

**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
BENJAMIN STOTT)	DETERMINATION
)	
_____)	Water Right Claim 197

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 22, 1990, RICHINLI COMPANY, INC. BY RICHARD POPE, PRESIDENT, timely submitted a Statement and Proof of Claim (Claim 197) 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 197 was submitted for a total of 0.66 cubic feet per second (cfs) of water from Middle Fork Cottonwood Creek, a tributary of East Fork Cottonwood Creek, for irrigation of 26.3 acres, with a season of use "May through October." The claimed priority date is 1854.
3. RICHARD POPE signed the Statement and Proof of Claim for Claim 197 attesting that the information contained in the claim is true.
4. According to the Jackson County Assessor's records title to the property associated with Claim 197 was subsequently acquired by BENJAMIN STOTT (Claimant). (Claim # 197, WIP, Page 00014).
5. In 1980, an OWRD field inspection report was prepared describing the present use of water on the property substantially as stated in Claim 197 (Claim # 197, Page 006). The report also includes the statement, "Their purpose was to indicate that there was use of the meadows for pasture for the stock during the time of the stage lines." According to information included in the report the stage lines were operating from 1854 to 1887.

6. 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.
7. No contests were filed to the Claim and/or Preliminary Evaluation of Claim 197.
8. 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. Because there is no evidence on the record to the contrary, the standard duty for irrigation, being 3.5 acre-feet per acre, and 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.
3. Based on the file and record herein, IT IS ORDERED that Claim 197 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 197

CLAIM MAP REFERENCE: OWRD INVESTIGATION MAP – T 40 S, R 2 E

CLAIMANT: BENJAMIN STOTT
155 STRAWBERRY LANE
ASHLAND OR 97520

SOURCE OF WATER:
MIDDLE FORK COTTONWOOD CREEK, tributary to EAST FORK COTTONWOOD CREEK

PURPOSE or USE: IRRIGATION OF 26.3 ACRES.

RATE OF USE:

0.66 CUBIC FOOT PER SECOND 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:

3.5 ACRE-FEET PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.

PERIOD OF ALLOWED USE: MAY 1 - OCTOBER 31

DATE OF PRIORITY: DECEMBER 31, 1854

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q
40 S	2 E	WM	31	SW NW

THE PLACE OF USE IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
40 S	2 E	WM	31	SW NW		5.0
40 S	2 E	WM	31	SE NW	6	1.2
40 S	2 E	WM	31	NE SW	7	6.1
40 S	2 E	WM	31	NW SW		12.8
40 S	2 E	WM	31	SW SW		0.4
40 S	2 E	WM	31	SE SW	8	0.8

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication