

**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
RICHARD M. BROWN)	DETERMINATION
)	
_____)	Water Right Claim 110

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

**A. FINDINGS OF FACT AND DESCRIPTION OF MODIFICATIONS
TO THE PROPOSED ORDER**

1. Claim 110 and its associated contests (3488, 3755, and 4142) were referred to the Office of Administrative Hearings for a contested case hearing which was designated as Case 222.
2. The property appurtenant to Claim 110 was transferred on September 30, 1999, to RICHARD M. BROWN (Claimant) (PO BOX 1078, CRESCENT CITY, CA 95531) from the original claimant, GLORIA E. CAMPBELL [See LETTER dated January 4, 2000, (Claim # 110, Page 68)].
3. The Office of Administrative Hearings conducted contested case proceedings and ultimately issued an ORDER GRANTING MOTION FOR LEGAL RULING AND FOR PROPOSED ORDER DENYING CLAIM on August 31, 2004 (Proposed Order).
4. No exceptions were filed to the Proposed Order.
5. The Proposed Order is adopted and incorporated in its entirety as if set forth fully herein, with two exceptions: (1) the "Findings of Fact" is adopted with modifications, as set forth in Section A.6, below, and (2) the "Opinion" is adopted with modifications, as set forth in Section A.7, below.

6. **Findings of Fact.**

- a. Within Footnote #3 of Proposed Order Finding of Fact #11, OWRD removed the ALJ's discussion regarding the elements of a *Walton* Claim. In its place, OWRD incorporates into the Opinion section the GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS.

Reason for Modification: To correct and clarify the elements of a Walton water right.

- b. Proposed Order Finding of Fact #11 is modified as follows (additions are shown in "underline" text, deletions are shown in "~~striketrough~~" text):

(11) Through Mr. Brown's deemed admissions, he has admitted, among other things, that: (1) he has not provided sufficient title information regarding Indian ownership of the claimed place of use and/or transfer of the property to non-Indian ownership (*See* Ex. A, p. 5-6, RFA Nos. 2-4; Ex. B, p. 4-5, RFA Nos. 1-2.); (2) the claimed place of use was not irrigated by the last Indian owner (*See* Ex. A, p. 6, RFA No. 5; Ex. B, p. 5, RFA Nos. 3 & 5.); (3) the claimed place of use was not developed for irrigation by the first non-Indian owner within a reasonable period of time (*See* Ex. A, p. 6, RFA No. 6; Ex. B, p. 5, RFA No. 4.); and (4) the claimed place of use has not been continually irrigated since it was first owned by a non-Indian (*See* Ex. A, p. 6, RFA No. 7.); ~~and (5) Claim 110 fails to meet all the basic elements of a Walton claim. ²~~elements three through five.~~³~~

Reason for Modification: The deleted text is a conclusion of law derived from the Mr. Brown's deemed admissions, but is not itself a deemed admission. The failure to establish elements of a *Walton* claim is dealt with in the Proposed Order's "Opinion" section, as modified below.

7. **Opinion.**

- a. The third and fourth paragraphs of the Proposed Order's "Opinion Section is modified as follows (additions are shown in "underline" text, deletions are shown in "~~striketrough~~" text):

Mr. Brown is deemed to have admitted, among other things, that he has not provided sufficient title information regarding Indian ownership of the claimed place of use and/or transfer of the property to non-Indian, that the

claimed place of use was not irrigated by the last Indian owner, that the claimed place of use was not developed for irrigation by the first non-Indian owner within a reasonable period of time, and that the claimed place of use has not been continually irrigated since it was first owned by a non-Indian, ~~and that~~ As a result, Claim 110 fails to meet certain of the required ~~basic~~ elements of a Walton claim, ~~elements three through five~~.

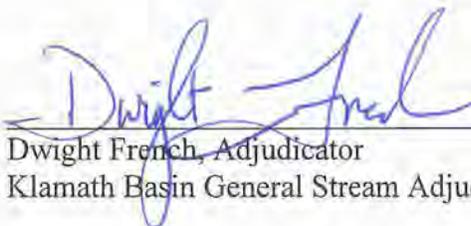
The United States and the Klamath Tribes, who seek denial of Mr. Brown's claim in its entirety on the basis that he has admitted that he cannot establish ~~the basic~~ certain required elements of a Walton claim, ~~elements three through five~~, are entitled to the ruling they seek.

Reason for Modification: To conform the "Opinion" to the modified "Findings of Fact" and to the incorporated GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS.

B. DETERMINATION

1. The Proposed Order is adopted and incorporated in its entirety as if set forth fully herein, with two exceptions: (1) the "Findings of Fact" is adopted with modifications, as set forth in Section A.6, above, and (2) the "Opinion" is adopted with modifications, as set forth in Section A.7, above
2. The elements of a Walton claim are not established. The GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS is incorporated as if set forth fully herein.
3. Based on the file and record herein, IT IS ORDERED that Claim 110 is denied and is of no force or effect.

Dated at Salem, Oregon on March 7, 2013


Dwight French, Adjudicator
Klamath Basin General Stream Adjudication