

**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
T. KEITH POCOCK	)	DETERMINATION
	)	
_____	)	Water Right Claim 209

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

**A. FINDINGS OF FACT**

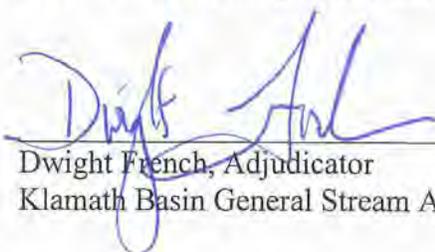
1. On January 29, 1991, T. KEITH POCOCK (Claimant) (14390 KENO-WORDEN RD, KLAMATH FALLS, OR 97601) timely submitted a Statement and Proof of Claim (Claim 209) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication based upon use of water beginning prior to February 24, 1909 (pre-1909 claim).
2. Claim 209 was submitted for an unspecified amount of water from the Klamath River, for irrigation of 4.6 acres and livestock watering with a season of use "May – September." The claimed priority date is prior to 1901.
3. The Claimant did not include payment of the fee required by ORS 539.081 for livestock use by the February 1, 1991 deadline for filing a Statement and Proof of Claim.
4. T. KEITH POCOCK signed the Statement and Proof of Claim for Claim 209 attesting that the information contained in the claim is true.
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 denied because the required pre-1909 elements were not established.
6. The Claimants did not file a contest to the Preliminary Evaluation of Claim 209.
7. On May 8, 2000, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District filed Contest 3195 to the Claim and/or Preliminary Evaluation of Claim 209.

8. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 40.
9. On February 8, 2002, Rogue River Valley Irrigation District and Medford Irrigation District voluntarily withdrew from Contest 3195. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY MEDFORD AND ROGUE RIVER VALLEY IRRIGATION DISTRICTS (Feb. 8, 2002).
10. On June 4, 2002, Horsefly Irrigation District and Langell Valley Irrigation District voluntarily withdrew Contest 3195, the only contest to Claim 40. *See* CONDITIONAL VOLUNTARY WITHDRAWAL OF CONTEST BY HORSEFLY AND LANGELL VALLEY IRRIGATION DISTRICTS (June 4, 2002).
11. On March 11, 2002, the Adjudicator withdrew Case 40 from the Office of Administrative Hearings.
12. OWRD finds there was intent to apply water to beneficial use prior to February 4, 1909 (Claim # 209, Page 000, Item 4).
13. OWRD finds a diversion has been created to divert water from its natural source.
14. OWRD finds the record does not contain evidence of application of water to beneficial use within a reasonable time after showing intent to apply water.

#### **B. DETERMINATION**

1. The elements of a pre-1909 claim are not established. The GENERAL CONCLUSIONS OF LAW CONCERNING PRE-1909 CLAIMS is incorporated as if set forth fully herein.
2. Based on the file and record herein, IT IS ORDERED that Claim 209 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