

**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
LEE BRADSHAW	)	DETERMINATION
	)	
_____	)	Water Right Claim 140

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 28, 1991, LINDSAY LUMBER CO. timely submitted a Statement and Proof of Claim (Claim 140) 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 138 was submitted for a total of 3800 gallons per day of water from Meyers Springs and Kingsbury Spring, both tributaries of Hoxie Creek, for livestock watering of approximately 250 head with a “year around” season of use. The claimed priority date is 1890.
3. Item 4 of the Statement and Proof of Claim states the date of initiation of the water right as “1890 . . . by use of the water for livestock.” (Claim # 140, Page 001).
4. ROLAND LINDSAY as agent of LINDSAY LUMBER CO. signed the Statement and Proof of Claim for Claim 140 attesting that the information contained in the claim is true.
5. The property appurtenant to Claim 140 was subsequently acquired by LEE BRADSHAW (Claimant) (Claim #140, Page 010).
6. In 1981, an OWRD field inspection report was prepared, describing the present use of water on the property substantially as stated in Claim 140 (Claim # 140, WIP, Page 11). The report also includes the statements: “The Linsays told me that their family has owned this land [Meyers Spring at NW ¼ NW ¼, Section 20, Township 38 South, Range 4 East, W.M.] since about 1910. It was a homestead that their family acquired.” The field inspection report also states: The Linsays told me that this land [Kinsbury Spring at NE

¼ SW ¼ , Section 20, Township 38 South, Range 4 East, W.M.] is an old homestead that their family has owned since about 1910.”

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.
8. No contests were filed to the Claim and/or Preliminary Evaluation of Claim 140.
9. Based on the location of Meyer Spring being in the NWNW, Section 20, Township 38 South, Range 4 East, and the statements made in the 1981 OWRD field inspection report, “there is no pipe or ditch from the spring,” and, “there is flow, at times, from the spring which causes a natural overflow and flooding of *a small area below the spring*” [emphasis added], OWRD finds that the place of use for livestock watering does not include the NENE, Section 19, Township 38 South, Range 4 East. W.M.
10. Based on the sworn statements in Claim 138, 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. The rate of water per head for livestock use is measured at the place of use. 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.
3. Based on the file and record herein, IT IS ORDERED that Claim 140 is approved as claimed and as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO.** 140

**CLAIM MAP REFERENCE:** OWRD INVESTIGATION MAP – T 38 S, R 4 E

**CLAIMANT:** LEE BRADSHAW  
10275 HWY 140  
EAGLE POINT, OR 97524

**SOURCE OF WATER:**

MEYERS SPRINGS and KINGSBURY SPRING, tributary to HOXIE CREEK

**PURPOSE or USE:** LIVESTOCK WATERING FOR APPROXIMATELY 250 HEAD

**RATE OF USE:**

0.006 CUBIC FOOT PER SECOND MEASURED AT THE PLACE OF USE, NOT TO EXCEED 3800 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:** DECEMBER 31, 1890

**THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:**

Source	Twp	Rng	Mer	Sec	Q-Q
Meyers Springs	38 S	4 E	WM	20	NW NW
Kingsbury Spring	38 S	4 E	WM	20	NE SW

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

Twp	Rng	Mer	Sec	Q-Q
38 S	4 E	WM	20	NW NW
38 S	4 E	WM	20	NE SW

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013

  
Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication