

**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
LORENTINO WEISER,)	DETERMINATION
CARMELITA HASSEVICK,)	
CARMELITA SAMPSON, AND)	
BONNIE WEISER)	
_____)	Water Right Claim 278

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, IRWIN WEISER timely submitted a Statement and Proof of Claim (Claim 278) 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 278 was submitted for a total of 110.9 acre-feet of water from Snake Creek, a tributary of the Sycan River, being 1.5 acre-feet for domestic use including irrigation of 0.5 acres for lawn and garden, 0.2 acre-feet for instream livestock watering of 15 horses, and 109.2 acre-feet for irrigation of 35.2 practicably irrigable acres. The duty claimed for current irrigation is 4.3 acre-feet per acre, and the duty claimed for practicably irrigable acres is 3.1 acre-feet per acre. 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 278 attesting that the information contained in the claim is true.
4. The claim was subsequently transferred to LORENTINO WEISER, CARMELITA HASSEVICK, CARMELITA SAMPSON, AND BONNIE WEISER (Claimants). *See RESERVED WATER RIGHTS CLAIM (REVISED REPORT), Nov. 22, 1999 (Claim # 278, Page 094).*
5. 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 instream 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.

6. On May 3, 2000, the Claimants timely filed Contest 1752 to the Preliminary Evaluation of Claim 278.
7. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3557: 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.
8. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 78.
9. On April 7, 2005, the Klamath Project Water Users withdrew Contest 3557. *See* NOTICE OF WITHDRAWAL OF CONTEST NO. 3557 (Apr. 7, 2005).
10. On August 1, 2005, OWRD and the Claimants executed a STIPULATION TO RESOLVE CONTEST 1752 (Settlement Agreement) thereby resolving the remaining contest to Claim 278.
11. On August 4, 2005, the Adjudicator withdrew Case 78 from the Office of Administrative Hearings.

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.

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3557 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

² Berlva Pritchard voluntarily withdrew from Contest 3557 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3557 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

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.
4. Based on the file and record herein, IT IS ORDERED that Claim 278 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 278
FOR A VESTED AND INCHOATE WATER RIGHT

CLAIM MAP REFERENCE: CLAIM # 278, PAGE 74

CLAIMANTS: LORENTINO WEISER
2724 EMERALD ST.
KLAMATH FALLS, OR 97601

CARMELITA HASSEVICK
CARMELITA SAMPSON
BONNIE WEISER
2131 LOGAN WAY
SPARKS, NV 89431

VESTED (DEVELOPED) PORTION

SOURCE OF WATER: SNAKE CREEK, tributary to the SYCAN RIVER

PURPOSE OR USE:

DOMESTIC FOR ONE HOUSEHOLD INCLUDING IRRIGATION OF 0.5 ACRES OF LAWN AND GARDEN (DOMESTIC EXPANDED) FROM POD 1; AND

INSTREAM LIVESTOCK WATERING OF 15 HORSES

RATE OF USE:

0.0102 CUBIC FOOT PER SECOND (CFS) AS FOLLOWS:

0.01 CFS FROM POD 1 FOR DOMESTIC EXPANDED, MEASURED AT THE POINT OF DIVERSION; AND

0.0002 CFS FOR INSTREAM LIVESTOCK WATERING MEASURED AT THE PLACE OF USE, NOT TO EXCEED 150 GALLONS PER DAY.

PERIOD OF ALLOWED USE:

Use	Period
Domestic Expanded	January 1 - December 31
Livestock Watering	January 1 - December 31

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Remarks
POD 1	35 S	12 E	WM	26	SE SW	Domestic Expanded
Snake Creek	35 S	12 E	WM	26	SW SW	Livestock Watering Only- No specific point of diversion, livestock drink directly from Snake Creek
	35 S	12 E	WM	26	SE SW	

THE PLACE OF USE IS LOCATED AS FOLLOWS:

DOMESTIC EXPANDED					
Twp	Rng	Mer	Sec	Q-Q	Authorized POD
35 S	12 E	WM	35	NE NW	POD 1

INSTREAM LIVESTOCK WATERING				
Twp	Rng	Mer	Sec	Q-Q
35 S	12 E	WM	26	SW SW
35 S	12 E	WM	26	SE SW

INCHOATE PORTION

SOURCE OF WATER: SNAKE CREEK, tributary to the SYCAN RIVER

PURPOSE or USE: IRRIGATION OF 34.8 PRACTICABLY IRRIGABLE ACRES FROM POD A.

RATE OF USE:

0.63 CUBIC FOOT PER SECOND 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:

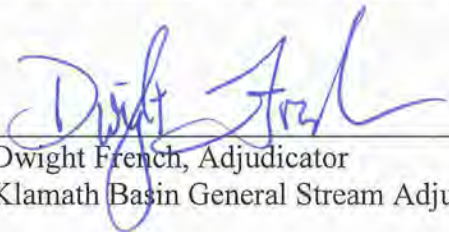
POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
POD A	35 S	12 E	WM	26	SE SW	924 FEET NORTH AND 1030 FEET WEST FROM S¼ CORNER, SECTION 26

THE PLACE OF USE IS LOCATED AS FOLLOWS:

PRACTICABLY IRRIGABLE ACREAGE						
Twp	Rng	Mer	Sec	Q-Q	Acres	Authorized POD
35 S	12 E	WM	26	SW SW	19.0	POD A
35 S	12 E	WM	26	SE SW	7.8	
35 S	12 E	WM	35	NE NW	8.0	

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication