

**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      |
| WILLIAM C. KNUDTSEN           | ) | DETERMINATION         |
|                               | ) |                       |
| _____                         | ) | Water Right Claim 268 |

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 268 and its associated contests (2780, 3549, 3813, and 4207) were referred to the Office of Administrative Hearings for a contested case hearing which was designated as Case 246.
2. The property appurtenant to Claim 268 was ultimately transferred to WILLIAM C. KNUDTSEN (Claimant) (PO BOX 307, BEATTY, OR 97621) from GREG SCHAEFER, who acquired the property subsequent to the original claimant, JENNIE SABIN. *See* WARRANTY DEED, COUNTY OF KLAMATH, VOL. M96, PAGE 28429 (Aug. 30, 1996), (Claim # 268, Page 130).
3. The Office of Administrative Hearings conducted contested case proceedings and ultimately issued an ORDER GRANTING MOTION FOR RULING ON LEGAL ISSUES; PROPOSED ORDER DENYING CLAIM (Proposed Order) for Claim 268 on March 16, 2005.
4. No exceptions were filed to the Proposed Order.
5. The Proposed Order is adopted and incorporated in its entirety as if set forth fully herein, with two exceptions: (1) the "Findings of Fact" is adopted with modifications, as set forth in Section A.6, below; and (2) the section titled "Opinion" is adopted with modifications, as set forth in Section A.7, below.

6. **Findings of Fact.** Proposed Order Findings of Fact #16 is added as follows (additions are shown in “underline” text):

16. Water was not applied to beneficial use during Indian ownership of the claimed lands.

**Reasons for Additional Findings of Facts:** The ALJ’s proposed findings of fact failed to fully set forth the evidence on the record; to add clarification using evidence on the record.

7. **Opinion.**

- a. Within the subsection titled “Walton Water Right Claim” OWRD removed the ALJ’s discussion regarding the elements of a *Walton* Claim. In its place, OWRD incorporates into the Opinion section the GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS.
- b. Within the subsection titled “Walton Water Right Claim” the last paragraph is modified as follows (additions are shown in “underline” text):

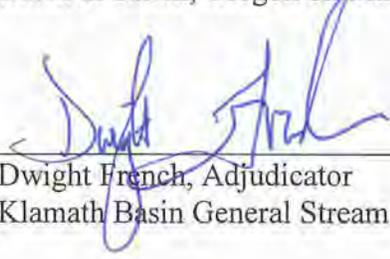
The Claimant is deemed to have admitted, among other things, that he cannot establish the elements of a *Walton* water right. More specifically, the Claimant is deemed to have admitted that he cannot establish the last Indian owner of the claimed place of use, the first non-Indian owner of the claimed place of use, or the date of transfer from the last Indian owner to the first non-Indian owner. This makes it impossible to determine whether water was applied to beneficial use with reasonable diligence following transfer from Indian ownership. (United States Discovery Requests to William C. Knudtsen, dated July 23, 2004). In addition, considering the record in a manner most favorable to the non-moving party, the record does not establish that water was beneficially used on the lands appurtenant to Claim 268 prior to the transfer from Indian ownership. Finally, the Claimant is deemed to have admitted that he has no intent to prosecute the water right claim, and thereby has effectively withdrawn the claim from further consideration. (Id.) Therefore, the Claimant in Claim 268 has failed to prove the basic elements of a *Walton* water right and, consequently, Claim 268 should be denied.

**Reasons for Modifications:** To correct and clarify the elements of a *Walton* water right and to provide clarity of the basis for the denial based on evidence on the record.

## B. DETERMINATION

1. The Proposed Order is adopted and incorporated in its entirety as if set forth fully herein, with two exceptions: (1) the "Findings of Fact" is adopted with modifications, as set forth in Section A.6, above; and (2) the section titled "Opinion" is adopted with modifications, as set forth in Section A.7, above.
2. The elements of a Walton claim are not established. The GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS is incorporated as if set forth fully herein.
3. Based on the file and record herein, IT IS ORDERED that Claim 268 is denied and is of no force or effect.

Dated at Salem, Oregon on March 7, 2013



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Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication