

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
)	
	)	Water Right Claim 709

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 488) 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-475, 477-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 488, in part, as follows: “According to your claim map, there are two separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, in response to OWRD’s request, the USFS divided Claim 488 by submitting an additional Statement and Proof of Claim that covered a portion of the original Claim 488. OWRD labeled this as Claim 709.
4. The August 3, 1999 additional Statement and Proof of Claim for Claim 709 amended one element of the original Claim 488 that pertains to the Claim 709 reach. It changed the lower threshold for natural flow from 31 cfs to 19 cfs. This amendment was a result of the exchange of correspondence between OWRD and the Claimant concerning the Claimant’s need to incorporate information concerning instream flow requirements. OWRD intended to provide this information to the Claimant, but it was not available at the time of the claim filing deadline.

5. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating Claim 709 was approved.
6. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 260 to the Claim and/or Preliminary Evaluation of Claim 709.
7. On May 1, 2000, Leonard Baio timely filed Contest 495 to the Claim and/or Preliminary Evaluation of Claim 709.
8. On May 2, 2000, Gary Strong timely filed Contest 730 to the Claim and/or Preliminary Evaluation of Claim 709.
9. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 965 to the Claim and/or Preliminary Evaluation of Claim 709.
10. On May 2, 2000, Robert Bartell timely filed Contest 1200 to the Claim and/or Preliminary Evaluation of Claim 709.
11. On May 2, 2000, Margaret Jacobs timely filed Contest 1434 to the Claim and/or Preliminary Evaluation of Claim 709.
12. On May 2, 2000, Carolyn Obenchain timely filed Contest 1669 to the Claim and/or Preliminary Evaluation of Claim 709.
13. On May 4, 2000, Rodney Z. James timely filed Contest 2010 to the Claim and/or Preliminary Evaluation of Claim 709.
14. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2470 to the Claim and/or Preliminary Evaluation of Claim 709.
15. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2607 to the Claim and/or Preliminary Evaluation of Claim 709.
16. On May 8, 2000, John Briggs timely filed Contest 4457 to the Claim and/or Preliminary Evaluation of Claim 709.
17. On May 8, 2000, Peter M. Bourdet timely filed Contest 4692 to the Claim and/or Preliminary Evaluation of Claim 709.
18. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4925 to the Claim and/or Preliminary Evaluation of Claim 709.

19. On May 8, 2000, Thomas William Mallams timely filed Contest 5168 to the Claim and/or Preliminary Evaluation of Claim 709.
20. On May 8, 2000, Thomas H. Bentley timely filed Contest 5401 to the Claim and/or Preliminary Evaluation of Claim 709.
21. On May 8, 2000, Thomas E. Stephens timely filed Contest 5634 to the Claim and/or Preliminary Evaluation of Claim 709.
22. On May 8, 2000, WaterWatch of Oregon, Inc. timely filed Contest 3076 to the Claim and/or Preliminary Evaluation of Claim 709.
23. 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 USFS as Case 010.
24. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See* NOTICE OF WITHDRAWAL OF BAIO *ET AL*'S CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).
25. On February 25, 2003, WaterWatch of Oregon, Inc. voluntarily withdrew Contest 3076, the remaining contest to Claim 712. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS (Feb. 25, 2003).
26. On April 2, 2003, the Adjudicator withdrew Case 010 from the Office of Administrative Hearings.
27. The place of use underlying Claim 709 is within or borders a federal reservation of land that is owned by the Claimant.
28. As explained in the GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897, the date of reservation is the priority date of a federal reserved water right. This claim has a reservation date of January 25, 1907, and is based on a Presidential Proclamation of January 25, 1907.
29. The rate and the season of use claimed are no more than necessary to fulfill the primary purposes of the reservation.

B. DETERMINATION

1. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim, including the claimed purpose of use. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is 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 GENERAL CONCLUSIONS OF LAW CONCERNING AMENDMENT OF CLAIMS is incorporated as if set forth fully herein.
4. OWRD finds that the claim amendment described in Finding 4, above, does not constitute a new claim under ORS 539.210. This determination is based on the factors described in Finding 4, above. Because the amendment occurred prior to the beginning of open inspection, it is permissible and is incorporated into the Claimant's Claim 709 for consideration in this Findings of Fact and Partial Order of Determination.
5. Based on the file and record herein, IT IS ORDERED that Claim 709 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 709

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 176

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
1220 SW 3RD ROOM 1734
PORTLAND, OR 97204

SOURCE OF WATER: MILLER CREEK, tributary to the WILLIAMSON RIVER

PURPOSE or USE: INSTREAM USE TO PROVIDE FOR FAVORABLE CONDITONS OF FLOW

RATE: NATURAL FLOW FROM A TRIGGER FLOW OF 19 CUBIC FEET PER SECOND (CFS) TO A CAP FLOW OF 527 CFS; THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

PERIOD OF ALLOWED USE: JANUARY 1 TO DECEMBER 31

DATE OF PRIORITY: JANUARY 25, 1907

THE PLACE OF USE IS LOCATED AS FOLLOWS:

MILLER CREEK FROM SWNE, SECTION 32, TOWNSHIP 27 SOUTH, RANGE 7 EAST,
W.M., TO SENE, SECTION 32, TOWNSHIP 27 SOUTH, RANGE 7 EAST, W.M.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 710

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 487) 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-478, 479-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 487, in part, as follows: “According to your claim map, there are two separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, in response to OWRD’s request, the USFS divided Claim 487 by submitting an additional Statement and Proof of Claim that covered a portion of the original Claim 487. OWRD labeled this as Claim 710.
4. The August 3, 1999 Statement and Proof of Claim for Claim 710 amended two elements of the original Claim 487 that pertain to the Claim 710 stream reach. First, it changed the period of use from June 1 through November 15 to May 1 through November 15. Second, it increased the natural flow limits from 40.0 cfs to 41.0 cfs for June 1 to June 30, 9.7 cfs to 22.0 cfs for July 1 to July 31, 7.8 cfs to 12.0 cfs for Aug. 1 to Aug. 31, and 5.7 cfs to 8.8 cfs for Sept. 1 to Sept. 30. This amendment was a result of the exchange of correspondence between OWRD and the Claimant concerning the Claimant’s need to incorporate information concerning instream flow requirements. OWRD intended to provide this information to the Claimant, but it was not available at the time of the claim filing deadline.

5. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating that Claim 710 was approved.
6. On May 5, 2000, the Claimant, USFS, timely filed Contest 2242 to the Preliminary Evaluation of Claim 710.
7. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 261 to the Claim and/or Preliminary Evaluation of Claim 710.
8. On May 1, 2000, Leonard Baio timely filed Contest 496 to the Claim and/or Preliminary Evaluation of Claim 710.
9. On May 2, 2000, Gary Strong timely filed Contest 731 to the Claim and/or Preliminary Evaluation of Claim 710.
10. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 966 to the Claim and/or Preliminary Evaluation of Claim 710.
11. On May 2, 2000, Robert Bartell timely filed Contest 1201 to the Claim and/or Preliminary Evaluation of Claim 710.
12. On May 2, 2000, Margaret Jacobs timely filed Contest 1435 to the Claim and/or Preliminary Evaluation of Claim 710.
13. On May 2, 2000, Carolyn Obenchain timely filed Contest 1670 to the Claim and/or Preliminary Evaluation of Claim 710.
14. On May 4, 2000, Rodney Z. James timely filed Contest 2019 to the Claim and/or Preliminary Evaluation of Claim 710.
15. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2471 to the Claim and/or Preliminary Evaluation of Claim 710.
16. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2708 to the Claim and/or Preliminary Evaluation of Claim 710.
17. On May 8, 2000, John Briggs timely filed Contest 4458 to the Claim and/or Preliminary Evaluation of Claim 710.
18. On May 8, 2000, Peter M. Bourdet timely filed Contest 4693 to the Claim and/or Preliminary Evaluation of Claim 710.
19. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4926 to the Claim and/or Preliminary Evaluation of Claim 710.

20. On May 8, 2000, Thomas William Mallams timely filed Contest 5169 to the Claim and/or Preliminary Evaluation of Claim 710.
21. On May 8, 2000, Thomas H. Bentley timely filed Contest 5402 to the Claim and/or Preliminary Evaluation of Claim 710.
22. On May 8, 2000, Thomas E. Stephens timely filed Contest 5635 to the Claim and/or Preliminary Evaluation of Claim 710.
23. On May 8, 2000, Waterwatch of Oregon, Inc. timely filed Contest 3077 to the Claim and/or Preliminary Evaluation of Claim 710.
24. 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 USFS as Case 009.
25. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See NOTICE OF WITHDRAWAL OF BAIO ET AL'S CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).*
26. On February 25, 2003, Waterwatch of Oregon, Inc. voluntarily withdrew Contest 3077. *See WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS (Feb. 25, 2003).*
27. On March 18, 2003, the OWRD and USFS executed STIPULATION TO RESOLVE CONTESTS 2162, 2163, 2166, 2168, 2169, 2171, 2172, 2174, 2177, 2184, 2186, 2188, 2190, 2192, 2194, 2196, 2198, 2200, 2201, 2203, 2205, 2207, 2209, 2211, 2213, 2214, 2216, 2218, 2220, 2222, 2224, 2225, 2227, 2229, 2231, 2233, 2234, 2236, 2238, 2240, 2242, 2244, 2246, 2248, 2250, 2252, AND 2253 (Settlement Agreement) which resolved the remaining contest (Contest 2242) to Claim 710.
28. On April 2, 2003, the Adjudicator withdrew Case 009 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and USFS 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 GENERAL CONCLUSIONS OF LAW CONCERNING AMENDMENT OF CLAIMS is incorporated as if set forth fully herein.
4. OWRD finds that the claim amendment described in Finding 4, above, does not constitute a new claim under ORS 539.210. This determination is based on the factors described in Finding 4, above. Because the amendment occurred prior to the beginning of open inspection, it is permissible and is incorporated into the Claimant's Claim 710 for consideration in this Findings of Fact and Partial Order of Determination.
5. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is incorporated as if set forth fully herein.
6. Based on the file and record herein, IT IS ORDERED that Claim 710 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 710

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 176

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
1220 SW 3RD ROOM 1734
PORTLAND, OR 97204

SOURCE OF WATER: MILLER CREEK, tributary to the WILLIAMSON RIVER

PURPOSE OR USE:

INSTREAM USE TO MAINTAIN A NATURAL FIRE BREAK AND SOURCE OF WATER FOR FOREST FIRE CONTROL

PERIODS OF ALLOWED USE AND RATES:

THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

Period of Use:	Natural Flow is Limited to Not More than the Following Rates in Cubic Feet per Second (CFS):
May 1 to May 31	39.0
June 1 to June 30	41.0
July 1 to July 31	22.0
Aug 1 to Aug 31	12.0
Sept 1 to Sept 30	8.8
Oct 1 to Oct 31	8.4

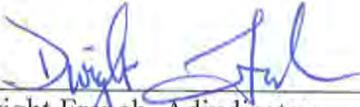
DATE OF PRIORITY: JANUARY 25, 1907

THE PLACE OF USE IS LOCATED AS FOLLOWS:

MILLER CREEK FROM SWNE, SECTION 32, TOWNSHIP 27 SOUTH, RANGE 7 EAST, W.M., TO SENE, SECTION 32, TOWNSHIP 27 SOUTH, RANGE 7 EAST, W.M.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 711

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 711) 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 Multiple-Use Sustained-Yield Act of 1960 (MUSYA), 16 U.S.C. §§ 528-531.
2. 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 denied.
3. Several timely contests, including one by the USFS, were filed to Claim 711 and/or Preliminary Evaluation of Claim 711.
4. 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 USFS as Case 004.
5. On December 30, 2002 the Claimant, USFS, voluntarily withdrew Claim 711 which thereby resolved all contests. *See* UNITED STATES' NOTICE OF WITHDRAWAL OF CLAIMS (Dec. 30, 2002).
6. On December 31, 2002, the Adjudicator withdrew Case 004 from the Office of Administrative Hearings.

B. DETERMINATION

Based upon the file and record herein, including the withdrawal of Claim 711 by the USFS, IT IS ORDERED that Claim 711 is denied and is of no force or effect.

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____	)	Water Right Claim 712

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 579) 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-475, 477-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 579, in part, as follows: “According to your claim map, there are three separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, in response to OWRD’s request, the USFS divided Claim 579 by submitting a two additional Statements and Proofs of Claim that covered certain portions of the original Claim 579. OWRD labeled these as Claim 712 and Claim 715. This Partial Order of Determination pertains only to Claim 712.
4. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating Claim 712 was approved.
5. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 263 to the Claim and/or Preliminary Evaluation of Claim 712.
6. On May 1, 2000, Leonard Baio timely filed Contest 498 to the Claim and/or Preliminary Evaluation of Claim 712.

7. On May 2, 2000, Gary Strong timely filed Contest 733 to the Claim and/or Preliminary Evaluation of Claim 712.
8. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 968 to the Claim and/or Preliminary Evaluation of Claim 712.
9. On May 2, 2000, Robert Bartell timely filed Contest 1203 to the Claim and/or Preliminary Evaluation of Claim 712.
10. On May 2, 2000, Margaret Jacobs timely filed Contest 1437 to the Claim and/or Preliminary Evaluation of Claim 712.
11. On May 2, 2000, Carolyn Obenchain timely filed Contest 1672 to the Claim and/or Preliminary Evaluation of Claim 712.
12. On May 4, 2000, Rodney Z. James timely filed Contest 2021 to the Claim and/or Preliminary Evaluation of Claim 712.
13. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2473 to the Claim and/or Preliminary Evaluation of Claim 712.
14. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2710 to the Claim and/or Preliminary Evaluation of Claim 712.
15. On May 8, 2000, John Briggs timely filed Contest 4460 to the Claim and/or Preliminary Evaluation of Claim 712.
16. On May 8, 2000, Peter M. Bourdet timely filed Contest 4695 to the Claim and/or Preliminary Evaluation of Claim 712.
17. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4928 to the Claim and/or Preliminary Evaluation of Claim 712.
18. On May 8, 2000, Thomas William Mallams timely filed Contest 5171 to the Claim and/or Preliminary Evaluation of Claim 712.
19. On May 8, 2000, Thomas H. Bentley timely filed Contest 5404 to the Claim and/or Preliminary Evaluation of Claim 712.
20. On May 8, 2000, Thomas E. Stephens timely filed Contest 5637 to the Claim and/or Preliminary Evaluation of Claim 712.
21. On May 8, 2000, WaterWatch of Oregon, Inc. timely filed Contest 3079 to the Claim and/or Preliminary Evaluation of Claim 712.

22. 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 USFS as Case 010.
23. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See* NOTICE OF WITHDRAWAL OF BAIO *ET AL*'S CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).
24. On February 25, 2003, WaterWatch of Oregon, Inc. voluntarily withdrew Contest 3079, the remaining contest to Claim 712. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS (Feb. 25, 2003).
25. On April 2, 2003, the Adjudicator withdrew Case 010 from the Office of Administrative Hearings.
26. The place of use underlying Claim 712 is within or borders a federal reservation of land that is owned by the Claimant.
- 27.
28. As explained in the GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897, the date of reservation is the priority date of a federal reserved water right. This claim has a reservation date of November 15, 1974, and is based on a Declaration of Taking, November 15, 1974, Civil No. 74-894, U.S. District Court of Oregon.
29. The rate and the season of use claimed are no more than necessary to fulfill the primary purposes of the reservation.
30. The USFS's Claim 712 states that the beginning of the instream reach of the Williamson River is located in the NENE, SECTION 24, TOWNSHIP 31 SOUTH, RANGE 10 EAST, W.M. The claim map (Mylar filed as Claim # 377, Page 192) shows that although the reach of this claim begins at the west boundary of the NENE, it does not go through the NENE. The west boundary of the NENE, is the east boundary of the NWNE, and the reach does go through the NWNE. Therefore, OWRD finds that the beginning of the instream reach for this claim is best described as the WILLIAMSON RIVER FROM NWNE, SECTION 24, TOWNSHIP 31 SOUTH, RANGE 10 EAST, W.M.

B. DETERMINATION

1. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim, including the claimed purpose of use. The GENERAL CONCLUSIONS OF

LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is incorporated as if set forth fully herein.

2. As explained in Finding 29, above, the beginning of the instream reach for this claim is described as the WILLIAMSON RIVER FROM NWNE, SECTION 24, TOWNSHIP 31 SOUTH, RANGE 10 EAST, W.M.
3. 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.
4. Based on the file and record herein, IT IS ORDERED that Claim 712 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 712

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 192 and PAGE 193

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
1220 SW 3RD ROOM 1734
PORTLAND, OR 97204

SOURCE OF WATER: WILLIAMSON RIVER, tributary to KLAMATH LAKE

PURPOSE or USE: INSTREAM USE TO PROVIDE FOR FAVORABLE CONDITONS OF FLOW

RATE: NATURAL FLOW FROM A TRIGGER FLOW OF 99 CUBIC FEET PER SECOND (CFS) TO A CAP FLOW OF 1195 CFS; THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

PERIOD OF ALLOWED USE: JANUARY 1 TO DECEMBER 31

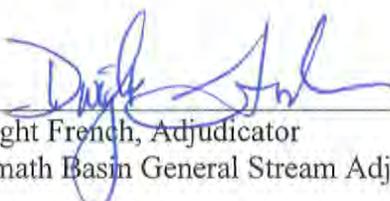
DATE OF PRIORITY: NOVEMBER 15, 1974

THE PLACE OF USE IS LOCATED AS FOLLOWS:

WILLIAMSON RIVER FROM NWNE, SECTION 24, TOWNSHIP 31 SOUTH, RANGE 10 EAST, W.M., TO NWSW, SECTION 7, TOWNSHIP 31 SOUTH, RANGE 11 EAST, W.M

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 713

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 580) 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-478, 479-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 580, in part, as follows: “According to your claim map, there are three separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, in response to OWRD’s request, the USFS divided Claim 580 by submitting a two additional Statements and Proofs of Claim that covered certain portions of the original Claim 580. OWRD labeled these as Claim 713 and Claim 716.
4. The August 3, 1999 Statement and Proof of Claim for Claim 713 amended two elements of the original Claim 580 that pertain to the Claim 713 stream reach. First, it changed the period of use from June 1 through November 15 to May 1 through November 15. Second, it increased the natural flow limits from 63.0 cfs to 93.0 cfs for June 1 to June 30, 47.0 cfs to 64.0 cfs for July 1 to July 31, 45.0 cfs to 57.0 cfs for Aug. 1 to Aug. 31, 44.0 cfs to 60.0 cfs for Sept. 1 to Sept. 30, 49.0 cfs to 64.0 cfs for Oct. 1 to Oct. 30, and 58.0 cfs to 64.0 cfs for Nov. 1 to Nov. 15. This amendment was a result of the exchange of correspondence between OWRD and the Claimant concerning the Claimant’s need to incorporate information concerning instream flow requirements. OWRD intended to

provide this information to the Claimant, but it was not available at the time of the claim filing deadline.

5. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating Claim 713 was approved.
6. On May 5, 2000, the Claimant, USFS, timely filed Contest 2244 to the Preliminary Evaluation of Claim 713.
7. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 264 to the Claim and/or Preliminary Evaluation of Claim 713.
8. On May 1, 2000, Leonard Baio timely filed Contest 499 to the Claim and/or Preliminary Evaluation of Claim 713.
9. On May 2, 2000, Gary Strong timely filed Contest 734 to the Claim and/or Preliminary Evaluation of Claim 713.
10. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 969 to the Claim and/or Preliminary Evaluation of Claim 713.
11. On May 2, 2000, Robert Bartell timely filed Contest 1204 to the Claim and/or Preliminary Evaluation of Claim 713.
12. On May 2, 2000, Margaret Jacobs timely filed Contest 1438 to the Claim and/or Preliminary Evaluation of Claim 713.
13. On May 2, 2000, Carolyn Obenchain timely filed Contest 1673 to the Claim and/or Preliminary Evaluation of Claim 713.
14. On May 4, 2000, Rodney Z. James timely filed Contest 2022 to the Claim and/or Preliminary Evaluation of Claim 713.
15. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2474 to the Claim and/or Preliminary Evaluation of Claim 713.
16. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2711 to the Claim and/or Preliminary Evaluation of Claim 713.
17. On May 8, 2000, John Briggs timely filed Contest 4461 to the Claim and/or Preliminary Evaluation of Claim 713.
18. On May 8, 2000, Peter M. Bourdet timely filed Contest 4696 to the Claim and/or Preliminary Evaluation of Claim 713.

19. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4929 to the Claim and/or Preliminary Evaluation of Claim 713.
20. On May 8, 2000, Thomas William Mallams timely filed Contest 5172 to the Claim and/or Preliminary Evaluation of Claim 713.
21. On May 8, 2000, Thomas H. Bentley timely filed Contest 5405 to the Claim and/or Preliminary Evaluation of Claim 713.
22. On May 8, 2000, Thomas E. Stephens timely filed Contest 5638 to the Claim and/or Preliminary Evaluation of Claim 713.
23. On May 8, 2000, Waterwatch of Oregon, Inc. timely filed Contest 3080 to the Claim and/or Preliminary Evaluation of Claim 713.
24. 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 USFS as Case 009.
25. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See* NOTICE OF WITHDRAWAL OF BAIO *ET AL*'S CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).
26. On February 25, 2003, Waterwatch of Oregon, Inc. voluntarily withdrew Contest 3080. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS (Feb. 25, 2003).
27. On March 18, 2003, the OWRD and USFS executed STIPULATION TO RESOLVE CONTESTS 2162, 2163, 2166, 2168, 2169, 2171, 2172, 2174, 2177, 2184, 2186, 2188, 2190, 2192, 2194, 2196, 2198, 2200, 2201, 2203, 2205, 2207, 2209, 2211, 2213, 2214, 2216, 2218, 2220, 2222, 2224, 2225, 2227, 2229, 2231, 2233, 2234, 2236, 2238, 2240, 2242, 2244, 2246, 2248, 2250, 2252, AND 2253 (Settlement Agreement) which resolved the remaining contest (Contest 2244) to Claim 713.
28. On April 2, 2003, the Adjudicator withdrew Case 009 from the Office of Administrative Hearings.
29. The USFS's Claim 713 states that the beginning of the instream reach of the Williamson River is located in the NENE, SECTION 24, TOWNSHIP 31 SOUTH, RANGE 10 EAST, W.M. The claim map (Mylar filed as Claim # 377, Page 192) shows that although the reach of this claim begins at the west boundary of the NENE, it does not go through the NENE. The west boundary of the NENE is the east boundary of the NWNE, and the reach

does go through the NWNE. Therefore, OWRD finds that the beginning of the instream reach for this claim is best described as the WILLIAMSON RIVER FROM NWNE, SECTION 24, TOWNSHIP 31 SOUTH, RANGE 10 EAST, W.M.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and USFS is adopted and incorporated as if set forth fully herein.
2. As explained in Finding 29, above, the beginning of the instream reach for this claim is described as the WILLIAMSON RIVER FROM NWNE, SECTION 24, TOWNSHIP 31 SOUTH, RANGE 10 EAST, W.M.
3. 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.
4. The GENERAL CONCLUSIONS OF LAW CONCERNING AMENDMENT OF CLAIMS is incorporated as if set forth fully herein.
5. OWRD finds that the claim amendment described in Finding 4, above, does not constitute a new claim under ORS 539.210. This determination is based on the factors described in Finding 4, above. Because the amendment occurred prior to the beginning of open inspection, it is permissible and is incorporated into the Claimant's Claim 713 for consideration in this Findings of Fact and Partial Order of Determination.
6. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is incorporated as if set forth fully herein.
7. Based on the file and record herein, IT IS ORDERED that Claim 713 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 713

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 192 and PAGE 193

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
1220 SW 3RD ROOM 1734
PORTLAND, OR 97204

SOURCE OF WATER: WILLIAMSON RIVER, tributary to KLAMATH LAKE

PURPOSE OR USE:

INSTREAM USE TO MAINTAIN A NATURAL FIRE BREAK AND SOURCE OF WATER FOR FOREST FIRE CONTROL

PERIODS OF ALLOWED USE AND RATES:

THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

Period of Use:	Natural Flow is Limited to Not More than the Following Rates in Cubic Feet per Second (CFS):
May 1 to May 31	116.0
June 1 to June 30	93.0
July 1 to July 31	64.0
Aug 1 to Aug 31	57.0
Sept 1 to Sept 30	60.0
Oct 1 to Oct 31	64.0

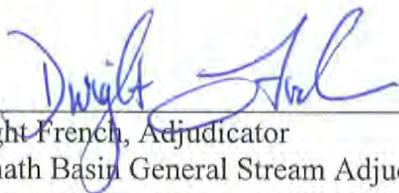
DATE OF PRIORITY: NOVEMBER 15, 1974

THE PLACE OF USE IS LOCATED AS FOLLOWS:

WILLIAMSON RIVER FROM NWNE, SECTION 24, TOWNSHIP 31 SOUTH, RANGE 10 EAST, W.M., TO NWSW, SECTION 7, TOWNSHIP 31 SOUTH, RANGE 11 EAST, W.M.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 714

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 714) 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 Multiple-Use Sustained-Yield Act of 1960 (MUSYA), 16 U.S.C. §§ 528-531.
2. 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 denied.
3. Several timely contests, including one by the USFS, were filed to Claim 714 and/or Preliminary Evaluation of Claim 714.
4. 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 USFS as Case 004.
5. On December 30, 2002 the Claimant, USFS, voluntarily withdrew Claim 714 which thereby resolved all contests. *See* UNITED STATES' NOTICE OF WITHDRAWAL OF CLAIMS (Dec. 30, 2002).
6. On December 31, 2002, the Adjudicator withdrew Case 004 from the Office of Administrative Hearings.

B. DETERMINATION

Based upon the file and record herein, including the withdrawal of Claim 714 by the USFS, IT IS ORDERED that Claim 714 is denied and is of no force or effect.

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 715

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 579) 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-475, 477-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 579, in part, as follows: “According to your claim map, there are two separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, in response to OWRD’s request, the USFS divided Claim 579 by submitting a two additional Statements and Proofs of Claim that covered certain portions of the original Claim 579. OWRD labeled these as Claim 712 and Claim 715. This Partial Order of Determination pertains only to Claim 715.
4. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating Claim 715 was approved.
5. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 266 to the Claim and/or Preliminary Evaluation of Claim 715.

6. On May 1, 2000, Leonard Baio timely filed Contest 501 to the Claim and/or Preliminary Evaluation of Claim 715.
7. On May 2, 2000, Gary Strong timely filed Contest 736 to the Claim and/or Preliminary Evaluation of Claim 715.
8. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 971 to the Claim and/or Preliminary Evaluation of Claim 715.
9. On May 2, 2000, Robert Bartell timely filed Contest 1206 to the Claim and/or Preliminary Evaluation of Claim 715.
10. On May 2, 2000, Margaret Jacobs timely filed Contest 1440 to the Claim and/or Preliminary Evaluation of Claim 715.
11. On May 2, 2000, Carolyn Obenchain timely filed Contest 1675 to the Claim and/or Preliminary Evaluation of Claim 715.
12. On May 4, 2000, Rodney Z. James timely filed Contest 2024 to the Claim and/or Preliminary Evaluation of Claim 715.
13. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2476 to the Claim and/or Preliminary Evaluation of Claim 715.
14. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2713 to the Claim and/or Preliminary Evaluation of Claim 715.
15. On May 8, 2000, John Briggs timely filed Contest 4463 to the Claim and/or Preliminary Evaluation of Claim 715.
16. On May 8, 2000, Peter M. Bourdet timely filed Contest 4698 to the Claim and/or Preliminary Evaluation of Claim 715.
17. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4931 to the Claim and/or Preliminary Evaluation of Claim 715.
18. On May 8, 2000, Thomas William Mallams timely filed Contest 5174 to the Claim and/or Preliminary Evaluation of Claim 715.
19. On May 8, 2000, Thomas H. Bentley timely filed Contest 5407 to the Claim and/or Preliminary Evaluation of Claim 715.
20. On May 8, 2000, Thomas E. Stephens timely filed Contest 5640 to the Claim and/or Preliminary Evaluation of Claim 715.

21. On May 8, 2000, WaterWatch of Oregon, Inc. timely filed Contest 3082 to the Claim and/or Preliminary Evaluation of Claim 715.
22. 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 USFS as Case 010.
23. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See* NOTICE OF WITHDRAWAL OF BAIO *ET AL*'S CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).
24. On February 25, 2003, WaterWatch of Oregon, Inc. voluntarily withdrew Contest 3082, the remaining contest to Claim 715. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS (Feb. 25, 2003).
25. On April 2, 2003, the Adjudicator withdrew Case 010 from the Office of Administrative Hearings.
26. The place of use underlying Claim 715 is within or borders a federal reservation of land that is owned by the Claimant.
27. As explained in the GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897, the date of reservation is the priority date of a federal reserved water right. This claim has a reservation date of November 15, 1974, and is based on a Declaration of Taking, November 15, 1974, Civil No. 74-894, U.S. District Court of Oregon.
28. The rate and the season of use claimed are no more than necessary to fulfill the primary purposes of the reservation.

B. DETERMINATION

1. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim, including the claimed purpose of use. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is 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. Based on the file and record herein, IT IS ORDERED that Claim 715 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 715

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 192

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
1220 SW 3RD ROOM 1734
PORTLAND, OR 97204

SOURCE OF WATER: WILLIAMSON RIVER, tributary to KLAMATH LAKE

PURPOSE or USE: INSTREAM USE TO PROVIDE FOR FAVORABLE CONDITONS OF FLOW

RATE: NATURAL FLOW FROM A TRIGGER FLOW OF 99 CUBIC FEET PER SECOND (CFS) TO A CAP FLOW OF 1195 CFS; THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

PERIOD OF ALLOWED USE: JANUARY 1 TO DECEMBER 31

DATE OF PRIORITY: NOVEMBER 15, 1974

THE PLACE OF USE IS LOCATED AS FOLLOWS:

WILLIAMSON RIVER FROM SENE, SECTION 12, TOWNSHIP 31 SOUTH, RANGE 10 EAST, W.M., TO NUNE, SECTION 12, TOWNSHIP 31 SOUTH, RANGE 10 EAST, W.M.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 716

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 580) 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-478, 479-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 580, in part, as follows: “According to your claim map, there are three separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, in response to OWRD’s request, the USFS divided Claim 580 by submitting a two additional Statements and Proofs of Claim that covered certain portions of the original Claim 580. OWRD labeled these as Claim 713 and Claim 716.
4. The August 3, 1999 Statement and Proof of Claim for Claim 716 amended two elements of the original Claim 580 that pertain to the Claim 716 stream reach. First, it changed the period of use from June 1 through November 15 to May 1 through November 15. Second, it increased the natural flow limits from 63.0 cfs to 93.0 cfs for June 1 to June 30, 47.0 cfs to 64.0 cfs for July 1 to July 31, 45.0 cfs to 57.0 cfs for Aug. 1 to Aug. 31, 44.0 cfs to 60.0 cfs for Sept. 1 to Sept. 30, 49.0 cfs to 64.0 cfs for Oct. 1 to Oct. 30, and 58.0 cfs to 64.0 cfs for Nov. 1 to Nov. 15. This amendment was a result of the exchange of correspondence between OWRD and the Claimant concerning the Claimant’s need to incorporate information concerning instream flow requirements. OWRD intended to

provide this information to the Claimant, but it was not available at the time of the claim filing deadline.

5. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating Claim 716 was approved.
6. On May 5, 2000, the Claimant, USFS, timely filed Contest 2246 to the Preliminary Evaluation of Claim 716.
7. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 267 to the Claim and/or Preliminary Evaluation of Claim 716.
8. On May 1, 2000, Leonard Baio timely filed Contest 502 to the Claim and/or Preliminary Evaluation of Claim 716.
9. On May 2, 2000, Gary Strong timely filed Contest 737 to the Claim and/or Preliminary Evaluation of Claim 716.
10. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 972 to the Claim and/or Preliminary Evaluation of Claim 716.
11. On May 2, 2000, Robert Bartell timely filed Contest 1207 to the Claim and/or Preliminary Evaluation of Claim 716.
12. On May 2, 2000, Margaret Jacobs timely filed Contest 1441 to the Claim and/or Preliminary Evaluation of Claim 716.
13. On May 2, 2000, Carolyn Obenchain timely filed Contest 1676 to the Claim and/or Preliminary Evaluation of Claim 716.
14. On May 4, 2000, Rodney Z. James timely filed Contest 2025 to the Claim and/or Preliminary Evaluation of Claim 716.
15. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2477 to the Claim and/or Preliminary Evaluation of Claim 716.
16. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2714 to the Claim and/or Preliminary Evaluation of Claim 716.
17. On May 8, 2000, John Briggs timely filed Contest 4464 to the Claim and/or Preliminary Evaluation of Claim 716.
18. On May 8, 2000, Peter M. Bourdet timely filed Contest 4699 to the Claim and/or Preliminary Evaluation of Claim 716.

19. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4932 to the Claim and/or Preliminary Evaluation of Claim 716.
20. On May 8, 2000, Thomas William Mallams timely filed Contest 5175 to the Claim and/or Preliminary Evaluation of Claim 716.
21. On May 8, 2000, Thomas H. Bentley timely filed Contest 5408 to the Claim and/or Preliminary Evaluation of Claim 716.
22. On May 8, 2000, Thomas E. Stephens timely filed Contest 5641 to the Claim and/or Preliminary Evaluation of Claim 716.
23. On May 8, 2000, Waterwatch of Oregon, Inc. timely filed Contest 3083 to the Claim and/or Preliminary Evaluation of Claim 716.
24. 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 USFS as Case 009.
25. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See* NOTICE OF WITHDRAWAL OF BAIO *ET AL*'S CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).
26. On February 25, 2003, Waterwatch of Oregon, Inc. voluntarily withdrew Contest 3083. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS (Feb. 25, 2003).
27. On March 18, 2003, the OWRD and USFS executed STIPULATION TO RESOLVE CONTESTS 2162, 2163, 2166, 2168, 2169, 2171, 2172, 2174, 2177, 2184, 2186, 2188, 2190, 2192, 2194, 2196, 2198, 2200, 2201, 2203, 2205, 2207, 2209, 2211, 2213, 2214, 2216, 2218, 2220, 2222, 2224, 2225, 2227, 2229, 2231, 2233, 2234, 2236, 2238, 2240, 2242, 2244, 2246, 2248, 2250, 2252, AND 2253 (Settlement Agreement) which resolved the remaining contest (Contest 2246) to Claim 716.
28. On April 2, 2003, the Adjudicator withdrew Case 009 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and USFS 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 GENERAL CONCLUSIONS OF LAW CONCERNING AMENDMENT OF CLAIMS is incorporated as if set forth fully herein.
4. OWRD finds that the claim amendment described in Finding 4, above, does not constitute a new claim under ORS 539.210. This determination is based on the factors described in Finding 4, above. Because the amendment occurred prior to the beginning of open inspection, it is permissible and is incorporated into the Claimant's Claim 716 for consideration in this Findings of Fact and Partial Order of Determination.
5. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is incorporated as if set forth fully herein.
6. Based on the file and record herein, IT IS ORDERED that Claim 716 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 716

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 192

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
1220 SW 3RD ROOM 1734
PORTLAND, OR 97204

SOURCE OF WATER: WILLIAMSON RIVER, tributary to KLAMATH LAKE

PURPOSE OR USE:

INSTREAM USE TO MAINTAIN A NATURAL FIRE BREAK AND SOURCE OF WATER FOR FOREST FIRE CONTROL

PERIODS OF ALLOWED USE AND RATES:

THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

Period of Use:	Natural Flow is Limited to Not More than the Following Rates in Cubic Feet per Second (CFS):
May 1 to May 31	116.0
June 1 to June 30	93.0
July 1 to July 31	64.0
Aug 1 to Aug 31	57.0
Sept 1 to Sept 30	60.0
Oct 1 to Oct 31	64.0

DATE OF PRIORITY: NOVEMBER 15, 1974

THE PLACE OF USE IS LOCATED AS FOLLOWS:

WILLIAMSON RIVER FROM SENE, SECTION 12, TOWNSHIP 31 SOUTH, RANGE 10 EAST, W.M., TO NWNE, SECTION 12, TOWNSHIP 31 SOUTH, RANGE 10 EAST, W.M.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 717

The GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION is incorporated as if set forth fully herein.

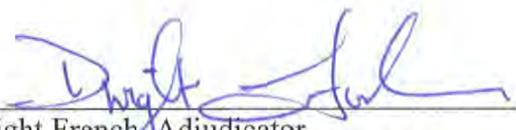
A. FINDINGS OF FACT

1. On April 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 717) 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 Multiple-Use Sustained-Yield Act of 1960 (MUSYA), 16 U.S.C. §§ 528-531.
2. 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 denied.
3. Several timely contests, including one by the USFS, were filed to Claim 717 and/or Preliminary Evaluation of Claim 717.
4. 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 USFS as Case 004.
5. On December 30, 2002 the Claimant, USFS, voluntarily withdrew Claim 717 which thereby resolved all contests. *See* UNITED STATES' NOTICE OF WITHDRAWAL OF CLAIMS (Dec. 30, 2002).
6. On December 31, 2002, the Adjudicator withdrew Case 004 from the Office of Administrative Hearings.

B. DETERMINATION

Based upon the file and record herein, including the withdrawal of Claim 717 by the USFS, IT IS ORDERED that Claim 717 is denied and is of no force or effect.

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____	)	Water Right Claim 718

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 503) 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-475, 477-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 503, in part, as follows: “According to your claim map, there are three separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, in response to OWRD’s request, the USFS divided Claim 503 by submitting a two additional Statements and Proofs of Claim that covered certain portions of the original Claim 503. OWRD labeled these as Claim 718 and Claim 721. This Partial Order of Determination pertains only to Claim 718.
4. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating Claim 718 was approved.
5. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 269 to the Claim and/or Preliminary Evaluation of Claim 718.

6. On May 1, 2000, Leonard Baio timely filed Contest 504 to the Claim and/or Preliminary Evaluation of Claim 718.
7. On May 2, 2000, Gary Strong timely filed Contest 739 to the Claim and/or Preliminary Evaluation of Claim 718.
8. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 974 to the Claim and/or Preliminary Evaluation of Claim 718.
9. On May 2, 2000, Robert Bartell timely filed Contest 1209 to the Claim and/or Preliminary Evaluation of Claim 718.
10. On May 2, 2000, Margaret Jacobs timely filed Contest 1443 to the Claim and/or Preliminary Evaluation of Claim 718.
11. On May 2, 2000, Carolyn Obenchain timely filed Contest 1678 to the Claim and/or Preliminary Evaluation of Claim 718.
12. On May 4, 2000, Rodney Z. James timely filed Contest 2027 to the Claim and/or Preliminary Evaluation of Claim 718.
13. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2479 to the Claim and/or Preliminary Evaluation of Claim 718.
14. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2716 to the Claim and/or Preliminary Evaluation of Claim 718.
15. On May 8, 2000, John Briggs timely filed Contest 4466 to the Claim and/or Preliminary Evaluation of Claim 718.
16. On May 8, 2000, Peter M. Bourdet timely filed Contest 4701 to the Claim and/or Preliminary Evaluation of Claim 718.
17. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4934 to the Claim and/or Preliminary Evaluation of Claim 718.
18. On May 8, 2000, Thomas William Mallams timely filed Contest 5177 to the Claim and/or Preliminary Evaluation of Claim 718.
19. On May 8, 2000, Thomas H. Bentley timely filed Contest 5410 to the Claim and/or Preliminary Evaluation of Claim 718.
20. On May 8, 2000, Thomas E. Stephens timely filed Contest 5643 to the Claim and/or Preliminary Evaluation of Claim 718.

21. On May 8, 2000, WaterWatch of Oregon, Inc. timely filed Contest 3085 to the Claim and/or Preliminary Evaluation of Claim 718.
22. 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 USFS as Case 010.
23. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See* NOTICE OF WITHDRAWAL OF BAIO *ET AL*'S CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).
24. On February 25, 2003, WaterWatch of Oregon, Inc. voluntarily withdrew Contest 3085, the remaining contest to Claim 718. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS (Feb. 25, 2003).
25. On April 2, 2003, the Adjudicator withdrew Case 010 from the Office of Administrative Hearings.
26. The place of use underlying Claim 718 is within or borders a federal reservation of land that is owned by the Claimant.
27. As explained in the GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897, the date of reservation is the priority date of a federal reserved water right. This claim has a reservation date of October 14, 1935 and is based on Presidential Proclamation No. 2143, October 14, 1935.
28. The rate and the season of use claimed are no more than necessary to fulfill the primary purposes of the reservation.

B. DETERMINATION

1. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim, including the claimed purpose of use. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is 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. Based on the file and record herein, IT IS ORDERED that Claim 718 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 718

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 247

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
1220 SW 3RD ROOM 1734
PORTLAND, OR 97204

SOURCE OF WATER:
BROWNSWORTH CREEK, tributary to the SOUTH FORK SPRAGUE RIVER

PURPOSE or USE: INSTREAM USE TO PROVIDE FOR FAVORABLE CONDITONS OF FLOW

RATE: NATURAL FLOW FROM A TRIGGER FLOW OF 15 CUBIC FEET PER SECOND (CFS) TO A CAP FLOW OF 370 CFS; THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

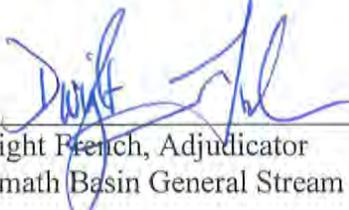
PERIOD OF ALLOWED USE: JANUARY 1 TO DECEMBER 31

DATE OF PRIORITY: OCTOBER 14, 1935

THE PLACE OF USE IS LOCATED AS FOLLOWS:
BROWNSWORTH CREEK FROM SWSW, SECTION 36, TOWNSHIP 36 SOUTH, RANGE 15 EAST, W.M., TO SWSW, SECTION 36, TOWNSHIP 36 SOUTH, RANGE 15 EAST, W.M.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 719

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 504) 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-478, 479-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 504, in part, as follows: “According to your claim map, there are three separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, in response to OWRD’s request, the USFS divided Claim 504 by submitting a two additional Statements and Proofs of Claim that covered certain portions of the original Claim 504. OWRD labeled these as Claim 719 and Claim 722. This Partial Order of Determination pertains only to Claim 719.
4. The August 3, 1999 Statement and Proof of Claim for Claim 719 amended two elements of the original Claim 504 that pertain to the Claim 719 stream reach. First, it changed the period of use from June 1 through November 15 to May 1 through November 15. Second, it increased the natural flow limits from 6.0 cfs to 6.3 cfs for the period November 1 to November 15. This amendment was a result of the exchange of correspondence between OWRD and the Claimant concerning the Claimant’s need to incorporate information concerning instream flow requirements. OWRD intended to provide this information to the Claimant, but it was not available at the time of the claim filing deadline.

5. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating Claim 719 was approved.
6. On May 5, 2000, the Claimant, USFS, timely filed Contest 2248 to the Preliminary Evaluation of Claim 719.
7. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 270 to the Claim and/or Preliminary Evaluation of Claim 719.
8. On May 1, 2000, Leonard Baio timely filed Contest 505 to the Claim and/or Preliminary Evaluation of Claim 719.
9. On May 2, 2000, Gary Strong timely filed Contest 740 to the Claim and/or Preliminary Evaluation of Claim 719.
10. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 975 to the Claim and/or Preliminary Evaluation of Claim 719.
11. On May 2, 2000, Robert Bartell timely filed Contest 1210 to the Claim and/or Preliminary Evaluation of Claim 719.
12. On May 2, 2000, Margaret Jacobs timely filed Contest 1444 to the Claim and/or Preliminary Evaluation of Claim 719.
13. On May 2, 2000, Carolyn Obenchain timely filed Contest 1679 to the Claim and/or Preliminary Evaluation of Claim 719.
14. On May 4, 2000, Rodney Z. James timely filed Contest 2028 to the Claim and/or Preliminary Evaluation of Claim 719.
15. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2480 to the Claim and/or Preliminary Evaluation of Claim 719.
16. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2717 to the Claim and/or Preliminary Evaluation of Claim 719.
17. On May 8, 2000, John Briggs timely filed Contest 4467 to the Claim and/or Preliminary Evaluation of Claim 719.
18. On May 8, 2000, Peter M. Bourdet timely filed Contest 4702 to the Claim and/or Preliminary Evaluation of Claim 719.
19. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4935 to the Claim and/or Preliminary Evaluation of Claim 719.

20. On May 8, 2000, Thomas William Mallams timely filed Contest 5178 to the Claim and/or Preliminary Evaluation of Claim 719.
21. On May 8, 2000, Thomas H. Bentley timely filed Contest 5411 to the Claim and/or Preliminary Evaluation of Claim 719.
22. On May 8, 2000, Thomas E. Stephens timely filed Contest 5644 to the Claim and/or Preliminary Evaluation of Claim 719.
23. On May 8, 2000, WaterWatch of Oregon, Inc. timely filed Contest 3086 to the Claim and/or Preliminary Evaluation of Claim 719.
24. 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 USFS as Case 009.
25. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See* NOTICE OF WITHDRAWAL OF BAIO *ET AL'S* CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).
26. On March 10, 2003, WaterWatch of Oregon, Inc. withdrew without prejudice Contest 3086, the remaining contest to Claim 719. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS (Mar. 10, 2003).
27. On March 18, 2003, the OWRD and USFS executed STIPULATION TO RESOLVE CONTESTS 2162, 2163, 2166, 2168, 2169, 2171, 2172, 2174, 2177, 2184, 2186, 2188, 2190, 2192, 2194, 2196, 2198, 2200, 2201, 2203, 2205, 2207, 2209, 2211, 2213, 2214, 2216, 2218, 2220, 2222, 2224, 2225, 2227, 2229, 2231, 2233, 2234, 2236, 2238, 2240, 2242, 2244, 2246, 2248, 2250, 2252, AND 2253 (Settlement Agreement) which resolved the remaining contest (Contest 2248) to Claim 719.
28. On April 2, 2003, the Adjudicator withdrew Case 009 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and USFS 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 GENERAL CONCLUSIONS OF LAW CONCERNING AMENDMENT OF CLAIMS is incorporated as if set forth fully herein.
4. OWRD finds that the claim amendment described in Finding 4, above, does not constitute a new claim under ORS 539.210. This determination is based on the factors described in Finding 4, above. Because the amendment occurred prior to the beginning of open inspection, it is permissible and is incorporated into the Claimant's Claim 719 for consideration in this Findings of Fact and Partial Order of Determination.
5. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is incorporated as if set forth fully herein.
6. Based on the file and record herein, IT IS ORDERED that Claim 719 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 719

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 247

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
1220 SW 3RD ROOM 1734
PORTLAND, OR 97204

SOURCE OF WATER:

BROWNSWORTH CREEK, tributary to the SOUTH FORK SPRAGUE RIVER

PURPOSE OR USE:

INSTREAM USE TO MAINTAIN A NATURAL FIRE BREAK AND SOURCE OF WATER FOR FOREST FIRE CONTROL

PERIODS OF ALLOWED USE AND RATES:

THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

Period of Use:	Natural Flow is Limited to Not More than the Following Rates in Cubic Feet per Second (CFS):
May 1 to May 31	36.0
June 1 to June 30	16.0
July 1 to July 31	6.1
Aug 1 to Aug 31	4.4
Sept 1 to Sept 30	4.6
Oct 1 to Oct 31	5.2

DATE OF PRIORITY: OCTOBER 14, 1935

THE PLACE OF USE IS LOCATED AS FOLLOWS:

BROWNSWORTH CREEK FROM SWSW, SECTION 36, TOWNSHIP 36 SOUTH, RANGE 15 EAST, W.M., TO SWSW, SECTION 36, TOWNSHIP 36 SOUTH, RANGE 15 EAST, W.M.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 720

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 720) 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 Multiple-Use Sustained-Yield Act of 1960 (MUSYA), 16 U.S.C. §§ 528-531.
2. 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 denied.
3. Several timely contests, including one by the USFS, were filed to Claim 720 and/or Preliminary Evaluation of Claim 720.
4. 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 USFS as Case 004.
5. On December 30, 2002 the Claimant, USFS, voluntarily withdrew Claim 720 which thereby resolved all contests. *See* UNITED STATES' NOTICE OF WITHDRAWAL OF CLAIMS (Dec. 30, 2002).
6. On December 31, 2002, the Adjudicator withdrew Case 004 from the Office of Administrative Hearings.

B. DETERMINATION

Based upon the file and record herein, including the withdrawal of Claim 720 by the USFS, IT IS ORDERED that Claim 720 is denied and is of no force or effect.

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 721

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 503) 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-475, 477-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 503, in part, as follows: “According to your claim map, there are three separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, in response to OWRD’s request, the USFS divided Claim 503 by submitting a two additional Statements and Proofs of Claim that covered certain portions of the original Claim 503. OWRD labeled these as Claim 718 and Claim 721. This Partial Order of Determination pertains only to Claim 721.
4. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating Claim 721 was approved.
5. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 272 to the Claim and/or Preliminary Evaluation of Claim 721.

6. On May 1, 2000, Leonard Baio timely filed Contest 507 to the Claim and/or Preliminary Evaluation of Claim 721.
7. On May 2, 2000, Gary Strong timely filed Contest 742 to the Claim and/or Preliminary Evaluation of Claim 721.
8. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 977 to the Claim and/or Preliminary Evaluation of Claim 721.
9. On May 2, 2000, Robert Bartell timely filed Contest 1212 to the Claim and/or Preliminary Evaluation of Claim 721.
10. On May 2, 2000, Margaret Jacobs timely filed Contest 1446 to the Claim and/or Preliminary Evaluation of Claim 721.
11. On May 2, 2000, Carolyn Obenchain timely filed Contest 1681 to the Claim and/or Preliminary Evaluation of Claim 721.
12. On May 4, 2000, Rodney Z. James timely filed Contest 2030 to the Claim and/or Preliminary Evaluation of Claim 721.
13. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2482 to the Claim and/or Preliminary Evaluation of Claim 721.
14. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2719 to the Claim and/or Preliminary Evaluation of Claim 721.
15. On May 8, 2000, John Briggs timely filed Contest 4469 to the Claim and/or Preliminary Evaluation of Claim 721.
16. On May 8, 2000, Peter M. Bourdet timely filed Contest 4704 to the Claim and/or Preliminary Evaluation of Claim 721.
17. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4937 to the Claim and/or Preliminary Evaluation of Claim 721.
18. On May 8, 2000, Thomas William Mallams timely filed Contest 5180 to the Claim and/or Preliminary Evaluation of Claim 721.
19. On May 8, 2000, Thomas H. Bentley timely filed Contest 5413 to the Claim and/or Preliminary Evaluation of Claim 721.
20. On May 8, 2000, Thomas E. Stephens timely filed Contest 5646 to the Claim and/or Preliminary Evaluation of Claim 721.

21. On May 8, 2000, WaterWatch of Oregon, Inc. timely filed Contest 3088 to the Claim and/or Preliminary Evaluation of Claim 721.
22. 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 USFS as Case 010.
23. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See* NOTICE OF WITHDRAWAL OF BAIO *ET AL*'S CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).
24. On February 25, 2003, WaterWatch of Oregon, Inc. voluntarily withdrew Contest 3088, the remaining contest to Claim 721. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS (Feb. 25, 2003).
25. On April 2, 2003, the Adjudicator withdrew Case 010 from the Office of Administrative Hearings.
26. The place of use underlying Claim 721 is within or borders a federal reservation of land that is owned by the Claimant.
27. As explained in the GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897, the date of reservation is the priority date of a federal reserved water right. This claim has a reservation date of October 14, 1935 and is based on Presidential Proclamation No. 2143, October 14, 1935.
28. The rate and the season of use claimed are no more than necessary to fulfill the primary purposes of the reservation.

B. DETERMINATION

1. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim, including the claimed purpose of use. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is 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. Based on the file and record herein, IT IS ORDERED that Claim 721 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 721

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 255

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
1220 SW 3RD ROOM 1734
PORTLAND, OR 97204

SOURCE OF WATER:
BROWNSWORTH CREEK, tributary to the SOUTH FORK SPRAGUE RIVER

PURPOSE or USE: INSTREAM USE TO PROVIDE FOR FAVORABLE CONDITONS OF FLOW

RATE: NATURAL FLOW FROM A TRIGGER FLOW OF 15 CUBIC FEET PER SECOND (CFS) TO A CAP FLOW OF 370 CFS; THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

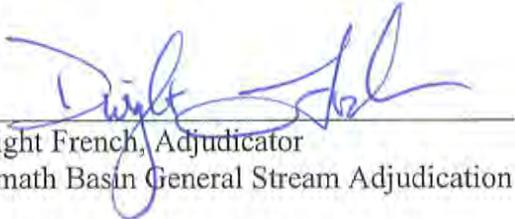
PERIOD OF ALLOWED USE: JANUARY 1 TO DECEMBER 31

DATE OF PRIORITY: OCTOBER 14, 1935

THE PLACE OF USE IS LOCATED AS FOLLOWS:
BROWNSWORTH CREEK FROM NENE, SECTION 2, TOWNSHIP 37 SOUTH, RANGE 15 EAST, W.M., TO SENW, SECTION 2, TOWNSHIP 37 SOUTH, RANGE 15 EAST, W.M

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013


Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 722

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 504) 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-478, 479-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 504, in part, as follows: “According to your claim map, there are three separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, in response to OWRD’s request, the USFS divided Claim 504 by submitting a two additional Statements and Proofs of Claim that covered certain portions of the original Claim 504. OWRD labeled these as Claim 719 and Claim 722. This Partial Order of Determination pertains only to Claim 722.
4. The August 3, 1999 Statement and Proof of Claim for Claim 722 amended two elements of the original Claim 504 that pertain to the Claim 722 stream reach. First, it changed the period of use from June 1 through November 15 to May 1 through November 15. Second, it increased the natural flow limits from 6.0 cfs to 6.3 cfs for the period November 1 to November 15. This amendment was a result of the exchange of correspondence between OWRD and the Claimant concerning the Claimant’s need to incorporate information concerning instream flow requirements. OWRD intended to provide this information to the Claimant, but it was not available at the time of the claim filing deadline.

5. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating Claim 722 was approved.
6. On May 5, 2000, the Claimant, USFS, timely filed Contest 2250 to the Preliminary Evaluation of Claim 722.
7. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 273 to the Claim and/or Preliminary Evaluation of Claim 722.
8. On May 1, 2000, Leonard Baio timely filed Contest 508 to the Claim and/or Preliminary Evaluation of Claim 722.
9. On May 2, 2000, Gary Strong timely filed Contest 743 to the Claim and/or Preliminary Evaluation of Claim 722.
10. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 978 to the Claim and/or Preliminary Evaluation of Claim 722.
11. On May 2, 2000, Robert Bartell timely filed Contest 1213 to the Claim and/or Preliminary Evaluation of Claim 722.
12. On May 2, 2000, Margaret Jacobs timely filed Contest 1447 to the Claim and/or Preliminary Evaluation of Claim 722.
13. On May 2, 2000, Carolyn Obenchain timely filed Contest 1682 to the Claim and/or Preliminary Evaluation of Claim 722.
14. On May 4, 2000, Rodney Z. James timely filed Contest 2031 to the Claim and/or Preliminary Evaluation of Claim 722.
15. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2483 to the Claim and/or Preliminary Evaluation of Claim 722.
16. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2720 to the Claim and/or Preliminary Evaluation of Claim 722.
17. On May 8, 2000, John Briggs timely filed Contest 4470 to the Claim and/or Preliminary Evaluation of Claim 722.
18. On May 8, 2000, Peter M. Bourdet timely filed Contest 4705 to the Claim and/or Preliminary Evaluation of Claim 722.
19. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4938 to the Claim and/or Preliminary Evaluation of Claim 722.

20. On May 8, 2000, Thomas William Mallams timely filed Contest 5181 to the Claim and/or Preliminary Evaluation of Claim 722.
21. On May 8, 2000, Thomas H. Bentley timely filed Contest 5414 to the Claim and/or Preliminary Evaluation of Claim 722.
22. On May 8, 2000, Thomas E. Stephens timely filed Contest 5647 to the Claim and/or Preliminary Evaluation of Claim 722.
23. On May 8, 2000, WaterWatch of Oregon, Inc. timely filed Contest 3089 to the Claim and/or Preliminary Evaluation of Claim 722.
24. 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 USFS as Case 009.
25. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See* NOTICE OF WITHDRAWAL OF BAIO *ET AL*'S CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).
26. On February 25, 2003, WaterWatch of Oregon, Inc. voluntarily withdrew Contest 3089, the remaining contest to Claim 722. *See* WATER WATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS (Feb. 25, 2003).
27. On March 18, 2003, the OWRD and USFS executed STIPULATION TO RESOLVE CONTESTS 2162, 2163, 2166, 2168, 2169, 2171, 2172, 2174, 2177, 2184, 2186, 2188, 2190, 2192, 2194, 2196, 2198, 2200, 2201, 2203, 2205, 2207, 2209, 2211, 2213, 2214, 2216, 2218, 2220, 2222, 2224, 2225, 2227, 2229, 2231, 2233, 2234, 2236, 2238, 2240, 2242, 2244, 2246, 2248, 2250, 2252, AND 2253 (Settlement Agreement) which resolved the remaining contest (Contest 2250) to Claim 722.
28. On April 2, 2003, the Adjudicator withdrew Case 009 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and USFS 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 GENERAL CONCLUSIONS OF LAW CONCERNING AMENDMENT OF CLAIMS is incorporated as if set forth fully herein.
4. OWRD finds that the claim amendment described in Finding 4, above, does not constitute a new claim under ORS 539.210. This determination is based on the factors described in Finding 4, above. Because the amendment occurred prior to the beginning of open inspection, it is permissible and is incorporated into the Claimant's Claim 722 for consideration in this Findings of Fact and Partial Order of Determination.
5. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is incorporated as if set forth fully herein.
6. Based on the file and record herein, IT IS ORDERED that Claim 722 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 722

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 255

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
1220 SW 3RD ROOM 1734
PORTLAND, OR 97204

SOURCE OF WATER:

BROWNSWORTH CREEK, tributary to the SOUTH FORK SPRAGUE RIVER

PURPOSE OR USE:

INSTREAM USE TO MAINTAIN A NATURAL FIRE BREAK AND SOURCE OF WATER FOR FOREST FIRE CONTROL

PERIODS OF ALLOWED USE AND RATES:

THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

Period of Use:	Natural Flow is Limited to Not More than the Following Rates in Cubic Feet per Second (CFS):
May 1 to May 31	36.0
June 1 to June 30	16.0
July 1 to July 31	6.1
Aug 1 to Aug 31	4.4
Sept 1 to Sept 30	4.6
Oct 1 to Oct 31	5.2

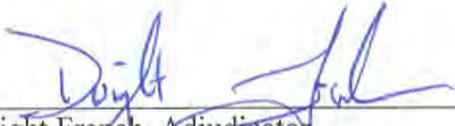
DATE OF PRIORITY: OCTOBER 14, 1935

THE PLACE OF USE IS LOCATED AS FOLLOWS:

BROWNSWORTH CREEK FROM NENE, SECTION 2, TOWNSHIP 37 SOUTH, RANGE 15 EAST, W.M., TO SENW, SECTION 2, TOWNSHIP 37 SOUTH, RANGE 15 EAST, W.M.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 723

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 723) 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 Multiple-Use Sustained-Yield Act of 1960 (MUSYA), 16 U.S.C. §§ 528-531.
2. 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 denied.
3. Several timely contests, including one by the USFS, were filed to Claim 723 and/or Preliminary Evaluation of Claim 723.
4. 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 USFS as Case 004.
5. On December 30, 2002 the Claimant, USFS, voluntarily withdrew Claim 723 which thereby resolved all contests. *See* UNITED STATES' NOTICE OF WITHDRAWAL OF CLAIMS (Dec. 30, 2002).
6. On December 31, 2002, the Adjudicator withdrew Case 004 from the Office of Administrative Hearings.

B. DETERMINATION

Based upon the file and record herein, including the withdrawal of Claim 723 by the USFS, IT IS ORDERED that Claim 723 is denied and is of no force or effect.

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 724

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim for Claim 575 and Statement and Proof of Claim for Claim 577 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-475, 477-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 575, in part, as follows: “According to your claim map, there are two separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, the USFS timely amended Claim 575 and timely amended Claim 577 as to rate of discharge of water for the lower and upper thresholds of flow, and place of use. Additionally, in response to OWRD’s request, the USFS submitted an additional Statement and Proof of Claim that covered a portion of the original claim(s). OWRD labeled this additional claim as Claim 724.
4. Identical copies of a map titled “Land Status for Sycan River Above Sycan Marsh Instream Flow Claim” (“Land Status Map”) can be found within both Claims 575 and 577 (*see* Claim 575, Page 97-599-0026, and Claim 577, Page 97-601-0026). This Land Status Map shows an “Upper Reach” and a “Lower Reach” as follows:
 - a. The “Lower Reach” is from SESE, SECTION 23, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M. to SWSW, SECTION 22, TOWNSHIP 32 SOUTH,

RANGE 14 EAST, W.M., and consists of one continuous reach, and has a reservation date of October 14, 1935.

b. The “Upper Reach” is from SWNE, SECTION 22, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M. to SWSW, SECTION 24, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M., and consists of two reaches separated by non-reserved lands, and has a reservation date of September 17, 1906. Within this “Upper Reach”, the uppermost segment is from SWNE, SECTION 22, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M. to NWSW, SECTION 15, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M., (here called “upper segment”). The lowermost segment of this “Upper Reach” is from NWNW, SECTION 16, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M. to SWSW, SECTION 24, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M. (here called “lower segment”).

- In the original claims, Claim 575 cited a reservation date of September 17, 1906, but described the “Lower Reach,” and Claim 577 cited a reservation date of October 14, 1935, but described the “Upper Reach.” According to the “Land Status Map,” the lower reach was assigned the priority date of the upper reach, and visa versa.
- In the August 3, 1999 amendments of these two claims, the amendment for Claim 575 described the upper segment of the “Upper Reach,” but cited a reservation date of October 14, 1935; and the amendment for Claim 577 described the “Lower Reach,” but cited a reservation date of September 17, 1906. Again, according to the “Land Status Map,” the upper reach was assigned the priority date of the lower reach, and visa versa. Claim 724, which was bifurcated from Claim 575, describes the lower segment of the “Upper Reach,” but cited a reservation date of October 14, 1935.
- On October 14, 1999, the USFS submitted Mylar claim maps to OWRD. (Claim Map Reference – Mylar filed as Claim #377, Page 202 and Page 215). These maps assign an a “Lower Reach” to Claim 577, an upper segment of the “Upper Reach” to Claim 575, and a lower segment of “Upper Reach” to Claim 724.
- Notwithstanding the ambiguity of Claims 575 and 577 and their respective amendments, OWRD finds a clear intention of the USFS to have filed claims consistent with “Upper Reach” and “Lower Reach” as shown on the Land Status Map. Therefore OWRD has assigned Claims 575, 577 and 724 as follows:
 - a. Claim 577 is for the “Lower Reach,” being the Sycan River from SESE, SECTION 23, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M. to SWSW, SECTION 22, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M., and has a reservation date of October 14, 1935.
 - b. Claim 575 is for the upper segment of the “Upper Reach,” being the Sycan River from SWNE, SECTION 22, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M. to NWSW, SECTION 15, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M., and has a reservation date of September 17, 1906.

- c. Claim 724 is for the lower segment of the "Upper Reach," being the Sycan River from NWNW, SECTION 16, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M. to SWSW, SECTION 24, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M., and has a reservation date of September 17, 1906.
5. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating Claim 724 was approved.
6. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 275 to the Claim and/or Preliminary Evaluation of Claim 724.
7. On May 1, 2000, Leonard Baio timely filed Contest 510 to the Claim and/or Preliminary Evaluation of Claim 724.
8. On May 2, 2000, Gary Strong timely filed Contest 745 to the Claim and/or Preliminary Evaluation of Claim 724.
9. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 980 to the Claim and/or Preliminary Evaluation of Claim 724.
10. On May 2, 2000, Robert Bartell timely filed Contest 1215 to the Claim and/or Preliminary Evaluation of Claim 724.
11. On May 2, 2000, Margaret Jacobs timely filed Contest 1449 to the Claim and/or Preliminary Evaluation of Claim 724.
12. On May 2, 2000, Carolyn Obenchain timely filed Contest 1684 to the Claim and/or Preliminary Evaluation of Claim 724.
13. On May 4, 2000, Rodney Z. James timely filed Contest 2033 to the Claim and/or Preliminary Evaluation of Claim 724.
14. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2485 to the Claim and/or Preliminary Evaluation of Claim 724.
15. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2722 to the Claim and/or Preliminary Evaluation of Claim 724.
16. On May 8, 2000, John Briggs timely filed Contest 4472 to the Claim and/or Preliminary Evaluation of Claim 724.
17. On May 8, 2000, Peter M. Bourdet timely filed Contest 4707 to the Claim and/or Preliminary Evaluation of Claim 724.
18. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4940 to the Claim and/or Preliminary Evaluation of Claim 724.

19. On May 8, 2000, Thomas William Mallams timely filed Contest 5183 to the Claim and/or Preliminary Evaluation of Claim 724.
20. On May 8, 2000, Thomas H. Bentley timely filed Contest 5416 to the Claim and/or Preliminary Evaluation of Claim 724.
21. On May 8, 2000, Thomas E. Stephens timely filed Contest 5649 to the Claim and/or Preliminary Evaluation of Claim 724.
22. On May 8, 2000, WaterWatch of Oregon, Inc. timely filed Contest 3091 to the Claim and/or Preliminary Evaluation of Claim 724.
23. 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 USFS as Case 010.
24. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See* NOTICE OF WITHDRAWAL OF BAIO *ET AL*'S CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).
25. On February 25, 2003, WaterWatch of Oregon, Inc. voluntarily withdrew Contest 3091, the remaining contest to Claim 724. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS (Feb. 25, 2003).
26. On April 2, 2003, the Adjudicator withdrew Case 010 from the Office of Administrative Hearings.
27. The place of use underlying Claim 724 is within or borders a federal reservation of land that is owned by the Claimant.
28. As explained in the GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897, the date of reservation is the priority date of a federal reserved water right. This claim has a reservation date of September 17, 1906, and is based on the Presidential Proclamation of September 17, 1906.
29. The rate and the season of use claimed are no more than necessary to fulfill the primary purposes of the reservation.
30. The USFS's Claim 724 states that the beginning of the instream reach of the Sycan River is located in the NENE, SECTION 16, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M.; however, identical copies of the "Land Status Map" found within both Claims 575 and 577 (*see* Claim 575, Page 97-599-0026, and Claim 577, Page 97-601-0026) on which the place of use for this claim is depicted, show that the reach of this claim begins in the

NWNW, SECTION 16, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M. This is also supported by a USFS claim map (Mylar filed as Claim # 377, Page 215). Therefore, OWRD finds that the beginning of the instream reach for this claim is the SYCAN RIVER FROM NWNW, SECTION 16, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M.

B. DETERMINATION

1. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim, including the claimed purpose of use. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is incorporated as if set forth fully herein.
2. The priority date is September 17, 1906 as set forth in the original claim of its parent (Claim 575), and as consistent with the "Land Status Maps" in Claims 575 and 577 as described in Finding 4, above.
3. The beginning of the instream reach for this claim is the SYCAN RIVER FROM NWNW, SECTION 16, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M.
4. 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.
5. Based on the file and record herein, IT IS ORDERED that Claim 724 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 724

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 202 and PAGE 215

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
1220 SW 3RD ROOM 1734
PORTLAND, OR 97204

SOURCE OF WATER: SYCAN RIVER, tributary to the SPRAGUE RIVER

PURPOSE or USE: INSTREAM USE TO PROVIDE FOR FAVORABLE CONDITONS OF FLOW

RATE: NATURAL FLOW FROM A TRIGGER FLOW OF 81 CUBIC FEET PER SECOND (CFS) TO A CAP FLOW OF 1921 CFS; THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

PERIOD OF ALLOWED USE: JANUARY 1 TO DECEMBER 31

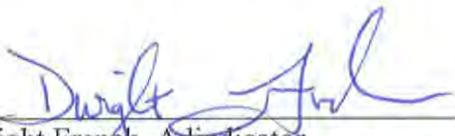
DATE OF PRIORITY: SEPTEMBER 17, 1906

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SYCAN RIVER FROM NWNW, SECTION 16, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M., TO SWSW, SECTION 24, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 725

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim for Claim 574 and Statement and Proof of Claim for Claim 578 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-475, 477-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 574, in part, as follows: “According to your claim map, there are two separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, the USFS timely amended Claim 574 and timely amended Claim 578 as follows: (1) claimed water quantities were amended for the “[i]ntegration of water availability estimates provided by Oregon Water Resources Department pursuant to OAR 690-28-040(5)” and (2) “[f]urther analysis of fire records showed that numerous wildfires occur during the month of May, so the claim was amended to include that month.” Additionally, in response to OWRD’s request, the USFS submitted an additional Statement and Proof of Claim that covered a portion of the original claim(s). OWRD labeled this additional claim as Claim 725.

4. The August 3, 1999 Statement and Proof of Claim for Claim 725 amended two elements of the original Claims 574 and 578 that pertain to the Claim 725 stream reach. First, it changed the period of use from June 1 through November 15 to May 1 through November 15. Second, it increased the natural flow limits from 7.1 cfs to 7.5 cfs for Sept. 1 to Sept. 30, and 5.8 cfs to 7.7 cfs for Oct. 1 to Oct. 30. This amendment was a result of the exchange of correspondence between OWRD and the Claimant concerning the Claimant's need to incorporate information concerning instream flow requirements. OWRD intended to provide this information to the Claimant, but it was not available at the time of the claim filing deadline.
5. Identical copies of a separate map titled "Land Status for Sycan River Above Sycan Marsh Instream Flow Claim" ("Land Status Map") can be found within both Claims 574 and 578 (see Claim 574, Page 97-598-0023, and Claim 578, Page 97-602-0023). This Land Status Map shows an "Upper Reach" and a "Lower Reach" as follows:
 - a. The "Lower Reach" is from SESE, SECTION 23, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M. to SWSW, SECTION 22, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M., and consists of one continuous reach, and has a reservation date of October 14, 1935.
 - b. The "Upper Reach" is from SWNE, SECTION 22, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M. to SWSW, SECTION 24, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M., and consists of two reaches separated by non-reserved lands, and has a reservation date of September 17, 1906. Within this "Upper Reach," the uppermost segment is from SWNE, SECTION 22, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M. to NWSW, SECTION 15, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M., (here called "upper segment"). The lowermost segment of this "Upper Reach" is from NWNW, SECTION 16, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M. to SWSW, SECTION 24, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M. (here called "lower segment").
 - In the original claims, Claim 574 cited a reservation date of September 17, 1906, but described the "Lower Reach", and Claim 578 cited a reservation date of October 14, 1935, but described the "Upper Reach." According to the "Land Status Map," the lower reach was assigned the priority date of the upper reach, and visa versa.
 - In the August 3, 1999 amendments of these two claims, the amendment for Claim 574 described the upper segment of the "Upper Reach," but cited a reservation date of October 14, 1935; and the amendment for Claim 578 described the "Lower Reach," but cited a reservation date of September 17, 1906. Again, according to the "Land Status Map," the upper reach was assigned the priority date of the lower reach, and visa versa. Claim 725, which was bifurcated from Claim 574, describes the lower segment of the "Upper Reach," but cited a reservation date of October 14, 1935.

- On October 14, 1999, the USFS submitted Mylar claim maps to OWRD. (Claim Map Reference – Mylar filed as Claim #377, Page 202 and Page 215). These maps assign an a “Lower Reach” to Claim 578, an upper segment of the “Upper Reach” to Claim 574, and a lower segment of “Upper Reach” to Claim 725.
 - Notwithstanding the ambiguity of Claims 574 and 578 and their respective amendments, OWRD finds a clear intention of the USFS to have filed claims consistent with “Upper Reach” and “Lower Reach” as shown on the Land Status Map. Therefore OWRD has assigned Claims 574, 578 and 725 as follows:
 - a. Claim 578 is for the “Lower Reach,” being the Sycan River from SESE, SECTION 23, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M. to SWSW, SECTION 22, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M., and has a reservation date of October 14, 1935.
 - b. Claim 574 is for the upper segment of the “Upper Reach,” being the Sycan River from SWNE, SECTION 22, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M. to NWSW, SECTION 15, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M., and has a reservation date of September 17, 1906.
 - c. Claim 725 is for the lower segment of the “Upper Reach,” being the Sycan River from NWNW, SECTION 16, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M. to SWSW, SECTION 24, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M., and has a reservation date of September 17, 1906.
6. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating Claim 725 was approved.
 7. On May 5, 2000, the Claimant, USFS, timely filed Contest 2252 to the Preliminary Evaluation of Claim 574.
 8. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 276 to the Claim and/or Preliminary Evaluation of Claim 725.
 9. On May 1, 2000, Leonard Baio timely filed Contest 511 to the Claim and/or Preliminary Evaluation of Claim 725.
 10. On May 2, 2000, Gary Strong timely filed Contest 746 to the Claim and/or Preliminary Evaluation of Claim 725.
 11. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 981 to the Claim and/or Preliminary Evaluation of Claim 725.

12. On May 2, 2000, Robert Bartell timely filed Contest 1216 to the Claim and/or Preliminary Evaluation of Claim 725.
13. On May 2, 2000, Margaret Jacobs timely filed Contest 1450 to the Claim and/or Preliminary Evaluation of Claim 725.
14. On May 2, 2000, Carolyn Obenchain timely filed Contest 1685 to the Claim and/or Preliminary Evaluation of Claim 725.
15. On May 4, 2000, Rodney Z. James timely filed Contest 2034 to the Claim and/or Preliminary Evaluation of Claim 725.
16. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2486 to the Claim and/or Preliminary Evaluation of Claim 725.
17. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2723 to the Claim and/or Preliminary Evaluation of Claim 725.
18. On May 8, 2000, John Briggs timely filed Contest 4473 to the Claim and/or Preliminary Evaluation of Claim 725.
19. On May 8, 2000, Peter M. Bourdet timely filed Contest 4708 to the Claim and/or Preliminary Evaluation of Claim 725.
20. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4941 to the Claim and/or Preliminary Evaluation of Claim 725.
21. On May 8, 2000, Thomas William Mallams timely filed Contest 5184 to the Claim and/or Preliminary Evaluation of Claim 725.
22. On May 8, 2000, Thomas H. Bentley timely filed Contest 5417 to the Claim and/or Preliminary Evaluation of Claim 725.
23. On May 8, 2000, Thomas E. Stephens timely filed Contest 5650 to the Claim and/or Preliminary Evaluation of Claim 725.
24. On May 8, 2000, WaterWatch of Oregon, Inc. timely filed Contest 3092 to the Claim and/or Preliminary Evaluation of Claim 725.
25. 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 USFS as Case 009.

26. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See* NOTICE OF WITHDRAWAL OF BAIO *ET AL'S* CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).
27. On February 25, 2003, Waterwatch of Oregon, Inc. voluntarily withdrew Contest 3092. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS (Feb. 25, 2003).
28. On March 18, 2003, the OWRD and USFS executed STIPULATION TO RESOLVE CONTESTS 2162, 2163, 2166, 2168, 2169, 2171, 2172, 2174, 2177, 2184, 2186, 2188, 2190, 2192, 2194, 2196, 2198, 2200, 2201, 2203, 2205, 2207, 2209, 2211, 2213, 2214, 2216, 2218, 2220, 2222, 2224, 2225, 2227, 2229, 2231, 2233, 2234, 2236, 2238, 2240, 2242, 2244, 2246, 2248, 2250, 2252, AND 2253 (Settlement Agreement) which resolved the remaining contest (Contest 2252) to Claim 575.
29. On April 2, 2003, the Adjudicator withdrew Case 009 from the Office of Administrative Hearings.
30. The USFS's Claim 725 states that the beginning of the instream reach of the Sycan River is located in the NENE, SECTION 16, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M.; however, identical copies of the "Land Status Map" found within both Claims 574 and 578 (*see* Claim 574, Page 97-598-0023, and Claim 578, Page 97-602-0023) on which the place of use for this claim is depicted, show that the reach of this claim begins in the NWNW, SECTION 16, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M. This is also supported by a USFS claim map (Mylar filed as # Claim 377, Page 215). Therefore, OWRD finds that the beginning of the instream reach for this claim is for this claim is the NWNW, SECTION 16, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and USFS is adopted and incorporated as if set forth fully herein, with two exceptions:
 - (a) the priority date is changed from October 14, 1935 to reflect the correct priority date of September 17, 1906 as set forth in the original claim of its parent (Claim 574), and as consistent with the “Land Status Maps” in Claims 574 and 578 as described in Finding 5, above; and
 - (b) the scrivener’s error in the location of the beginning of the instream reach of the Sycan River in Claim 725 as described in Finding 30, above, which was incorporated into in the Preliminary Evaluation and the Settlement Agreement; the location of the beginning of the instream reach is corrected to the NWNW, Section 16.
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 GENERAL CONCLUSIONS OF LAW CONCERNING AMENDMENT OF CLAIMS is incorporated as if set forth fully herein
4. OWRD finds that the claim amendment described in Findings 3 and 4, above, does not constitute a new claim under ORS 539.210. This determination is based on the factors described in Findings 3 and 4, above. Because the amendment occurred prior to the beginning of open inspection, it is permissible and is incorporated into the Claimant’s Claim 725 for consideration in this Findings of Fact and Partial Order of Determination.
5. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is incorporated as if set forth fully herein.
6. Based on the file and record herein, IT IS ORDERED that Claim 725 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 725

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 202 and PAGE 215

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
1220 SW 3RD ROOM 1734
PORTLAND, OR 97204

SOURCE OF WATER: SYCAN RIVER, tributary to the SPRAGUE RIVER

PURPOSE OR USE:

INSTREAM USE TO MAINTAIN A NATURAL FIRE BREAK AND SOURCE OF WATER FOR FOREST FIRE CONTROL

PERIODS OF ALLOWED USE AND RATES:

THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

Period of Use:	Natural Flow is Limited to Not More than the Following Rates in Cubic Feet per Second (CFS):
May 1 to May 31	193.0
June 1 to June 30	54.0
July 1 to July 31	15.0
Aug 1 to Aug 31	9.4
Sept 1 to Sept 30	7.5
Oct 1 to Oct 31	7.7

DATE OF PRIORITY: SEPTEMBER 17, 1906

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SYCAN RIVER FROM NWNW, SECTION 16, TOWNSHIP 33 SOUTH, RANGE 15 EAST, W.M., TO SWSW, SECTION 24, TOWNSHIP 32 SOUTH, RANGE 14 EAST, W.M.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
)	
_____	)	Water Right Claim 726

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 571) 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-475, 477-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 571, in part, as follows: “According to your claim map, there are two separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, in response to OWRD’s request, the USFS divided Claim 571 by submitting an additional Statement and Proof of Claim that covered a portion of the original Claim 571. OWRD labeled this as Claim 726.
4. The August 3, 1999 additional Statement and Proof of Claim for Claim 726 amended one element of the original Claim 571 that pertains to the Claim 726 reach. It changed the lower threshold for natural flow from 287 cfs to 281 cfs. This amendment was a result of the exchange of correspondence between OWRD and the Claimant concerning the Claimant’s need to incorporate information concerning instream flow requirements. OWRD intended to provide this information to the Claimant, but it was not available at the time of the claim filing deadline.

5. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating Claim 726 was approved.
6. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 277 to the Claim and/or Preliminary Evaluation of Claim 726.
7. On May 1, 2000, Leonard Baio timely filed Contest 512 to the Claim and/or Preliminary Evaluation of Claim 726.
8. On May 2, 2000, Gary Strong timely filed Contest 747 to the Claim and/or Preliminary Evaluation of Claim 726.
9. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 982 to the Claim and/or Preliminary Evaluation of Claim 726.
10. On May 2, 2000, Robert Bartell timely filed Contest 1217 to the Claim and/or Preliminary Evaluation of Claim 726.
11. On May 2, 2000, Margaret Jacobs timely filed Contest 1451 to the Claim and/or Preliminary Evaluation of Claim 726.
12. On May 2, 2000, Carolyn Obenchain timely filed Contest 1686 to the Claim and/or Preliminary Evaluation of Claim 726.
13. On May 4, 2000, Rodney Z. James timely filed Contest 2035 to the Claim and/or Preliminary Evaluation of Claim 726.
14. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2487 to the Claim and/or Preliminary Evaluation of Claim 726.
15. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2724 to the Claim and/or Preliminary Evaluation of Claim 726.
16. On May 5, 2000, J.R. Simplot as Trustee of the J.R. Simplot Self-Declaration of Revocable Trust timely filed Contest 2775 to the Claim and/or Preliminary Evaluation of Claim 726.
17. On May 8, 2000, John Briggs timely filed Contest 4474 to the Claim and/or Preliminary Evaluation of Claim 726.
18. On May 8, 2000, Peter M. Bourdet timely filed Contest 4709 to the Claim and/or Preliminary Evaluation of Claim 726.
19. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4942 to the Claim and/or Preliminary Evaluation of Claim 726.

20. On May 8, 2000, Thomas William Mallams timely filed Contest 5185 to the Claim and/or Preliminary Evaluation of Claim 726.
21. On May 8, 2000, Thomas H. Bentley timely filed Contest 5418 to the Claim and/or Preliminary Evaluation of Claim 726.
22. On May 8, 2000, Thomas E. Stephens timely filed Contest 5651 to the Claim and/or Preliminary Evaluation of Claim 726.
23. On May 8, 2000, WaterWatch of Oregon, Inc. timely filed Contest 3093 to the Claim and/or Preliminary Evaluation of Claim 726.
24. 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 USFS as Case 010.
25. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See* NOTICE OF WITHDRAWAL OF BAIO *ET AL*'S CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).
26. On November 11, 2002, J.R. Simplot as Trustee of the J.R. Simplot Self-Declaration of Revocable Trust withdrew with prejudice Contest 2775. *See* STIPULATED MOTION FOR WITHDRAWAL OF CONTESTS 2772 AND 2775. (Nov. 11, 2002).
27. On March 10, 2003, WaterWatch of Oregon, Inc. voluntarily withdrew Contest 3093, the remaining contest to Claim 726. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS (March. 10, 2003).
28. On April 2, 2003, the Adjudicator withdrew Case 010 from the Office of Administrative Hearings.
29. The place of use underlying Claim 726 is within or borders a federal reservation of land that is owned by the Claimant.
30. As explained in the GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897, the date of reservation is the priority date of a federal reserved water right. Except as described in the following sentence, this claim has a reservation date of April 15, 1961, and is based on the "Proclamation Taking Title to Certain Lands. . ." April 15, 1961, Federal Register, 26 Fed. Reg. 3251-3254 (1961). OWRD finds that the portion of Claim 726 located in the NENE, NWNE, SWNE, AND

EAST ½ NW, SECTION 12 TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M has a reservation date of July 26, 1961, and is based on Presidential Proclamation No. 3423, July 26, 1961, 26 Fed. Reg. 6799 (1961).

31. The rate and the season of use claimed are no more than necessary to fulfill the primary purposes of the reservation.
32. The USFS's Claim 726 states that the beginning of the instream reach of the Sycan River is located in the NENE, SECTION 12, TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M. Although the USFS claim map (Mylar filed as Claim # 377, Page 223) shows this reach beginning at the north boundary of the NESW, OWRD finds that the beginning of the instream reach for this claim is SYCAN RIVER FROM NENE, SECTION 12, TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M.

B. DETERMINATION

1. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim, including the claimed purpose of use. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is 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 beginning of the instream reach for this claim is the north boundary of the NENE, SECTION 12, TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M.
4. The GENERAL CONCLUSIONS OF LAW CONCERNING AMENDMENTS OF CLAIMS is incorporated as if set forth fully herein.
5. OWRD finds that the claim amendment described in Finding 4, above, does not constitute a new claim under ORS 539.210. This determination is based on the factors described in Finding 4, above. Because the amendment occurred prior to the beginning of open inspection, it is permissible and is incorporated into the Claimant's Claim 726 for consideration in this Findings of Fact and Partial Order of Determination.
6. Based on the file and record herein, IT IS ORDERED that Claim 726 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 726

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 223 and PAGE 224

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
1220 SW 3RD ROOM 1734
PORTLAND, OR 97204

SOURCE OF WATER: SYCAN RIVER, tributary to the SPRAGUE RIVER

PURPOSE or USE: INSTREAM USE TO PROVIDE FOR FAVORABLE CONDITONS OF FLOW

RATE: NATURAL FLOW FROM A TRIGGER FLOW OF 281 CUBIC FEET PER SECOND (CFS) TO A CAP FLOW OF 3552 CFS; THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

PERIOD OF ALLOWED USE: JANUARY 1 TO DECEMBER 31

DATE OF PRIORITY:

APRIL 15, 1961 – SYCAN RIVER FROM TO NORTH BOUNDARY OF NESW, SECTION 12, TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M. TO SWSE, SECTION 31, TOWNSHIP 34 SOUTH, RANGE 12 EAST, W.M.

JULY 26, 1961 – SYCAN RIVER FROM NORTH BOUNDARY OF NENE, SECTION 12, TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M. TO SOUTH BOUNDARY OF SENW, SECTION 12, TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SYCAN RIVER FROM NENE, SECTION 12, TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M., TO SWSE, SECTION 31, TOWNSHIP 34 SOUTH, RANGE 12 EAST, W.M.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____)	
	)	Water Right Claim 727

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 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 572) 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 Organic Administration Act of 1897, 16 U.S.C. §§ 473-478, 479-482 and 551 (Organic Act).
2. In a July 1, 1999 letter, OWRD requested clarification of Claim 572, in part, as follows: “According to your claim map, there are two separate reaches of the stream which are claimed, not one continuous reach. If, indeed, there is more than one claimed stream reach, *please provide a separate claim form for each individual stream reach being claimed as provided for in OAR 690-028-0027.*”
3. On August 3, 1999, in response to OWRD’s request, the USFS divided Claim 572 by submitting an additional Statement and Proof of Claim that covered a portion of the original Claim 572. OWRD labeled this as Claim 727.
4. The August 3, 1999 Statement and Proof of Claim for Claim 727 amended two elements of the original Claim 572 that pertain to the Claim 727 stream reach. First, it changed the period of use from 70.0 cfs to 113.0 cfs for June 1 to June 30, 5.8 cfs to 21.0 cfs for July 1 to July 31, 0.0 cfs to 10.0 cfs for Aug. 1 to Aug. 31, 0.0 cfs to 13.0 cfs for Sept. 1 to Sept. 30, 6.9 cfs to 17.0 cfs for Oct. 1 to Oct. 30, and 6.1 cfs to 22.0 cfs for Nov. 1 to Nov. 15. This amendment was a result of the exchange of correspondence between OWRD and the Claimant concerning the Claimant’s need to incorporate information

concerning instream flow requirements. OWRD intended to provide this information to the Claimant, but it was not available at the time of the claim filing deadline.

5. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating Claim 727 was approved.
6. On May 5, 2000, the Claimant, USFS, timely filed Contest 2253 to the Preliminary Evaluation of Claim 727.
7. On May 1, 2000, William J. Rust and Ethel J. Rust timely filed Contest 278 to the Claim and/or Preliminary Evaluation of Claim 727.
8. On May 1, 2000, Leonard Baio timely filed Contest 513 to the Claim and/or Preliminary Evaluation of Claim 727.
9. On May 2, 2000, Gary Strong timely filed Contest 748 to the Claim and/or Preliminary Evaluation of Claim 727.
10. On May 2, 2000, the Flynn Brothers (Con and Nora Flynn), and Con, Nora and John Flynn timely filed Contest 983 to the Claim and/or Preliminary Evaluation of Claim 727.
11. On May 2, 2000, Robert Bartell timely filed Contest 1218 to the Claim and/or Preliminary Evaluation of Claim 727.
12. On May 2, 2000, Margaret Jacobs timely filed Contest 1452 to the Claim and/or Preliminary Evaluation of Claim 727.
13. On May 2, 2000, Carolyn Obenchain timely filed Contest 1687 to the Claim and/or Preliminary Evaluation of Claim 727.
14. On May 4, 2000, Rodney Z. James timely filed Contest 2036 to the Claim and/or Preliminary Evaluation of Claim 727.
15. On May 5, 2000, Newman Enterprise (Douglas Newman) timely filed Contest 2488 to the Claim and/or Preliminary Evaluation of Claim 727.
16. On May 5, 2000, Francis Loving Trust, Hilda Francis Trustee timely filed Contest 2725 to the Claim and/or Preliminary Evaluation of Claim 727.
17. On May 5, 2000, J.R. Simplot as Trustee of the J.R. Simplot Self-Declaration of Revocable Trust timely filed Contest 2776 to the Claim and/or Preliminary Evaluation of Claim 727.

18. On May 8, 2000, John Briggs timely filed Contest 4475 to the Claim and/or Preliminary Evaluation of Claim 727.
19. On May 8, 2000, Peter M. Bourdet timely filed Contest 4710 to the Claim and/or Preliminary Evaluation of Claim 727.
20. On May 8, 2000, Vincent Lee Briggs timely filed Contest 4943 to the Claim and/or Preliminary Evaluation of Claim 727.
21. On May 8, 2000, Thomas William Mallams timely filed Contest 5186 to the Claim and/or Preliminary Evaluation of Claim 727.
22. On May 8, 2000, Thomas H. Bentley timely filed Contest 5419 to the Claim and/or Preliminary Evaluation of Claim 727.
23. On May 8, 2000, Thomas E. Stephens timely filed Contest 5652 to the Claim and/or Preliminary Evaluation of Claim 727.
24. On May 8, 2000, Waterwatch of Oregon, Inc. timely filed Contest 3094 to the Claim and/or Preliminary Evaluation of Claim 727.
25. 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 USFS as Case 009.
26. On April 23, 2002, the USFS executed STIPULATION REGARDING PRIORITY DATE FOR CLAIM 727, to correct a scrivener's error in the Preliminary Evaluation, whereby the priority date was incorrectly stated as October 14, 1935. The Stipulation provides a priority date of April 15, 1961. Except as described in the following sentence, OWRD finds that the April 15, 1961 priority date is correct. OWRD finds that the portion of Claim 727 located in the NENE, NWNE, SWNE, AND EAST ½ NW, SECTION 12 TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M has a reservation date of July 26, 1961; these lands are not listed in the "Proclamation Taking Title to Certain Lands. . ." April 15, 1961, Federal Register, 26 Fed. Reg. 3251-3254 (1961) but are listed on Presidential Proclamation No. 3423, July 26, 1961, 26 Fed. Reg. 6799 (1961).
27. On July 2, 2002, the following contestants withdrew with prejudice their respective contest: Leonard Baio, Gary Strong, Flynn Brothers, Robert Bartell, Margaret Jacobs, Carolyn Obenchain, Rodney Z. James, Newman Enterprise (Douglas Newman), Francis Loving Trust, Hilda Francis Trustee, John Briggs, Peter M. Bourdet, Vincent Lee Briggs, Thomas William Mallams, Thomas H. Bentley, Thomas E. Stephens, and David Cowan, successor in interest to William J. Rust and Ethel J. Rust. *See* NOTICE OF WITHDRAWAL OF BAIO *ET AL*'S CONTESTS AGAINST THE UNITED STATES FOREST SERVICE CLAIMS (July 2, 2002).

28. On November 11, 2002, J.R. Simplot as Trustee of the J.R. Simplot Self-Declaration of Revocable Trust withdrew with prejudice Contest 2776. *See STIPULATED MOTION FOR WITHDRAWAL OF CONTESTS 2773 AND 2776.* (Nov. 11, 2002).
29. On February 25, 2003, Waterwatch of Oregon, Inc. voluntarily withdrew Contest 3094. *See WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTESTS* (Feb. 25, 2003).
30. On March 18, 2003, the OWRD and USFS executed STIPULATION TO RESOLVE CONTESTS 2162, 2163, 2166, 2168, 2169, 2171, 2172, 2174, 2177, 2184, 2186, 2188, 2190, 2192, 2194, 2196, 2198, 2200, 2201, 2203, 2205, 2207, 2209, 2211, 2213, 2214, 2216, 2218, 2220, 2222, 2224, 2225, 2227, 2229, 2231, 2233, 2234, 2236, 2238, 2240, 2242, 2244, 2246, 2248, 2250, 2252, AND 2253 (Settlement Agreement) which resolved the remaining contest (Contest 2253) to Claim 727.
31. On April 2, 2003, the Adjudicator withdrew Case 009 from the Office of Administrative Hearings.
32. The Preliminary Evaluation for Claim 727 contains a scrivener's error which was incorporated into the Settlement Agreement, whereby Township 34 South was incorrectly listed as Township 31 South.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and USFS is adopted and incorporated as if set forth fully herein, with two exceptions:
 - a. the portion of Claim 727 located from the north boundary of NENE, SECTION 12, TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M., to south boundary of SENW, SECTION 12, TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M. has a priority date of July 26, 1961 as described in Finding 26, above; and
 - b. the scrivener's error in the township number in the Preliminary Evaluation which was incorporated into the Settlement Agreement as described in Finding 32, above; the township is corrected to Township 34 South.
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 GENERAL CONCLUSIONS OF LAW CONCERNING AMENDMENT OF CLAIMS is incorporated as if set forth fully herein.

4. OWRD finds that the claim amendment described in Finding 4, above, does not constitute a new claim under ORS 539.210. This determination is based on the factors described in Finding 4, above. Because the amendment occurred prior to the beginning of open inspection, it is permissible and is incorporated into the Claimant's Claim 727 for consideration in this Findings of Fact and Partial Order of Determination.
5. The Organic Administration Act of 1897 for a federal reserved water right is a valid basis for this claim. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON THE ORGANIC ADMINISTRATION ACT OF 1897 is incorporated as if set forth fully herein.
6. Based on the file and record herein, IT IS ORDERED that Claim 727 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 727

CLAIM MAP REFERENCE: MYLAR FILED AS CLAIM # 377, PAGE 223 and PAGE 224

CLAIMANT: UNITED STATES DEPARTMENT OF AGRICULTURE
 FOREST SERVICE
 1220 SW 3RD ROOM 1734
 PORTLAND, OR 97204

SOURCE OF WATER: SYCAN RIVER, tributary to the SPRAGUE RIVER

PURPOSE OR USE:

INSTREAM USE TO MAINTAIN A NATURAL FIRE BREAK AND SOURCE OF WATER FOR FOREST FIRE CONTROL

PERIODS OF ALLOWED USE AND RATES:

THE INSTREAM FLOW ALLOCATED PURSUANT TO THIS CLAIM IS NOT ADDITIVE TO ANY OTHER INSTREAM FLOWS WITHIN THE SAME STREAM REACH OR A PORTION OF THE SAME STREAM

Period of Use:	Natural Flow is Limited to Not More than the Following Rates in Cubic Feet per Second (CFS):
May 1 to May 31	357.0
June 1 to June 30	113.0
July 1 to July 31	21.0
Aug 1 to Aug 31	10.0
Sept 1 to Sept 30	13.0
Oct 1 to Oct 31	17.0

DATE OF PRIORITY:

APRIL 15, 1961 – SYCAN RIVER FROM TO NORTH BOUNDARY OF NESW, SECTION 12, TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M. TO SWSE, SECTION 31, TOWNSHIP 34 SOUTH, RANGE 12 EAST, W.M.

JULY 26, 1961 – SYCAN RIVER FROM NORTH BOUNDARY OF NENE, SECTION 12, TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M. TO SOUTH BOUNDARY OF SENW, SECTION 12, TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SYCAN RIVER FROM NENE, SECTION 12, TOWNSHIP 34 SOUTH, RANGE 11 EAST, W.M., TO SWSE, SECTION 31, TOWNSHIP 34 SOUTH, RANGE 12 EAST, W.M.

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication

**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	)	PARTIAL ORDER OF
UNITED STATES DEPARTMENT OF	)	DETERMINATION
AGRICULTURE, FOREST SERVICE)	
_____	)	Water Right Claim 728

The GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION is incorporated as if set forth fully herein.

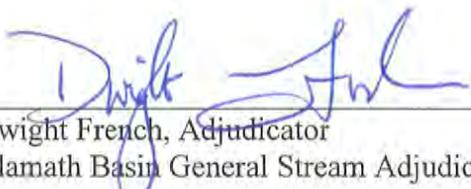
A. FINDINGS OF FACT

1. On April 29, 1997, the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (USFS) timely submitted a Statement and Proof of Claim (Claim 728) 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 Multiple-Use Sustained-Yield Act of 1960 (MUSYA), 16 U.S.C. §§ 528-531.
2. 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 denied.
3. Several timely contests, including one by the USFS, were filed to Claim 728 and/or Preliminary Evaluation of Claim 728.
4. 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 USFS as Case 004.
5. On December 30, 2002 the Claimant, USFS, voluntarily withdrew Claim 728 which thereby resolved all contests. *See* UNITED STATES' NOTICE OF WITHDRAWAL OF CLAIMS (Dec. 30, 2002).
6. On December 31, 2002, the Adjudicator withdrew Case 004 from the Office of Administrative Hearings.

B. DETERMINATION

Based upon the file and record herein, including the withdrawal of Claim 728 by the USFS, IT IS ORDERED that Claim 728 is denied and is of no force or effect.

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication