

**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
MYRON E. YADON	)	DETERMINATION
_____	)	
	)	Water Right Claim 104

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 November 8, 1990 1, 1991, MYRON E. YADON (Claimant) timely submitted a Statement and Proof of Claim (Claim 104) 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 104 was submitted for a total 0.015 cubic feet per second (cfs) of water from the Ponina Creek, a tributary of Snake Creek, being 0.01 cfs for irrigation of 2.0 acres and 0.005 for domestic use. The claimed season of use is “year around” for both irrigation and domestic use. The claimed priority date is 1864.
3. MYRON E. YADON signed the Statement and Proof of Claim for Claim 104 attesting that the information contained in the claim is true.
4. In 1986, an OWRD field inspection report was prepared, describing the present use of water on the property substantially as stated in Claim 104 (Claim 104, WIP, Page 00029).
5. On April 29, 1999, the Claimant supplemented information to Claim 104 by providing a signed statement, stating in pertinent part: “Walton Right Claim: Developed with reasonable diligence after the land passed into non Indian hands. Changed from Indian ownership to Yaden family ownership May 23, 1960 [DEED, COUNTY OF KLAMATH, VOLUME 321, PAGE 402 (May 25, 1960)].” (Claim #104, Pages 00011 and 00012).

6. A NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE for Oregon Water Right Permit S-31279 was submitted to OWRD by A.C. Yadon on March 25, 1969 stating, "The use of water has been complete and continuous since about 1959." (Claim # 104, WIP, Page 0008). Certificate 37208 was issued for Permit S-31279 on December 22, 1970 (Claim #104, WIP, Page 000240). Certificate 37208 is for irrigation and domestic use on 0.6 acres within the claimed place of use, with a duty of 3.0 acre-feet/acre. Both the permit and the certificate describe irrigation as "for use during the irrigation season."
7. On April 29, 1999, the Claimant submitted a copy of the Final Poof Survey Map for Permit No. 31279. (Claim #104, page 00014) The map depicts 0.6 irrigated acres within the claimed place of use. Based on this map and on Certificate 37208, OWRD finds that development for irrigation on the claimed place of use is limited to the 0.6 acres depicted on this map.
8. Based on Certificate 37208, the appropriate duty for irrigation use is 3.0 acre-feet/acre. Based on the Statement and Proof of Claim, the rate for irrigation may not exceed 0.01 cfs.
9. Based on the statement that water use began sometime in 1959 (Finding 5, above), and the transfer of land from Indian ownership occurred in 1960 (Finding 6, above), OWRD finds the beneficial use of water for the claimed purposes was established prior to transfer from Indian ownership.
10. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating the claim was approved but for fewer acres than claimed, and a shorter of season of use for irrigation than claimed.
11. No contests were filed to the Claim and/or Preliminary Evaluation of Claim 104.
12. Based on the sworn statements in Claim 104, along with the field inspection report, the following findings are made:
  - a. The claimed water use is on former Klamath Indian Reservation Land.
  - b. The claimed water use is on land that was transferred from Indian ownership.
  - c. Beneficial use of water for the claimed purposes was established prior to transfer from Indian ownership.

**B. DETERMINATION**

1. The elements of a Walton claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS is incorporated as if set forth fully herein.
2. Based on the evidence provided by Certificate 37208, a duty of 3.0 acre-feet per acre and a rate of 1/40 of one cubic foot per second per acre will apply; provided, that the total rate for irrigation use may not exceed 0.01 cfs, the rate claimed.
3. Based on Certificate 37208, water for irrigation was limited to use during the “irrigation season.” Because there is no evidence on the record to the contrary, the standard season of use for irrigation, being March 1 through October 31 of each year 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 104 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 104**

**CLAIM MAP REFERENCE:** CLAIM # 104, PAGE 00014

**CLAIMANT:** MYRON E. YADON  
519 FULTON ST  
KLAMATH FALLS OR 97601

**SOURCE OF WATER:** PONINA CREEK, tributary to SNAKE CREEK

**PURPOSE or USE:** DOMESTIC; IRRIGATION OF 0.6 ACRES.

**RATE OF USE:**

0.015 CUBIC FOOT PER SECOND (CFS) MEASURED AT THE POINT OF DIVERSION, BEING 0.005 CFS FOR DOMESTIC USE AND 0.01 CFS FOR IRRIGATION.

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:**

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

**PERIOD OF ALLOWED USE:**

Use	Period
Domestic	January 1 - December 31
Irrigation	March 1 - October 31

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q	GLot
35 S	12 E	WM	1	SE NE	5

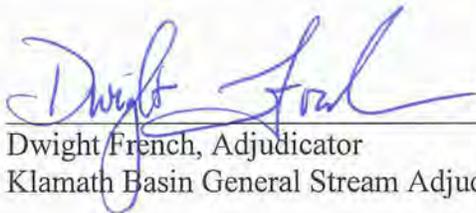
THE PLACE OF USE IS LOCATED AS FOLLOWS:

DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	GLot
35 S	12 E	WM	1	SE NE	5

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	12 E	WM	1	SE NE	5	0.6

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013

  
Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication