

**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
FIVE MILE RANCH, LLC	)	DETERMINATION
	)	
_____	)	Water Right Claim 105

The GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION is incorporated as if set forth fully herein.

**A. FINDINGS OF FACT**

1. Claim 105 (Claimant: FIVE MILE RANCH, LLC<sup>1</sup>) and its associated contests (3484, 3751, and 4138) were referred to the Office of Administrative Hearings for a contested case hearing which was designated as Case 218.
2. The Office of Administrative Hearings conducted contested case proceedings and ultimately issued a PROPOSED ORDER (Proposed Order) for Claim 105 on November 10, 2004. No exceptions were filed to the Proposed Order.
3. On July 21, 2011, the Adjudicator issued an AMENDED PROPOSED ORDER (Amended Proposed Order) to modify the outcome of the original Proposed Order to recognize (1) development with reasonable diligence by non-Indian successors, and (2) the appropriate standard for determining loss of a right through nonuse. The Amended Proposed Order replaced the 2004 Proposed Order in its entirety.
4. Exceptions were jointly filed to the Amended Proposed Order within the exception filing deadline by the United States of America and the Klamath Tribes.
5. The exceptions filed to the Amended Proposed Order have been reviewed and considered in conjunction with the entire record for Claim 105, and are found to be unpersuasive. Accordingly, changes were not made to the Amended Proposed Order to accommodate any exceptions.
6. The Amended Proposed Order is adopted and incorporated in its entirety as if set forth fully herein.

---

<sup>1</sup> Five Mile Ranch, LLC, successor in interest to Rodney N. Murray

## B. DETERMINATION

1. The Amended Proposed Order is adopted and incorporated in its entirety 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. Based on the file and record herein, IT IS ORDERED that Claim 105 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO.** 105

**CLAIM MAP REFERENCE:**

CLAIM # 105, PAGE 14; OWRD INVESTIGATION MAP – T 35 S, R 13 E

**CLAIMANT:** FIVE MILE RANCH, LLC  
DAVID P. MASTAGNI  
KATHLEEN R. MASTAGNI  
3827 MARSHALL AVE  
CARMICHAEL, CA 95608

**SOURCE OF WATER:**

FIVEMILE CREEK, tributary to the NORTH FORK SPRAGUE RIVER

**PURPOSE or USE:**

IRRIGATION OF 69.7 ACRES WITH INCIDENTAL LIVESTOCK WATERING OF 200 HEAD

**RATE OF USE:**

1.74 CUBIC FEET PER SECOND, BEING 0.94 CFS FROM POD 1 AND 0.80 CFS FROM POD 2

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:** APRIL 1 - NOVEMBER 1

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

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

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
POD 1	35 S	13 E	WM	27	SW SE	30 FEET NORTH AND 3640 FEET EAST FROM SW CORNER, SECTION 27
POD 2	35 S	13 E	WM	34	NW NE	480 FEET SOUTH AND 3180 FEET EAST FROM NW CORNER, SECTION 34

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

IRRIGATION WITH INCIDENTAL LIVESTOCK WATERING						
Twp	Rng	Mer	Sec	Q-Q	Acres	Authorized POD
35 S	13 E	WM	27	NE SW	1.7	POD 1
35 S	13 E	WM	27	NW SW	26.7	
35 S	13 E	WM	27	SW SW	0.2	
35 S	13 E	WM	28	NE SE	8.9	
35 S	13 E	WM	27	SE SW	6.3	POD 2
35 S	13 E	WM	27	SW SE	3.3	
35 S	13 E	WM	34	NW NE	20.4	
35 S	13 E	WM	34	SW NE	2.2	

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication