

**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
PACIFICORP, DBA PACIFIC POWER	)	DETERMINATION
AND LIGHT CO.	)	
_____	)	Water Right Claim 220

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 31, 1991, PACIFICORP, DBA PACIFIC POWER AND LIGHT CO. (Claimant) timely submitted a Statement and Proof of Claim (Claim 220) 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 220 was submitted for a total of 0.20 cubic feet per second (cfs) of water from Hayden Creek, a tributary of the Klamath River, for irrigation of 4.1 acres, with a season of use April 15 to October 31. The claimed priority date is September 4, 1906.
3. Item 4 of the Statement and Proof of Claim states the date of initiation of the water right as "September 4, 1906" for "appropriation, diversion and application to beneficial use" (Claim # 220, Page 003).
4. An authorized agent of PACIFICORP, DBA PACIFIC POWER AND LIGHT CO. signed the Statement and Proof of Claim for Claim 220 attesting that the information contained in the claim is true.
5. In 1979, an OWRD field inspection report was prepared, describing the present use of water on the property substantially as stated in Claim 220. The report also includes the statement, "He [Mr. Laubacher] had sold the ranch to Pacific Power and Light Co. in the past and is now leasing it back. Mr. Laubacher said that his place was actually made up of two old homesteads, these were the Hessig and Fay homesteads. Mr. Laubacher said

that the water use began around 1874 on these two homesteads.” (Claim # 220, WIP, Pages 00005 - 00006).

6. 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 for a smaller quantity of water than claimed.
7. On May 5, 2000, the Claimant timely filed Contest 2058 to the Preliminary Evaluation of Claim 490 contesting the Adjudicator’s reduction of the claimed 0.2 cfs for irrigation purposes to 0.1 cfs.
8. On October 31, 2001, the OWRD and PACIFICORP, DBA PACIFIC POWER AND LIGHT CO. executed a SETTLEMENT AGREEMENT (Settlement Agreement) stipulating to a rate of 0.1 cfs for irrigation purposes, thereby resolving Contest 2058.
9. Based on the sworn statements in Claim 138, along with the field inspection report, the following findings are made:
  - a. The Claimant demonstrated intent to apply water to beneficial use prior to February 4, 1909.
  - b. The Claimant created a diversion, where necessary, to divert water from its natural source.
  - c. The Claimant applied water to beneficial use within a reasonable time.

## **B. DETERMINATION**

1. The Settlement Agreement executed between OWRD and PACIFICORP, DBA PACIFIC POWER AND LIGHT CO. 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 duty for irrigation, being 3.5 acre-feet per acre, and 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 220 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 220**

**CLAIM MAP REFERENCE:** OWRD INVESTIGATION MAP – T 41 S, R 5 E

**CLAIMANT:** PACIFICORP, DBA PACIFIC POWER AND LIGHT CO.  
825 NE MULTNOMAH, SUITE 1700  
PORTLAND, OR 97232

**SOURCE OF WATER:** HAYDEN CREEK, tributary to the KLAMATH RIVER

**PURPOSE or USE:** IRRIGATION OF 4.1 ACRES.

**RATE OF USE:**

0.10 CUBIC FOOT 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:**

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

**PERIOD OF ALLOWED USE:** APRIL 15 - OCTOBER 31

**DATE OF PRIORITY:** SEPTEMBER 4, 1906

**THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:**

Twp	Rng	Mer	Sec	Q-Q	GLot
41 S	5 E	WM	13	NW NW	4

**THE PLACE OF USE IS LOCATED AS FOLLOWS:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	5 E	WM	13	NE NW	3	1.3
41 S	5 E	WM	13	NW NW	4	2.8

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication