

6. On Oct. 29, 1999, ELWOOD MILLER submitted documentation certifying his enrollment as a member of the Klamath Tribe (Claim # 275, page 84).
7. On May 3, 2000, the Claimant timely filed Contest 1749 to the Preliminary Evaluation of Claim 275.
8. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 42.
9. On July 1, 2003, OWRD and the Claimant executed a STIPULATION TO RESOLVE CONTEST 1749 (Settlement Agreement) thereby resolving the only contest to Claim 275.
10. On July 3, 2003, the Adjudicator withdrew Case 42 from the Office of Administrative Hearings.
11. OWRD finds that duty for irrigation is 4.3 acre-feet per acre and the duty for practicably irrigable acres is 3.1 acre-feet per acre, as claimed.
12. OWRD finds that the irrigation season, March 1 to October 31, as stipulated in the Settlement Agreement is an impermissible amendment because it is an enlargement of the original claim; the Claimant claimed an irrigation season March 1 through October 16.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and ELWOOD MILLER is adopted and incorporated as if set forth fully herein, with the exception of the irrigation season that was enlarged by the Settlement Agreement and constitutes an impermissible amendment (described in Finding 12, above); the irrigation season recognized herein is consistent the Claimant's original claim.
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. The GENERAL CONCLUSIONS OF LAW CONCERNING AMENDMENT OF CLAIMS is incorporated as if set forth fully herein.
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 275 is approved as set forth in the following Water Right Claim Description.

CLAIM NO. 275
FOR A VESTED AND INCHOATE WATER RIGHT

CLAIM MAP REFERENCE: CLAIM # 275, PAGE 77

CLAIMANT: ELWOOD MILLER
 PO BOX 274
 CHILOQUIN, OR 97624

VESTED (DEVELOPED) PORTION

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

PURPOSE OR USE:
 IRRIGATION OF 1.2 ACRES FROM POD 1 AND INSTREAM LIVESTOCK WATERING OF ONE HORSE.

RATE OF USE:
 0.03 CUBIC FOOT PER SECOND (CFS) FROM POD 1 FOR IRRIGATION, MEASURED AT THE POINT OF DIVERSION; AND
 10 GALLONS PER DAY FOR INSTREAM LIVESTOCK WATERING MEASURED AT THE PLACE OF USE.
 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
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	Twp	Rng	Mer	Sec	Q-Q	Remarks
POD 1	34 S	7 E	WM	27	SE SE	For Irrigation Only
Williamson River	34 S	7 E	WM	27	SE SE	For Livestock Watering Only - No specific point of diversion, livestock drink directly from the Williamson River

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Authorized POD
34 S	7 E	WM	27	SE SE	1.2	POD 1

INSTREAM LIVESTOCK WATERING				
Twp	Rng	Mer	Sec	Q-Q
34 S	7 E	WM	27	SE SE

INCHOATE PORTION

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

PURPOSE or USE: IRRIGATION OF 5.3 PRACTICABLY IRRIGABLE ACRES FROM POD A.

RATE OF USE:

0.09 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:

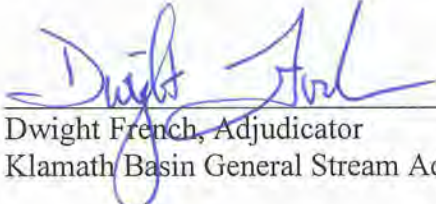
POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
POD A	34 S	7 E	WM	27	SE SE	924 FEET NORTH AND 1122 FEET WEST FROM SE¼ CORNER, SECTION 27

THE PLACE OF USE IS LOCATED AS FOLLOWS:

PRACTICABLY IRRIGABLE ACREAGE						
Twp	Rng	Mer	Sec	Q-Q	Acres	Authorized POD
34 S	7 E	WM	27	SE SE	5.6	POD A

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication