

**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
JOHN AND BARBARA EVENSIZER	)	DETERMINATION
	)	
_____	)	Water Right Claim 204

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 April 24, 1990, JOHN AND BARBARA EVENSIZER (Claimants) timely submitted a Statement and Proof of Claim (Claim 204) 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 204 was submitted for a total 0.15 cubic feet per second (cfs) of water from the Klamath River, tributary to the Pacific Ocean, for irrigation of 3.6 acres with a season of use "May, June, July, Aug." The claimed priority date is 1901.
3. Item 4 of the Statement and Proof of Claim states the date of initiation of the water right as "1901," and states the basis of the right as "irrigation started in 1901." (Claim # 204, Page 001).
4. BARBARA EVENSIZER signed the Statement and Proof of Claim for Claim 204 attesting that the information contained in the claim is true.
5. In 1980, an OWRD field inspection report was prepared, describing the present use of water on the property substantially as stated in Claim 204. The report also includes the statement, "He [Dave Jones, landowner at the time of the report] said that this property had been part of the Lowlands Farm in the past. He said that it was part of the original Kerns family land. Mr. Jones said that his wife, Sally and Edna Lilly had researched the water use and found that it had started in 1901." (Claim 204, WIP Page 00012).
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 claim was approved but for a smaller quantity of water than claimed and a longer season of use than claimed.

7. On May 8, 2000, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District filed Contest 3190 to the Claim and/or Preliminary Evaluation of Claim 204.
8. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 39.
9. On January 2, 2002, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District voluntarily withdrew Contest 3190. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY LANGELL VALLEY, HORSEFLY, MEDFORD AND ROGUE RIVER VALLEY IRRIGATION DISTRICTS (Jan. 2, 2002).
10. On February 28, 2002, Contest 3190 was dismissed from the Office of Administrative Hearings. *See* FOURTH AMENDED ORDER DISMISSING CONTEST AND REFERRING TO ADJUDICATOR (Feb. 28, 2002).
11. Based on the sworn statements in Claim 204, along with the field inspection report, the following findings are made:
  - a. The Claimants demonstrated intent to apply water to beneficial use prior to February 4, 1909.
  - b. The Claimants created a diversion, where necessary, to divert water from its natural source.
  - c. The Claimants 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 204 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 204**

**CLAIM MAP REFERENCE:**

OWRD INVESTIGATION MAP – T 39 S, R 8 E, and T 40 S, R 8 E

**CLAIMANT:** JOHN AND BARBARA EVENSIZER

1877 MALLARD LANE  
KLAMATH FALLS OR 97601

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

**PURPOSE or USE:** IRRIGATION OF 3.6 ACRES.

**RATE OF USE:**

0.09 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:** MAY 1 - AUGUST 31

**DATE OF PRIORITY:** DECEMBER 31, 1901

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


Twp	Rng	Mer	Sec	Q-Q	GLot
40 S	8 E	WM	5	NE NW	8

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

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
39 S	8 E	WM	32	SW SW	11	0.2
40 S	8 E	WM	5	NE NW	8	1.7
40 S	8 E	WM	5	NW NW	9	1.7

[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