

**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
HENRY J. CALDWELL, JR. AND)	DETERMINATION
DEBORAH L. CALDWELL, TRUSTEES)	
OF THE CALDWELL FAMILY TRUST)	
uda JANUARY 5, 1996; AND GLEN R.)	Water Right Claim 99
CROUCH AND SHARLINE J. CROUCH)	
_____)	

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 17, 1991, D. G. RICHARDSON timely submitted a Statement and Proof of Claim (Claim 99) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as a non-Indian successor to allotted Klamath Reservation lands, claiming a vested Indian reserved water right (Walton claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 99 was submitted for a total of 11.1 cfs of water from the Sprague River, a tributary of the Williamson River, for irrigation of 600 acres. The claimed period of use is "April – October." The claimed priority date is "1864."
3. JEAN H. RICHARDSON AND DUDLEY G. RICHARDSON signed Claim 99 attesting that the information contained in the claim is true.
4. The property appurtenant to Claim 99 was transferred to CRAIG AND DEBRA CAHOON. See BARGAIN AND SALE DEED, COUNTY OF KLAMATH RECORDS, VOL. M94, PAGE 34923 (Oct. 28, 1994).
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 claim was approved for irrigation, but for a smaller quantity of water and for fewer acres than claimed.
6. On April 6, 2000, the CRAIG AND DEBRA CAHOON timely filed Contest 0003 to the Preliminary Evaluation of Claim 99.

7. On May 8, 2000, the following parties, hereinafter collectively referred to as the “Klamath Project Water Users,” filed Contest 3480: 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 Pritchard², Don Vincent³, Randy Walthall, Inter-County Title Co., Winema Hunting Lodge, Inc., 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 3749 to the Claim and Preliminary Evaluation of Claim 99.
9. On May 8, 2000, the Klamath Tribes timely filed Contest 4134 to the Claim and Preliminary Evaluation of Claim 99.
10. On May 8, 2000, WaterWatch of Oregon, Inc. filed Contest 2841 to the Claim and/or Preliminary Evaluation of Claim 99.
11. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 214.
12. The property appurtenant to Claim 99 was transferred to HENRY J. CALDWELL, JR., AND DEBORAH L. CALDWELL, TRUSTEES OF THE CALDWELL FAMILY TRUST *uda* JANUARY 5, 1996 (one-half interest) and GLEN R. CROUCH, AND SHARLINE J. CROUCH (one-half interest) (Claimants) from CRAIG AND DEBRA CAHOON. *See* WARRANTY DEED, COUNTY OF KLAMATH RECORDS VOL. M02, PAGE 33949 (Oct. 528, 1994) and CHANGE OF OWNERSHIP FORM (June 20, 2002).
13. On May 20, 2003, WaterWatch’s Contest 2841 was dismissed. *See* ORDER DISMISSING WATERWATCH OF OREGON INC.’S CONTESTS NOS. 2820, *ET AL.* (May 20, 2003).
14. On December 3, 2004, the Claimants, OWRD, the United States of America, the Klamath Tribes, and the Klamath Project Water Users executed a STIPULATION TO RESOLVE CONTESTS (Settlement Agreement) thereby resolving the remaining contests to Claim 99.
15. On December 6, 2004, the Adjudicator withdrew Case 214 from the Office of Administrative Hearings.

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3480 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

² Berlva Pritchard voluntarily withdrew from Contest 3480 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3480 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

B. DETERMINATION

1. The Settlement Agreement executed between the Claimants, OWRD, the United States of America, the Klamath Tribes, and the Klamath Project Water Users is adopted and incorporated as if set forth fully herein.
2. The elements of a Walton claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS is incorporated as if set forth fully herein.
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 99 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 99
FOR A VESTED WATER RIGHT

CLAIM MAP REFERENCE: CLAIM # 99 SETTLEMENT MAP (Dec. 6, 2004)

CLAIMANT: HENRY J. CALDWELL, JR., AND DEBORAH L. CALDWELL,
TRUSTEES OF THE CALDWELL FAMILY TRUST uda JANUARY 5, 1996
19683 WEBBER RD
KLAMATH FALLS, OR 97603

GLEN R. CROUCH
SHARLINE J. CROUCH
180 COMMERCIAL ST NE #9
SALEM, OR 97301

SOURCE OF WATER: The SPRAGUE RIVER, tributary to the WILLIAMSON RIVER

PURPOSE OR USE: IRRIGATION OF 470.0 ACRES.

RATE OF USE:

11.1 CUBIC FEET PER SECOND (CFS) 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:

3.5 ACRE-FEET PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.

PERIOD OF ALLOWED USE: APRIL 1 - OCTOBER 31

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
36 S	10 E	WM	4	SW NW	1826 FEET SOUTH AND 593 FEET EAST FROM NW CORNER, SECTION 4

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	10 W	WM	32	SE SW		33.4
35 S	10 W	WM	32	SW SE		20.0
35 S	10 W	WM	32	SE SE		40.0
35 S	10 W	WM	33	SW SW		40.0
35 S	10 W	WM	33	SE SW		30.0
36 S	10 W	WM	4	NE NW	3	38.0
36 S	10 W	WM	4	NW NW	4	40.0
36 S	10 W	WM	4	SW NW		24.6
36 S	10 W	WM	5	NE NE	1	40.0
36 S	10 W	WM	5	NW NE	2	40.0
36 S	10 W	WM	5	SW NE		40.0
36 S	10 W	WM	5	SE NE		40.0
36 S	10 W	WM	5	NE NW	3	30.0
36 S	10 W	WM	5	SE NW		14.0

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013


 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication