

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **500**
USFS claim

Current Claimant(s) of Record:

United States of America,
U.S. Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

United States of America
U.S. Forest Service

This preliminary evaluation takes into consideration all information available as of August 13, 1999.

**ELEMENTS OF A CLAIM FOR INSTREAM FLOW FOR WILD AND SCENIC RIVERS
ACT PURPOSES**

The Wild and Scenic Rivers Act of September 22, 1988, 16 U.S.C. 1271 *et. seq.* was adopted for the express purpose of preserving, in a free-flowing condition, rivers which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values.

Claims for reserved instream flows for rivers or river reaches designated under the Wild and Scenic Rivers Act of September 22, 1988, 16 U.S.C. 1271 *et. seq.* and the Omnibus Oregon Wild and Scenic Rivers Act, 102 Stat. 2782 *et. seq.* (1988) are proper and may be allowed where the federal claimant shows, as a factual matter, that the amount requested is the minimum quantity of water necessary to fulfill the primary purposes of the designating reservation.

Cappaert v. U.S., 426 U.S. 128, 141 (1976); *In re SRBA*, “Wild and Scenic River Claims, Consolidated Subcase 75-13316, Memorandum Decision Granting, In Part, and Denying, In Part, the United States’ Motion for Summary Judgment on Reserved Water Rights Claims, at 8-11 (District Court of the Fifth Judicial District of the Sate of Idaho, July 27, 1998).

CLAIM INFORMATION / FINDINGS OF FACT

1. Claim 500 was filed on April 29, 1997 and amended on August 3, 1999.
2. The Forest Service claims federal reserved rights to flows in the North Fork of the Sprague River in the reach flowing through the SW¹/₄ SW¹/₄ Section 15, T35 S, R16E, WM, to the NE¹/₄ SW¹/₄ Section 11, T35S, R15E, WM.

3. The claim is for a range of flows between 74 cfs and 957 cfs when the natural flow is greater than or equal to 74 cfs, and between 20 and 74 cfs when the natural flow is less than 74 cfs.
4. The claimed period of use is January 1 through December 31 of each year.
5. The claimed priority date is October 28, 1988, the date the subject reach of the North Fork of the Sprague River was designated as a component of the National Wild and Scenic Rivers System.
6. The claimed use is for all purposes encompassed by the Federal Wild and Scenic Rivers Act of October 2, 1968, Public Law 90-542 (1968).
7. The claimed outstandingly remarkable values for which the North Fork of the Sprague River were included in the National Wild and Scenic Rivers System are scenic and geologic.
8. The requested flow levels for the outstandingly remarkable values represent typical conditions in the river over the course of the year, and are intended to preserve streamside and riparian vegetation and to maintain and preserve the river channel characteristics.

CONCLUSION

9. The subject reach of the North Fork of the Sprague River was designated as a scenic river area. Omnibus Oregon Wild and Scenic Rivers Act, 102 Stat. 2782 *et. seq.* (1988).
10. The claimant has demonstrated the connection between the specific flows requested and the purposes of the reservation, and has demonstrated that the amount requested is the minimum amount necessary to preserve those uses.
11. Claim 500 for scenic flows is APPROVED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **501**
USFS claim

Current Claimant(s) of Record:

United States of America,
U.S. Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

United States of America
U.S. Forest Service

This preliminary evaluation takes into consideration all information available as of August 13, 1999.

**ELEMENTS OF A CLAIM FOR INSTREAM FLOW FOR WILD AND SCENIC RIVERS
ACT PURPOSES**

The Wild and Scenic Rivers Act of September 22, 1988, 16 U.S.C. 1271 *et. seq.* was adopted for the express purpose of preserving, in a free-flowing condition, rivers which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values.

Claims for reserved instream flows for rivers or river reaches designated under the Wild and Scenic Rivers Act of September 22, 1988, 16 U.S.C. 1271 *et. seq.* and the Omnibus Oregon Wild and Scenic Rivers Act, 102 Stat. 2782 *et. seq.* (1988) are proper and may be allowed where the federal claimant shows, as a factual matter, that the amount requested is the minimum quantity of water necessary to fulfill the primary purposes of the designating reservation.

Cappaert v. U.S., 426 U.S. 128, 141 (1976); *In re SRBA*, “Wild and Scenic River Claims, Consolidated Subcase 75-13316, Memorandum Decision Granting, In Part, and Denying, In Part, the United States’ Motion for Summary Judgment on Reserved Water Rights Claims, at 8-11 (District Court of the Fifth Judicial District of the Sate of Idaho, July 27, 1998).

CLAIM INFORMATION / FINDINGS OF FACT

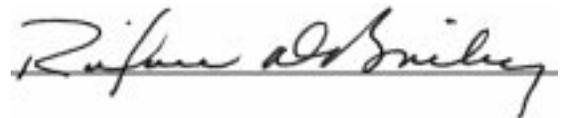
1. Claim 501 was filed on April 29, 1997 and amended on August 3, 1999.
2. The Forest Service claims federal reserved rights to flows in the Sycan River in the 26.4-mile reach flowing through the NW¹/₄ SE¹/₄ Section 5, T34S, R17E, WM, to the SW¹/₄ SW¹/₄ Section 22, T32S, R14.5E, WM.

3. The claim is for a range of flows between 81 cfs and 1921 cfs when the natural flow is greater than or equal to 81 cfs, and between 7.5 and 81 cfs when the natural flow is less than 81 cfs.
4. The claimed period of use is January 1 through December 31 of each year.
5. The claimed priority date is October 28, 1988, the date the subject reach of the Sycan River was designated as a component of the National Wild and Scenic Rivers System.
6. The claimed use is for all purposes encompassed by the Federal Wild and Scenic Rivers Act of October 2, 1968, Public Law 90-542 (1968).
7. The claimed outstandingly remarkable values for which the Sycan River were included in the National Wild and Scenic Rivers System are scenic, geologic, fisheries and wildlife.
8. The requested flow levels for the outstandingly remarkable scenic and geologic values represent typical conditions in the river over the course of the year, and are intended to preserve streamside and riparian vegetation and to maintain and preserve the river channel characteristics.
9. The requested flow levels for the outstandingly remarkable fisheries values were derived using the approved Instream Flow Incremental Methodology (IFIM).

CONCLUSION

10. The subject reach of the Sycan River was designated as a scenic river area. Omnibus Oregon Wild and Scenic Rivers Act, 102 Stat. 2782 *et. seq.* (1988).
11. The claimant has demonstrated the connection between the specific flows requested and the purposes of the reservation, and has demonstrated that the amount requested is the minimum amount necessary to preserve those uses.
12. Claim 501 for scenic flows is APPROVED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **502**
USFS claim

Current Claimant(s) of Record:

United States of America,
U.S. Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

United States of America
U.S. Forest Service

This preliminary evaluation takes into consideration all information available as of August 13, 1999.

**ELEMENTS OF A CLAIM FOR INSTREAM FLOW FOR WILD AND SCENIC RIVERS
ACT PURPOSES**

The Wild and Scenic Rivers Act of September 22, 1988, 16 U.S.C. 1271 *et. seq.* was adopted for the express purpose of preserving, in a free-flowing condition, rivers which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values.

Claims for reserved instream flows for rivers or river reaches designated under the Wild and Scenic Rivers Act of September 22, 1988, 16 U.S.C. 1271 *et. seq.* and the Omnibus Oregon Wild and Scenic Rivers Act, 102 Stat. 2782 *et. seq.* (1988) are proper and may be allowed where the federal claimant shows, as a factual matter, that the amount requested is the minimum quantity of water necessary to fulfill the primary purposes of the designating reservation.

Cappaert v. U.S., 426 U.S. 128, 141 (1976); *In re SRBA*, “Wild and Scenic River Claims, Consolidated Subcase 75-13316, Memorandum Decision Granting, In Part, and Denying, In Part, the United States’ Motion for Summary Judgment on Reserved Water Rights Claims, at 8-11 (District Court of the Fifth Judicial District of the Sate of Idaho, July 27, 1998).

CLAIM INFORMATION / FINDINGS OF FACT

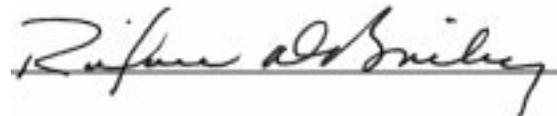
1. Claim 502 was filed on April 29, 1997 and amended on August 3, 1999.
2. The Forest Service claims federal reserved rights to flows in the Sycan River in the 24-mile reach flowing from the NE¹/₄ SW¹/₄ Section 10, T33S, R13E, WM, to the SW¹/₄ SE¹/₄ Section 31, T34S, R12E, WM.

3. The claim is for a range of flows between 281 cfs and 3552 cfs when the natural flow is greater than or equal to 281 cfs, and between 5.8 and 281 cfs when the natural flow is less than 281 cfs.
4. The claimed period of use is January 1 through December 31 of each year.
5. The claimed priority date is October 28, 1988, the date the subject reach of the Sycan River was designated as a component of the National Wild and Scenic Rivers System.
6. The claimed use is for all purposes encompassed by the Federal Wild and Scenic Rivers Act of October 2, 1968, Public Law 90-542 (1968).
7. The claimed outstandingly remarkable values for which the Sycan River were included in the National Wild and Scenic Rivers System are scenic, geologic, fisheries and wildlife.
8. The requested flow levels for the outstandingly remarkable scenic and geologic values represent typical conditions in the river over the course of the year, and are intended to preserve streamside and riparian vegetation and to maintain and preserve the river channel characteristics.
9. The requested flow levels for the outstandingly remarkable fisheries values were derived using the approved Instream Flow Incremental Methodology (IFIM).

CONCLUSION

10. The subject reach of the Sycan River was designated as a scenic river area. Omnibus Oregon Wild and Scenic Rivers Act, 102 Stat. 2782 *et. seq.* (1988).
11. The claimant has demonstrated the connection between the specific flows requested and the purposes of the reservation, and has demonstrated that the amount requested is the minimum amount necessary to preserve those uses.
12. Claim 502 for scenic flows is APPROVED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **503**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 15 cfs the United States claims the flow from 15 to 370 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is October 14, 1935.
6. The claimed place of use is Brownsworth Creek from Section 36 (NESW), Township 36S, Range 15E to Section 36 (NESW), Township 36S, Range 15E.

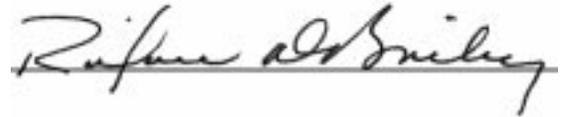
FINDINGS OF FACT

7. The Fremont National Forest was established on April 14, 1934. Pub. L. No. 161, 48 Stat. 590 (1934).
8. Brownsworth Creek, tributary to the South Fork of the Sprague River is part of the Fremont National Forest. Presidential Proclamation No. 2143, October 14, 1935.
9. The priority date for this instream use is October 14, 1935.
10. The place of use is Brownsworth Creek from Section 36 (NESW), Township 36S, Range 15E to Section 36 (NESW), Township 36S, Range 15E.
11. The period of use is January 1 to December 31.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
13. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
14. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 6.8 cfs in Brownsworth Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Brownsworth Creek stream channel.
 - b) A flow of up to 403 cfs (with a recurrence interval of twenty five years) is necessary in Brownsworth Creek to scour vegetation from Brownsworth Creek's active channel and maintain the active flood plain.

CONCLUSION

15. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Brownsworth Creek in the Fremont National Forest.
16. This claim is APPROVED.

Dated the 4th day of October, 1999.

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Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **504**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is October 14, 1935.
4. The claimed place of use is Brownsworth Creek from Section 36 (NESW), Township 36 S, Range 15E to Section 36 (NESW), Township 36S, Range 15E.
5. The claimed amount is:

May	36 cfs
June	16 cfs
July	6.1 cfs
August	4.4 cfs
September	4.6 cfs
October	5.2 cfs
November 1 to November 15	6.3 cfs

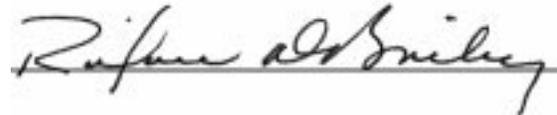
FINDINGS OF FACT

6. Brownsworth Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on October 14, 1935 for the Fremont National Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **505**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Townships 36 and 37 South, Range 15 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

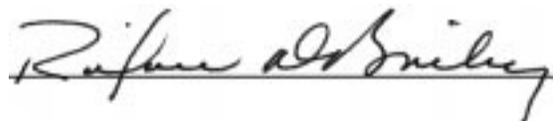
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 5.0 to 403 cubic feet per second on Brownsworth Creek, tributary to the South Fork Sprague River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act of June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the Fremont National Forest, which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator

Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **506**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 6.6 cfs the United States claims the flow from 6.6 to 190 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is April 15, 1961.
6. The claimed place of use is Coyote Creek from Section 21 (NWNW), Township 31S, Range 13E to Section 27 (SWNE) Township 31S, Range 13E.

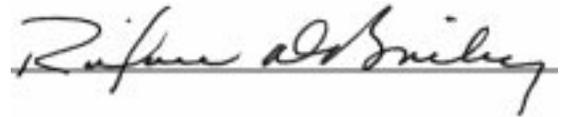
FINDINGS OF FACT

7. Coyote Creek is within lands reserved for forest purposes by the Proclamation of April 15, 1961 for the Winema National Forest.
8. The priority date for this instream use is April 15, 1961.
9. The place of use is Coyote Creek from Section 21 (NWNW), Township 31S, Range 13E to Section 27 (SWNE) Township 31S, Range 13E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 6.6 cfs in Coyote Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Coyote Creek stream channel.
 - b) A flow of up to 190 cfs (with a recurrence interval of twenty five years) is necessary in Coyote Creek to scour vegetation from Coyote Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Coyote Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **507**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is April 15, 1961.
4. The claimed place of use is Coyote Creek from Section 21 (NWNW), Township 31S, Range 13E to Section 27 (SWNE) Township 31S, Range 13E.
5. The claimed amount is:

May	5.8 cfs
June	4.2 cfs
July	1.5 cfs
August	0.4 cfs
September	0.9 cfs
October	1.2 cfs
November 1 to November 15	1.5 cfs

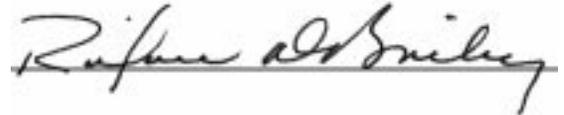
FINDINGS OF FACT

6. Coyote Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on April 15, 1961.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **508**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 31 South, Range 13 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 23, 1999.

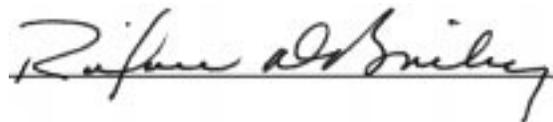
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 0.3 to 207 cubic feet per second on Coyote Creek, tributary to the Sycan River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act of June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is April 15, 1961.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA), under a priority of April 15, 1961. In reserving lands for forest purposes by Proclamation of April 15, 1961, the President did not designate the lands added to the Fremont National Forest for MUSYA purposes, nor does the Proclamation of April 15, 1961, purport to create a reservation in the Fremont National Forest under MUSYA or for MUSYA purposes. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator

Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **509**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 5.5 cfs the United States claims the flow from 5.5 to 182 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is August 21, 1906.
6. The claimed place of use is Deming Creek from Section 1 (NWNE), Township 36S, Range 15E to Section 9 (SESE), Township 36S, Range 15E.

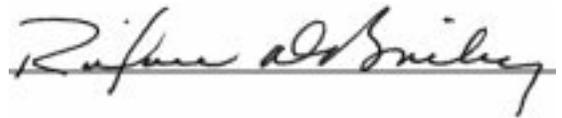
FINDINGS OF FACT

7. Deming Creek is within lands reserved for forest purposes by the Proclamation of August 21, 1906 for the Goose Lake Forest Reserve.
8. The priority date for this instream use is August 21, 1906.
9. The place of use is Deming Creek from Section 1 (NWNE), Township 36S, Range 15E to Section 9 (SESE), Township 36S, Range 15E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 5.5 cfs in Deming Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Deming Creek stream channel.
 - b) A flow of up to 182 cfs (with a recurrence interval of twenty five years) is necessary in Deming Creek to scour vegetation from Deming Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Deming Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, reading "Richard D. Bailey". The signature is written in a cursive style and is positioned above a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **510**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is August 21, 1906.
4. The claimed place of use is Deming Creek from Section 1 (NWNE), Township 36S, Range 15E to Section 9 (SESE), Township 36S, Range 15E.
5. The claimed amount is:

May	17 cfs
June	12 cfs
July	3.5 cfs
August	1.8 cfs
September	2.0 cfs
October	2.1 cfs
November 1 to November 15	2.4 cfs

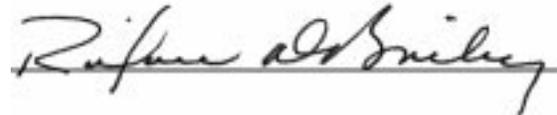
FINDINGS OF FACT

6. Deming Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on August 21, 1906 for the Goose Lake National Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **511**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 36 South, Range 15 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

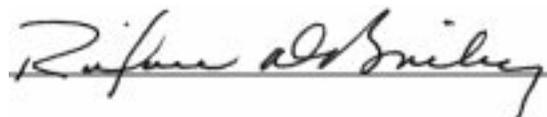
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 1.6 to 198 cubic feet per second on Deming Creek, tributary to the South Fork Sprague River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act of June 12, 1960, 16 U.S.C. 528 *et seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the Fremont National Forest, which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **512**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 99 cfs the United States claims the flow from 99 to 446 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is October 14, 1935.
6. The claimed place of use is Fishhole Creek from Section 4 (NESW) Township 38S, Range 15E to Section 32 (SEnw), Township 37S, Range 15E.

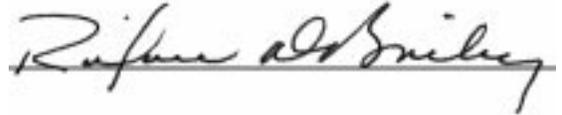
FINDINGS OF FACT

7. Fishhole Creek is within lands reserved for forest purposes by the Proclamation of October 14, 1935 for the Fremont Forest Reserve.
8. The priority date for this instream use is October 14, 1935.
9. The place of use is Fishhole Creek from Section 4 (NESW) Township 38S, Range 15E to Section 32 (SENE), Township 37S, Range 15E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 99 cfs in Fishhole Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Fishhole Creek stream channel.
 - b) A flow of up to 446 cfs (with a recurrence interval of twenty five years) is necessary in Fishhole Creek to scour vegetation from Fishhole Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Fishhole Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, reading "Richard D. Bailey". The signature is written in a cursive style and is positioned above a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **513**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is October 14, 1935
4. The claimed place of use is Fishhole Creek from Section 4 (NESW), Township 38S, Range 15E to Section 32 (SENW), Township 37S, Range 15E.
5. The claimed amount is:

May	16 cfs
June	8.3 cfs
July	3.7 cfs
August	1.3 cfs
September	1.2 cfs
October	2.2 cfs
November 1 to November 15	2.1 cfs

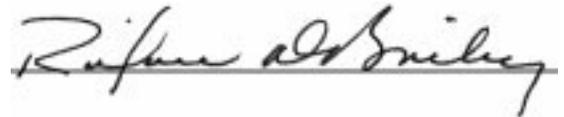
FINDINGS OF FACT

6. Fishhole Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on October 14, 1935 for the Fremont National Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **514**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Townships 38 and 37 South, Range 15 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 0.7 to 486 cubic feet per second on Fishhole Creek, tributary to the South Fork Sprague River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act of June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the Fremont National Forest, which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **515**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 62 cfs the United States claims the flow from 62 to 338 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is April 15, 1961.
6. The claimed place of use is Fivemile Creek from Section 13 (NENW), Township 35S, Range 13E to Section 24 (SWSE), Township 35S, Range 13E.

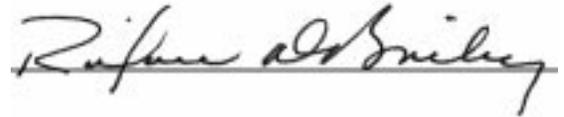
FINDINGS OF FACT

7. Fivemile Creek is within lands reserved for forest purposes by the Proclamation of April 15, 1961 for the Winema National Forest.
8. The priority date for this instream use is April 15, 1961.
9. The place of use is Fivemile Creek from Section 13 (NENW), Township 35S, Range 13E to Section 24 (SWSE), Township 35S, Range 13E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 62 cfs in Fivemile Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Fivemile Creek stream channel.
 - b) A flow of up to 338 cfs (with a recurrence interval of twenty five years) is necessary in Fivemile Creek to scour vegetation from Fivemile Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Fivemile Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **516**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is April 15, 1961.
4. The claimed place of use is Fivemile Creek from Section 13 (NENW), Township 35S, Range 13E to Section 24 (SWSE), Township 35S, Range 13E.
5. The claimed amount is:

May	24 cfs
June	21 cfs
July	20 cfs
August	18 cfs
September	19 cfs
October	21 cfs
November 1 to November 15	20 cfs

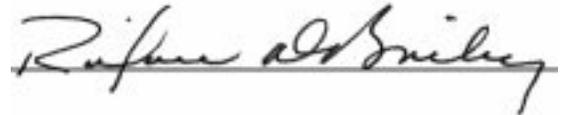
FINDINGS OF FACT

6. Fivemile Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on April 15, 1961.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **517**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 35 South, Range 13 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 23, 1999.

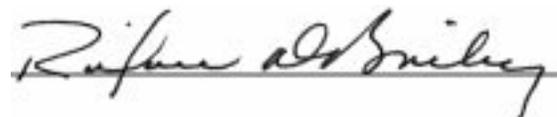
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 18 to 368 cubic feet per second on Fivemile Creek, tributary to the North Fork of the Sprague River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act of June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is April 15, 1961.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA), under a priority of April 15, 1961. In reserving lands for forest purposes by Proclamation of April 15, 1961, the President did not designate the lands added to the Fremont National Forest for MUSYA purposes, nor does the Proclamation of April 15, 1961, purport to create a reservation in the Fremont National Forest under MUSYA or for MUSYA purposes. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **518**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 25 cfs the United States claims the flow from 25 to 333 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is September 17, 1906.
6. The claimed place of use is Long Creek from Section 28 (SWSW), Township 30S, Range 12 E to Section 32 (SESE) Township 30S, Range 12E.

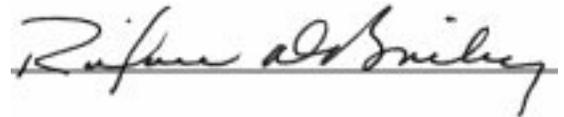
FINDINGS OF FACT

7. Long Creek is within lands reserved for forest purposes by the Proclamation of September 17, 1906 for the Fremont Forest Reserve.
8. The priority date for this instream use is September 17, 1906.
9. The place of use is Long Creek from Section 28 (SWSW), Township 30S, Range 12 E to Section 32 (SESE) Township 30S, Range 12E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 25 cfs in Long Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Long Creek stream channel.
 - b) A flow of up to 333 cfs (with a recurrence interval of twenty five years) is necessary in Long Creek to scour vegetation from Long Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Long Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **519**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is September 17, 1906.
4. The claimed place of use is Long Creek from Section 28 (SWSW), Township 30S, Range 12 E to Section 32 (SESE), Township 30S, Range 12E.
5. The claimed amount is:

May	30 cfs
June	39 cfs
July	15 cfs
August	11 cfs
September	8.5 cfs
October	9.3 cfs
November 1 to November 15	8.1 cfs

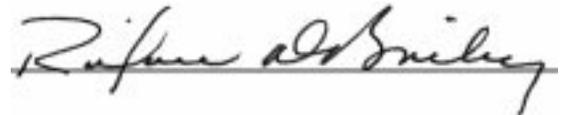
FINDINGS OF FACT

6. Long Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on September 17, 1906 for the Fremont National Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **520**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 30 South, Range 12 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

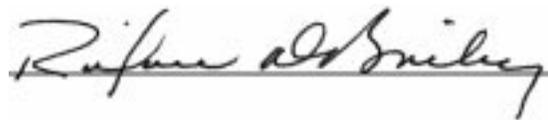
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 4.2 to 362 cubic feet per second on Long Creek, tributary to the Sycan River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act of June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the Fremont National Forest, which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **521**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 25 cfs the United States claims the flow from 25 to 333 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is April 15, 1961.
6. The claimed place of use is Long Creek from Section 5 (NENE), Township 31S, Range 12E to Section 5 (SWSE), Township 31S, Range 12E.

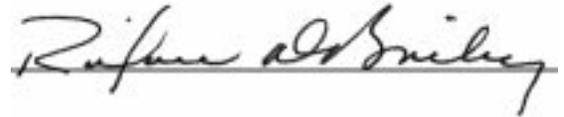
FINDINGS OF FACT

7. Long Creek is within lands reserved for forest purposes by the Proclamation of April 15, 1961 for the Winema National Forest.
8. The priority date for this instream use is April 15, 1961.
9. The place of use is Long Creek from Section 5 (NENE), Township 31S, Range 12E to Section 5 (SWSE), Township 31S, Range 12E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 25 cfs in Long Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Long Creek stream channel.
 - b) A flow of up to 333 cfs (with a recurrence interval of twenty five years) is necessary in Long Creek to scour vegetation from Long Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Long Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **522**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is April 15, 1961.
4. The claimed place of use is Long Creek from Section 5 (NENE), Township 31S, Range 12E to Section 5 (SWSE), Township 31S, Range 12E.
5. The claimed amount is:

May	30 cfs
June	39 cfs
July	15 cfs
August	11 cfs
September	8.5 cfs
October	9.3 cfs
November 1 to November 15	8.1 cfs

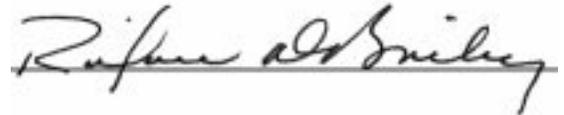
FINDINGS OF FACT

6. Long Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on April 15, 1961.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **523**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 31 South, Range 12 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 23, 1999.

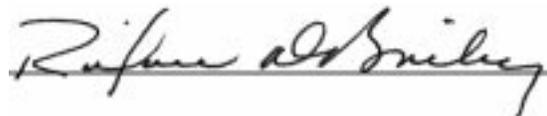
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 4.1 to 362 cubic feet per second on Long Creek, tributary to the Sycan River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act of June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is April 15, 1961.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA), under a priority of April 15, 1961. In reserving lands for forest purposes by Proclamation of April 15, 1961, the President did not designate the lands added to the Fremont National Forest for MUSYA purposes, nor does the Proclamation of April 15, 1961, purport to create a reservation in the Fremont National Forest under MUSYA or for MUSYA purposes. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **524**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 115 cfs the United States claims the flow from 115 to 1624 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is October 14, 1935.
6. The claimed place of use is North Fork of the Sprague River from Section 30 (SESW), Township 35S, Range 15E to Section 30 (SWSW), Township 35S, Range 15E.

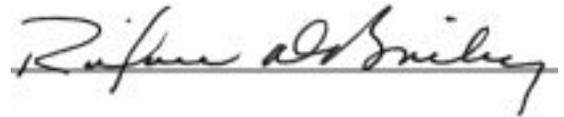
FINDINGS OF FACT

7. The North Fork of the Sprague River is within lands reserved for forest purposes by the Proclamation of October 14, 1935 for the Fremont National Forest Reserve.
8. The priority date for this instream use is October 14, 1935.
9. The place of use is North Fork of the Sprague River from Section 30 (SESW), Township 35S, Range 15E to Section 30 (SWSW), Township 35S, Range 15E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 115 cfs in the North Fork of the Sprague River will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the North Fork of the Sprague River channel.
 - b) A flow of up to 1624 cfs (with a recurrence interval of twenty five years) is necessary in the North Fork of the Sprague River to scour vegetation from the North Fork of the Sprague River's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for the North Fork of the Sprague River.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **525**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is October 14, 1935.
4. The claimed place of use is the North Fork of the Sprague River from Section 30 (SESW), Township 35S, Range 15E to Section 30 (SWSW), Township 35S, Range 15E.
5. The claimed amount is:

May	246 cfs
June	127 cfs
July	57 cfs
August	47 cfs
September	49 cfs
October	54 cfs
November 1 to November 15	72 cfs

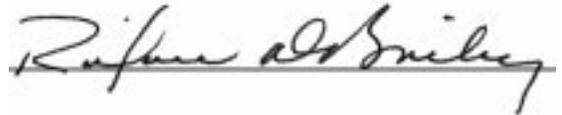
FINDINGS OF FACT

6. The North Fork of the Sprague River (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on October 14, 1935 for the Fremont National Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink on a white background.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **526**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 35 South, Range 15 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

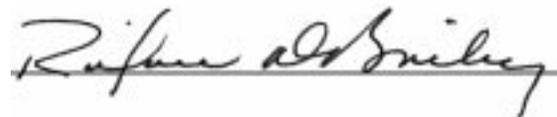
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 44 to 1770 cubic feet per second on the North Fork Sprague River, tributary to the Sprague River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act of June 12, 1960, 16 U.S.C. 528 *et seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the Fremont National Forest, which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **527**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 74 cfs the United States claims the flow from 74 to 957 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is October 14, 1935.
6. The claimed place of use is North Fork of the Sprague River from Section 11 (NESW), Township 35S, Range 15E to Section 11 (NESW), Township 35S, Range 15E.

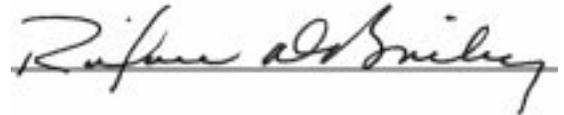
FINDINGS OF FACT

7. The North Fork of the Sprague River is within lands reserved for forest purposes by the Proclamation of October 14, 1935 for the Fremont National Forest Reserve.
8. The priority date for this instream use is October 14, 1935.
9. The place of use is North Fork of the Sprague River from Section 11 (NESW), Township 35S, Range 15E to Section 11 (NESW), Township 35S, Range 15E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 74 cfs in the North Fork of the Sprague River will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the North Fork of the Sprague River channel.
 - b) A flow of up to 957 cfs (with a recurrence interval of twenty five years) is necessary in the North Fork of the Sprague River to scour vegetation from the North Fork of the Sprague River's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for the North Fork of the Sprague River.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **528**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is October 14, 1935.
4. The claimed place of use is the North Fork of the Sprague River from Section 11 (NESW), Township 35S, Range 14E to Section 11 (NESW), Township 35S, Range 15E.
5. The claimed amount is:

May	181 cfs
June	82 cfs
July	35 cfs
August	29 cfs
September	30 cfs
October	33 cfs
November 1 to November 15	40 cfs

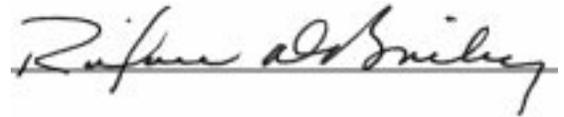
FINDINGS OF FACT

6. The North Fork of the Sprague River (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on October 14, 1935 for the Fremont National Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written in black ink on a white background.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **529**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 74 cfs the United States claims the flow from 74 to 957 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is August 21, 1906.
6. The claimed place of use is North Fork of the Sprague River from Section 30 (SWSW), Township 34S, Range 16E to Section 11 (SWNE), Township 35S, Range 15E.

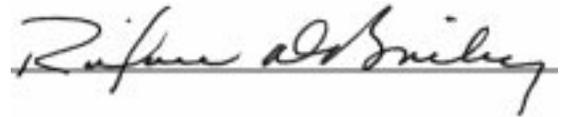
FINDINGS OF FACT

7. The North Fork of the Sprague River is within lands reserved for forest purposes by the Proclamation of August 21, 1906 for the Goose Lake National Forest Reserve.
8. The priority date for this instream use is August 21, 1906.
9. The place of use is North Fork of the Sprague River from Section 30 (SWSW), Township 34S, Range 16E to Section 11 (SWNE), Township 35S, Range 15E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 74 cfs in the North Fork of the Sprague River will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the North Fork of the Sprague River channel.
 - b) A flow of up to 957 cfs (with a recurrence interval of twenty five years) is necessary in the North Fork of the Sprague River to scour vegetation from the North Fork of the Sprague River's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for the North Fork of the Sprague River.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **530**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is August 21, 1906.
4. The claimed place of use is the North Fork of the Sprague River from Section 30 (SWSW), Township 34S, Range 16E to Section 11 (SWNE), Township 35S, Range 15E.
5. The claimed amount is:

May	181 cfs
June	82 cfs
July	35 cfs
August	29 cfs
September	30 cfs
October	33 cfs
November 1 to November 15	40 cfs

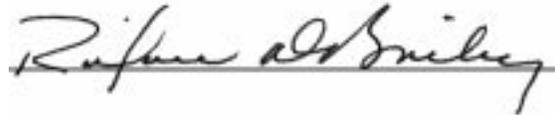
FINDINGS OF FACT

6. The North Fork of the Sprague River (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on August 21, 1906 for the Goose Lake National Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **531**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 34 South, Range 16 East, and Township 35 South, Range 15 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

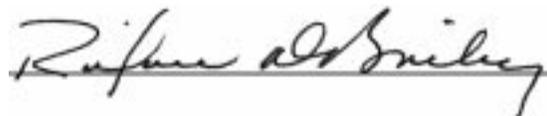
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 11 to 1042 cubic feet per second on the North Fork Sprague River, tributary to the Sprague River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the Fremont National Forest, which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **532**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 53 cfs the United States claims the flow from 53 to 630 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is September 17, 1906.
6. The claimed place of use is Paradise Creek from Section 11 (SENW), Township 34S, Range 15E to Section 22 (SWNE), Township 33S, Range 15E.

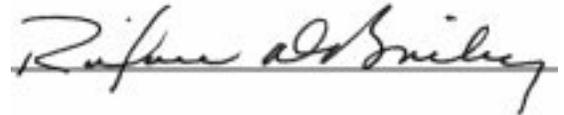
FINDINGS OF FACT

7. Paradise Creek is within lands reserved for forest purposes by the Proclamation of September 17, 1906 for the Fremont National Forest Reserve.
8. The priority date for this instream use is September 17, 1906.
9. The place of use is Paradise Creek from Section 11 (SEnw), Township 34S, Range 15E to Section 22 (SWNE), Township 33S, Range 15E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 53 cfs in Paradise Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Paradise Creek channel.
 - b) A flow of up to 630 cfs (with a recurrence interval of twenty five years) is necessary in Paradise Creek to scour vegetation from Paradise Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Paradise Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey". The signature is written in a cursive style and is positioned above the printed name.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **533**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is September 17, 1906.
4. The claimed place of use is Paradise Creek from Section 11 (SENW), Township 34S, Range 15E to Section 22 (SWNE), Township 33S, Range 15E.
5. The claimed amount is:

May	64 cfs
June	14 cfs
July	3.6 cfs
August	1.8 cfs
September	1.4 cfs
October	1.9 cfs
November 1 to November 15	2.3 cfs

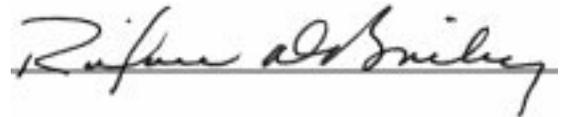
FINDINGS OF FACT

6. Paradise Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on September 17, 1906 for the Fremont National Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **534**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Townshipd 34 and 33 South, Range 15 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

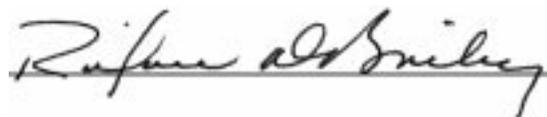
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 1.0 to 686 cubic feet per second on Paradise Creek, tributary to the Sycan River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the Fremont National Forest, which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **535**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 33 cfs the United States claims the flow from 33 to 600 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is November 15, 1974.
6. The claimed place of use is Sand Creek from Section 31 (SWNE), Township 31S, Range 7E to Section 29 (NESW), Township 31S, Range 7E.

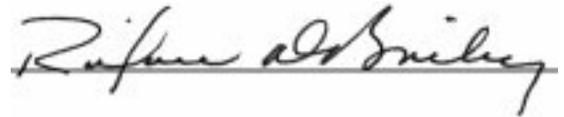
FINDINGS OF FACT

7. Sand Creek is within lands reserved for forest purposes by the Proclamation of November 15, 1974 for the Winema National Forest.
8. The priority date for this instream use is November 15, 1974.
9. The place of use is Sand Creek from Section 31 (SWNE), Township 31S, Range 7E to Section 29 (NESW), Township 31S, Range 7E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 33 cfs in Sand Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Sand Creek channel.
 - b) A flow of up to 600 cfs (with a recurrence interval of twenty five years) is necessary in Sand Creek to scour vegetation from Sand Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Sand Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **536**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is November 15, 1974.
4. The claimed place of use is Sand Creek from Section 31 (SWNE), Township 31S, Range 7E to Section 29 (NESW), Township 31S, Range 7E.
5. The claimed amount is:

May	41 cfs
June	63 cfs
July	52 cfs
August	31 cfs
September	28 cfs
October	22 cfs
November 1 to November 15	20 cfs

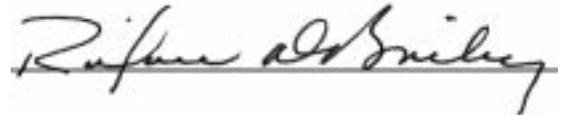
FINDINGS OF FACT

6. Sand Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on November 15, 1974 for the Winema National Forest..
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **537**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 31 South, Range 7 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 13 to 653 cubic feet per second on Sand Creek, tributary to the Williamson River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The court in the *Adair* case ruled that the United States was not entitled to any flows in the Winema National Forest based on MUSYA. Although Congress may have authorized the responsible official in the executive department to reserve water after 1960, the documents transferring lands into the Winema National Forest do not purport to create a reservation under MUSYA or for MUSYA purposes. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **538**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 33 cfs the United States claims the flow from 33 to 600 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is January 25, 1907.
6. The claimed place of use is Sand Creek from Section 35 (SWNE), Township 31S, Range 7.5E to Section 31 (SWNE), Township 31S, Range 7E.

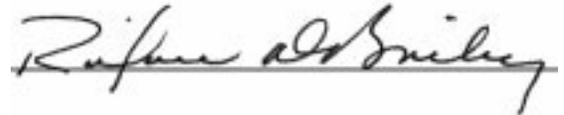
FINDINGS OF FACT

7. Sand Creek is within lands reserved for forest purposes by the Proclamation of January 25, 1907 to the Cascade National Forest Reserve.
8. The priority date for this instream use is January 25, 1907.
9. The place of use is Sand Creek from Section 35 (SWNE), Township 31S, Range 7.5E to Section 31 (SWNE), Township 31S, Range 7E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 33 cfs in Sand Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Sand Creek channel.
 - b) A flow of up to 600 cfs (with a recurrence interval of twenty five years) is necessary in Sand Creek to scour vegetation from Sand Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Sand Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **539**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is January 25, 1907.
4. The claimed place of use is Sand Creek from Section 35 (SWNE), Township 31S, Range 7.5E to Section 31 (SWNE), Township 31S, Range 7E..
5. The claimed amount is:

May	41 cfs
June	63 cfs
July	52 cfs
August	31 cfs
September	28 cfs
October	22 cfs
November 1 to November 15	20 cfs

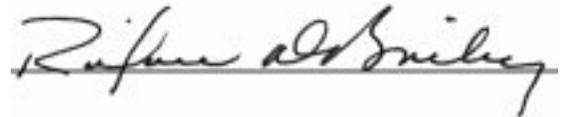
FINDINGS OF FACT

6. Sand Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on January 25, 1907 for the Cascade Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **540**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 31 South, Range 7 ½ East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 13 to 653 cubic feet per second on Sand Creek, tributary to the Williamson River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the portion of the Winema National Forest which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **541**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 14 cfs the United States claims the flow from 14 to 207 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is January 25, 1907.
6. The claimed place of use is Scott Creek Section 11 (SESW), Township 31S, Range 7.5E to Section 18, (SWNE), Township 31S, Range 7E.

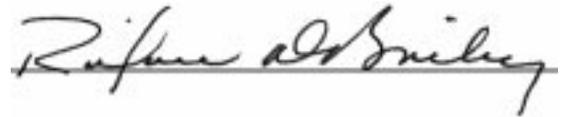
FINDINGS OF FACT

7. Scott Creek is within lands reserved for forest purposes by the Proclamation of January 25, 1907 to the Cascade National Forest Reserve.
8. The priority date for this instream use is January 25, 1907.
9. The place of use is Scott Creek Section 11 (SESW), Township 31S, Range 7.5E to Section 18, (SWNE), Township 31S, Range 7E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 14 cfs in Scott Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Scott Creek channel.
 - b) A flow of up to 207 cfs (with a recurrence interval of twenty five years) is necessary in Scott Creek to scour vegetation from Scott Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Scott Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **542**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is January 25, 1907.
4. The claimed place of use is Scott Creek from Section 11 (SESW), Township 31S, Range 7.5E to Section 18 (SWNE), Township 31S, Range 7E.
5. The claimed amount is:

May	19 cfs
June	32 cfs
July	25 cfs
August	14 cfs
September	12 cfs
October	9.1 cfs
November 1 to November 15	8.0 cfs

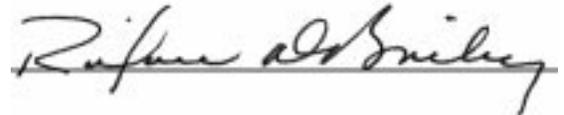
FINDINGS OF FACT

6. Scott Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on January 25, 1907 for the Cascade Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **543**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 31 South, Range 7 ½ East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

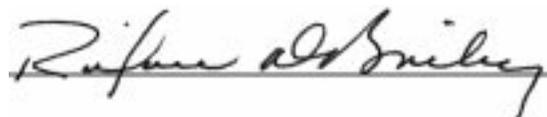
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 13.3 to 226 cubic feet per second on Scott Creek, tributary to the Williamson River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the portion of the Winema National Forest which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **544**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 76 cfs the United States claims the flow from 76 to 403 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is June 4, 1897.
6. The claimed place of use is Sevenmile Creek from Section 10 (NESW), Township 33S, Range 6E to Section 14 (SESE), Township 33S, Range 6E.

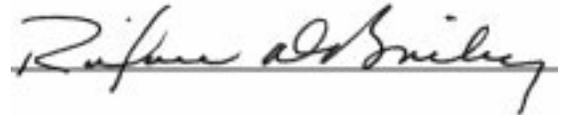
FINDINGS OF FACT

7. Sevenmile Creek is within lands reserved for forest purposes by the Proclamation of September 28, 1893 to the Cascade Range Forest.
8. The priority date for this instream use is June 4, 1897.
9. The place of use is Sevenmile Creek from Section 10 (NESW), Township 33S, Range 6E to Section 14 (SESE), Township 33S, Range 6E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 76 cfs in Sevenmile Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Sevenmile Creek channel.
 - b) A flow of up to 403 cfs (with a recurrence interval of twenty five years) is necessary in Sevenmile Creek to scour vegetation from Sevenmile Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Sevenmile Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey". The signature is written in a cursive style and is positioned above the typed name.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **545**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is June 4, 1897.
4. The claimed place of use is Sevenmile Creek from Section 10 (NESW), Township 33S, Range 6E to Section 14 (SESE), Township 33S, Range 6E.
5. The claimed amount is:

May	36 cfs
June	28 cfs
July	17 cfs
August	17 cfs
September	18 cfs
October	19 cfs
November 1 to November 15	19 cfs

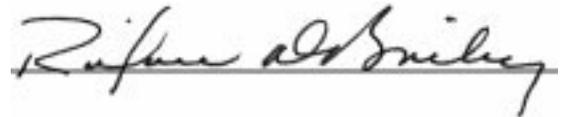
FINDINGS OF FACT

6. Sevenmile Creek is within lands reserved for forest purposes by Proclamation on September 28, 1893 for the Cascade Range Forest.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **546**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 33 South, Range 6 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 10 to 439 cubic feet per second on Sevenmile Creek, tributary to Klamath Lake, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the portion of the Winema National Forest which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **547**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 6.5 cfs the United States claims the flow from 6.5 to 367 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is June 4, 1897.
6. The claimed place of use is Sink Creek from Section 11 (NESE), Township 28S, Range 6E to Section 13 (NENE), Township 28S, Range 6E.

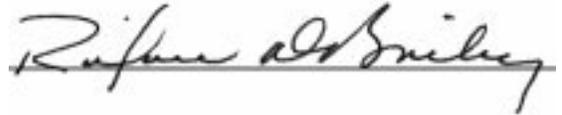
FINDINGS OF FACT

7. Sink Creek is within lands reserved for forest purposes by the Proclamation of September 28, 1893 to the Cascade Range Forest.
8. The priority date for this instream use is June 4, 1897.
9. The place of use is Sink Creek from Section 11 (NESE), Township 28S, Range 6E to Section 13 (NENE), Township 28S, Range 6E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 6.5 cfs in Sink Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Sink Creek channel.
 - b) A flow of up to 367 cfs (with a recurrence interval of twenty five years) is necessary in Sink Creek to scour vegetation from Sink Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Sink Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **548**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is June 4, 1897.
4. The claimed place of use is Sink Creek from Section 11 (NESE), Township 28S, Range 6E to Section 13 (NENE), Township 28S, Range 6E.
5. The claimed amount is:

May	12.6 cfs
June	27.8 cfs
July	11.9 cfs
August	5.9 cfs
September	4.3 cfs
October	4.0 cfs
November 1 to November 15	3.7 cfs

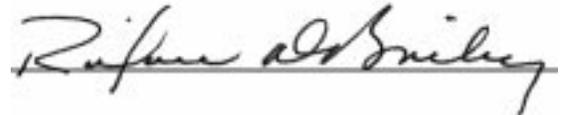
FINDINGS OF FACT

6. Sink Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on September 28, 1893 for the Cascade Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **549**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 41 cfs the United States claims the flow from 41 to 402 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is March 2, 1907.
6. The claimed place of use is Spencer Creek from Section 18 (NWSW), Township 38S, Range 6E to Section 18 (NWSE), Township 38S, Range 6E.

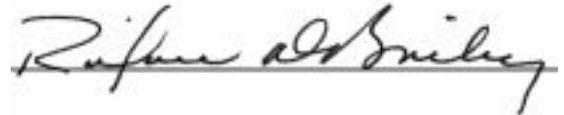
FINDINGS OF FACT

7. Spencer Creek is within lands reserved for forest purposes by the Proclamation of March 2, 1907 to the Cascade National Forest Reserve.
8. The priority date for this instream use is March 2, 1907.
9. The place of use is Spencer Creek from Section 18 (NWSW), Township 38S, Range 6E to Section 18 (NWSE), Township 38S, Range 6E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 41 cfs in Spencer Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Spencer Creek channel.
 - b) A flow of up to 402 cfs (with a recurrence interval of twenty five years) is necessary in Spencer Creek to scour vegetation from Spencer Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Spencer Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **550**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is March 2, 1907.
4. The claimed place of use is Spencer Creek from Section 18 (NWSW), Township 38S, Range 6E to Section 18 (NWSE), Township 38S, Range 6E.
5. The claimed amount is:

May	66 cfs
June	44 cfs
July	28 cfs
August	25 cfs
September	26 cfs
October	28 cfs
November 1 to November 15	29 cfs

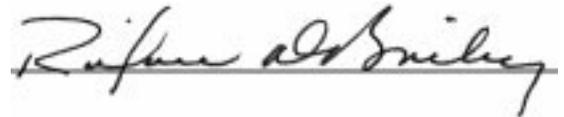
FINDINGS OF FACT

6. Spencer Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on March 2, 1907 for the Cascade Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **551**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 38 South, Range 6 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 17 to 438 cubic feet per second on Spencer Creek, tributary to the Klamath River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the portion of the Winema National Forest which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **552**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 6.6 cfs the United States claims the flow from 6.6 to 237 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is June 4, 1897.
6. The claimed place of use is Threemile Creek from Section 5 (SWSW), Township 34S, Range 34E to Section 2 (NWSE), Township 34S, Range 6E.

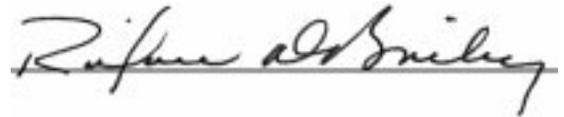
FINDINGS OF FACT

7. Threemile Creek is within lands reserved for forest purposes by the Proclamation of September 28, 1893.
8. The priority date for this instream use is June 4, 1897.
9. The place of use is Threemile Creek from Section 5 (SWSW), Township 34S, Range 34E to Section 2 (NWSE), Township 34S, Range 6E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 6.6 cfs in Threemile Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Threemile Creek channel.
 - b) A flow of up to 237 cfs (with a recurrence interval of twenty five years) is necessary in Threemile Creek to scour vegetation from Threemile Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Threemile Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **553**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is June 4, 1897.
4. The claimed place of use is Threemile Creek from Section 5 (SWSW), Township 34S, Range 6E to Section 2 (NWSE) Township 34S, Range 6E.
5. The claimed amount is:

May	29 cfs
June	13 cfs
July	3.1 cfs
August	1.9 cfs
September	2.1 cfs
October	2.6 cfs
November 1 to November 15	3.0 cfs

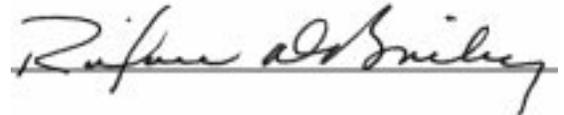
FINDINGS OF FACT

6. Threemile Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on September 18, 1893 for the Cascade Range Forest.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **554**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 34 South, Range 6 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

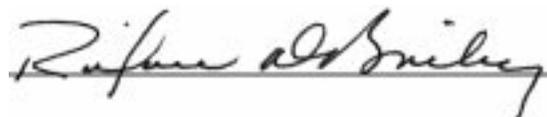
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 0.7 to 258 cubic feet per second on Threemile Creek, tributary to Fourmile Creek, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the portion of the Winema National Forest which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **555**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is April 15, 1961.
4. The claimed place of use is Trout Creek from Section 35 (SWSW), Township 35S, Range 9E to Section 35 (NESE), Township 35S, Range 9E.
5. The claimed amount is:

May	9.1 cfs
June	5.5 cfs
July	3.1 cfs
August	2.6 cfs
September	2.8 cfs
October	2.9 cfs
November 1 to November 15	3.0 cfs

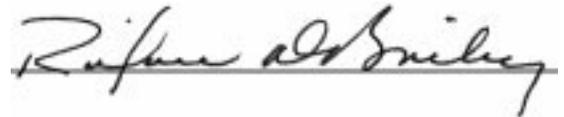
FINDINGS OF FACT

6. Trout Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on April 15, 1961 to the Winema National Forest.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **556**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 35 South, Range 9 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

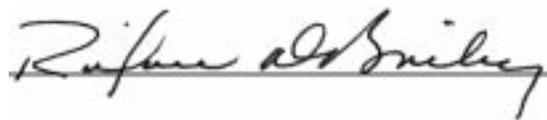
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 0.6 to 8.5 cubic feet per second on Trout Creek, tributary to the Sprague River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The court in the *Adair* case ruled that the United States was not entitled to any flows in the Winema National Forest based on MUSYA. Although Congress may have authorized the responsible official in the executive department to reserve water after 1960, the documents transferring lands into the Winema National Forest do not purport to create a reservation under MUSYA or for MUSYA purposes. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **557**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 5.8 cfs the United States claims the flow from 5.8 to 183 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is June 4, 1897.
6. The claimed place of use is Varney Creek from Section 34 (SWSW), Township 36S, Range 6E to Section 21 (NENW), Township 36S, Range 6E.

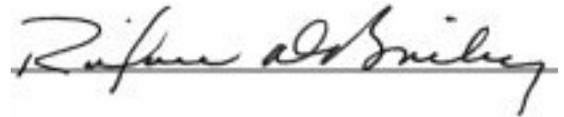
FINDINGS OF FACT

7. Varney Creek is within lands reserved for forest purposes by the Proclamation of September 28, 1893.
8. The priority date for this instream use is June 4, 1897.
9. The place of use is Varney Creek from Section 34 (SWSW), Township 36S, Range 6E to Section 21 (NENW), Township 36S, Range 6E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 5.8 cfs in Varney Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Varney Creek channel.
 - b) A flow of up to 183 cfs (with a recurrence interval of twenty five years) is necessary in Varney Creek to scour vegetation from Varney Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Varney Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **558**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is June 4, 1897.
4. The claimed place of use is Varney Creek from Section 34 (SWSW), Township 36S, Range 6E to Section 21 (NENW), Township 36S, Range 6E.
5. The claimed amount is:

May	6.1 cfs
June	2.1 cfs
July	1.1 cfs
August	0.6 cfs
September	0.5 cfs
October	0.4 cfs
November 1 to November 15	0.0 cfs

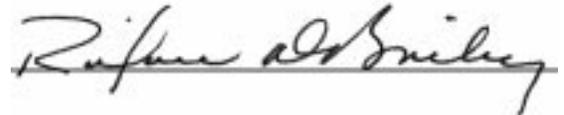
FINDINGS OF FACT

6. Varney Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on September 28, 1893 for the Cascade Range Forest.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **559**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 36 South, Range 6 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

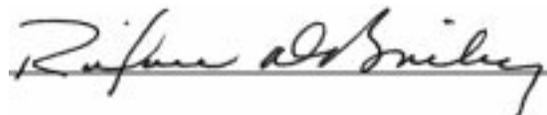
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 0.3 to 199 cubic feet per second on Varney Creek, tributary to Klamath Lake, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the portion of the Winema National Forest which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **560**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 115 cfs the United States claims the flow from 115 to 281 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is June 12, 1956.
6. The claimed place of use is Cow Creek from Section 11 (SESW), Township 41S, Range 1W to Section 11 (SESW), Township 41S, Range 1W.

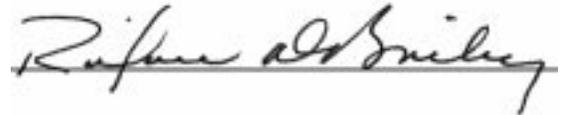
FINDINGS OF FACT

7. Cow Creek is within lands reserved for forest purposes by Proclamation on March 2, 1907 for the Ashland National Forest Reserve.
8. The priority date for this instream use is March 2, 1907.
9. The place of use is Cow Creek from Section 11 (SESW), Township 41S, Range 1W to Section 11 (SESW), Township 41S, Range 1W.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 115 cfs in Cow Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Cow Creek channel.
 - b) A flow of up to 281 cfs (with a recurrence interval of twenty five years) is necessary in Cow Creek to scour vegetation from Cow Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Cow Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **561**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is March 2, 1907.
4. The claimed place of use is Cow Creek from Section 11 (SESW), Township 41S, Range 1W to Section 11 (SESW), Township 41S, Range 1W.
5. The claimed amount is:

May	96 cfs
June	58 cfs
July	24 cfs
August	17 cfs
September	18 cfs
October	21 cfs
November 1 to November 15	23 cfs

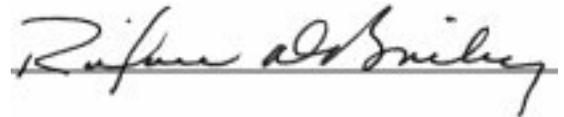
FINDINGS OF FACT

6. Cow Creek (as described in paragraph 4) is within lands reserved for forest purposes by Order Exchanging Administrative Jurisdiction on June 21, 1956.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **562**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 41 South, Range 1 West, W.M.

This preliminary evaluation takes into consideration all information available as of July 23, 1999.

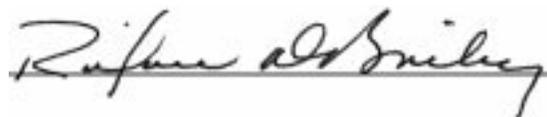
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 16 to 306 cubic feet per second on Cow Creek, tributary to Beaver Creek, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act of June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the Klamath National Forest, which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **563**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 115 cfs the United States claims the flow from 115 to 281 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is June 12, 1956.
6. The claimed place of use is Cow Creek from Section 14 (NENW), Township 41S, Range 1W to Section 14 (NESE), Township 41S, Range 1W.

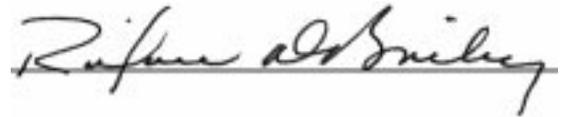
FINDINGS OF FACT

7. Cow Creek is within lands reserved for forest purposes by Proclamation on March 2, 1907 for the Ashland National Forest Reserve.
8. The priority date for this instream use is March 2, 1907.
9. The place of use is Cow Creek Section 14 (NENW), Township 41S, Range 1W to Section 14 (NESE), Township 41S, Range 1W.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 115 cfs in Cow Creek will ensure that the stream channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Cow Creek channel.
 - b) A flow of up to 281 cfs (with a recurrence interval of twenty five years) is necessary in Cow Creek to scour vegetation from Cow Creek's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for Cow Creek.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **564**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is June 12, 1956
4. The claimed place of use is Cow Creek from Section 14 (NENW), Township 41S, Range 1W to Section 14 (NESE), Township 41S, Range 1W.
5. The claimed amount is:

May	96 cfs
June	58 cfs
July	24 cfs
August	17 cfs
September	18 cfs
October	21 cfs
November 1 to November 15	23 cfs

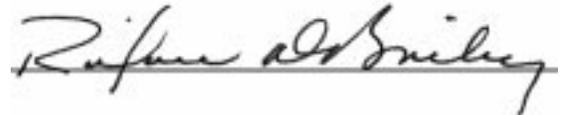
FINDINGS OF FACT

6. Cow Creek (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on March 2, 1907 for the Ashland Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **565**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 923 cfs the United States claims the flow from 93 to 7409 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is April 15, 1961.
6. The claimed place of use is Sprague River from Section 30 (NENW), Township 34S, Range 8E to Section 36 (NENW), Township 34S, Range 7E.

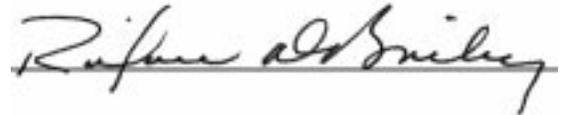
FINDINGS OF FACT

7. The Sprague River is within lands reserved for forest purposes by Proclamation on April 15, 1961 for the Winema National Forest.
8. The priority date for this instream use is April 15, 1961.
9. The place of use is Sprague River from Section 30 (NENW), Township 34S, Range 8E to Section 36 (NENW), Township 34S, Range 7E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 923 cfs in the Sprague River will ensure that the river channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Sprague River channel.
 - b) A flow of up to 7409 cfs (with a recurrence interval of twenty five years) is necessary in the Sprague River to scour vegetation from the Sprague River's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for the Sprague River.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink on a white background.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **566**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is April 15, 1961.
4. The claimed place of use is the Sprague River from Section 30 (NENW), Township 34S, Range 8E to Section 36 (NENW), Township 34S, Range 7E.
5. The claimed amount is:

May	1100 cfs
June	590 cfs
July	300 cfs
August	248 cfs
September	269 cfs
October	320 cfs
November 1 to November 15	375 cfs

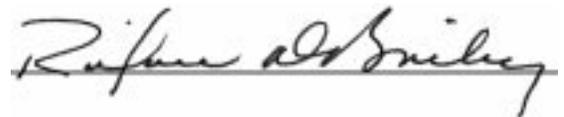
FINDINGS OF FACT

6. The Sprague River (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on April 15, 1961 for the Winema National Forest.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, appearing to read "Richard D. Bailey", written in black ink on a white background.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **567**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 34 South, Ranges 8 and 7 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 9, 1999.

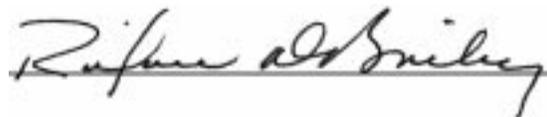
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 200 to 8070 cubic feet per second on the Sprague River, tributary to the Williamson River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act of June 12, 1960, 16 U.S.C. 528 *et seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The court in the *Adair* case ruled that the United States was not entitled to any flows in the Winema National Forest based on MUSYA. Although Congress may have authorized the responsible official in the executive department to reserve water after 1960, the documents transferring lands into the Winema National Forest do not purport to create a reservation under MUSYA or for MUSYA purposes. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **568**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 140 cfs the United States claims the flow from 140 to 926 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is October 14, 1935.
6. The claimed place of use is the South Fork of the Sprague River from Section 2 (NESW), Township 37S, Range 15E to Section 2 (SESW), Township 37S, Range 15E.

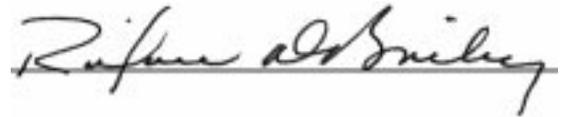
FINDINGS OF FACT

7. The South Fork of the Sprague River is within lands reserved for forest purposes by Proclamation on October 14, 1935 for the Fremont National Forest Reserve.
8. The priority date for this instream use is October 14, 1935.
9. The place of use is South Fork of the Sprague River from Section 2 (NESW), Township 37S, Range 15E to Section 2 (SENW), Township 37S, Range 15E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 140 cfs in the Sprague River will ensure that the river channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Sprague River channel.
 - b) A flow of up to 926 cfs (with a recurrence interval of twenty five years) is necessary in the Sprague River to scour vegetation from the Sprague River's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for the South Fork of the Sprague River.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, reading "Richard D. Bailey". The signature is written in a cursive style and is positioned above a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **569**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is October 14, 1935.
4. The claimed place of use is the South Fork of the Sprague River from Section 2 (NESW), Township 37S, Range 15E to Section 2 (SENW), Township 37S, Range 15E.
5. The claimed amount is:

May	137 cfs
June	52 cfs
July	17 cfs
August	11 cfs
September	12 cfs
October	14 cfs
November 1 to November 15	18 cfs

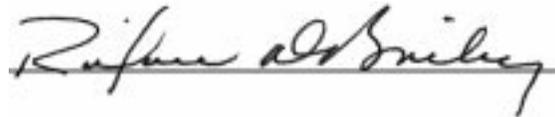
FINDINGS OF FACT

6. The South Fork of the Sprague River (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on October 14, 1935 for the Fremont Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **570**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 37 South, Range 15 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 9, 1999.

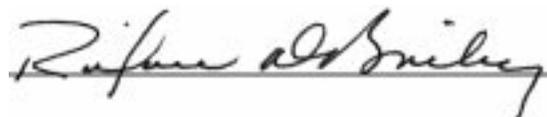
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 11 to 1010 cubic feet per second on the South Fork Sprague River, tributary to the Sprague River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act of June 12, 1960, 16 U.S.C. 528 *et seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the Fremont National Forest, which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **571**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 281 cfs the United States claims the flow from 281 to 3552 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is April 15, 1961.
6. The claimed place of use is the Sycan River from Section 10 (NESW), Township 33S, Range 13E to Section 1 (NENE), Township 34S, Range 11E.

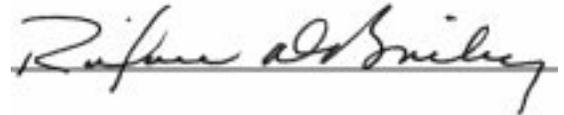
FINDINGS OF FACT

7. The Sycan River is within lands reserved for forest purposes by Proclamation on April 15, 1961.
8. The priority date for this instream use is April 15, 1961.
9. The place of use is the Sycan River from Section 10 (NESW), Township 33S, Range 13E to Section 1 (NENE), Township 34S, Range 11E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 281 cfs in the Sycan River will ensure that the river channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Sycan River channel.
 - b) A flow of up to 3552 cfs (with a recurrence interval of twenty five years) is necessary in the Sycan River to scour vegetation from the Sycan River's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for the Sycan River.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink on a white background.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **572**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is April 15, 1961.
4. The claimed place of use is the Sycan River from Section 10 (NESW), Township 33S, Range 13E to Section 1 (NENE), Township 34S, Range 11E.
5. The claimed amount is:

May	357 cfs
June	113 cfs
July	21 cfs
August	10 cfs
September	13 cfs
October	17 cfs
November 1 to November 15	22 cfs

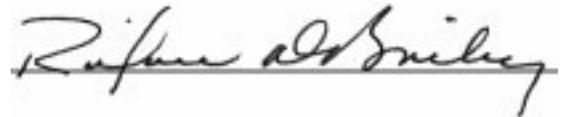
FINDINGS OF FACT

6. The Sycan River (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on April 15, 1961.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **573**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 33 South, Range 13 East and Township 34 South, Range 12 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 9, 1999.

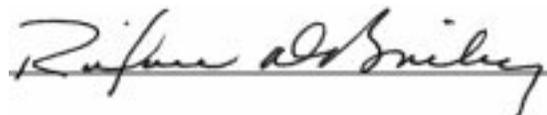
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 5.8 to 3870 cubic feet per second on the Sycan River, tributary to the Sprague River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act of June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA), under a priority of April 15, 1961. In reserving lands for forest purposes by Proclamation of April 15, 1961, the President did not designate the lands added to the Fremont National Forest for MUSYA purposes, nor does the Proclamation of April 15, 1961, purport to create a reservation in the Fremont National Forest under MUSYA or for MUSYA purposes. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **574**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is October 14, 1935.
4. The claimed place of use is the Sycan River from Section 22 (SWNE), Township 33S, Range 15E to Section 15 (NWSW), Township 33S, Range 15E.
5. The claimed amount is:

May	193 cfs
June	54 cfs
July	15 cfs
August	9.4 cfs
September	7.5 cfs
October	7.7 cfs
November 1 to November 15	9.5 cfs

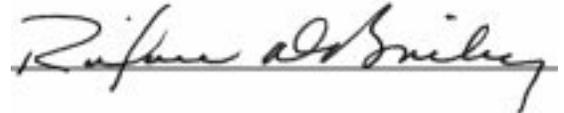
FINDINGS OF FACT

6. The Sycan River (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on October 14, 1935 for the Fremont National Forest.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **575**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 81 cfs the United States claims the flow from 81 to 1921 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is October 14, 1935.
6. The claimed place of use is the Sycan River from Section 22 (SWNE), Township 33S, Range 15E to Section 15 (NWSW), Township 33S, Range 15E.

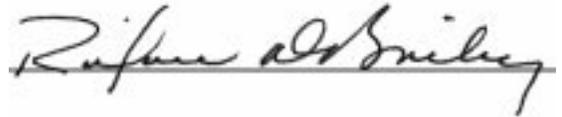
FINDINGS OF FACT

7. The Sycan River is within lands reserved for forest purposes by Proclamation on October 14, 1935 for the Fremont National Forest.
8. The priority date for this instream use is October 14, 1935.
9. The place of use is the Sycan River from Section 22 (SWNE), Township 33S, Range 15E to Section 15 (NWSW), Township 33S, Range 15E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 81 cfs in the Sycan River will ensure that the river channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Sycan River channel.
 - b) A flow of up to 1921 cfs (with a recurrence interval of twenty five years) is necessary in the Sycan River to scour vegetation from the Sycan River's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for the Sycan River.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **576**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 33 South, Range 15 East and Township 32 South, Range 14 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 9, 1999.

CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 5.8 to 2090 cubic feet per second on the Sycan River, tributary to the Sprague River, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act of June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The United States Supreme Court has determined, in *U.S. v. New Mexico*, 438 US 696 (1978), that by enacting MUSYA, Congress did not change or add to the primary purpose of a forest created before MUSYA. Therefore, Congress did not reserve additional water for such forests when it enacted MUSYA. These claims are for flows within the Fremont National Forest, which was created before the passage of MUSYA. MUSYA creates no reserved rights. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **577**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 81 cfs the United States claims the flow from 81 to 1921 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is September 17, 1906.
6. The claimed place of use is the Sycan River from Section 23 (SESE), Township 32S, Range 14E to Section 22 (SWSW), Township 32 S, Range 14E.

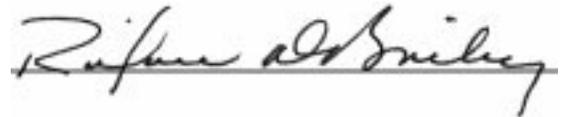
FINDINGS OF FACT

7. The Sycan River is within lands reserved for forest purposes by Proclamation on September 17, 1906 for the Fremont National Forest Reserve.
8. The priority date for this instream use is September 17, 1906.
9. The place of use is the Sycan River from Section 23 (SESE), Township 32S, Range 14E to Section 22 (SWSW), Township 32 S, Range 14E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 81 cfs in the Sycan River will ensure that the river channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Sycan River channel.
 - b) A flow of up to 1921 cfs (with a recurrence interval of twenty five years) is necessary in the Sycan River to scour vegetation from the Sycan River's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for the Sycan River.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **578**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is September 17, 1906.
4. The claimed place of use is the Sycan River from Section 23 (SESE), Township 32S, Range 14E to Section 22 (SWSW), Township 32S, Range 14E.
5. The claimed amount is:

May	193 cfs
June	54 cfs
July	15 cfs
August	9.4 cfs
September	7.5 cfs
October	7.7 cfs
November 1 to November 15	9.5 cfs

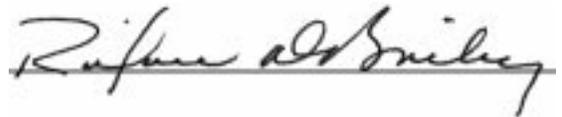
FINDINGS OF FACT

6. The Sycan River (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on September 17, 1906 for the Fremont National Forest Reserve.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **579**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 99 cfs the United States claims the flow from 99 to 1195 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is November 15, 1974.
6. The claimed place of use is the Williamson River from Section 30 (SWNW), Township 31S, Range 11E to Section 24 (NESE), Township 31S, Range 10E.

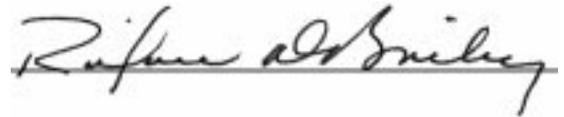
FINDINGS OF FACT

7. The Williamson River is within lands reserved for forest purposes by Proclamation on November 15, 1974 for the Winema National Forest.
8. The priority date for this instream use is November 15, 1974.
9. The place of use is the Williamson River from Section 30 (SWNW), Township 31S, Range 11E to Section 24 (NESE), Township 31S, Range 10E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 99 cfs in the Williamson River will ensure that the river channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Williamson River channel.
 - b) A flow of up to 1195 cfs (with a recurrence interval of twenty five years) is necessary in the Williamson River to scour vegetation from the Williamson River's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for the Williamson River.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **580**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is November 15, 1974.
4. The claimed place of use is the Williamson River from Section 30 (SWNW), Township 31S, Range 11E to Section 24 (NESE), Township 31S, Range 10E.
5. The claimed amount is:

May	116 cfs
June	93 cfs
July	64 cfs
August	57 cfs
September	60 cfs
October	64 cfs
November 1 to November 15	64 cfs

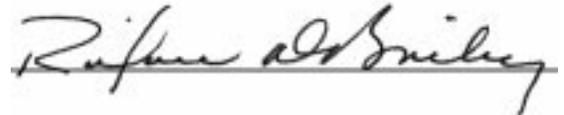
FINDINGS OF FACT

6. The Williamson River (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on November 15, 1974 for the Winema National Forest.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **581**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 31 South, Ranges 10 and 11 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 48 to 1300 cubic feet per second on the Williamson River, tributary to Klamath Lake, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The court in the *Adair* case ruled that the United States was not entitled to any flows in the Winema National Forest based on MUSYA. Although Congress may have authorized the responsible official in the executive department to reserve water after 1960, the documents transferring lands into the Winema National Forest do not purport to create a reservation under MUSYA or for MUSYA purposes. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **582**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 99 cfs the United States claims the flow from 99 to 1195 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is April 15, 1961
6. The claimed place of use is the Williamson River from Section 6 (NENW), Township 32S, Range 11E to Section 31 (NWNW), Township 31S, Range 11E.

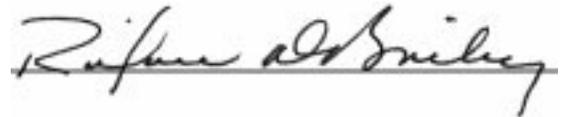
FINDINGS OF FACT

7. The Williamson River is within lands reserved for forest purposes by Proclamation on April 15, 1961 for the Winema National Forest.
8. The priority date for this instream use is April 15, 1961.
9. The place of use is the Williamson River from from Section 6 (NENW), Township 32S, Range 11E to Section 31 (NWNW), Township 31S, Range 11E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 99 cfs in the Williamson River will ensure that the river channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Williamson River channel.
 - b) A flow of up to 1195 cfs (with a recurrence interval of twenty five years) is necessary in the Williamson River to scour vegetation from the Williamson River's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for the Williamson River.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **583**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is April 15, 1961.
4. The claimed place of use is the Williamson River from Section 6 (NENW), Township 32S, Range 11E to Section 31 (NWNW), Township 31S, Range 11E.
5. The claimed amount is:

May	116 cfs
June	93 cfs
July	64 cfs
August	57 cfs
September	60 cfs
October	64 cfs
November 1 to November 15	64 cfs

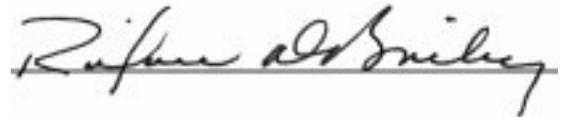
FINDINGS OF FACT

6. The Williamson River (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on April 15, 1961 to the Winema National Forest.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **584**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Townships 32 and 31 South, Range 11 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

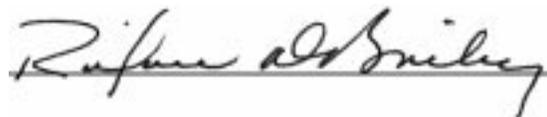
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 448 to 1300 cubic feet per second on the Williamson River, tributary to Klamath Lake, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The court in the *Adair* case ruled that the United States was not entitled to any flows in the Winema National Forest based on MUSYA. Although Congress may have authorized the responsible official in the executive department to reserve water after 1960, the documents transferring lands into the Winema National Forest do not purport to create a reservation under MUSYA or for MUSYA purposes. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **585**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 209 cfs the United States claims the flow from 209 to 5175 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is November 15, 1974.
6. The claimed place of use is the Williamson River from Section 25 (SWSW), Township 33S, Range 7E to Section 35 (NESE), Township 33S, Range 7E.

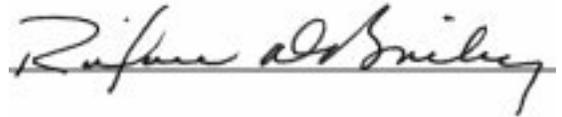
FINDINGS OF FACT

7. The Williamson River is within lands reserved for forest purposes by Proclamation on November 15, 1974 for the Winema National Forest.
8. The priority date for this instream use is November 15, 1974.
9. The place of use is the Williamson River from Section 25 (SWSW), Township 33S, Range 7E to Section 35 (NESE), Township 33S, Range 7E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 209 cfs in the Williamson River will ensure that the river channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Williamson River channel.
 - b) A flow of up to 5175 cfs (with a recurrence interval of twenty five years) is necessary in the Williamson River to scour vegetation from the Williamson River's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for the Williamson River.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, reading "Richard D. Bailey". The signature is written in a cursive style and is positioned above a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **586**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is November 15, 1974.
4. The claimed place of use is the Williamson River from Section 25, (SWSW), Township 33S, Range 7E to Section 35 (NESE), Township 33S, Range 7E.
5. The claimed amount is:

May	209 cfs
June	71 cfs
July	33 cfs
August	21 cfs
September	21 cfs
October	21 cfs
November 1 to November 15	106 cfs

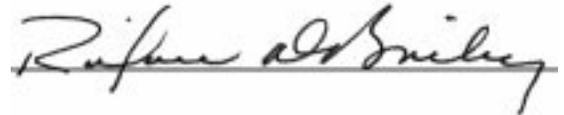
FINDINGS OF FACT

6. The Williamson River (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on November 15, 1974 for the Winema National Forest.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **587**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 33 South, Range 7 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

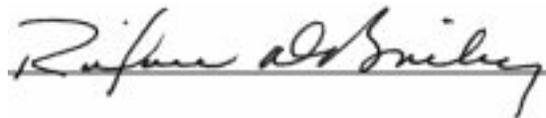
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 21 to 5630 cubic feet per second on the Williamson River, tributary to Klamath Lake, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The court in the *Adair* case ruled that the United States was not entitled to any flows in the Winema National Forest based on MUSYA. Although Congress may have authorized the responsible official in the executive department to reserve water after 1960, the documents transferring lands into the Winema National Forest do not purport to create a reservation under MUSYA or for MUSYA purposes. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **588**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 3, 1999.

ELEMENTS OF A CLAIM FOR FAVORABLE CONDITIONS OF FLOW

1. Claims for instream flow for “favorable conditions of water flows” under the Organic Act (16 USC § 473 *et seq.*) for “channel maintenance” are proper if the United States can prove as a factual matter:
 - a. That an instream flow claim for channel maintenance in the national forest is necessary to assure favorable conditions of water flows, thereby enhancing the quantity of water available for water users.
 - b. That the requested amount is the minimum quantity of water which must be reserved for the primary purpose of the reservation which is to secure favorable conditions of water flows within the boundaries of the national forest.

CLAIM INFORMATION

2. The claim was filed on April 19, 1997 and amended on August 3, 1999.
3. The claim provides that when the natural flow is greater than or equal to 209 cfs the United States claims the flow from 209 to 5175 cfs.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is April 15, 1961.
6. The claimed place of use is the Williamson River from Section 2 (NWNE), Township 34S, Range 7E to Section 3 (SESE), Township 34S, Range 7E.

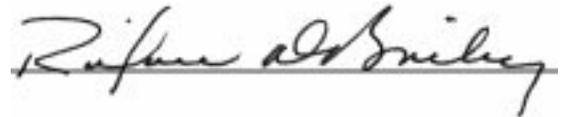
FINDINGS OF FACT

7. The Williamson River is within lands reserved for forest purposes by Proclamation on April 15, 1961 for the Winema National Forest.
8. The priority date for this instream use is April 15, 1961.
9. The place of use is the Williamson River from Section 2 (NWNE), Township 34S, Range 7E to Section 3 (SESE), Township 34S, Range 7E.
10. The period of use is January 1 to December 31.
11. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to maintain stream channels in an open condition over time to ensure and enhance the delivery of water to downstream users.
12. The USFS instream flow claim for channel maintenance is for the minimum amount of streamflow necessary to protect forests and the integrity of stream channels for the conveyance of streamflow such that forest lands can contribute to a sustainable water supply to downstream water users. Without the claimed flows, the stream channel would have reduced capacity to convey water as flows would be impeded by stream sediment thereby increasing the risk of flooding and decreasing the efficiency of water delivery.
13. The minimum quantity of water needed for channel maintenance is as follows:
 - a) A flow equal to or greater than 209 cfs in the Williamson River will ensure that the river channel's "framework particles" are moved at such a rate and with such frequency as to maintain the channel capacity of the Williamson River channel.
 - b) A flow of up to 5175 cfs (with a recurrence interval of twenty five years) is necessary in the Williamson River to scour vegetation from the Williamson River's active channel and maintain the active flood plain.

CONCLUSION

14. The elements of an instream claim for favorable conditions of flows under the Organic Act, 16 USC § 473 *et seq.* are established for the Williamson River.
15. This claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **589**
USFS claim

Claimant(s) of Record:

United States of America,
Forest Service (USFS)
1220 S.W. 3rd, Room 1734
Portland OR 97204

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

ELEMENTS OF A CLAIM FOR TIMBER PROTECTION

1. Claims for instream flow for the purpose of controlling and preventing forest fires to protect timber under the Organic Act (16 USC § 473 *et seq.*) are proper if the United States can prove as a factual matter:
 - a. That the instream flows claimed are the minimum needed to fight fires and/or act as a fire barrier in order to protect timber in the national forest.

CLAIM INFORMATION

2. The claim was filed on April 29, 1997 and amended on August 3, 1999.
3. The claimed priority date is April 15, 1961.
4. The claimed place of use is the Williamson River from Section 2 (NWNE) Township 34S, Range 7E to Section 3 (SESE) Township 34S, Range 7E.
5. The claimed amount is:

May	209 cfs
June	71 cfs
July	33 cfs
August	21 cfs
September	21 cfs
October	21 cfs
November 1 to November 15	106 cfs

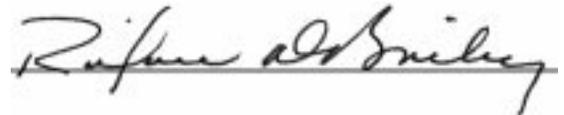
FINDINGS OF FACT

6. The Williamson River (as described in paragraph 4) is within lands reserved for forest purposes by Proclamation on April 15, 1961 for the Winema National Forest.
7. The risk of fire on the forests is greatest from June through October.
8. Maintenance of or preservation of rivers, streams, creeks, lakes and ponds as wet areas is important for successful fire suppression efforts.

CONCLUSION

9. The United States has established that the claimed flows are the minimum quantity of instream flows needed for the purpose of a fire barrier to protect timber. Therefore, this claim is APPROVED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey", written over a horizontal line.

Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims
Klamath Basin General Stream Adjudication**

Claim No. **590**
Federal Reserve Claim

Current Claimant(s) of Record:

United States of America, Forest Service
1220 SW 3rd, Room 1734
Portland, OR 97204

Original Claimant(s):

United States of America, Forest Service

The general location of the claimed use is Township 34 South, Range 7 East, W.M.

This preliminary evaluation takes into consideration all information available as of July 8, 1999.

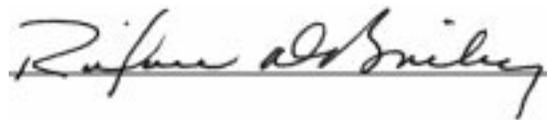
CLAIM INFORMATION / FINDINGS OF FACT

1. The claim is for an instream flow ranging from 21 to 5630 cubic feet per second on the Williamson River, tributary to Klamath Lake, for fish and outdoor recreation pursuant to the Multiple Use Sustained Yield Act, June 12, 1960, 16 U.S.C. 528 *et. seq.*
2. The claim is based on the Multiple Use Sustained Yield Act.
3. The claimed period of use is January 1 through December 31 of each year.
4. The claimed priority date is June 12, 1960.

CONCLUSION

5. The Forest Service has asserted that it is entitled to the claimed flows under the Multiple Use Sustained Yield Act (MUSYA). The court in the *Adair* case ruled that the United States was not entitled to any flows in the Winema National Forest based on MUSYA. Although Congress may have authorized the responsible official in the executive department to reserve water after 1960, the documents transferring lands into the Winema National Forest do not purport to create a reservation under MUSYA or for MUSYA purposes. The claim is denied.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator
Klamath Basin General Stream Adjudication