

**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
LINDA A. KENYON	)	DETERMINATION
	)	
_____	)	Water Right Claim 179

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 30, 1990, GLORIA JEANNE DAFFARA timely submitted a Statement and Proof of Claim (Claim 179) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication based upon use of water beginning prior to February 24, 1909 (pre-1909 claim).
2. Claim 179 was submitted for up to 38 gallons per minute of water from the Klamath River, tributary to the Pacific Ocean, for irrigation of 1.0 acres with a season of use "April 1<sup>st</sup> thru October 31st." The claimed priority date is 1873.
3. Item 4 of the Statement and Proof of Claim includes the statement: "Land was purchased for farming Oct 26, 1872 with continuous use of farmland and irrigation ever since." (Claim # 179, Page 001).
4. Item 13 of the Statement and Proof of Claim incorporates "Exhibit B," a copy of a deed from the State of Oregon to Jesse D. Walker, "DEED, BOOK 1, PAGE 24 (Oct. 26, 1872) (Claim # 179, Page 007).
5. Item 13 of the Statement and Proof of Claim incorporates "Exhibit F," a statement signed by Esther Kerns Johnston which states in pertinent part, "To the best of my knowledge there has been continuous irrigation of Riverside Addition from Klamath River since late 1800." (Claim # 179, Page14).
6. GLORIA JEANNE DAFFARA signed the Statement and Proof of Claim for Claim 179 attesting that the information contained in the claim is true.

7. In 1986, an OWRD field inspection report was prepared, describing the present use of water on the property substantially as stated in Claim 179 (*See* Claim 179, WIP Pages 00018 and 00019).
8. The property appurtenant to Claim 179 was subsequently acquired by LINDA A. BREVERLY. *See* QUITCLAIM DEED, COUNTY OF KLAMATH, VOL. M97, PAGE 8969 (Mar. 17, 1997), (Claim # 179, Page 041).
9. On May 27, 1999, the Claimant supplemented information to Claim 179 by providing a signed statement, stating in pertinent part, "I also wish to point out that I acquired the property as Linda A. Breverly (Claimant), but am now remarried and my last name is Kenyon." (Claim # 179, Page 039).
10. On May 27, 1999, the Claimant supplemented information to Claim 179 which included "a map which shows the location of the property in Riverside Addition." According to the map, the property appurtenant to Claim 179 is within County of Klamath Tax Lot 2600, and is 0.80 acres.
11. 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 than claimed and a longer season of use than claimed.
12. On May 8, 2000, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District filed Contest 3169 to the Claim and/or Preliminary Evaluation of Claim 179.
13. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 28.
14. On January 8, 2002, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District voluntarily withdrew Contest 3169. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY LANGELL VALLEY, HORSEFLY, MEDFORD AND ROGUE RIVER VALLEY IRRIGATION DISTRICTS (Jan. 8, 2002).
15. On February 13, 2002, Contest 3169 was dismissed from the Office of Administrative Hearings. *See* AMENDED ORDER DISMISSING CONTEST AND REFERRAL TO ADJUDICATOR (Feb. 13, 2002).
16. Based on the sworn statements in Claim 179, along with the field inspection report, the following findings are made:
  - a. The Claimant demonstrated intent to apply water to beneficial use prior to February 4, 1909.

- b. The Claimant created a diversion, where necessary, to divert water from its natural source.
- c. The Claimant applied water to beneficial use within a reasonable time.

## **B. DETERMINATION**

1. The elements of a pre-1909 claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING PRE-1909 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 179 is approved as claimed and set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO.** 179

**CLAIM MAP REFERENCE:** CLAIM # 179, PAGE 40

**CLAIMANT:** LINDA A KENYON  
11765 SW TIMBERLINE CT  
BEAVERTON OR 97008

**SOURCE OF WATER:** The KLAMATH RIVER, tributary to the PACIFIC OCEAN

**PURPOSE or USE:** IRRIGATION OF 0.80 ACRE WITHIN TAX LOT 2600.

**RATE OF USE:**

0.02 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:** DECEMBER 31, 1873

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

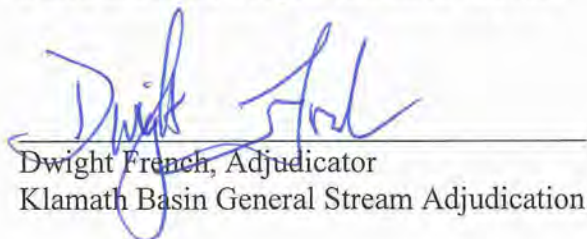
Twp	Rng	Mer	Sec	Q-Q	Remarks
39 S	8 E	WM	31	SW SW	Lot 4 in Block 2 of Riverside Addition to Keno

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

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
39 S	8 E	WM	31	NE SW	2600	0.8
39 S	8 E	WM	31	SE SW		

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013

  
Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication