

**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     |
| SCOTT LEE RUNELS AND MARGIE B. | ) | DETERMINATION        |
| RUNELS; AND JAMES R. LANCASTER | ) |                      |
| AND JANICE M. LANCASTER        | ) |                      |
| _____                          | ) | Water Right Claim 17 |

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 November 6, 1990, DONALD V. GREENE AND BERNIE L. GREENE timely submitted a Statement and Proof of Claim (Claim 17) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as non-Indian successors to allotted Klamath Reservation lands, claiming a vested Indian reserved water right (Walton claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 17 was submitted for livestock watering of 100 head for a total 0.5 cubic feet per second (cfs) of water from Sand Creek, tributary to the Upper Klamath Marsh, with a season of use May 1 to September 15. The claimed priority date is October 14, 1864.
3. Item 13 of the Statement and Proof of Claim incorporates "Exhibit C," a statement signed by Bob L. Ferris and Ruth Ferris (Shadley) which states in pertinent part, "This was originally owned property of the Shadley's. First work done on ditch was done by the Indian Service for Ruth Ferris (who was a Shadley). This water was used consistently every year until the summer of 1987 when the head gate was taken out by Mosby. Mrs. Shadly Ferris is an Indian Lady and was one of the original owners of the property. Ferris sold the property approximately in 73." (Claim # 17, Page 0006).
4. DONALD V. GREENE AND BERNIE L. GREENE signed the Statement and Proof of Claim for Claim 17 attesting that the information contained in the claim is true.

5. In 1987, an OWRD field inspection report was prepared describing the present use of water on the property in the S½, Section 19: “Mr. Green is unable to use surface water on any of his property at his time. He has said that he hasn’t used surface water. He said that he was told surface water was used sometime in the past. There wasn’t any livestock on his property.” (Claim # 17, WIP, Pages 00019-00020).
6. In 1987, a separate OWRD field inspection report was prepared describing the present use of water on the property in the N½ N½, Section 21: “Mr. Green told me he purchased this property in 1987. . . . The neighbor said the ditch on this property has always been used for stockwater. . . . He told me that this summer he fenced a portion of his south line which apparently upset his neighbor, John Mosby, who then removed the headgate and plugged the ditch which was on his property. . . . Mr. Green did not have stock water from Sand Creek the remainder of the summer.” (Claim # 17, WIP, Page 00018).
7. On March 17, 1998, the title to the property associated with Claim 17 in the S½ of Section 19, Township 31 South, Range 8 East, W.M. was subsequently acquired by SCOTT LEE RUNELS AND MARGIE B. RUNELS (Claimants). *See* COUNTY OF KLAMATH RECORDS VOL. M98, PAGE 8768.
8. On December 18, 1998, the title to the property associated with Claim 17 in the N½ N½ of Section 21, Township 31 South, Range 8 East, W.M. was transferred from SCOTT LEE RUNELS AND MARGIE B. RUNELS to JAMES R. LANCASTER AND JANICE M. LANCASTER (Claimants). *See* COUNTY OF KLAMATH RECORDS, VOL. M98, PAGE 46456.
9. 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, a longer season of use, and with a larger place of use than claimed.
10. No contests were filed to the Claim and/or Preliminary Evaluation of Claim 17.
11. Based on the sworn statements in Claim 17, 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 rate of 12 gallons of water per head of livestock per day, measured at the place of use, as outlined in the GENERAL FINDINGS OF FACT OF THE FINAL ORDER OF DETERMINATION will apply. Diversion of stock water to the place of use is limited to that which has been historically diverted for beneficial use and is reasonably necessary to transport the water.
3. The total rate of water for livestock use is based on 100 head, the number of head claimed by the Claimant.
4. Based on the file and record herein, IT IS ORDERED that Claim 17 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 17**

**CLAIM MAP REFERENCE:** OWRD INVESTIGATION MAP – T 31 S, R 8 E

**CLAIMANTS:** SCOTT LEE RUNELS AND MARGIE B. RUNELS  
PO BOX 39  
FORT ROCK, OR 97735

JAMES R. LANCASTER AND JANICE M. LANCASTER  
94531 HWY 97N  
CHEMULT, OR 97331

**SOURCE OF WATER:** SAND CREEK, tributary to the WILLIAMSON RIVER

**PURPOSE or USE:** LIVESTOCK WATERING FOR 100 HEAD

**RATE OF USE:**

0.0018 CUBIC FOOT PER SECOND MEASURED AT THE PLACE OF USE, NOT TO EXCEED 1200 GALLONS PER DAY.

DIVERSION OF STOCK WATER TO THE PLACE OF USE IS LIMITED TO THAT WHICH HAS BEEN HISTORICALLY DIVERTED FOR BENEFICIAL USE AND IS REASONABLY NECESSARY TO TRANSPORT THE WATER.

**PERIOD OF ALLOWED USE:** MAY 1 – SEPTEMBER 15

**DATE OF PRIORITY:** OCTOBER 14, 1864

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


| Twp  | Rng | Mer | Sec | Q-Q   | GLot |
|------|-----|-----|-----|-------|------|
| 31 S | 8 E | WM  | 18  | SW SW | 4    |

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

| Twp  | Rng | Mer | Sec | Q-Q   |
|------|-----|-----|-----|-------|
| 31 S | 8 E | WM  | 19  | SE SE |
| 31 S | 8 E | WM  | 21  | NW NE |
| 31 S | 8 E | WM  | 21  | NE NW |
| 31 S | 8 E | WM  | 21  | NW NW |

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



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Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication