

**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
PETER BOURDET)	DETERMINATION
)	
_____)	Water Right Claim 243

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 30, 1991, LLOYD LEE AND BONNIE KAY HALL timely submitted a Statement and Proof of Claim (Claim 243) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as Indian allottees on the former Klamath Reservation, claiming a vested and inchoate Indian reserved water right (Allottee claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 243 was submitted for a total of 277.2 acre-feet of water from the Sprague River, a tributary of the Williamson River, being 230.1 acre-feet for irrigation of 53.5 acres and 45.6 acre-feet for irrigation of 14.7 practicably irrigable acres. The duty claimed for current irrigation is 4.3 acre-feet per acre, and the duty claimed for practicably irrigable acres is 3.1 acre-feet per acre. The claimed period of use is year-round for domestic use, and March 1 through October 16 for irrigation. The claimed priority date is October 14, 1864.
3. Counsel signed Claim 243 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 vested portion of the claim for irrigation was approved, but with a longer irrigation season than claimed and a shorter season for livestock watering than claimed; and the inchoate portion of the claim was denied because the elements for a practicably irrigable acreage right were not established.
5. On May 3, 2000, the Claimant timely filed Contest 1725 to the Preliminary Evaluation of Claim 243.

6. On May 8, 2000, the following parties, hereinafter collectively referred to as the “Klamath Project Water Users,” filed Contest 3529: 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., Reames Golf and Country Club, Van Brimmer Ditch Co., Plevna District Improvement Co., and Collins Products, LLC.
7. These matters were referred to the Office of Administrative Hearings for a contested case hearing. The Office of Administrative Hearings designated these matters as Case 63, which was subsequently consolidated into Case 209. *See* ORDER GRANTING MOTION TO CONSOLIDATE (Oct. 15, 2003). Claim 243 was consolidated into Case 209 because lands appurtenant to this claim are partially or fully coextensive with the Modoc Point Irrigation District’s claimed place of use in Claim 84, or may involve the delivery of water through District facilities serving lands appurtenant to the claims.
8. The claim was transferred to a non-Indian successor, PETER BOURDET (Claimant) (PO BOX 803, CHILOQUIN, OR 97624). *See* WARRANTY DEED, COUNTY OF KLAMATH, VOL. M02, PAGE 5689 (Jan. 23, 2002), and CHANGE OF OWNERSHIP FORM (Feb. 26, 2007). A non-Indian successor to allotted Klamath Reservation lands may claim an Indian Reserved water right (Walton claim) under the Treaty of October 14, 1864, 16 Stat. 707.
9. Peter Bourdet elected to incorporate the acres claimed under Claim 243 into Modoc Point Irrigation District’s (MPID) Claim 84. On November 9, 2007, Peter Bourdet, MPID, OWRD, the United States of America, and the Klamath Tribes executed a STIPULATION TO RESOLVE CONTESTS; CLAIM 84 (Settlement Agreement) in which PETER BOURDET agreed to withdraw Claim 243, and thereby resolved Contest 1725, and rendered the remaining Contest 3529 to Claim 243 moot. [*See* STIPULATION TO RESOLVE CONTESTS; CLAIM 84, Pages 4, 7, and 25, and Exhibit B (Nov. 9, 2007).]
10. On November 21, 2007, the Adjudicator withdrew Case 63 from the Office of Administrative Hearings.

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3529 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

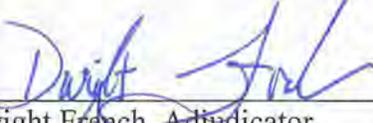
² Berlva Pritchard voluntarily withdrew from Contest 3529 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3529 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

B. DETERMINATION

1. The Settlement Agreement executed between Peter Bourdet, MPID, OWRD, United States of America, and the Klamath Tribes is adopted and incorporated as if set forth fully herein.
2. Based upon the file and record herein, including the voluntary withdrawal of Claim 243 by the Claimant, IT IS ORDERED that Claim 243 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