

**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
RICHARD K. HART)	DETERMINATION
_____)	
)	Water Right Claim 173

The GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION is incorporated as if set forth fully herein.

**A. FINDINGS OF FACT AND DESCRIPTION OF MODIFICATIONS
TO THE PROPOSED ORDER**

1. Claim 173 (Claimant: RICHARD K. HART, 812 BEACH AVE, CALEXICO, CA 92231) and its associated contests (3831 and 4173) were referred to the Office of Administrative Hearings for a contested case hearing which was designated as Case 123.
2. The Office of Administrative Hearings conducted contested case proceedings and ultimately issued a PROPOSED ORDER (Proposed Order) on January 27, 2004, denying Claim 173.
3. No exceptions were filed to the Proposed Order.
4. The Proposed Order is adopted and incorporated in its entirety in its entirety as if set forth fully herein, with the exception that the portion of the "Opinion" is adopted with modifications, as set forth in Section A.5, below.
5. **Opinion.** Within the section titled "Opinion" of the Proposed Order, the following sentence (shown in "underline" text) is added to the first paragraph:

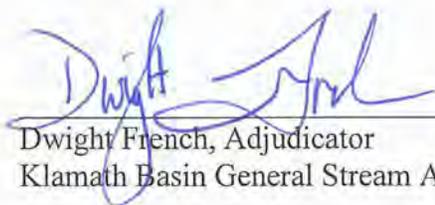
One exception to these elements is that where the claim is based on natural overflow, the appropriation may be established by evidence that the "proprietor of the land accepts the gift made by nature and garners the produce of the irrigation by harvesting or utilizing the crops grown on the land***." In re Silvies River, 115 Or 27, 66 (1925).

Reason for Modification: To clarify beneficial use of water by the method of natural overflow for a Pre-1909 water right

B. DETERMINATION

1. The Proposed Order is adopted and incorporated in its entirety as if set forth fully herein, with the exception that the portion of the "Opinion" is adopted with modifications, as set forth in Section A.5, above.
2. Based on the file and record herein, IT IS ORDERED that Claim 173 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