

**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
JOHN AND ROSEMARY YOUNG,	)	DETERMINATION
TRUSTEES FOR THE YOUNG FAMILY	)	
TRUST	)	
_____	)	Water Right Claim 106

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 30, 1991, JOHN AND ROSEMARY YOUNG, TRUSTEES FOR THE YOUNG FAMILY TRUST (Claimants) timely submitted a Statement and Proof of Claim (Claim 106) 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 an inchoate Indian reserved water right (Walton claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 106 was submitted for domestic use including watering of 1 acre of lawn and garden, and livestock watering for 10 head, for a total 0.25 cubic feet per second (cfs) of water from Fivemile Creek, a tributary of the Sprague River, with a season of use "April 1 to December 1." The claimed priority date is 1864.
3. The Claimants did not include payment of the fee required by ORS 539.081 for livestock use by the February 1, 1991 deadline for filing a Statement and Proof of Claim.
4. GREGORY S. YOUNG, an authorized agent of JOHN AND ROSEMARY YOUNG, TRUSTEES FOR THE YOUNG FAMILY TRUST, signed the Statement and Proof of Claim for Claim 106 attesting that the information contained in the claim is true.
5. On February 15, 1991, the Claimants clarified by letter that they were not claiming "stock usage."
6. On May 1, 1991, the Claimant supplemented information to Claim 106 by providing a affidavit signed by Jack Bishop, stating in pertinent part, "As a former employee of Weyerhaeuser and then the owner of the subject property, I certify that water was being used within five years of the sale of the property from the Sconchin's [Donald Lloyd

Schonchin, listed on the NOVEMBER 21, 1957 FEDERAL REGISTER FOR MEMBERS OF KLAMATH TRIBE OF INDIANS, Page 9319] to Weyerhaeuser and has been used continuously since I acquired the property to serve my cabin and water the 1-3 acres around the cabin.” (Claim # 106, Page 00018).

7. 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 106 (Claim # 106, Page 11).
8. 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 for domestic use including 1 acre of lawn and garden, but for a smaller quantity of water and with a longer season of use than claimed.
9. No contests were filed to the Claim and/or Preliminary Evaluation of Claim 106.
10. Based on the sworn statements in Claim 106, 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 not made prior to transfer from Indian ownership.
  - d. Beneficial use of water for the claimed purpose has been made with reasonable diligence following the 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, standard rate for domestic use, being 0.01 cfs per dwelling as outlined in the GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION will apply.
3. Because there is no evidence on the record to the contrary, the domestic rate for watering 1.0 acre of lawn and garden is calculated based on 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.
4. Based on the file and record herein, IT IS ORDERED that Claim 106 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 106**

**CLAIM MAP REFERENCE:** CLAIM # 106, PAGE 43

**CLAIMANT:** JOHN AND ROSEMARY YOUNG, TRUSTEES FOR THE YOUNG FAMILY TRUST  
26 ARASTRADERO ROAD  
PORTOLA VALLEY, CA 94028

**SOURCE OF WATER:** FIVEMILE CREEK, tributary to the SPRAGUE RIVER

**PURPOSE or USE:**  
DOMESTIC INCLUDING WATERING OF 1.0 ACRE OF LAWN AND GARDEN.

**RATE OF USE:**  
0.035 CUBIC FOOT PER SECOND (CFS) MEASURED AT THE POINT OF DIVERSION,  
BEING 0.01 CFS FOR ONE DWELLING AND 0.025 CFS FOR DOMESTIC (NON-  
COMMERCIAL) WATERING OF 1.0 ACRE OF LAWN AND GARDEN.

**PERIOD OF ALLOWED USE:** APRIL 1 - DECEMBER 1

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

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


Twp	Rng	Mer	Sec	Q-Q	Measured Distances
35 S	13 E	WM	1	NE SE	SOUTH 57 DEGREES 5 MINUTES 57 SECONDS WEST, 1321 FEET FROM EAST 1/4 CORNER, SECTION 1

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

DOMESTIC INCLUDING WATERING OF 1.0 ACRE OF LAWN AND GARDEN				
Twp	Rng	Mer	Sec	Q-Q
35 S	13 E	WM	1	NE SE

[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