

**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
IRIS, GENE, HALEY, AND CODY	)	DETERMINATION
TEMPLE	)	
_____	)	
	)	Water Right Claim 139

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 October 19, 1990, JAMES MILLER timely submitted a Statement and Proof of Claim (Claim 139) 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 139 was submitted for a total 20 gallons per minute (gpm) of water, being 10 gpm for domestic use and 10 gpm for livestock watering of 920 head from an unnamed spring, tributary to the Klamath River, with a “year around” season of use. The claimed priority date is April 20, 1882.
3. JAMES C. MILLER signed the Statement and Proof of Claim for Claim 139 attesting that the information contained in the claim is true.
4. In 1981, an OWRD field inspection report was prepared, describing the present use of water on the property substantially as stated in Claim 139 (*See* Claim 139, Page 039).
5. Item 12 of the Statement and Proof of Claim incorporates “Attachment 1,” which is LAND GRANT CERTIFICATE 4532, COUNTY OF JACKSON, VOL. 9, PAGE 318 dated April 20, 1882.
6. Item 13 of the Statement and Proof of Claim incorporates “Attachment 2,” a statement signed by Henry Enders, Hugh Barron, James Ray Clary and John Murphy which states in pertinent part, “The SE ¼ of the SE ¼ Sec 32, T 38 S, R 3 E was homesteaded and

[the] document of such [was] recorded January 7, 1895, Vol. 23 page 268 of Jackson County, State of Oregon Deed of Records. The property had a cabin, barn and corrals. The water was use [sic] for stock; some irrigation and for human drinking water.”  
(Claim # 139, Page 006).

7. 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.
8. On May 8, 2000, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District filed Contest 3135 to the Claim and/or Preliminary Evaluation of Claim 139.
9. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 24.
10. On January 10, 2002, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District voluntarily withdrew Contest 3135. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY LANGELL VALLEY, HORSEFLY, MEDFORD AND ROGUE RIVER VALLEY IRRIGATION DISTRICTS (Jan. 10, 2002).
11. On February 13, 2002, Contest 3135 was dismissed from the Office of Administrative Hearings. *See* AMENDED ORDER DISMISSING CONTEST AND REFERRAL TO ADJUDICATOR (Feb. 13, 2002).
12. On January 26, 2010, Claim 139 was transferred to IRIS, GENE, HALEY, AND CODY TEMPLE (Claimants) from JAMES C. MILLER. *See* CHANGE OF OWNERSHIP FORM FOR PROPERTY CLAIMED IN THE KLAMATH BASIN RIVER BASIN ADJUDICATION (Jan. 26, 2010).
13. Based on the sworn statements in Claim 139, along with the field inspection report, the following findings are made:
  - a. The Claimant demonstrated intent to apply water to beneficial use prior to February 4, 1909.
  - b. The Claimant created a diversion, where necessary, to divert water from its natural source.
  - c. The Claimant 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, standard rate for domestic use, being 0.01 cfs per dwelling as outlined in the GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION will apply.
3. Because there is no evidence on the record to the contrary, the standard rate of 12 gallons of water per head of livestock per day, measured at the place of use, as outlined in the GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION will apply. Diversion of stock water to the place of use is limited to that which has been historically diverted for beneficial use and is reasonably necessary to transport the water.
4. The total rate of water for livestock use is based on 920 head, the number of head claimed by the Claimant.
5. Based on the file and record herein, IT IS ORDERED that Claim 139 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO.** 139

**CLAIM MAP REFERENCE:** OWRD INVESTIGATION MAP – T 38 S, R 3 E

**CLAIMANT:** IRIS, GENE, HALEY, AND CODY TEMPLE  
3138 NW HWY 20  
ALBANY, OR 97321

**SOURCE OF WATER:** AN UNNAMED SPRING, tributary to KEENE CREEK

**PURPOSE or USE:**

DOMESTIC FOR ONE HOUSEHOLD; LIVESTOCK WATERING FOR 920 HEAD.

**RATE OF USE:**

0.027 CUBIC FOOT PER SECOND (CFS) AS FOLLOWS:

0.01 CFS FOR DOMESTIC USE MEASURED AT THE POINT OF DIVERSION, AND

0.017 CFS FOR LIVESTOCK WATERING MEASURED AT THE PLACE OF USE, NOT TO EXCEED 11,040 GALLONS PER DAY.

DIVERSION OF STOCK WATER TO THE PLACE OF USE IS LIMITED TO THAT WHICH HAS BEEN HISTORICALLY DIVERTED FOR BENEFICIAL USE AND IS REASONABLY NECESSARY TO TRANSPORT THE WATER.

**PERIOD OF ALLOWED USE:** JANUARY 1 - DECEMBER 31

**DATE OF PRIORITY:** APRIL 20, 1882

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

Twp	Rng	Mer	Sec	Q-Q
38 S	3 E	WM	32	NE SE

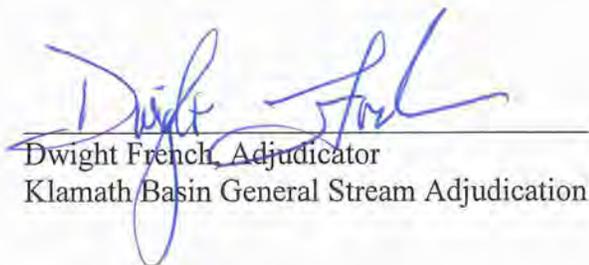
**THE PLACE OF USE IS LOCATED AS FOLLOWS:**

DOMESTIC				
Twp	Rng	Mer	Sec	Q-Q
38 S	3 E	WM	32	SE SE

LIVESTOCK WATERING				
Twp	Rng	Mer	Sec	Q-Q
38 S	3 E	WM	32	SE SE

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013

  
Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication