

**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
RAYMOND K. POTEET)	DETERMINATION
_____)	
)	Water Right Claim 85

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 28, 1991, RAYMOND K. POTEET (Claimant) timely submitted a Statement and Proof of Claim (Claim 85) 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 85 was submitted for a total of 0.20 cubic feet per second (cfs) of water from the Williamson River, tributary to Upper Klamath Lake, for irrigation of 7.5 acres with an season of use "April 1 to November 1." The claimed priority date is October 14, 1864. The evidence in the record supports the season of use claimed.
3. Item 13 of the Statement and Proof of Claim incorporates a "Claim of Title" attachment which includes a signed statement, stating in pertinent part, "All our property was patented to Harry Wilson, a member of the Klamath Tribe. This is evident in the document dated March 3, 1948. . . . The land was originally used for farming. They irrigated the land out of the river." (Claim # 85, Page 15).
4. RAYMOND POTEET signed the Statement and Proof of Claim for Claim 85 attesting that the information contained in the claim is true.
5. In 1991, a field inspection report was prepared by a private engineer or surveyor, describing the present use of water on the property substantially as stated in the Claim 85, with the exception that the map shows only 4.7 acres of irrigation (Claim # 85, Page 46).

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 approved, but for fewer acres and with a longer season of use than claimed.
7. No contests were filed to the Claim and/or Preliminary Evaluation of Claim 85.
8. Based on the Claimant's map submitted on January 19, 1999 (Claim # 85, Page 65), ORWD finds a total of 4.7 irrigated acres rather than the 7.5 acres stated in the Statement and Proof of Claim (Claim 85).
9. Based on the sworn statements in Claim 85, 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 85 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 85

CLAIM MAP REFERENCE: CLAIM # 85, PAGE 65

CLAIMANT: RAYMOND K POTEET
200 WILLIAMSON RIVER DR
CHILOQUIN OR 97624

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

PURPOSE or USE: IRRIGATION OF 4.7 ACRES

RATE OF USE:

0.12 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: APRIL 1 - NOVEMBER 1

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

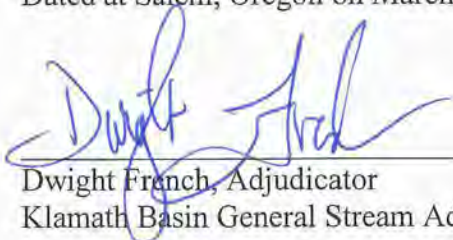
Twp	Rng	Mer	Sec	Q-Q	GLot	Remarks
35 S	7 E	WM	21	SW NE	21	Portable Pumps
35 S	7 E	WM	21	SE NW	19	

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	7 E	WM	21	SW NE	21	0.50
35 S	7 E	WM	21	SW NE	14	1.20
35 S	7 E	WM	21	SE NW	19	1.10
35 S	7 E	WM	21	SE NW	15	1.90

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication