

**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
KATINA AVGERIS)	DETERMINATION
)	
_____)	Water Right Claim 196

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 25, 1991, KATINA AVGERIS (Claimant) timely submitted a Statement and Proof of Claim (Claim 196) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication based upon use of water beginning prior to February 24, 1909 (pre-1909 claim).
2. Claim 196 was submitted for a total of 0.86 cubic feet per second (cfs) of water, being 0.2 cfs for irrigation of 7.9 acres with an April through November season of use, 0.04 cfs for domestic use, 0.62 cfs for manufacturing, and livestock watering of 4 head. The claimed season of use for domestic and manufacturing and livestock watering is "12 months per year." The claimed sources of water are Cottonwood Creek and two springs, all tributary to the Klamath River. The claimed priority date is August 1882.
3. Item 4 of the Statement and Proof of Claim states that August 1882 is the "date when water use began." (Claim # 196, Page 001).
4. The Claimant did not include payment of the fee required by ORS 539.081 for livestock use by the February 1, 1991 deadline for filing a Statement and Proof of Claim.
5. KATINA AVGERIS signed the Statement and Proof of Claim for Claim 196 attesting that the information contained in the claim is true.
6. On July 30, 1999, the KATINA AVGERIS timely amended Claim 196 as follows: (1) reduced the total quantity of water claimed to 0.11 cfs, being 0.09 cfs for irrigation (specified at a rate of 1/80 of one cfs per acre) and 0.02 cfs for domestic uses, (2) reduced

the number of acres claimed for irrigation to 7.0, and (3) deleted the portion of the claim pertaining to manufacturing and livestock watering. *See* CLAIM OF BENEFICIAL USE AND SITE REPORT KLAMATH ADJUDICATION NO. 196 & CERTIFICATE NO. 11106 (July 30, 1999) (Claim # 196, Pages 42 – 44).

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 [as amended].
8. No contests were filed to the Claim and/or Preliminary Evaluation of Claim 196.
9. Based on the sworn statements in Claim 138, including the July 30, 1999 amendment, 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. Because there is no evidence on the record to the contrary, the standard duty for irrigation, being 3.5 acre-feet per acre as outlined in the GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION will apply.
3. The rate for irrigation is 1/80 cubic foot per second per acre as amended on July 30, 1999.
4. Based on the file and record herein, IT IS ORDERED that Claim 196 is approved as set forth in the following Water Right Claim Description.

CLAIM NO. 196

CLAIM MAP REFERENCE: CLAIM # 196, PAGES 45 - 47

CLAIMANT: KATINA AVGERIS; C/O STEVE AVGERIS
1700 COLESTEIN RD
ASHLAND OR 97520

SOURCE OF WATER:

COTTONWOOD CREEK, SPRING 1, and SPRING 2, all tributary to the KLAMATH RIVER

PURPOSE or USE:

DOMESTIC FOR THREE DWELLINGS FROM SPRING 1, AND

IRRIGATION OF 7.0 ACRES FROM COTTONWOOD CREEK AND SPRING 2.

RATE OF USE:

0.11 CUBIC FEET PER SECOND (CFS) MEASURED AT THE POINTS OF DIVERSION, BEING 0.02 FOR DOMESTIC USE FROM SPRING 1, AND 0.09 CFS FOR IRRIGATION FROM COTTONWOOD CREEK AND SPRING 2.

THE RATE OF USE FOR IRRIGATION MAY NOT EXCEED 1/80 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:

Use	Period
Domestic	January 1 - December 31
Irrigation	April 1 - November 30

DATE OF PRIORITY: AUGUST 31, 1882

THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:

Source	Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Remarks
Cottonwood Creek	40 S	1 E	WM	36	NW NW	180 FEET SOUTH AND 1570 FEET WEST FROM N1/4 CORNER, SECTION 36	Irrigation Only
Spring 1	40 S	1 E	WM	36	NW NW	100 FEET SOUTH AND 1550 FEET WEST FROM N1/4 CORNER, SECTION 36	Domestic Use Only
Spring 2	40 S	1 E	WM	36	NE NW	1050 FEET SOUTH AND 1020 FEET WEST FROM N1/4 CORNER, SECTION 36	Irrigation Only

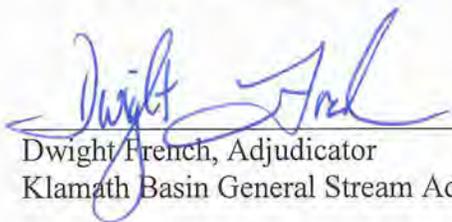
THE PLACE OF USE IS LOCATED AS FOLLOWS:

DOMESTIC FROM SPRING 1				
Twp	Rng	Mer	Sec	Q-Q
40 S	1 E	WM	36	NE NW

IRRIGATION FROM COTTONWOOD CREEK AND SPRING 2					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	1 E	WM	36	NE NW	5.7
40 S	1 E	WM	36	SE NW	1.3

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013


Dwight French, Adjudicator
Klamath Basin General Stream Adjudication