

**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
DOROTHY BUCHANAN	)	DETERMINATION
	)	
_____	)	Water Right Claim 68

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 8, 1990, DOROTHY BUCHANAN (Claimant) timely submitted a Statement and Proof of Claim (Claim 68) 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 a vested Indian reserved water right (Walton claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 68 was submitted for a total of 7.39 cfs of water from Whitehorse Spring, tributary to the Sprague River, being 0.01 cfs for domestic, 7.36 cfs for irrigation of 294.5 acres, and 0.02 cfs for livestock watering of 600 head. The claimed period of use for irrigation is April 1 to December 1. The claimed priority date is October 14, 1864.
3. DOROTHY BUCHANAN signed Claim 68 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 claim for domestic use, livestock watering, and irrigation was approved but with a shorter irrigation season than claimed and with a smaller quantity of water for livestock watering than claimed.
5. On May 8, 2000, the United States of America timely filed Contest 3739 to the Claim and/or Preliminary Evaluation of Claim 68.
6. On May 8, 2000, the Klamath Tribes timely filed Contest 4120 to the Claim and/or Preliminary Evaluation of Claim 68.

7. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 199.
8. On January 15, 2004, the Claimant, OWRD, the United States of America, and the Klamath Tribes executed a STIPULATION TO RESOLVE CONTESTS (Settlement Agreement) thereby resolving the remaining contests to Claim 68.
9. On January 16, 2004, the Adjudicator withdrew Case 199 from the Office of Administrative Hearings.

## **B. DETERMINATION**

1. The Settlement Agreement executed between the Claimants, OWRD, the United States of America, and the Klamath Tribes 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. Because there is no evidence on the record to the contrary, the rate of water per head is the standard rate for livestock use (12 gallons per head per day measured at the place of use) as outlined in the GENERAL FINDINGS OF FACT OF THE FINAL ORDER OF DETERMINATION. 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 and to prevent the watercourse from being completely frozen when transporting water outside of the irrigation season.
4. Because there is no evidence on the record to the contrary, 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.
5. Based on the file and record herein, IT IS ORDERED that Claim 68 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 68**  
FOR A VESTED WATER RIGHT

**CLAIM MAP REFERENCE:** CLAIM # 68 SETTLEMENT MAP (Jan. 20, 2004)

**CLAIMANT:** DOROTHY BUCHANAN  
13851 ALGOMA RD  
KLAMATH FALLS, OR 97601

**SOURCE OF WATER:** WHITEHORSE SPRING, tributary to WHITEHORSE SPRING CREEK

**PURPOSE OR USE:**

DOMESTIC FOR ONE HOUSEHOLD;  
IRRIGATION OF 242.22 ACRES; AND  
LIVESTOCK WATERING OF 600 HEAD

**RATE OF USE:**

6.08 CUBIC FEET PER SECOND (CFS) AS FOLLOWS:  
0.01 CFS FOR DOMESTIC USE MEASURED AT THE POINT OF DIVERSION;  
6.06 CFS FOR IRRIGATION MEASURED AT THE POINT OF DIVERSION; AND  
0.01 CFS FOR LIVESTOCK WATERING MEASURED AT THE PLACE OF USE, NOT TO EXCEED 7200 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, AND TO PREVENT THE WATERCOURSE FROM BEING COMPLETELY FROZEN WHEN TRANSPORTING WATER OUTSIDE OF THE IRRIGATION SEASON.

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:**

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

**PERIOD OF ALLOWED USE:**

Use	Period
Domestic	January 1 - December 31
Irrigation	March 1 - October 31
Livestock Watering	January 1 - December 31

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

**THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:**

Twp	Rng	Mer	Sec	Q-Q	Remarks
34 S	8 E	WM	22	NE NE	3 Portable Pumps

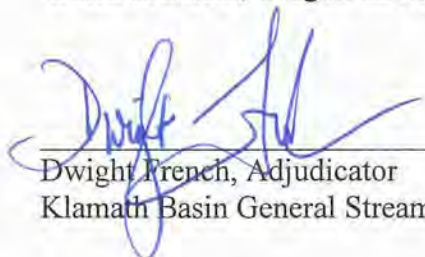
**THE PLACE OF USE IS LOCATED AS FOLLOWS:**

DOMESTIC				
Twp	Rng	Mer	Sec	Q-Q
34 S	8 E	WM	22	NE NE

IRRIGATION and LIVESTOCK WATERING					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	8 E	WM	22	NW NE	22.42
34 S	8 E	WM	22	SW NE	29.82
34 S	8 E	WM	22	SE NE	11.53
34 S	8 E	WM	22	NE NW	19.35
34 S	8 E	WM	22	NW NW	29.86
34 S	8 E	WM	22	SW NW	1.54
34 S	8 E	WM	22	SE NW	15.34
34 S	8 E	WM	22	NE SE	35.93
34 S	8 E	WM	22	NW SE	3.84
34 S	8 E	WM	22	SW SE	5.59
34 S	8 E	WM	22	SE SE	34.29
34 S	8 E	WM	27	NE NE	26.73
34 S	8 E	WM	27	NW NE	5.98

[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