

**BEFORE THE DIRECTOR  
OF THE WATER RESOURCES DEPARTMENT  
OF THE STATE OF OREGON**

**KLAMATH BASIN GENERAL STREAM ADJUDICATION**

In the Matter of the Claim of	)	PARTIAL ORDER OF
JAMES M. SEVERIN	)	DETERMINATION
	)	
_____	)	Water Right Claim 80

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

**A. FINDINGS OF FACT**

1. On January 29, 1991, MARY E. FIKE timely submitted a Statement and Proof of Claim (Claim 80) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as a non-Indian successor to allotted Klamath Reservation lands, claiming a vested Indian reserved water right (Walton claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 80 was submitted for a total of 0.01 cfs of water from the Agency Lake, a tributary of the Klamath River for irrigation of 3.4 acres. The claimed period of use is "April thru October." The claimed priority date is "1864."
3. MARY E. FIKE signed Claim 80 attesting that the information contained in the claim is true.
4. The property appurtenant to Claim 80 was ultimately transferred to JAMES M. SEVERIN (Claimant). *See* MEMORANDUM OF LAND SALE CONTRACT, COUNTY OF KLAMATH RECORDS, VOL. M95, PAGE 26454 (Sept. 27, 1995).
5. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating the claim was denied because the required elements for a Walton right were not established.
6. On May 8, 2000, the Claimant timely filed Contest 2783 to the Preliminary Evaluation of Claim 80.

7. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 261.
8. On February 6, 2003, the Claimant and OWRD executed a STIPULATION TO RESOLVE CONTEST 2783 (Settlement Agreement) thereby resolving the remaining contest to Claim 80.
9. On February 10, 2003, the Adjudicator withdrew Case 261 from the Office of Administrative Hearings.

## **B. DETERMINATION**

1. The Settlement Agreement executed between the Claimants and OWRD is adopted and incorporated as if set forth fully herein.
2. The elements of a Walton claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS is incorporated as if set forth fully herein.
3. Because there is no evidence on the record to the contrary, the standard duty for irrigation, being 3.5 acre-feet per acre, and the standard rate for irrigation, being 1/40 of one cubic foot per second per acre, as outlined in the GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION will apply.
4. Based on the file and record herein, IT IS ORDERED that Claim 80 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 80**  
FOR A VESTED WATER RIGHT

**CLAIM MAP REFERENCE:** CLAIM # 80, PAGE 57

**CLAIMANT:** JAMES M. SEVERIN  
36358 MODOC POINT RD  
CHILOQUIN OR 97624

**SOURCE OF WATER:** AGENCY LAKE, tributary to the KLAMATH RIVER

**PURPOSE OR USE:** IRRIGATION OF 3.4 ACRES.

**RATE OF USE:**  
0.01 CUBIC FOOT PER SECOND (CFS) MEASURED AT THE POINT OF DIVERSION.

THE RATE OF USE FOR IRRIGATION MAY NOT EXCEED 1/40 OF ONE CUBIC FOOT PER SECOND PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.

**DUTY:**

3.5 ACRE-FEET PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.

**PERIOD OF ALLOWED USE:** APRIL 1 - OCTOBER 31

**DATE OF PRIORITY:** OCTOBER 14, 1864

**THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:**

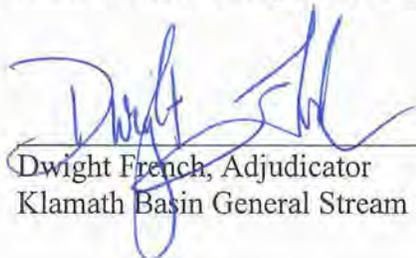
Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
35 S	7 E	WM	7	SE NW	9	480 FEET SOUTH AND 1220 WEST FROM THE NE CORNER, GOVERNMENT LOT 9

**THE PLACE OF USE IS LOCATED AS FOLLOWS:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	7 E	WM	7	SE NW	9	3.4

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013

  
Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication