

**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
ROGER NICHOLSON)	DETERMINATION
)	
_____)	Water Right Claim 44

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, ROGER NICHOLSON (Claimant) (PO BOX 458, FORT KLAMATH, OR 97626) timely submitted a Statement and Proof of Claim (Claim 44) 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 44 was submitted for a total 3.0 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 Claimant timely filed Contest 3270 to the Claim and/or Preliminary Evaluation of Claim 44.
5. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3389: 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.¹, 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,

¹ Klamath Hills District Improvement Co. voluntarily withdrew from Contest 3389 on January 20, 2004. See NOTICE OF WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY.

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 3789 to the Claim and/or Preliminary Evaluation of Claim 44.
7. On May 8, 2000, the Klamath Tribes timely filed Contest 4099 to the Claim and/or Preliminary Evaluation of Claim 44.
8. On May 8, 2000, WaterWatch of Oregon, Inc. filed Contest 2828 to the Claim and/or Preliminary Evaluation of Claim 44.
9. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 109.
10. On April 2, 2002, the Claimant withdrew Claim 44 and the Contest 3270 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 109 from the Office of Administrative Hearings.

B. DETERMINATION

Based upon the file and record herein, including the withdrawal of Claim 44 by the Claimant, IT IS ORDERED that Claim 44 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