

**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
STEVEN D. ALLEN AND)	DETERMINATION
ARLENE D. ALLEN)	
_____)	Water Right Claim 16
)	

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 December 3, 1990, CONNIE R. GOMEZ timely submitted a Statement and Proof of Claim (Claim 16) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as a non-Indian successor to allotted Klamath Reservation lands, claiming an Indian reserved water right (Walton claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 16 was submitted for a total of 0.03 cubic feet per second (cfs) of water from Sand Creek, a tributary of the Williamson River, for irrigation of 1.3 acres with a season of use "March 1 to October 31." The claimed priority date is 1864.
3. CONNIE GOMEZ signed the Statement and Proof of Claim for Claim 16 attesting that the information contained in the claim is true.
4. According to Klamath County Assessor's records title to the property associated with Claim 16 was subsequently acquired by STEVEN D. ALLEN AND ARLENE D. ALLEN. *See* COUNTY OF KLAMATH RECORDS, VOL. M97, PAGE 9495.
5. In 1979, an OWRD field inspection report was prepared, describing the present use of water on the property substantially as stated in Claim 16 (Claim #16, WIP, Page 00016). The report also includes statements that the original owner of the property appurtenant to Claim 16 was a Klamath Indian allottee who had irrigated the land prior to selling it to a non-Indian.
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 denied because the required Walton elements were not established for the

claim. However, this denial is not supported by the 1979 OWRD field inspection report referenced in Finding 5, above.

7. No contests were filed to the Claim and/or Preliminary Evaluation of Claim 16.
8. Based on the sworn statements in Claim 16, along with the field inspection report, the following findings are made:
 - a. The claimed water use is on former Klamath Indian Reservation Land.
 - b. The claimed water use is on land that was transferred from Indian ownership.
 - c. Beneficial use of water for the claimed purpose was established prior to transfer from Indian ownership.

B. DETERMINATION

1. The elements of a Walton claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS is incorporated as if set forth fully herein.
2. 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.
3. Based on the file and record herein, IT IS ORDERED that Claim 16 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 16

CLAIM MAP REFERENCE: OWRD INVESTIGATION MAP – T 31 S, R 7 E

CLAIMANT: STEVEN ALLEN
ARLENE ALLEN
PO BOX 159
CHEMULT, OR 97731-0159

SOURCE OF WATER: SAND CREEK, tributary of the WILLIAMSON RIVER

PURPOSE or USE: IRRIGATION OF 1.3 ACRES.

RATE OF USE:

0.03 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: MARCH 1 – OCTOBER 31

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:


Twp	Rng	Mer	Sec	Q-Q
31 S	7 E	WM	24	NE NW

THE PLACE OF USE IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q	Acres
31 S	7 E	WM	24	NE NW	1.3

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication