

**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
GRANT D. FOWLER AND	)	DETERMINATION
JANICE L. FOWLER	)	
	)	
_____	)	Water Right Claim 270

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, GLADYS SHOULDERBLADE timely submitted a Statement and Proof of Claim (Claim 270) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as an Indian allottee on the former Klamath Reservation, claiming a vested and inchoate Indian reserved water right under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 270 was submitted for a total of 236.8 acre-feet of water from a Spring, tributary to Snake Creek, and Snake Creek, a tributary of the Sycan River, being 1.5 acre-feet for domestic use including irrigation of 0.5 acres for lawn and garden, 155.2 acre-feet for irrigation of 36.1 acres, and 80.1 acre-feet for irrigation of 25.8 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 livestock watering, and March 1 through October 16 for irrigation. The claimed priority date is October 14, 1864.
3. Counsel signed Claim 270 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 the inchoate portion of the claim was denied because the elements for a practicably irrigable acreage right were not established.
5. The property appurtenant to Claim 270 was transferred to a non-Indian successor, C. EARL PARRICK. *See* PERSONAL REPRESENTATIVE'S DEED, COUNTY OF KLAMATH

RECORDS, VOL. M96, PAGE 32608 (Oct. 15, 1996) (Claim # 270, Page 75). 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.

6. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3551: 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. On May 8, 2000, the United States of America timely filed Contest 3814 to the Claim and Preliminary Evaluation of Claim 270.
8. On May 8, 2000, the Klamath Tribes timely filed Contest 4208 to the Claim and Preliminary Evaluation of Claim 270.
9. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 247.
10. The property appurtenant to Claim 270 was transferred to GRANT D. FOWLER AND JANICE L. FOWLER (Claimants). *See* STATUTORY WARRANTY DEED, COUNTY OF KLAMATH RECORDS, VOL. M04, PAGE 43550 (July 2, 2004) and CHANGE OF OWNERSHIP FORM (Nov. 17, 2004).
11. On February 2, 2005, the Klamath Tribes withdrew Contest 4208. *See* KLAMATH TRIBES' VOLUNTARY WITHDRAWAL OF CONTEST (Feb. 2, 2005).
12. On June 13, 2006, the Claimants, OWRD, the United States of America, and the Klamath Project Water Users executed a STIPULATION TO RESOLVE CONTEST (Settlement Agreement) thereby resolving the remaining contests to Claim 270.
13. On June 15, 2006, the Adjudicator withdrew Case 247 from the Office of Administrative Hearings.
14. Beneficial use of water has been made on 4.7 practicably irrigable acres with reasonable diligence.

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3551 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

² Berlva Pritchard voluntarily withdrew from Contest 3551 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3551 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

B. DETERMINATION

1. The Settlement Agreement executed between the Claimants, OWRD, the United States of America, and the Klamath Project Water Users is adopted and incorporated as if set forth fully herein.
2. The elements of a Walton claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS is incorporated as if set forth fully herein.
3. Based on the file and record herein, IT IS ORDERED that Claim 270 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 270

FOR A VESTED WATER RIGHT

CLAIM MAP REFERENCE: CLAIM # 270 SETTLEMENT MAP (June 19, 2006)

CLAIMANT: GRANT D. FOWLER
JANICE L. FOWLER
PO BOX 36
BEATTY, OR 97621

SOURCE OF WATER:

SNAKE CREEK, tributary to the SYCAN RIVER, and
A SPRING, tributary to SNAKE CREEK

PURPOSE OR USE:

IRRIGATION OF 40.8 ACRES, BEING 36.1 ACRES FROM SNAKE CREEK POD 1 AND
4.7 ACRES FROM SPRING POD 2.

RATE OF USE:

1.02 CUBIC FEET PER SECOND (CFS) MEASURED AT THE POINTS OF DIVERSION,
BEING 0.9 CFS FROM SNAKE CREEK POD 1 AND 0.12 CFS FROM SPRING POD 2.

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:

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

PERIOD OF ALLOWED USE: MARCH 1 - OCTOBER 16

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Snake Creek POD 1	35 S	12 E	WM	26	NE SE	1809 FEET NORTH FROM SE CORNER, SECTION 26
Spring POD 2	35 S	12 E	WM	26	SW SE	721 FEET NORTH FROM S¼ CORNER, SECTION 26

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Authorized POD
35 S	12 E	WM	26	NE SE	36.1	Snake Creek POD 1
35 S	12 E	WM	26	SW SE	4.7	Spring POD 2

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication