

**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
LAWRENCE AND MARJORIE IVERSON)	DETERMINATION
)	
_____)	Water Right Claim 1

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 November 16, 1990, LAWRENCE AND MARJORIE IVERSON (Claimants) (PO BOX 97, SILVER LAKE, OR 97601) timely submitted a Statement and Proof of Claim (Claim 1) 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 1 was submitted for irrigation of 157.2 acres by “natural flood irrigation” for an unspecified quantity of water from Jack Creek, tributary to Klamath Marsh, with a season of use March 1 to Nov 1. The claimed priority date is “prior to 1909.”
3. LAWRENCE IVERSON AND MARJORIE IVERSON Statement and Proof of Claim for Claim 1 attesting that the information contained in the claim is true.
4. A copy of a letter dated May 20, 1977 from Lawrence and Marjorie Everson to OWRD states in pertinent part: “. . . the water had been applied to a beneficial use on this land since before 1900 (naturally).” (Claim 1, WIP Page 00026).
5. In 1979, an OWRD field inspection report was prepared, describing the present use of water on the property substantially as stated in Claim 1. The report also includes the statement: “The Iverson meadow lands in section 2, 13, 24, T 27 S, R 9 E and in section 19, T 27 S, R10 E appear to be kept moist by natural flooding and a high ground water table. . . . The source of this “Natural Irrigation” is from Jack Creek and several of it’s unnamed tributaries . . .” (Claim 1, WIP Page 00027).
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 but for fewer acres than claimed and for a shorter season of use than claimed.

7. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3379: 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., 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, 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.
8. On May 8, 2000, the United States of America timely filed Contest 3708 to the Claim and/or Preliminary Evaluation of Claim 1.
9. On May 8, 2000, the Klamath Tribes timely filed Contest 4064 to the Claim and/or Preliminary Evaluation of Claim 1.
10. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 100.
11. On March 18, 2002, the Klamath Project Water Users with the exception of Shasta View Irrigation District withdrew from Contest 3379. *See* NOTICE OF WITHDRAWAL OF CERTAIN CONTESTS (Mar. 18, 2002).
12. On March 19, 2002, Shasta View Irrigation District withdrew Contest 3379. *See* NOTICE OF WITHDRAWAL OF CERTAIN CONTEST (Mar. 19, 2002).
13. On January 16, 2003, OWRD, the Claimants, the United States of America, and the Klamath Tribes executed a STIPULATION TO RESOLVE CONTESTS (Settlement Agreement) thereby resolving all remaining contests to Claim 1.
14. In the Settlement Agreement, the Claimants voluntarily agreed to limit their claim from natural flood-irrigation and subirrigation to natural subirrigation only. The parties stipulated to the following facts: the source of water is Jack Creek, a tributary to Klamath Marsh; the use is for irrigation of 138.7 acres; the amount beneficially used is 3.47 cfs; and the period of use is March 1 to October 31.
15. On January 21, 2003, the Adjudicator withdrew Case 100 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD, the Claimants, the United States of America, and the Klamath Tribes is adopted and incorporated as if set forth fully herein.
2. Portions of the claimed place of use are subject to natural subirrigation from Jack Creek. The use of water by natural subirrigation is a privilege only, and does not constitute a water right. This privilege cannot be insisted upon if it interferes with the appropriation of the waters for beneficial use by others, and no priority date, season of use, rate or duty shall attach to such privilege. This privilege may not be transferred to any other property, and may not be altered by the use of any physical means to modify the manner in which natural subirrigation occurs, to contain or further distribute water or to increase in any other way the consumption which takes place from natural subirrigation. Any such alteration shall require the filing with OWRD of an application for a permit to appropriate water under ORS 537.150. The stipulated place of use for acceptance of natural subirrigation is located as follows:

NATURAL SUBIRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	9 E	WM	13	NW SW	10.6
27 S	9 E	WM	13	SW SW	4.2
27 S	9 E	WM	13	SE SW	21.3
27 S	9 E	WM	13	SW SE	9.0
27 S	9 E	WM	24	NE NE	13.8
27 S	10 E	WM	19	NE NW	27.9
27 S	10 E	WM	19	NW NW	35.5
27 S	10 E	WM	19	SE NW	16.4

See OWRD INVESTIGATION MAP – T 27 S, R 9 E, W.M.

3. This privilege to use water under Claim 1 does not constitute a water right; as such, OWRD will not issue a certificate for Claim 1.
4. Based on the file and record herein, IT IS ORDERED that Claim 1 is acknowledged only as a privilege.

Dated at Salem, Oregon on March 7, 2013


Dwight French, Adjudicator
Klamath Basin General Stream Adjudication