

**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)	CORRECTED PARTIAL ORDER OF
KENO IRRIGATION DISTRICT)	DETERMINATION
)	
_____)	Water Right Claim 185

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

**A. FINDINGS OF FACT AND DESCRIPTION OF MODIFICATIONS
TO THE PROPOSED ORDER**

1. Claim 185 (Claimant: KENO IRRIGATION DISTRICT) and its associated contests (2728, 2853, 3175, 3406, 3836, and 4178) were referred to the Office of Administrative Hearings for a contested case hearing which was designated as Case 128.
2. The Office of Administrative Hearings conducted contested case proceedings and ultimately issued a PROPOSED ORDER (Proposed Order) for Claim 185 on April 5, 2005.
3. Exceptions were filed to the Proposed Order within the exception filing deadline by the United States of America.
4. The exceptions filed to the Proposed Order along with responses to the exceptions have been reviewed and considered in conjunction with the entire record for Claim 185. Except for limiting the acreage to the 3599.7 acres originally claimed, which is addressed in Sections A.6 through A.10, below, the exceptions filed to the Proposed Order for Claim 185 are found to be unpersuasive.
5. The Proposed Order is adopted and incorporated, with modifications, into this Partial Order of Determination as follows:
 - a. The "History of the Case" is adopted with modifications, as set forth in Section A.6, below.
 - b. The "Evidentiary Rulings" is adopted with modifications, as set forth in Section A.7., below.
 - c. The "Findings of Fact" is adopted with modifications, as set forth in Section A.8, below.

- d. A new section titled "Conclusions of Law" is added to the Proposed Order as set forth in Section A.9, below.
 - e. The "Opinion" is adopted in its entirety.
 - f. The "Discussion" is adopted with modifications, as set forth in Section A.10, below.
 - g. The "Order" is replaced in its entirety by the Water Right Claim Description as set forth in Section B of this Partial Order of Determination for Claim 185. Consistent with Sections A.6 through A.10, below, the outcome of the Order has been modified to limit the claim to the approval of 3599.7 acres.
6. **History of the Case.** Within the section titled "History of the Case" of the Proposed Order, the first two paragraphs are modified as follows (additions are shown in "underline" text, deletions are shown in "~~strikethrough~~" text):

On January 24, 1991, Keno Irrigation District, filed a claim for a pre-1909 water right. This claim is for a total of 3 acre-feet per acre from multiple points of diversion located on Klamath River, tributary to Pacific Ocean, for irrigation of ~~3,614.2~~ 3599.7 acres ~~and with incidental livestock use for 3500 head of cattle and 100 horses.~~ The claimed period of use is January 1 through December 31. The claimed priority date is December, 1858.

On October 4, 1999, the Adjudicator, Richard D. Bailey, issued a preliminary evaluation (P.E.) of the claim, recommending a partial granting of that claim at the following totals: irrigation use of ~~3,889.16~~ 3618.5 acres, with 90.47 cfs, or 10,855.5 acre-feet measured at the various points of diversion, a duty of ~~3.5~~ 3.0 acre-feet per acre and a season of use of March 1 - October 31 with a priority date of December 31, 1858.

Reason for Modifications: To make corrections raised in exceptions, to correct scrivener's errors in the Proposed Order, and to provide more specific information with reference to what was claimed, using evidence on the record.

7. **Evidentiary Rulings.**

- a. *Within the section titled "Evidentiary Rulings" of the Proposed Order, the following text, beginning with the first sentence of the first paragraph and ending with the phrase "No objection to pages 5 and 7 of exhibit K were made," is stricken and replaced (additions are shown in "underline" text, deletions are shown in "~~strikethrough~~" text):*

~~Before the scheduled hearing the participants identified certain documents as evidence: a copy of OWRD's claim (OWRD exhibit 1); Keno Irrigation~~

~~District, in a Motion dated September 9, 2003, Claimant identified OWRD and the following exhibits they offer as exhibits:~~

~~Pages in 7002 are duplicative~~

~~7001 exhibit J and pages 5&7 of exhibit K~~

~~Objections to exhibit J were sustained as irrelevant~~

~~No objection to pages 5 and 7 of exhibit K were made~~

Prior to the hearing, OWRD offered its claim file (OWRD Exhibit 1) as evidence. OWRD Exhibit 1 is admitted.

Claimant Keno Irrigation District offered the following exhibits as evidence:

128E000070001

128E000070002

At the hearing, Claimant withdrew 128E000070001 as duplicative of other, admitted evidence, with the exception of Exhibit J and Pages 5 and 7 of Exhibit K (both of which were contained within 128E000070001). Exhibit J is excluded as irrelevant. Pages 5 and 7 of Exhibit K are admitted.

At the hearing, Claimant withdrew 128E000070002 as duplicative of other, admitted evidence.

In addition, Claimant offered the following exhibits as evidence:

- b. *In addition to the above modifications, the following modifications are made to the final paragraph of the "Evidentiary Rulings" section. This paragraph addresses the exhibits offered by Contestant the United States. Additions are shown in "underline" text):*

The United States identified:

128E00040001-128E00040004 – documents accompanying US response to Claimant's motion for ruling on Legal issues.

128E00040005-128E00040008 – Direct testimony and exhibits of Loring Gurney

128E00040009 – Fund for Reclamation of Arid Lands - (selected pages)

(128E00040010-128E00040011) – Rebuttal

128E00040010 – History of Oregon School Lands – (selected pages)

128E00040011 – History of Klamath County Oregon – (selected pages)

128E00040012

No objections were stated to these exhibits. They are admitted to the record.

Reason for Modifications: To provide clarity as to exhibits admitted and excluded.

8. Findings of Fact.

a. Proposed Order Finding of Fact # 3 is modified as follows (additions are shown in “underline” text, and deletions are shown in “~~strikethrough~~” text):

3. Claimant’s predecessor in interest, Benjamin S. Kerns, purchased the land that is now the claimed place of use for claim no. 185 in 1901. Exh. 128E00040012, Transcript of Proceedings (hereafter “Tr.”), 46. In approximately 1905, the Kerns began to build a system of dikes along the Klamath River to facilitate the draining of the lands. Tr. 124.2. These dikes were completed around 1916 or 1917. Tr. 116 and 124. ~~The claimed place of use was not useable until the dikes were completed and the drainage system was in place.~~ Prior to construction of the dikes and drainage system, cattle, often belly-deep in water, were kept on the land. At one time even hogs were raised and fattened on the cattails. Exh. 128E00040012. However, the productivity of the land was limited by excess water. In fact, some of the claimed place of use was still “sort of useless” in the 1950s. Further, there is only one portion of the claimed place of use that is high enough for winter feeding of cattle.

Reason for Modified Finding of Fact: The ALJ’s finding that the claimed place of use was not useable until the dikes and drainage system were in place is not supported by a preponderance of evidence in the record; the evidence demonstrates that cattle and hogs were raised on the land prior to construction of the dike and drainage system.

b. *Proposed Order Finding of Fact # 25 is added as follows (additions are shown in "underline" text):*

25. On January 24, 1991, the claimant timely paid \$3700 in irrigation fees for 3599.7 acres. (OWRD Ex. 1 at 5.)

Reason for Additional Findings of Fact: The ALJ's proposed findings of fact failed to fully set forth the evidence on the record.

c. *Proposed Order Finding of Fact # 26 is added as follows (additions are shown in "underline" text):*

26. The Claimant claimed livestock watering for 3,500 head of cattle and 100 head of horses. (OWRD Ex. 1 at 1.) The Claimants did not include payment of the fee required by ORS 539.081 for livestock use by the January 31, 1991 deadline for filing a Statement and Proof of Claim. (OWRD Ex. 1 at 5.) Livestock watering under this claim is limited to incidental livestock watering during the irrigation season. The incidental livestock watering is limited to 3,500 head of cattle and 100 head of horses, the number claimed.

Reason for Additional Findings of Fact: The ALJ's proposed findings of fact failed to fully set forth the evidence on the record.

d. *Proposed Order Finding of Fact # 27 is added as follows (additions are shown in "underline" text):*

27. Because there is no evidence on the record to the contrary, the standard rate for irrigation is 1/40 of one cubic foot per second per acre as outlined in Appendix A of the Preliminary Evaluation of Claims (OWRD Ex. 1 at 156) and the GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION. OWRD incorporates into this Proposed Order Finding of Fact #27 the portions of The GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION pertaining to the standard rate for irrigation.

Reason for Additional Finding of Fact: To include a finding regarding a standard rate for irrigation based on the number of acres that should be irrigated with one cubic foot of water per second.

9. **Conclusions of Law.** The entire section titled “Conclusions of Law” with Conclusions 1 - 6 is added to the Proposed Order as follows (additions are shown in “underline” text):

Conclusions of Law

1. The record for Claim 185 establishes the required elements of a pre-1909 water right with a priority date of December 31, 1878.
2. The record establishes that Claim 185 is entitled to a pre-1909 water right for irrigation of 3599.7 acres with incidental livestock watering of 3500 head of cattle and 100 head of horses at a rate of 89.99 cfs and a duty of 3.0 acre-feet per acre per year.
3. The period for use for irrigation with incidental livestock watering is March 1 through October 31.
4. The rate of irrigation is 1/40 of one cfs per acre.
5. Natural overflow is a valid basis or a pre-1909 water right.
6. Irrigation fees were timely paid for 3559.7 acres.

Reason for Adding Conclusions of Law Section: Conclusions of Law were not specified in the ALJ’s Proposed Order; the evidence on the record, as described in the Proposed Order’s findings of fact section, and the application of the appropriate legal bases to the evidence on the record, as described in the opinion section supports these conclusions.

10. **Discussion.**

- a. *Within the section titled “Discussion” of the Proposed Order, the eighth paragraph is modified as follows (additions are shown in “underline” text, deletions are shown in ~~strikethrough~~):*

The third element – reasonable diligence – is dependent upon the circumstances and necessities. ~~In this case, the claimed lands and water were diligently utilized for beneficial purposes commencing in 1858 by Wendolen Nus.~~ Although there is evidence supporting use on the claimed land as early as 1858, the evidence does not support application for transfer of these lands into private

ownership until 1878. While it is not always necessary for the owner of the land and the appropriator of the water to be the same in order to perfect a water right, there is no support for the position that private citizens could appropriate water for the benefit of swamp lands owned by the State before an application was filed for the lands under the Swamp Land Acts. As described in the Findings of Fact, the evidence supports Swamp Land Act applications for these lands by 1878, and the beginning of reclamation and application of water to a beneficial use in that year. While swamp act deeds and State Land Board minutes do not contain direct testimony concerning the application of water to beneficial use, the findings required of the State Land Board in order to complete the conveyance of the land to the applicants constitute substantial evidence of beneficial use of water.

The United States has submitted evidence suggesting that the process of conveyance of land under the Swamp Land Acts was subject to fraud. There is no evidence of fraud with respect to these particular lands, however, and OWRD does not conclude that the regular proceedings of a State entity are subject to a presumption of fraud. 1878 is the appropriate priority date for this claim. ~~The early State of Oregon swamp act deeds and the State Land Board minutes also demonstrate reasonable diligence in the beneficial use of the lands occurring in the 1878 to 1882 time period. In this claim the water has been continuously and beneficially used since 1858, although a water right cannot be found until 1878 when exclusive claims of right commenced.~~

- b. *The following paragraph is added to the end of the "Discussion" section (additions are shown in "underline" text):*

Finally, the Claimant included payment of the fee required by ORS 539.081 by the January 31, 1991 deadline for filing a Statement and Proof of Claim for irrigation use on a place of use equal to 3599.7 acres. (OWRD Ex. 1 at 3 – 6.) The fee paid is equivalent to what is required as per OAR 690-028-0065(5), which is "[i]f for irrigation use, \$2 for each acres of irrigated lands up to 100 acres and \$1 for each acres in excess of 100." [ORS.539.081(a).] In addition, OWRD did not receive payment for a separate right of use for livestock watering

by the deadline, so the livestock watering portion of Claimant's claim must be denied. Livestock watering approved under Claim 185 is limited to incidental livestock watering during the irrigation season.

ORS 539.210 provides that "it shall be the duty of all claimants ... to appear and submit proof of their respective claims, at the time and in the manner required by law...." ORS 539.210 (Emphasis added). Otherwise they will be "barred and estopped from subsequently asserting any rights theretofore acquired upon the stream or other body of water embraced in the proceedings" ORS 539.210. The payment of fees by a set deadline is required by law as a component of a claim in the Klamath Basin Adjudication; therefore, the scope of a claim can only extend to the amount of fees timely paid. See ORS 539.081; OAR 690-028-0028(1); OAR 690-028-0065(5). For claimants, the deadline for the filing of claims, and therefore the deadline for payment of fees, was February 1, 1991. The original claimant only paid fees enough for 3599.7 acres for irrigation with incidental livestock watering by the deadline. Claim 185 is limited to the approval of 3599.7¹ acres with incidental livestock watering of 3500 head of cattle and 100 horses.

Reason for Modification: To provide clarity of the basis for limiting the claim to 3599.7 acres on evidence on the record – issue raised in exceptions, to limit livestock water to that which is incidental to irrigation, and to provide clarity in regards to the effect of the Swamp Land Acts and the evidence of swamp land deeds and State Land Board meeting minutes.

¹ On April 2, 2012, OWRD served a letter to Keno Irrigation District on all parties to Case 128. The Department requested the District's preference for the location of acreage reduction needed to limit the place of use to 3559.7 acres. The District responded that "in the event it is necessary" the reduction of 17.6 acres should be in T39S, R8E, Section 34, being 8.2 acres within the SE¼ SE¼ and 9.4 acres within the SW¼ SE¼.(See 4/2/2012 OWRD's Letter to Keno Irrigation District for full explanation of the 17.6 acres).

B. DETERMINATION

1. The Proposed Order is adopted and incorporated, with modifications, into this Partial Order of Determination as follows:
 - a. The “History of the Case” is adopted with modifications, as set forth in Section A.6, above.
 - b. The “Evidentiary Rulings” is adopted with modifications, as set forth in Section A.7, above.
 - c. The “Findings of Fact” is adopted with modifications, as set forth in Section A.8, above.
 - d. The “Conclusions of Law” is added to the Proposed Order as set forth in Section A.9, above.
 - e. The “Opinion” is adopted in its entirety.
 - f. The “Discussion” is adopted with modifications, as set forth in Section A.10, above.
 - g. The “Order” is replaced in its entirety by the Water Right Claim Description as set forth in Section B of this Partial Order of Determination for Claim 185. Consistent with Sections A.6 through A.10, above, the outcome of the Order has been modified as to limiting the claim to the approval of 3599.7 acres.
2. 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.
3. Based on the file and record herein, IT IS ORDERED that Claim 185 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 185

CLAIM MAP REFERENCE:

CLAIM # 185, PAGES 53 AND 54; OWRD INVESTIGATION MAPS – T 39 S, R 8 E AND T 40 S, R 8 E

CLAIMANT: KENO IRRIGATION DISTRICT
9350 HWY 66
KLAMATH FALLS, OR 97601

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

PURPOSE OR USE:

IRRIGATION OF 3599.7 ACRES WITH INCIDENTAL LIVESTOCK WATERING OF UP TO 3500 HEAD CATTLE AND 100 HORSES FOR ENTIRE CLAIM BEING, BEING 235.3 ACRES FROM PODS 1 AND 1-A, 272.4 ACRES FROM POD 2, 419.0 ACES FROM POD 3, 50.0 ACRES FROM POD 4, 218.2 ACES FROM POD 5, 176.3 ACRES FROM POD 6, 230.8 ACES FROM POD 7, 32.8 ACRES FROM POD 8, 155.7 ACES FROM POD 9, 97.0 ACRES FROM POD 10, 509.7 ACES FROM POD 11, 51.3 ACRES FROM POD 12, 123.7 ACES FROM POD 13, 298.4 ACRES FROM POD 14, 89.9 ACES FROM POD 15, 498.9 ACRES FROM POD 16, 15.5 ACES FROM POD 17, AND 124.8 ACRES FROM POD 18.

RATE OF USE:

89.99 CUBIC FEET PER SECOND (CFS) MEASURED AT THE POINTS OF DIVERSION, BEING, 5.88 CFS FROM PODS 1 AND 1-A, 6.81 CFS FROM POD 2, 10.48 CFS FROM POD 3, 1.25 CFS FROM POD 4, 5.46 CFS FROM POD 5, 4.41 CFS FROM POD 6, 5.77 CFS FROM POD 7, 0.82 CFS FROM POD 8, 3.89 CFS FROM POD 9, 2.43 CFS FROM POD 10, 12.74 CFS FROM POD 11, 1.28 CFS FROM POD 12, 3.09 CFS FROM POD 13, 7.46 CFS FROM POD 14, 2.25 CFS FROM POD 15, 12.47 CFS FROM POD 16, 0.39 CFS FROM POD 17, AND 3.12 CFS FROM POD 18.

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: MARCH 1 - OCTOBER 31

DATE OF PRIORITY: DECEMBER 31, 1878

THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:

POD Name	Twp	Rng	Mer	Sec	Q-Q	GLot
POD 1	39 S	8 E	WM	27	SE SW	7
POD 1-A	39 S	8 E	WM	27	SW SW	6
POD 2	39 S	8 E	WM	34	NE NW	9
POD 3	40 S	8 E	WM	2	NW NW	1
POD 4	40 S	8 E	WM	2	SE NW	2
POD 5	40 S	8 E	WM	2	NW SE	3
POD 6	40 S	8 E	WM	2	SW SE	4
POD 7	40 S	8 E	WM	2	SE SW	4
POD 8	40 S	8 E	WM	15	SW NW	1
POD 9	40 S	8 E	WM	15	SW NW	1
POD 10	40 S	8 E	WM	16	NE SE	7
POD 11	40 S	8 E	WM	16	NE NW	10
POD 12	40 S	8 E	WM	9	NE SW	3
POD 13	40 S	8 E	WM	8	NE NE	13
POD 14	40 S	8 E	WM	8	NE NE	13
POD 15	40 S	8 E	WM	5	SW NE	7
POD 16	40 S	8 E	WM	5	SW NE	7
POD 17	40 S	8 E	WM	5	SW NE	7
POD 18	40 S	8 E	WM	5	NE NW	8

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION							Authorized POD
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	
39 S	8 E	WM	27	SW SW	7	15.0	PODS 1 and 1-A
39 S	8 E	WM	27	SW SW	8	2.1	
39 S	8 E	WM	27	SE SW	6	1.6	
39 S	8 E	WM	33	NE NE	5	32.0	
39 S	8 E	WM	33	NW NE	5	5.8	

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
39 S	8 E	WM	33	SW NE		38.1	PODS 1 and 1-A
39 S	8 E	WM	33	SE NE		40.0	
39 S	8 E	WM	34	NE NW	9	19.3	
39 S	8 E	WM	34	NE NW	17	1.4	
39 S	8 E	WM	34	NW NW	10	4.2	
39 S	8 E	WM	34	NW NW	17	35.8	
39 S	8 E	WM	34	SW NW		40.0	
39 S	8 E	WM	33	NE SE		39.6	POD 2
39 S	8 E	WM	33	SE SE		39.6	
39 S	8 E	WM	34	SW NE	15	10.1	
39 S	8 E	WM	34	NE NW	9	18.4	
39 S	8 E	WM	34	SE NW	11	1.2	
39 S	8 E	WM	34	SE NW	16	38.8	
39 S	8 E	WM	34	NE SW		22.4	
39 S	8 E	WM	34	NW SW		37.1	
39 S	8 E	WM	34	SW SW		36.0	
39 S	8 E	WM	34	SE SW		29.2	
39 S	8 E	WM	34	NE SE	13	6.0	POD 3
39 S	8 E	WM	34	NW SE	14	36.5	
39 S	8 E	WM	34	SW SE		30.6	
39 S	8 E	WM	34	SE SE	13	15.2	
40 S	8 E	WM	2	NW NW		0.5	
40 S	8 E	WM	2	NW NW	1	3.1	
40 S	8 E	WM	2	NW NW	12	0.1	
40 S	8 E	WM	2	SW NW	2	4.0	
40 S	8 E	WM	2	SW NW	12	22.9	
40 S	8 E	WM	3	NE NE	1	28.2	
40 S	8 E	WM	3	NE NE	3	4.4	
40 S	8 E	WM	3	NE NE	5	0.7	
40 S	8 E	WM	3	NW NE	2	8.7	
40 S	8 E	WM	3	NW NE	3	29.6	
40 S	8 E	WM	3	SW NE	2	2.4	
40 S	8 E	WM	3	SW NE	4	30.0	
40 S	8 E	WM	3	SE NE	1	1.1	
40 S	8 E	WM	3	SE NE	5	38.9	
40 S	8 E	WM	3	NE NW		40.0	
40 S	8 E	WM	3	NW NW		40.0	
40 S	8 E	WM	3	SW NW		37.7	
40 S	8 E	WM	3	SE NW		38.4	
40 S	8 E	WM	2	SW NE		0.1	POD 4
40 S	8 E	WM	2	SW NE	2	0.3	
40 S	8 E	WM	2	NE NW	1	1.1	
40 S	8 E	WM	2	NW NW	1	19.2	
40 S	8 E	WM	2	SW NW	2	4.6	
40 S	8 E	WM	2	SE NW		1.5	
40 S	8 E	WM	2	SE NW	2	19.7	
40 S	8 E	WM	3	NE NE	1	3.5	

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
40 S	8 E	WM	2	SW NW	2	5.5	POD 5
40 S	8 E	WM	2	SW NW	12	3.0	
40 S	8 E	WM	2	SE NW	2	8.9	
40 S	8 E	WM	3	NE SW		31.9	
40 S	8 E	WM	2	NE SW	3	25.9	
40 S	8 E	WM	2	NE SW	11	0.1	
40 S	8 E	WM	3	NW SW		35.3	
40 S	8 E	WM	2	NW SW	3	0.5	
40 S	8 E	WM	2	NW SW	11	37.1	
40 S	8 E	WM	3	NE SE		36.3	
40 S	8 E	WM	3	NW SE		33.7	
40 S	8 E	WM	2	SW SW		38.2	POD 6
40 S	8 E	WM	2	SW SW	4	0.4	
40 S	8 E	WM	2	SW SW	10	26.0	
40 S	8 E	WM	3	SE SW		34.8	
40 S	8 E	WM	3	SW SE		37.7	
40 S	8 E	WM	3	SE SE		39.2	
40 S	8 E	WM	10	NE NE	12	17.8	POD 7
40 S	8 E	WM	10	NW NE	11	38.0	
40 S	8 E	WM	10	SW NE	11	8.4	
40 S	8 E	WM	10	NE NW		26.8	
40 S	8 E	WM	10	SE NW	10	33.0	
40 S	8 E	WM	10	NE SW	9	26.9	
40 S	8 E	WM	10	NW SW		0.7	
40 S	8 E	WM	10	SW SW		30.7	
40 S	8 E	WM	10	SE SW		18.2	
40 S	8 E	WM	11	NW NW		1.4	
40 S	8 E	WM	15	NE SW		1.8	
40 S	8 E	WM	15	NW NW	19	26.7	
40 S	8 E	WM	15	SW NW	19	0.4	
40 S	8 E	WM	15	NE NW		0.9	POD 8
40 S	8 E	WM	15	NE NW	18	3.4	
40 S	8 E	WM	15	NW NW		1.0	
40 S	8 E	WM	15	NW NW	18	5.6	
40 S	8 E	WM	15	NW NW	19	5.2	
40 S	8 E	WM	15	SW NW	1	15.6	
40 S	8 E	WM	15	SW NW	18	1.1	
40 S	8 E	WM	10	NE NW		9.5	POD 9
40 S	8 E	WM	10	NW NW		38.9	
40 S	8 E	WM	10	SW NW		40.0	
40 S	8 E	WM	10	SE NW		4.0	
40 S	8 E	WM	10	NW SW		37.6	
40 S	8 E	WM	10	SW SW		8.6	
40 S	8 E	WM	15	SW NW	1	16.1	
40 S	8 E	WM	16	SE NE	8	1.0	

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
40 S	8 E	WM	9	SE SE		38.4	POD 10
40 S	8 E	WM	16	NE NE	9	3.9	
40 S	8 E	WM	16	NE NE	19	34.9	
40 S	8 E	WM	16	SE NE	8	19.3	
40 S	8 E	WM	16	SE NE	19	0.5	
40 S	8 E	WM	4	NE NE		38.7	POD 11
40 S	8 E	WM	4	SE NE		38.6	
40 S	8 E	WM	4	NE SE		34.7	
40 S	8 E	WM	4	SE SE		38.3	
40 S	8 E	WM	9	NE NE		38.2	
40 S	8 E	WM	9	NW NE		38.3	
40 S	8 E	WM	9	SW NE		38.3	
40 S	8 E	WM	9	SE NE		38.3	
40 S	8 E	WM	9	NE NW		20.0	
40 S	8 E	WM	9	SE NW	12	20.0	
40 S	8 E	WM	9	NE SW	3	8.5	
40 S	8 E	WM	9	NE SW	11	3.0	
40 S	8 E	WM	9	NE SE		38.3	
40 S	8 E	WM	9	NW SE	2	2.6	
40 S	8 E	WM	9	NW SE	10	34.1	
40 S	8 E	WM	9	SW SE	9	30.6	
40 S	8 E	WM	16	NW NE	9	18.1	
40 S	8 E	WM	16	NW NE	19	17.4	
40 S	8 E	WM	16	SW NE		13.7	
40 S	8 E	WM	9	NE SW	3	16.1	POD 12
40 S	8 E	WM	9	NW SW	3	2.2	
40 S	8 E	WM	9	SE SW	8	6.4	
40 S	8 E	WM	9	NW SE	2	1.0	
40 S	8 E	WM	9	NW SE	10	0.6	
40 S	8 E	WM	9	SW SE	1	4.6	
40 S	8 E	WM	9	SW SE	9	3.0	
40 S	8 E	WM	16	NW NE	9	3.1	
40 S	8 E	WM	16	NW NE	19	0.2	
40 S	8 E	WM	16	NE NW		0.6	
40 S	8 E	WM	16	NE NW	10	13.5	
40 S	8 E	WM	4	SW SW		13.3	POD 13
40 S	8 E	WM	5	SE SE	17	2.8	
40 S	8 E	WM	8	NE NE	13	5.8	
40 S	8 E	WM	8	NE NE	14	1.2	
40 S	8 E	WM	9	NE NW		18.4	
40 S	8 E	WM	9	NW NW	5	6.8	
40 S	8 E	WM	9	NW NW	13	30.6	
40 S	8 E	WM	9	SW NW	4	23.9	
40 S	8 E	WM	9	SW NW	12	3.7	
40 S	8 E	WM	9	SE NW	4	3.2	
40 S	8 E	WM	9	SE NW	12	14.0	

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
40 S	8 E	WM	4	SW NE		8.1	POD 14
40 S	8 E	WM	4	NE NW		1.0	
40 S	8 E	WM	4	NW NW		7.2	
40 S	8 E	WM	4	SW NW		28.5	
40 S	8 E	WM	4	SW NW	1	0.2	
40 S	8 E	WM	4	SE NW		32.0	
40 S	8 E	WM	4	SE NW	1	0.8	
40 S	8 E	WM	4	NE SW		2.5	
40 S	8 E	WM	4	NE SW	4	0.8	
40 S	8 E	WM	4	NW SW		14.0	
40 S	8 E	WM	4	SW SW		3.7	
40 S	8 E	WM	4	SW SW	3	1.0	
40 S	8 E	WM	4	SE SW		17.8	
40 S	8 E	WM	4	NW SE		27.6	
40 S	8 E	WM	4	SW SE		28.1	
40 S	8 E	WM	5	NE NE	14	4.2	
40 S	8 E	WM	5	SE NE	2	10.8	
40 S	8 E	WM	5	SE NE	15	28.8	
40 S	8 E	WM	5	NE SE	3	18.8	
40 S	8 E	WM	5	NE SE	16	21.2	
40 S	8 E	WM	5	SE SE	4	18.0	
40 S	8 E	WM	5	SE SE	17	19.2	
40 S	8 E	WM	8	NE NE	13	4.1	
40 S	8 E	WM	5	SW NE	7	13.1	POD 15
40 S	8 E	WM	5	SE SW		2.6	
40 S	8 E	WM	5	SE SW	5	3.8	
40 S	8 E	WM	5	NW SE		0.5	
40 S	8 E	WM	5	NW SE	6	27.9	
40 S	8 E	WM	5	SW SE		0.3	
40 S	8 E	WM	5	SW SE	5	39.7	
40 S	8 E	WM	8	NW NE	13	2.0	
39 S	8 E	WM	32	NE SE	7	0.6	POD 16
39 S	8 E	WM	32	NE SE	12	2.1	
39 S	8 E	WM	32	SW SE	9	10.9	
39 S	8 E	WM	32	SE SE	8	20.0	
39 S	8 E	WM	32	SE SE	13	14.7	
39 S	8 E	WM	33	NE SW		35.6	
39 S	8 E	WM	33	NW SW		24.6	
39 S	8 E	WM	33	SW SW		40.0	
39 S	8 E	WM	33	SE SW		40.0	
39 S	8 E	WM	33	NW SE		38.0	
39 S	8 E	WM	33	SW SE		40.0	
40 S	8 E	WM	4	NW NE		40.0	
40 S	8 E	WM	4	SW NE		30.7	
40 S	8 E	WM	4	NE NW		39.0	
40 S	8 E	WM	4	NW NW		32.8	
40 S	8 E	WM	4	SE NW		6.6	
40 S	8 E	WM	4	NW SE		0.3	
40 S	8 E	WM	5	NE NE	1	15.0	

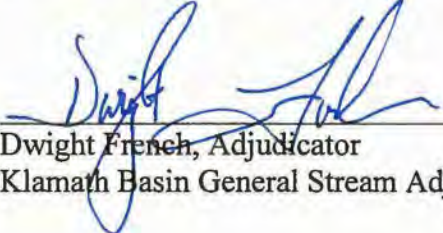
IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
40 S	8 E	WM	5	NE NE	14	19.1	POD 16
40 S	8 E	WM	5	NW NE		39.4	
40 S	8 E	WM	5	SW NE	7	9.0	
40 S	8 E	WM	5	SE NE		0.5	
40 S	8 E	WM	5	NE NW	8	14.2	POD 17
40 S	8 E	WM	5	SE NW	7	1.3	
39 S	8 E	WM	32	NE SW		2.6	POD 18
39 S	8 E	WM	32	SE SW	2	3.2	
39 S	8 E	WM	32	SE SW	10	4.1	
39 S	8 E	WM	32	NE SE	7	31.7	
39 S	8 E	WM	32	NE SE	12	2.8	
39 S	8 E	WM	32	NE SE	4	0.5	
39 S	8 E	WM	32	NW SE	4	32.4	
39 S	8 E	WM	32	NW SE	7	5.2	
39 S	8 E	WM	32	SW SE	3	14.2	
39 S	8 E	WM	32	SW SE	9	12.5	
39 S	8 E	WM	32	SE SE	3	0.9	
39 S	8 E	WM	32	SE SE	8	1.7	
39 S	8 E	WM	33	NW SW	4	11.7	
40 S	8 E	WM	5	NE NW	8	1.3	

FURTHER LIMITATIONS:

USE OF WATER ON THE PLACE OF USE DESCRIBED IN THIS CLAIM, WHEN COMBINED WITH USE OF WATER UNDER ANY OTHER RIGHT ADJUDICATED IN THE KLAMATH BASIN ADJUDICATION FOR ANY PORTION OR ALL OF THE SAME PLACE OF USE, MAY NOT EXCEED THE RATE AND DUTY NECESSARY FOR BENEFICIAL USE AS DETERMINED IN THE KLAMATH BASIN ADJUDICATION.

[End of Water Right Claim Description]

Dated at Salem, Oregon on February 28, 2014


 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication