

**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
SCOTT AND MARGIE RUNELS	)	DETERMINATION
	)	
_____	)	Water Right Claim 674

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 December 3, 1990, SCOTT AND MARGIE RUNELS (Claimants) (PO Box 39, FORT ROCK, OR 97735) timely submitted a Statement and Proof of Claim (Claim 19) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as non-Indian successors to allotted Klamath Reservation lands, claiming an Indian reserved water right (Walton claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. OWRD determined the property described in Claim 19 for livestock use located in Section 32, Township 30 South , Range 8 East, W.M. and Section 5, Township 31 South, Range 8 East, W.M. was not contiguous with the irrigated property in the S1/2 of Section 7 and Sections 18 and 19, Township 31 South, Range 8 East, W.M. By letter dated September 15, 1998, OWRD requested a separate Statement and Proof of Claim for the livestock portion of Claim 19 pursuant to OAR 690-028-0025(2) which states, in part, “[s]eparate statements shall be registered for non-contiguous properties.”
3. On October 19, 1998, in response to OWRD’s request, the Claimants divided Claim 19 by submitting an additional Statement and Proof of Claim that covered the livestock portion of the original Claim 19. OWRD labeled this as Claim 674.
4. Claim 674 was submitted for livestock watering of 250 pair for a total 5000 gallons per day from Cow Creek, a tributary of the Williamson River, with a “year around” season of use. The claimed priority date is 1864.

5. In addition to the original place of use listed in Claim 19, the SE¼ of Section 31, Township 30 South, Range 8 East, W.M. was included in Claim 674; OWRD finds that this constitutes a timely claim amendment.
6. SCOTT RUNELS AND MARGIE RUNELS signed the Statement and Proof of Claim for Claim 674 attesting that the information contained in the claim is true.
7. In 1985, an OWRD field inspection report was prepared for the NW¼ of Section 5, and a second OWRD field inspection report was prepared for the NE¼ of Section 5 and the SW¼ of Section 32. Together, these two field inspection reports describe the present use of water on the property substantially as stated in Claim 674.
8. 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<sup>1</sup>.
9. No contests were filed to the Claim and/or Preliminary Evaluation of Claim 674.
10. Based on the sworn statements in Claim 674, along with the field inspection report, the following findings are made:
  - a. The claimed water use is on former Klamath Indian Reservation Land.
  - b. The record implies the claimed water use is on land that was transferred from Indian ownership to non-Indian ownership. However, the Claimant has not demonstrated when the land appurtenant to the claimed water use transferred from Indian ownership to non-Indian ownership. In Case No. 88-241, *John B. Mosby vs Scott Runels*, an affidavit of Scott Runels dated March 31, 1992, which includes a chain of title report from Klamath County Title Company (Exhibit "A"), does not establish that lands appurtenant to Claim 674 were transferred from Indian ownership.
  - c. Because the Claimant has not demonstrated when the land appurtenant to Claim 674 was transferred from Indian ownership, OWRD cannot determine if beneficial use of water was established for the claimed purpose prior to transfer from Indian ownership.
  - d. Because the Claimant has not demonstrated when the land appurtenant to Claim 674 was transferred from Indian ownership, OWRD cannot determine if beneficial use of water was made for the claimed purpose with reasonable diligence after transfer from Indian ownership.

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<sup>1</sup> The Preliminary Evaluation contained a scrivener's error whereby Lot 7, SWSW and Lot 8, SESW, both in Section 32, Township 30 South, Range 8 East, W.M. were described as being in Section 31; the correct section is Section 32.

## B. DETERMINATION

1. 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.
2. Based on the file and record herein, IT IS ORDERED that Claim 674 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