

**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
6-GLD TRUST # 553-64-6607;	)	DETERMINATION
JOHN BATZER, TRUSTEE	)	
_____	)	
	)	Water Right Claim 190

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 October 17, 1990, LEONA BELL PUCKETT timely submitted a Statement and Proof of Claim (Claim 190) 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 190 was submitted for 96 gallons per minute of water from the Klamath River, tributary to the Pacific Ocean, for irrigation of 1.6 acres with a season of use "May – October (sometimes in April)." 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 sence [sic]." (Claim # 190, Page 001).
4. Item 13 of the Statement and Proof of Claim incorporates "Exhibit A," a copy of a deed from the State of Oregon to Jesse D. Walker, "DEED, BOOK 1, PAGE 24 (Oct. 26, 1872) (Claim # 190, Page 008).
5. Item 14 of the Statement and Proof of Claim incorporates "Exhibit D," 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 # 190, Page 014).
6. LEONA B. PUCKETT signed the Statement and Proof of Claim for Claim 190 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 190 (Claim 190, WIP Pages 00013-00014).
8. On June 13, 1997, the title to the property appurtenant to Claim 190 was transferred to 6-GLD TRUST # 553-64-6607, JOHN BATZER, TRUSTEE (Claimant) from LEONA BELL PUCKETT. *See* COUNTY OF KLAMATH RECORDS, VOL. M97, PAGE 18702.
9. 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 a smaller quantity of water than claimed and a longer season of use than claimed.
10. On May 8, 2000, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District filed Contest 3180 to the Claim and/or Preliminary Evaluation of Claim 190.
11. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 35.
12. On December 20, 2001, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District voluntarily withdrew Contest 3180. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY LANGELL VALLEY, HORSEFLY, MEDFORD AND ROGUE RIVER VALLEY IRRIGATION DISTRICTS (Dec. 20, 2001).
13. On February 13, 2002, Contest 3180 was dismissed from the Office of Administrative Hearings. *See* SECOND AMENDED ORDER DISMISSING CONTEST (Feb. 13, 2002).
14. Based on the sworn statements in Claim 190, 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.
15. Based on the OWRD Investigation Map (T 39 S, R 8 E, Insert C), 1.0 acre is irrigated within Lots 3, 4 and 5 in Block 1 of the Riverside Addition to Keno. Because Lots 3, 4 and 5 appear to be identical in size, OWRD finds 0.3 acre irrigated in Lot 5.

## 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 190 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

### **CLAIM NO. 190**

**CLAIM MAP REFERENCE:** OWRD INVESTIGATION MAP – T 39 S, R 8 E, INSERT C

**CLAIMANT:** 6-GLD TRUST # 553-64-6607  
JOHN BATZER, TRUSTEE  
5150 MAE ANNE AVE, SUITE 213-213  
RENO, NV 98523

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

### **PURPOSE or USE:**

IRRIGATION OF 1.6 ACRES, BEING 0.3 ACRE WITHIN LOT 5 IN BLOCK 1 OF RIVERSIDE ADDITION TO KENO, AND 1.3 ACRES WITHIN LOTS 8, 9 AND THE W ½ LOT 7 IN BLOCK 2 OF RIVERSIDE ADDITION TO KENO.

### **RATE OF USE:**

0.04 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 7 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	Remarks
39 S	8 E	WM	31	NE SW	2800	0.3	Lot 5 in Block 1 of Riverside Addition to Keno
39 S	8 E	WM	31	NW SW			
39 S	8 E	WM	31	NW SW	2800	1.3	Lots 8, 9, and W ½ Lot 7 in Block 2 of Riverside Addition to Keno
39 S	8 E	WM	31	SW SW			

[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