

**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
EDWARD LOGAN CASE, JR.,)	DETERMINATION
CHARLES A. CASE, SR., AND)	
EDWARD LALO CASE, IV)	
_____)	Water Right Claim 683

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 31, 1991, EDWARD LALO CASE, CASSIE LALO CASE, AND AARON SMITH / ESTATE OF LAVINA LALO SMITH¹ timely submitted a Statement and Proof of Claim (Claim 683) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as Indian allottees on the former Klamath Reservation, claiming a vested and inchoate Indian reserved water right (Allottee claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 683 was submitted for a total of 253.3 acre-feet of water: 200.6 acre-feet from the Sprague River, and a tributary spring, tributary to the Williamson River, being 1.5 acre-feet for domestic use including irrigation of 0.5 acres for lawn and garden, 199.1 acre-feet for irrigation of 46.3 acres; 52.4 acre-feet from the Sprague River, tributary to the Williamson River, for irrigation of 16.9 practicably irrigable acres; and 0.3 acre-feet from Copperfield Creek, tributary to the Sprague River for livestock watering of 20 head. The claimed period of use is year-round for domestic use and livestock watering, and March 1 through October 16 for irrigation. The claimed priority date is October 14, 1864.
3. Counsel signed Claim 683 attesting that the information contained in the claim is true.
4. Subsequently through probate proceedings the property appurtenant to Claim 683 was acquired by EDWARD LOGAN CASE, JR., BETTY A. CASE, CHARLES A. CASE, SR., EDWARD LALO CASE, IV, AND TORY LYNN SCOTT (*See* MOTION, BASED ON STIPULATION FOR CORRECTION OF JUDGMENT ENTERED DECEMBER 22, 2000, AND ORDER

¹ The claim was originally submitted in the names of Edward Lalo Case and Cassie Lalo Case, and was amended to include to Aaron Smith/Estate of Lavina Lolo Smith. *See* LETTER, Sept. 3, 1991 (Claim # 683, Pages 041- 043).

THEREON, Mar. 21, 2001, and QUITCLAIM DEED, COUNTY OF KLAMATH, VOL. M01, PAGE 21457, May 10, 2001).

5. On June 2, 2005, BETTY A. CASE AND TORI LYNN SCOTT conveyed their interest in the property appurtenant to Claim 683 to EDWARD LOGAN CASE, JR. CHARLES A. CASE SR., AND EDWARD LALO CASE, IV (Claimants) *See* QUITCLAIM DEED, COUNTY OF KLAMATH, VOL. M05, PAGE 41992 (June 2, 2005).
6. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating the vested portion of the claim for livestock watering and irrigation was approved, but with a longer irrigation season than claimed; and the inchoate portion of the claim was denied because the elements for a practicably irrigable acreage right were not established.
7. On May 3, 2000, the Claimants timely filed Contest 1757 to the Preliminary Evaluation of Claim 683.
8. On May 8, 2000, the following parties, hereinafter collectively referred to as the “Klamath Project Water Users,” filed Contest 3566: 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.², Malin Irrigation District, Midland 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 Pritchard³, Don Vincent⁴, Randy Walthall, Inter-County Title Co., Winema Hunting Lodge, Inc., Reames Golf and Country Club, Van Brimmer Ditch Co., Plevna District Improvement Co., and Collins Products, LLC.
9. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 85.
10. On April 7, 2005, the Klamath Project Water Users withdrew Contest 3566. *See* NOTICE OF WITHDRAWAL OF CONTEST NO. 3566 (Apr. 7, 2005).
11. On September 13, 2006, OWRD and the Claimants executed a STIPULATION TO RESOLVE CONTEST 1757 (Settlement Agreement) thereby resolving the remaining contest to Claim 683.
12. On September 21, 2006, the Adjudicator withdrew Case 85 from the Office of Administrative Hearings.

² Klamath Hills District Improvement Company voluntarily withdrew from Contest 3566 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

³ Berlva Pritchard voluntarily withdrew from Contest 3566 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

⁴ Don Vincent voluntarily withdrew from Contest 3566 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and the Claimants is adopted and incorporated as if set forth fully herein.
2. The elements of an Allottee claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING ALLOTTEE CLAIMS is incorporated as if set forth fully herein.
3. Because there is no evidence on the record to the contrary, the standard rate of 12 gallons of water per head of livestock per day, measured at the place of use, as outlined in the GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION will apply. Diversion of stock water to the place of use is limited to that which has been historically diverted for beneficial use and is reasonably necessary to transport the water.
4. Because there is no evidence on the record to the contrary, 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.
5. Based on the file and record herein, IT IS ORDERED that Claim 683 is approved as set forth in the following Water Right Claim Description.

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[Beginning of Water Right Claim Description]

CLAIM NO. 683

FOR A VESTED AND INCHOATE WATER RIGHT

CLAIM MAP REFERENCE:

CLAIM # 683, PAGE 55 and OWRD INVESTIGATION MAP – T 34 S, R 8 E

CLAIMANT: EDWARD LOGAN CASE, JR.

CHARLES A. CASE, SR.

EDWARD LALO CASE, IV

PO BOX 333

CHILOQUIN, OR 97624

VESTED (DEVELOPED) PORTION

SOURCE OF WATER:

KAMKAUN SPRING and the SPRAGUE RIVER, tributary to the WILLIAMSON RIVER

PURPOSE OR USE:

DOMESTIC FOR ONE HOUSEHOLD INCLUDING IRRIGATION OF 0.5 ACRES OF LAWN AND GARDEN (DOMESTIC EXPANDED) FROM KAMKAUN SPRING; AND

IRRIGATION OF 45.8 ACRES AND LIVESTOCK WATERING OF 20 HEAD FROM POD 1.

RATE OF USE:

1.1504 CUBIC FEET PER SECOND (CFS), BEING .01 CFS FROM KAMKAUN SPRING, AND 1.1404 FROM POD 1 AS FOLLOWS:

0.01 CFS FROM KAMKAUN SPRING FOR DOMESTIC EXPANDED, MEASURED AT THE POINT OF DIVERSION;

1.14 CFS FROM POD 1 FOR IRRIGATION, MEASURED AT THE POINT OF DIVERSION; AND

0.0004 CFS FROM POD 1 FOR LIVESTOCK WATERING MEASURED AT THE PLACE OF USE, NOT TO EXCEED 240 GALLONS PER DAY.

DIVERSION OF STOCK WATER TO THE PLACE OF USE IS LIMITED TO THAT WHICH HAS BEEN HISTORICALLY DIVERTED FOR BENEFICIAL USE AND IS REASONABLY NECESSARY TO TRANSPORT THE WATER.

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:

4.3 ACRE-FEET PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR

PERIOD OF ALLOWED USE:

Use	Period
Domestic Expanded	January 1 - December 31
Irrigation	March 1 - October 16
Livestock Watering	January 1 - December 31

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:

POD Name	Source	Twp	Rng	Mer	Sec	Q-Q	Remarks
Kamkaun Spring	Kamkaun Spring	34 S	8 E	WM	25	NE SE	For Domestic Expanded Only
POD 1	Sprague River	34 S	8 E	WM	25	NE SE	For Irrigation and Livestock Watering Only

THE PLACE OF USE IS LOCATED AS FOLLOWS:

DOMESTIC EXPANDED FROM KAMKAUN SPRING				
Twp	Rng	Mer	Sec	Q-Q
34 S	8 E	WM	25	NE SE

IRRIGATION AND LIVESTOCK WATERING FROM THE SPRAGUE RIVER						
Twp	Rng	Mer	Sec	Q-Q	Acres	Authorized POD
34 S	8 E	WM	25	SE NE	2.3	POD 1
34 S	8 E	WM	25	NE SE	13.5	
34 S	8 E	WM	25	NW SE	30.0	

INCHOATE PORTION

SOURCE OF WATER: The SPRAGUE RIVER, tributary to the WILLIAMSON RIVER

PURPOSE or USE: IRRIGATION OF 16.9 PRACTICABLY IRRIGABLE ACRES FROM POD A.

RATE OF USE:

0.3 CFS FROM POD A, 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:

3.1 ACRE-FEET PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.

PERIOD OF ALLOWED USE:

Use	Period
Practicably Irrigable Acreage	March 1 - October 16

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

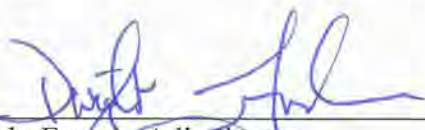
POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
POD A	34 S	8 E	WM	25	NE SE	1320 FEET SOUTH AND 462 FEET WEST FROM E¼ CORNER, SECTION 25

THE PLACE OF USE IS LOCATED AS FOLLOWS:

PRACTICABLY IRRIGABLE ACREAGE						
Twp	Rng	Mer	Sec	Q-Q	Acres	Authorized POD
34 S	8 E	WM	25	SE NE	10.7	POD A
34 S	8 E	WM	25	NE SE	5.5	
34 S	8 E	WM	25	NW SE	0.7	

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication