

**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
SOUTHERN OREGON UNIVERSITY)	DETERMINATION
FOUNDATION)	
_____)	Water Right Claim 172

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 24, 1991, MAXWELL P. GUILLEY, SR. AND LOUISE D. GUILLEY timely submitted a Statement and Proof of Claim (Claim 172) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication and is based upon use of water beginning prior to February 24, 1909 (pre-1909 claim).
2. Claim 172 was submitted for a total of 0.005 cubic feet per second (cfs) of water from Johnson Creek, a tributary of Jenny Creek, for instream livestock watering of 150 plus head of cattle. The original claimants did not specify a season of use. The claimed priority date is February 1, 1908.
3. Item 14 of the Statement and Proof of Claim incorporates an attachment which is a signed statement that states in pertinent part: "My [Maxwell P. Guiley, Sr.] grandfather, Charles D. Rifner, was living on the land as described in item 12. of application, and raising cattle on or about February 1, 1908, and using Johnson Creek as the source of water for his stock." (Claim # 172, Page 008).
4. MAXWELL P. GUILLEY, SR. AND LOUISE D. GUILLEY signed the Statement and Proof of Claim for Claim 172 attesting that the information contained in the claim is true.
5. In 1998, a field inspection report was prepared by a private engineer or surveyor describing the present use of water on the property substantially as stated in Claim 172, but also with a statement noting that livestock watering occurs from April 1 to October 31 (Claim # 172, Page 023).

6. On December 27, 1999, the title to the property associated with Claim 172 was transferred to the SOUTHERN OREGON UNIVERSITY FOUNDATION (Claimant). *See* COUNTY OF KLAMATH RECORDS, VOL. M99, PAGE 51022 (Claim # 172, Page 30).
7. 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 a smaller quantity of water than claimed.
8. No contests were filed to the Claim and/or Preliminary Evaluation of Claim 172.
9. OWRD finds a priority date of February 1, 1908, per evidence submitted with Claim 172. (Claim # 172, Pages 008 through 015).
10. Based on the sworn statements in Claim 138, along with the field inspection report, the following findings are made:
 - a. The Claimant demonstrated intent to apply water to beneficial use prior to February 4, 1909.
 - b. The Claimant created a diversion, where necessary, to divert water from its natural source.
 - c. The Claimant applied water to beneficial use within a reasonable time.

B. DETERMINATION

1. The elements of a pre-1909 claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING PRE-1909 CLAIMS is incorporated as if set forth fully herein.
2. Based on the file and record herein, IT IS ORDERED that Claim 172 is approved as claimed and set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 172

CLAIM MAP REFERENCE: CLAIM # 172, PAGE 023

CLAIMANT: SOUTHERN OREGON UNIVERSITY FOUNDATION
1250 SISKIYOU BLVD
ASHLAND OR 97520

SOURCE OF WATER: JOHNSON CREEK, tributary to JENNY CREEK

PURPOSE or USE: INSTREAM LIVESTOCK WATERING FOR 150 PLUS HEAD

RATE OF USE:

0.005 CUBIC FOOT PER SECOND MEASURED AT THE PLACE OF USE, NOT TO EXCEED 3230 GALLONS PER DAY

PERIOD OF ALLOWED USE: APRIL 1 - OCTOBER 31

DATE OF PRIORITY: FEBRUARY 1, 1908

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q	Instream Livestock Watering
39 S	5 E	WM	18	SE NE	No specific point of diversion, livestock drink directly from Johnson Creek

THE PLACE OF USE IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q
39 S	5 E	WM	18	SE NE

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication