

**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
DAVID H. PETERSEN AND)	DETERMINATION
TERESA A. RENNICK)	
_____)	
)	Water Right Claim 88

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 27, 1990, THEODORE E. SIEMENS timely submitted a Statement and Proof of Claim (Claim 88) 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 88 was submitted for a total 35 gallons per minute of water from the Agency Lake, tributary to Upper Klamath Lake, for irrigation 0.4 acres with a season of use "April through October. The claimed priority date is October 14, 1864.
3. Item 4 of the Statement and Proof of Claim states the date of initiation of the water right as "October 14, 1867" with the basis of the right being "John C. Siemens (Father, deceased) Tribal Member No 1795." Claim # 88, Page 01).
4. Item 12 of the Statement and Proof of Claim incorporates a deed showing transfer of ownership from John C. Siemens to Theodore E. Siemens and Geraldine A. Siemens on August 26, 1976. *See* WARRANTY DEED, COUNTY OF KLAMATH, VOL. M 89, PAGE 13990, (Claim # 88, Page 08).
5. THEODORE E. SIEMENS signed the Statement and Proof of Claim for Claim 88 attesting that the information contained in the claim is true.
6. The property appurtenant to Claim 88 was subsequently acquired by DAVID H. PETERSEN AND TERESA A. RENNICK (Claimants) (*See* DEED OF TRUST (Mar. 14, 1996), Claim # 88, Page 019).

7. In 1986, an OWRD field inspection report was prepared, describing the present use of water on the property substantially as stated in Claim 88 (Claim # 88, WIP, Page 00010).
8. The 1986 OWRD field inspection report includes the following statement based on a March 13, 1986 letter from Theodore E. Siemens: “. . . this property was acquired and water use commenced between April 1940 and June 1951.” (Claim # 88, WIP, Page 00010; *see* Claim # 88, WIP, Page 00012).
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 and with a longer season of use than claimed.
10. No contests were filed to the Claim and/or Preliminary Evaluation of Claim 88.
11. Based on the sworn statements in Claim 88, 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 88 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 88

CLAIM MAP REFERENCE: CLAIM # 88, PAGE 07

CLAIMANT: DAVID H. PETERSEN
TERESA A. RENNICK
36670 MODOC POINT RD
CHILOQUIN OR 97624

SOURCE OF WATER: AGENCY LAKE, tributary to the KLAMATH RIVER

PURPOSE or USE: IRRIGATION OF 0.4 ACRES.

RATE OF USE:

0.01 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 - OCTOBER 31

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

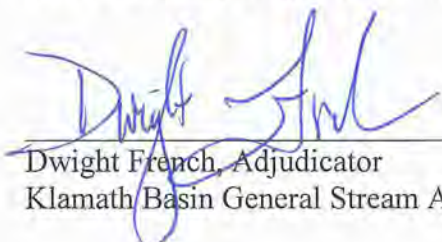
Twp	Rng	Mer	Sec	Q-Q	GLot
35 S	7 E	WM	7	NE NW	3

THE PLACE OF USE IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	7 E	WM	7	NE NW	3	0.4

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013


Dwight French, Adjudicator
Klamath Basin General Stream Adjudication