

**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
KENNETH KNIGHT /)	DETERMINATION
ESTATE OF LOUIS KNIGHT)	
)	
)	Water Right Claim 699

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, KENNETH KNIGHT / ESTATE OF LOUIS KNIGHT (Claimant) timely submitted a Statement and Proof of Claim (Claim 699) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as an Indian allottee 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 699 was submitted for a total of 179.7 acre-feet of water from the Sprague River, a tributary of the Williamson River, being 0.1 acre-foot for instream livestock watering of 8 head and 179.6 acre-feet for irrigation of 58.0 practicably irrigable acres (including inchoate domestic irrigation of 0.5 acres for lawn and garden). 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 699 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 vested portion of the claim for livestock watering was approved, and the inchoate portion of the claim was denied because the elements for a practicably irrigable acreage right were not established.

5. On May 3, 2000, the Claimant timely filed Contest 1767 to the Preliminary Evaluation of Claim 699.
6. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3577: 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, 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., Reames Golf and Country Club, Van Brimmer Ditch Co., Plevna District Improvement Co., and Collins Products, LLC.
7. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 96.
8. On April 7, 2005, the Klamath Project Water Users withdrew Contest 3577. *See* NOTICE OF WITHDRAWAL OF CONTEST NO. 3577 (Apr. 7, 2005).
9. On June 15, 2005, OWRD and the Claimant executed a STIPULATION TO RESOLVE CONTEST 1767 (Settlement Agreement) thereby resolving the remaining contest to Claim 699.
10. On June 20, 2005, the Adjudicator withdrew Case 96 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and the Claimant 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 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.

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3577 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

² Berlva Pritchard voluntarily withdrew from Contest 3577 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3577 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

4. Based on the file and record herein, IT IS ORDERED that Claim 699 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 699
FOR A VESTED AND INCHOATE WATER RIGHT

CLAIM MAP REFERENCE: CLAIM # 699, PAGE 41

CLAIMANT: KENNETH KNIGHT / ESTATE OF LOUIS KNIGHT
PO BOX 362
CHILOQUIN, OR 97624

VESTED (DEVELOPED) PORTION

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

PURPOSE OR USE: INSTREAM LIVESTOCK WATERING OF 8 HEAD.

RATE OF USE:

0.0001 CUBIC FOOT PER SECOND FOR INSTREAM LIVESTOCK WATERING MEASURED AT THE PLACE OF USE, NOT TO EXCEED 96 GALLONS PER DAY.

PERIOD OF ALLOWED USE:

Use	Period
Livestock Watering	January 1 - December 31

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q	GLot	Instream Livestock Watering
35 S	7 E	WM	3	SW SW	26	No specific point of diversion, livestock drink directly from the Williamson River
35 S	7 E	WM	4	NE SE	20	
35 S	7 E	WM	4	NE SE	27	
35 S	7 E	WM	4	SE SE	30	
35 S	7 E	WM	4	SE SE	37	
35 S	7 E	WM	10	NW NW	1	

THE PLACE OF USE IS LOCATED AS FOLLOWS:

INSTREAM LIVESTOCK WATERING					
Twp	Rng	Mer	Sec	Q-Q	GLot
35 S	7 E	WM	3	SW SW	26
35 S	7 E	WM	4	NE SE	20
35 S	7 E	WM	4	NE SE	27
35 S	7 E	WM	4	SE SE	30
35 S	7 E	WM	4	SE SE	37
35 S	7 E	WM	10	NW NW	1

INCHOATE PORTION

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

PURPOSE or USE:

INCHOATE DOMESTIC FOR ONE HOUSEHOLD INCLUDING IRRIGATION OF 0.5 ACRES OF LAWN AND GARDEN (INCHOATE DOMESTIC EXPANDED) FROM POD A; AND

IRRIGATION OF 57.5 PRACTICABLY IRRIGABLE ACRES FROM POD A

RATE OF USE:

1.05 CUBIC FEET PER SECOND FROM POD A, MEASURED AT THE POINT OF DIVERSION, AS FOLLOWS:

0.01 CFS FOR INCHOATE DOMESTIC EXPANDED; AND

1.04 CFS FOR IRRIGATION OF PRACTICABLY IRRIGABLE ACREAGE.

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
Inchoate Domestic Expanded	January 1 - December 31
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	GLot	Measured Distances
POD A	35 S	7 E	WM	4	SE SE	30	1320 FEET NORTH AND 198 FEET WEST FROM SE CORNER, SECTION 4

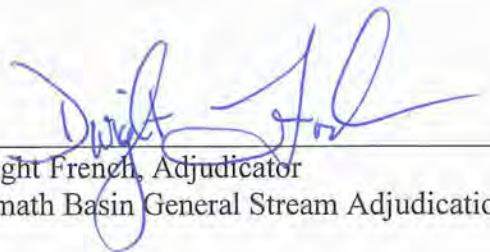
THE PLACE OF USE IS LOCATED AS FOLLOWS:

INCHOATE DOMESTIC EXPANDED						
Twp	Rng	Mer	Sec	Q-Q	GLot	Authorized POD
35 S	7 E	WM	4	NE SE	27	POD A

PRACTICABLY IRRIGABLE ACREAGE							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
35 S	7 E	WM	3	SW SW	26	2.9	POD A
35 S	7 E	WM	4	NE SE	20	18.5	
35 S	7 E	WM	4	NE SE	27		
35 S	7 E	WM	4	SE SE	30	32.3	
35 S	7 E	WM	4	SE SE	37		
35 S	7 E	WM	10	NW NW	1	3.8	

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication