

**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 the)	CORRECTED PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF)	DETERMINATION
INTERIOR, U.S. NATIONAL PARK)	
SERVICE)	
_____)	Water Right Claim 596

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 April 30, 1997, the UNITED STATES DEPARTMENT OF INTERIOR, NATIONAL PARK SERVICE (USNPS) timely submitted a Statement and Proof of Claim (Claim 596) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication claiming a federal reserved water right under the Act of May 22, 1902, ch. 820, §1, 32 Stat. 202; the Act of Aug. 25, 1916, ch. 408, §2, 39 Stat. 535 (National Park Service Organic Act); the Act of May 14, 1932, ch 184, 47 Stat. 155; the U.S. DISTRICT COURT OF OREGON, FINAL JUDGMENT No. CIV-424 (C.C. Yawkey, *et al.*, Dec. 5, 1940); the U.S. DISTRICT COURT OF OREGON, No. CIV-785, JUDGMENT ON THE DECLARATION OF TAKING AND AMENDED DECLARATION OF TAKING (Gladstone Land and Timber Co., Jan. 30, 1942); Pub. L. No. 96-553, 94 Stat. 3255 (Dec. 19, 1980); and Pub.L. No. 97-250, 96 Stat. 709 (Sept. 8, 1982).
2. On October 1, 1999, the USNPS timely amended Claim 596 to show the claimed priority date for each subdivision of a reach.
3. 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.
4. On May 5, 2000, the Claimant, USNPS, timely filed Contest 3940 to the Preliminary Evaluation of Claim 596.
5. On May 8, 2000, WaterWatch of Oregon, Inc. timely filed Contest 3010 to the Claim and/or Preliminary Evaluation of Claim 596.

6. These matters were referred to the Office of Administrative Hearings for a contested case hearing. The Office of Administrative Hearings designated these matters and other like claims of the USNPS as Case 001.
7. On August 2, 2001, OWRD, the Claimants (USNPS) and the Contestant (WaterWatch) executed a STIPULATION (Settlement Agreement) which resolved the Contests 3010 and 3940 to Claim 596.
8. On August 2, 2001, the Claims 591-601 were withdrawn from the Office of Administrative Hearings pursuant to the Settlement Agreement.
9. As explained in the GENERAL CONCLUSIONS OF LAW CONCERNING FEDERAL RESERVED WATER RIGHTS the date of reservation is the priority date of a federal reserved water right. This claim has the following reservation dates: May, 22, 1902, based on the ACT OF MAY 22, 1902, CH. 820, §1, 32 STAT. 202; and December 19, 1980, based on PUB. L. No. 96-553, 94 STAT. 3255.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD, the Claimants (USNPS) and the Contestant (WaterWatch) is adopted and incorporated as if set forth fully herein.
2. The instream flows recognized pursuant to this claim are not additive to any other instream flows based on other water rights, permits or claims within the same stream reach or a portion of the same stream reach.
3. The combination of the ACT OF MAY 22, 1902, CH. 820, §1, 32 STAT. 202; the ACT OF AUG. 25, 1916, CH. 408, §2, 39 STAT. 535; PUB. L. No. 96-553, 94 STAT. 3255 (Dec. 19, 1980); and PUB. L. No. 97-250, 96 STAT. 709 (Sept. 8, 1982) are valid bases for this federal reserved water right claim, including the claimed purposes of use. The GENERAL CONCLUSIONS OF LAW CONCERNING FEDERAL RESERVED WATER RIGHTS are incorporated as if set forth fully herein.
4. Based on the file and record herein, IT IS ORDERED that Claim 596 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 596

CLAIM MAP REFERENCE: USNPS MYLAR MAPS FILED 10-1-1999

CLAIMANT: UNITED STATES DEPARTMENT OF INTERIOR
U.S. NATIONAL PARK SERVICE
1201 OAKRIDGE DR, SUITE 250
FORT COLLINS, CO 80525

SOURCE OF WATER:

SAND CREEK AND ITS TRIBUTARIES WITHIN THE BOUNDARY OF CRATER LAKE NATIONAL PARK, tributary to the WILLIAMSON RIVER

PURPOSE OR USE:

PRESERVATION AND PROTECTION OF ALL NATURAL AND HISTORIC OBJECTS, TIMBER AND WILDLIFE, AND CONSERVATION OF SCENERY

RATE:

ALL NATURAL FLOW LESS THOSE AMOUNTS NEEDED FOR CRATER LAKE NATIONAL PARK OUT-OF-STREAM USES

PERIOD OF ALLOWED USE: JANUARY 1 – DECEMBER 31

DATE OF PRIORITY AND THE PLACE OF USE IS LOCATED AS FOLLOWS:

MAINSTEM SAND CREEK - REACH A							
Priority Date		Twp	Rng	Mer	Sec	Q-Q	Approx River Mile*
May 22, 1902	Upper Reach Boundary	30 S	6 E	WM	32		PB 43 9.0
	Lower Reach Boundary	31S	7.5 E	WM	28	SESE	1.9
MAINSTEM SAND CREEK - REACH B							
December 19, 1980	Upper Reach Boundary	31S	7.5 E	WM	28	SESE	1.9
	Lower Reach Boundary	31S	7.5 E	WM	35	SESE	0.0

*River miles are measured upstream from the Crater Lake National Park boundary.

CAVERN CREEK - REACH A							
Priority Date		Twp	Rng	Mer	Sec	Q-Q	Approx River Mile*
May 22, 1902	Upper Reach Boundary	31S	7.5 E	WM	8	NWNE	5.2
	Lower Reach Boundary	31S	7.5 E	WM	16	NESE	3.1
CAVERN CREEK - REACH B							
December 19, 1980	Upper Reach Boundary	31S	7.5 E	WM	16	NESE	3.1
	Lower Reach Boundary	31S	7.5 E	WM	34	NWNE	0.0

*River miles are measured upstream from the confluence with Sand Creek

UNNAMED TRIBUTARY "SAND-1, TRIBUTARY TO CAVERN CREEK							
Priority Date		Twp	Rng	Mer	Sec	Q-Q	Approx River Mile*
December 19, 1980	Upper Reach Boundary	31S	7.5 E	WM	22	NWNE	At the point where "Sand-1" enters the Park 0.8
	Lower Reach Boundary	31S	7.5 E	WM	22	SWSW	0.0

*River miles are measured upstream from the confluence of the tributary.

WHEELER CREEK - REACH A							
Priority Date		Twp	Rng	Mer	Sec	Q-Q	Approx River Mile*
May 22, 1902	Upper Reach Boundary	31 S	6 E	WM	11		6.4
	Lower Reach Boundary	31 S	7.5 E	WM	28	SESE	0.2
WHEELER CREEK - REACH B							
December 19, 1980	Upper Reach Boundary	31 S	7.5 E	WM	28	SESE	0.2
	Lower Reach Boundary	31 S	7.5 E	WM	28	SESE	0.0

*River miles are measured upstream from the confluence of Wheeler Creek with Sand Creek

LOST CREEK, TRIBUTARY TO WHEELER CREEK							
Priority Date		Twp	Rng	Mer	Sec	Q-Q	Approx River Mile*
May 22, 1902	Upper Reach Boundary	31 S	7.5 E	WM	18	NWSE	0.9
	Lower Reach Boundary	31 S	7.5 E	WM	20	NWSW	0.0

*River miles are measured upstream from the confluence of Lost Creek to Wheeler Creek

UNNAMED TRIBUTARY "SAND-2"							
Priority Date		Twp	Rng	Mer	Sec	Q-Q	Approx River Mile*
May 22, 1902	Upper Reach Boundary	31 S	7.5 E	WM	5	SWSW	2.5
	Lower Reach Boundary	31 S	7.5 E	WM	20	NWNW	0.0

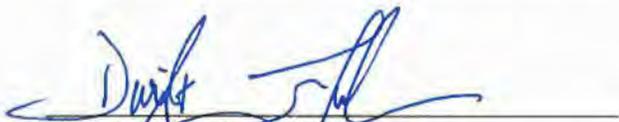
*River miles are measured upstream from the confluence of Sand-2 with Sand Creek

UNNAMED TRIBUTARY "SAND-3"							
Priority Date		Twp	Rng	Mer	Sec	Q-Q	Approx River Mile*
May 22, 1902	Upper Reach Boundary	30 S	6 E	WM	31		PB 42 0.8
	Lower Reach Boundary	31 S	7.5 E	WM	6	NWSW	0.0

*River miles are measured upstream from the confluence of Sand-3 with Sand Creek

[End of Water Right Claim Description]

Dated at Salem, Oregon on February 28, 2014


 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication