 251 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 251**  
**FOR A VESTED WATER RIGHT**

**CLAIM MAP REFERENCE:** CLAIM # 251, PAGE 18

**CLAIMANT:** ESTATE OF ALICE HOBBS  
DONNA FENSLER, PERSONAL REPRESENTATIVE  
PO BOX 424  
MERRILL, OR 97633

**SOURCE OF WATER:** AGENCY LAKE, tributary to the KLAMATH RIVER

**PURPOSE OR USE:**  
DOMESTIC FOR ONE HOUSEHOLD INCLUDING IRRIGATION OF 0.5 ACRES OF LAWN AND GARDEN (DOMESTIC EXPANDED); AND  
IRRIGATION OF 6.5 ACRES.

**RATE OF USE:**  
0.173 CUBIC FOOT PER SECOND (CFS) AS FOLLOWS:  
0.01 CFS FOR DOMESTIC EXPANDED MEASURED AT THE POINT OF DIVERSION;  
AND  
0.163 CFS FOR IRRIGATION MEASURED AT THE POINT OF DIVERSION.  
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
Domestic Expanded	January 1 - December 31
Irrigation	March 1 - October 16

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q
35 S	7 E	WM	6	SE SW

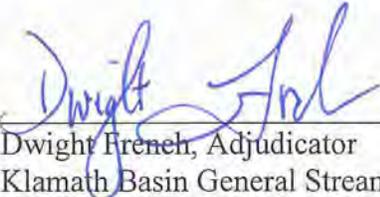
THE PLACE OF USE IS LOCATED AS FOLLOWS:

DOMESTIC EXPANDED				
Twp	Rng	Mer	Sec	Q-Q
35 S	7 E	WM	6	SE SW

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	7 E	WM	6	SE SW	6.5

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013

  
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 Dwight French, Adjudicator  
 Klamath Basin General Stream Adjudication