

**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
GLEND A. J. BUCHANAN	)	DETERMINATION
_____	)	Water Right Claim 134

The GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION is incorporated as if set forth fully herein.

**A. FINDINGS OF FACT AND DESCRIPTION OF MODIFICATIONS  
TO THE PROPOSED ORDER**

1. Claim 134 (Claimant: GLEND A. J. BUCHANAN, 13851 ALGOMA ROAD, KLAMATH FALLS, OR 97601) and its associated contests (3132, 3395, 3821, and 4162) were referred to the Office of Administrative Hearings for a contested case hearing. The Office of Administrative Hearings designated these matters as Case 113.
2. The Office of Administrative Hearings conducted contested case proceedings and ultimately issued a PROPOSED ORDER (Proposed Order) on July 30, 2003, denying Claim 134.
3. Exceptions were filed to the Proposed Order by the Klamath Tribes which adopted by reference the United States' Exceptions to the Proposed Order. The United States did not file exceptions to the Proposed Order for Claim 134, thus the Klamath Tribes' exceptions are moot.
4. The Proposed Order as it pertains to Claim 134 is adopted and incorporated in its entirety as if set forth fully herein, with the exception that the portion of the "Opinion" as it pertains to Claim 134 is adopted with modifications, as set forth in Section A.5, below.
5. **Opinion.** Within the section titled "Opinion" of the Proposed Order, the following sentence (shown in "underline" text) is added to the first paragraph:

One exception to these elements is that where the claim is based on natural overflow, the appropriation may be established by evidence that the proprietor of the land accepts the gift made by nature and garners the

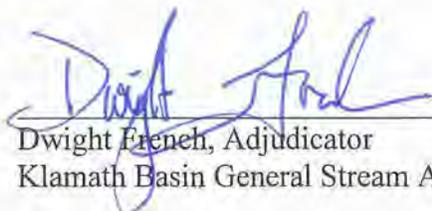
produce of the irrigation by harvesting or utilizing the crops grown on the land\*\*\*.” In re Silvies River, 115 Or 27, 66 (1925).

**Reason for Modification:** To clarify beneficial use of water by the method of natural overflow for a Pre-1909 water right.

## B. DETERMINATION

1. The Proposed Order as it pertains to Claim 134 is adopted and incorporated in its entirety as if set forth fully herein, with the exception that the portion of the “Opinion” as it pertains to Claim 134 is adopted with modifications, as set forth in Section A.5, below.
2. The elements of a pre-1909 claim are not established. The GENERAL CONCLUSIONS OF LAW CONCERNING PRE-1909 CLAIMS is incorporated as if set forth fully herein.
3. Based on the file and record herein, IT IS ORDERED that Claim 134 is denied and is of no force or effect.

Dated at Salem, Oregon on March 7, 2013

  
Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication