

**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
JELD-WEN, INC.)	DETERMINATION
)	
_____)	Water Right Claim 107

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 February 1, 1991, JELD-WEN, INC (Claimant) timely submitted a Statement and Proof of Claim (Claim 107) 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 107 was submitted for a total of 1.0 cfs of water from Upper Klamath Lake, tributary to the Klamath River, for industrial use and fire suppression. The claimed period of use is year-round. The claimed priority date is "1864."
3. MATTHEW W. BEDDOE, corporate counsel for JELD-WEN, INC., signed Claim 107 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 was denied because "the claimed use is not a primary purpose for which the reservation was established."
5. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3485: Klamath Irrigation District, Klamath Drainage District, Tulelake Irrigation District, Klamath Basin Improvement District, Ady District Improvement Company, Enterprise Irrigation District, Klamath Hills District Improvement Co.¹, Malin Irrigation District, Midland District Improvement Company,

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3485 on January 16, 2004. See VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

Pine Grove Irrigation District, Pioneer District Improvement Company, Poe Valley Improvement District, Shasta View Irrigation District, Sunnyside Irrigation District, Don Johnston & Son, Bradley S. Luscombe, Berlva Pritchard², Don Vincent³, Randy Walthall, Inter-County Title Co., Winema Hunting Lodge, Inc., Van Brimmer Ditch Co., Plevna District Improvement Co., and Collins Products, LLC.

6. On May 8, 2000, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District filed Contest 3129 to the Claim and/or Preliminary Evaluation of Claim 144.
7. On May 8, 2000, the United States of America timely filed Contest 3752 to the Claim and/or Preliminary Evaluation of Claim 107.
8. On May 8, 2000, the Klamath Tribes timely filed Contest 4139 to the Claim and/or Preliminary Evaluation of Claim 107.
9. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 219.
10. On January 12, 2004, Langell Valley Irrigation District and Horsefly Irrigation District voluntarily withdrew from Contest 3139. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY LANGELL VALLEY AND HORSEFLY IRRIGATION DISTRICTS (Jan. 12, 2004).
11. On April 1, 2004, the Klamath Project Water Users withdrew Contest 3485. *See* NOTICE OF WITHDRAWAL OF CONTEST No. 3485 (Apr. 1, 2004).
12. On December 14, 2004, the Claimant, OWRD, the United States of America, the Klamath Tribes, and Rogue River Valley Irrigation District and Medford Irrigation District executed a STIPULATION TO RESOLVE CONTEST 1714 (Settlement Agreement) thereby resolving the remaining contests to Claim 107.
13. On December 27, 2004, the Adjudicator withdrew Case 219 from the Office of Administrative Hearings.
14. Based on the Claimant's map (Claim # 107, Page 73)⁴ OWRD finds Government Lots 19 and 22 described in the Settlement Agreement (Page 3) as being located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ is incorrect; the correct location of the Government Lots 19 and 22 is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$.

² Berlva Pritchard voluntarily withdrew from Contest 3485 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3485 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

⁴ This original Mylar map contains an error in the legal description, whereby the range is incorrectly listed as 7.5 East. Although this was corrected to 7.0 East in the Settlement Agreement, this correction is not shown on the claimant's original Mylar map at Claim # 107, Page 73.

B. DETERMINATION

1. The Settlement Agreement executed between the Claimant, OWRD, the United States of America, the Klamath Tribes, and Rogue River Valley Irrigation District and Medford Irrigation District is adopted and incorporated as if set forth fully herein, with the exception of a scrivener's error in the location of Government Lots 19 and 22 as described in Finding 14, above; the location of Government Lots 19 and 22 is corrected to the NE¼ SW¼.
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 107 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 107
FOR A VESTED WATER RIGHT

CLAIM MAP REFERENCE: CLAIM # 107, PAGE 73

CLAIMANT: JELD-WEN, INC
401 HARBOR ISLES BLVD
KLAMATH FALLS, OR 97601

SOURCE OF WATER: UPPER KLAMATH LAKE, tributary to KLAMATH RIVER

PURPOSE OR USE: INDUSTRIAL USE AND FIRE SUPPRESSION

RATE OF USE:
1.0 CUBIC FOOT PER SECOND, MEASURED AT THE POINT OF DIVERSION, NOT TO EXCEED 100.0 ACRE FEET PER YEAR

PERIOD OF ALLOWED USE: JANUARY 1 - DECEMBER 31

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

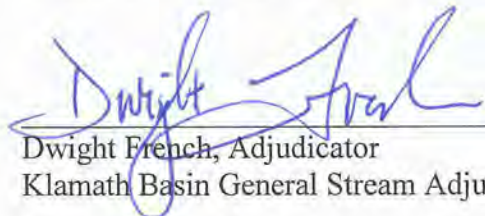
Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
36 S	7 E	WM	15	NW SW	21	515 FEET SOUTH AND 200 FEET WEST FROM NE CORNER, GOV'T LOT 21

THE PLACE OF USE IS LOCATED AS FOLLOWS:

INDUSTRIAL USE and FIRE SUPPRESSION					
Twp	Rng	Mer	Sec	Q-Q	GLot
36 S	7 E	WM	15	NE SW	19
36 S	7 E	WM	15	NE SW	22
36 S	7 E	WM	15	NW SW	20
36 S	7 E	WM	15	NW SW	21

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013


Dwight French, Adjudicator
Klamath Basin General Stream Adjudication