

**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
THOMAS J. SHAW)	DETERMINATION
_____)	
)	Water Right Claim 11

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

A. FINDINGS OF FACT

1. Claim 11 (Claimant: THOMAS SHAW) and its associated contests (2040, 3433, 3717 and 4073) were referred to the Office of Administrative Hearings for a contested case hearing which was designated as Case 162.
2. The Office of Administrative Hearings conducted contested case proceedings and ultimately issued a PROPOSED ORDER ON STIPULATION BY PARTICIPANTS FOR RULING ON LEGAL ISSUES AND DISMISSAL OF CLAIMANT’S CLAIM (Proposed Order) for Claim 11 on April 15, 2005.
3. No exceptions were filed to the Proposed Order within the exceptions filing deadline.
4. On July 31, 2012, the Adjudicator issued an AMENDED PROPOSED ORDER (Amended Proposed Order) recognize a right based on beneficial use of water by the method of natural overflow. The Amended Proposed Order replaced the 2005 Proposed Order in its entirety.
5. Exceptions were jointly filed to the Amended Proposed Order within the exception filing deadline by the United States of America and the Klamath Tribes.
6. The exceptions filed to the Amended Proposed Order been reviewed and considered in conjunction with the entire record for Claim 11, and are found to be unpersuasive. Accordingly, changes were not made to the Amended Proposed Order to accommodate any exceptions.
7. The Amended Proposed Order is adopted and incorporated in its entirety as if set forth fully herein.

B. DETERMINATION

1. The Amended Proposed Order is adopted and incorporated in its entirety 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. Beneficial use of water by the method of natural overflow is shown to be established for a portion of this claim.
4. Based on the file and record herein, IT IS ORDERED that Claim 11 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 11
FOR A VESTED WATER RIGHT

CLAIM MAP REFERENCE: CLAIM # 11 MAP (01-03-2012)

CLAIMANTS: THOMAS J. SHAW
PO BOX 257
KLAMATH FALLS, OR 97624

SOURCE OF WATER: The WILLIAMSON RIVER, tributary to UPPER KLAMATH LAKE

PURPOSE OR USE:
IRRIGATION OF 6.7 ACRES BY NATURAL OVERFLOW WITH INCIDENTAL LIVESTOCK WATERING OF 100 HEAD

DATE OF PRIORITY: OCTOBER 14, 1864

NO SPECIFIC POINT OF DIVERSION:
NATURAL OVERFLOW FROM THE WILLIAMSON RIVER

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION BY NATURAL OVERFLOW WITH INCIDENTAL LIVESTOCK WATERING					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	10 E	WM	14	NE SW	5.6
30 S	10 E	WM	14	SE SW	1.1

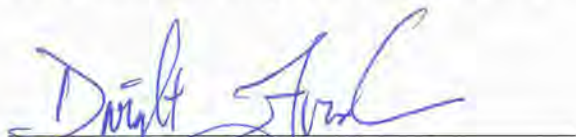
FURTHER LIMITATIONS TO THE RIGHT TO USE OF WATER BY NATURAL OVERFLOW:

BENEFICIAL USE OF WATER MADE FROM THE METHOD OF NATURAL OVERFLOW IS A PRIVILEGE ONLY. AS LONG AS BENEFICIAL USE OF WATER BY NATURAL OVERFLOW CONTINUES, THE HOLDER OF THIS VESTED WATER RIGHT CANNOT MAKE A CALL ON WATER APPROPRIATED UNDER ANY OTHER WATER RIGHTS.

ANY CONVERSION FROM BENEFICIAL USE OF WATER BY NATURAL OVERFLOW TO BENEFICIAL USE OF THE SAME WATER FROM A SYSTEM RELYING ON A POINT(S) OF DIVERSION WILL BE CONSIDERED A CHANGE IN POINT OF DIVERSION SUBJECT TO APPROVAL OF A TRANSFER OF WATER RIGHT IN COMPLIANCE WITH THE PROVISIONS OF ORS 540.505 TO 540-587. NOTWITHSTANDING APPROVAL OF A CHANGE IN POINT OF DIVERSION, THE FOLLOWING CONDITIONS WILL APPLY TO ANY APPROVED POINT OF DIVERSION TRANSFER: DUTY FOR IRRIGATION MAY NOT EXCEED 20.1 ACRE-FEET PER YEAR. THE SEASON OF USE MAY NOT EXCEED DECEMBER 1 TO JULY 1.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013


Dwight French, Adjudicator
Klamath Basin General Stream Adjudication