

**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)
JERRY BARRY)
)
_____) PARTIAL ORDER OF
) DETERMINATION
)
) Water Right Claim 215

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 24, 1991, JERRY BARRY (Claimant) timely submitted a Statement and Proof of Claim (Claim 215) 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 215 was submitted for a total 1.18 cubic feet per second (cfs) of water from Sloan Springs, tributary to Sloan Creek, for irrigation of 78 acres and incidental livestock watering of 200 head, with a season of use "March 1 to Oct. 30." The claimed priority date is 1900.
3. JERRY BARRY signed the Statement and Proof of Claim for Claim 215 attesting that the information contained in the claim is true.
4. 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 without any incidental livestock watering.
5. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3420: 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

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3420 on January 16, 2004. See VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY.

Johnston & Son, Bradley S. Luscombe, Berlva Pritchard², Don Vincent³, 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.

6. On May 8, 2000, the United States of America timely filed Contest 3852 to the Claim and/or Preliminary Evaluation of Claim 215.
7. On May 8, 2000, the Klamath Tribes timely filed Contest 4194 to the Claim and/or Preliminary Evaluation of Claim 215.
8. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 142.
9. On April 7, 2004, the Klamath Project Water Users withdrew Contest 3420. *See* NOTICE OF WITHDRAWAL OF CONTEST 3420 (April 7, 2004).
10. On March 1, 2004, the Klamath Tribes voluntarily withdrew Contest 4194. *See* KLAMATH TRIBES' VOLUNTARY WITHDRAWAL OF CONTEST (Mar. 1, 2004).
11. On May 13, 2005, OWRD, the Claimant, and the United States of America executed a STIPULATION TO RESOLVE CONTEST (Settlement Agreement) thereby resolving the remaining contest (Contest 3852) to Claim 215.
12. On May 24, 2005, the Adjudicator withdrew Case 142 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD, the Claimants, and the United States of America is adopted and incorporated as if set forth fully herein.
2. The elements of a pre-1909 claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING PRE-1909 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 215 is approved as set forth in the following Water Right Claim Description.

² Berlva Pritchard voluntarily withdrew from Contest 3420 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3420 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

CLAIM NO. 215

CLAIM MAP REFERENCE: CLAIM # 215, PAGES 45 and 46

CLAIMANT: JERRY BARRY
8000 COPCO RD
ASHLAND OR 97520

SOURCE OF WATER: SLOAN SPRINGS, tributary to SLOAN CREEK

PURPOSE or USE: IRRIGATION OF 62.1 ACRES

RATE OF USE:

1.18 CUBIC FEET PER SECOND 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:

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

PERIOD OF ALLOWED USE: MARCH 1 - OCTOBER 30

DATE OF PRIORITY: DECEMBER 31, 1900

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

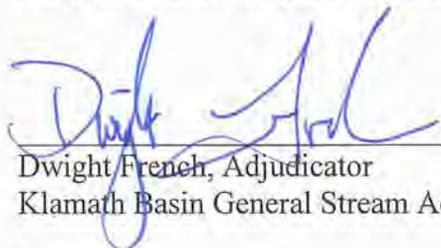
Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	4 E	WM	11	NE NW	980 FEET SOUTH AND 1020 FEET EAST FROM NW CORNER, NENW, SECTION 11

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
41 S	4 E	WM	11	NE NW	13.2
41 S	4 E	WM	11	SE NW	31.1
41 S	4 E	WM	11	NE SW	17.8

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication