

**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
KATHLEEN D. WALT, AND)	DETERMINATION
JENNIFER J. WALT)	
_____)	Water Right Claim 200

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 200 (Claimants: KATHLEEN D. WALT, AND JENNIFER J. WALT) and its associated contests (31, 3411, 3842, and 4184) were referred to the Office of Administrative Hearings for a contested case hearing which was designated as Case 133.
2. The Office of Administrative Hearings conducted contested case proceedings and ultimately issued a PROPOSED ORDER (Proposed Order) for Claim 200 on April 5, 2005. Exceptions were filed to the Proposed Order within the exception filing deadline by the United States of America.
3. The Adjudicator issued an AMENDED PROPOSED ORDER (Amended Proposed Order) for Claim 200 on May 15, 2007, to address enlargements of the original claim that were recommended in the April 5, 2005 Proposed Order. Except as modified, the Amended Proposed Order fully incorporated the 2005 Proposed Order.
4. Exceptions were filed to the Amended Proposed Order within the exception filing deadline by (1) Kathleen D. Walt and Jennifer J. Walt, and (2) the United States of America.
5. The exceptions filed to the Proposed Order and the Amended Proposed Order have been reviewed and considered in conjunction with the entire record for Claim 200 and are found to be unpersuasive.

6. The Amended Proposed Order is adopted and incorporated in its entirety as if set forth fully herein with two exceptions: (1) a new section entitled “Amended Proposed Order Findings of Fact” is added to the Amended Proposed Order as set forth in Section A.7, below, and (2) the section titled “IV. Modifications to the ‘Order’ Section” is adopted with modifications, as set forth in Section A.8, below. The outcome of the Order is without modification; it is presented in a format standardized by OWRD.
7. **Findings of Fact.** A new section entitled “Amended Proposed Order Findings of Fact” is added to the Amended Proposed Order as follows:

Amended Proposed Order Findings of Fact

1. Because there is no evidence on the record to the contrary, the standard rate for irrigation is 1/40 of one cubic foot per second per acre as outlined in the GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION. OWRD incorporates into this Amended Proposed Order Finding of Fact #1 the portions of The GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION pertaining to the standard rate for irrigation. The rate of 1/40 of one cubic foot per second per acre is consistent with OWRD’s standard as set forth in Appendix A of the Preliminary Evaluation.
2. The Claimant claimed livestock watering for 88 head. (OWRD Ex. 1 at 19.) Livestock watering is limited to the 88 head, the number claimed.

Reason for Additional Amended Proposed Order Finding of Fact #1: To include a finding regarding a standard rate for irrigation based on the number of acres that should be irrigated with one cubic foot of water per second.

Reason for Additional Amended Proposed Order Finding of Fact #2: The facts in the ALJ’s Proposed Order and failed to fully set forth the evidence on the record, and this omission was not addressed in the Amended Proposed Order.

8. **Order.**
 - a. Within the section of the Amended Proposed Order titled “IV. Modifications to the “Order” Section” the Purpose or Use is modified as follows (additions to the Amended Proposed Order are shown in underline):

PURPOSE or USE:

DOMESTIC INCLUDING IRRIGATION OF 0.5 ACRES (DOMESTIC
EXPANDED); IRRIGATION OF 55.8 ACRES; AND LIVESTOCK
WATERING OF 88 HEAD

- b. Within the section of the Amended Proposed Order titled “IV. Modifications to the ‘Order’ Section” the standard rate for irrigation is expressed as follows (additions to the Amended Proposed Order are shown in underline):

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

Reason for Modifications: To provide consistency with the Amended Proposed Order’s Findings of Facts 1 and 2.

B. DETERMINATION

1. The Amended Proposed Order is adopted and incorporated in its entirety as if set forth fully herein with two exceptions: (1) a new section entitled “Amended Proposed Order Findings of Fact” is added to the Amended Proposed Order as set forth in Section A.7, above, and (2) the section titled “IV. Modifications to the ‘Order’ Section” is adopted with modifications, as set forth in Section A.8, above. The outcome of the Order is without modification; it is presented in a format standardized by OWRD.
2. 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.
3. Based on the file and record herein, IT IS ORDERED that Claim 200 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 200

CLAIM MAP REFERENCE: CLAIM # 200, PAGE 0068

CLAIMANT: KATHLEEN D. WALT
JENNIFER J. WALT
650 CALIFORNIA ST., 20TH FLOOR
SAN FRANCISCO, CA 94108-2693

SOURCE OF WATER: KEENE CREEK, tributary to JENNY CREEK

PURPOSE or USE:

DOMESTIC INCLUDING IRRIGATION OF 0.5 ACRES (DOMESTIC EXPANDED);
IRRIGATION OF 55.8 ACRES; AND
LIVESTOCK WATERING OF 88 HEAD.

RATE OF USE:

1.30 CUBIC FEET PER SECOND (CFS) AS FOLLOWS:

1.28 CFS FOR IRRIGATION MEASURED AT THE POINT OF DIVERSION;

0.01 CFS FOR DOMESTIC EXPANDED MEASURED AT THE POINT OF DIVERSION;
AND

0.01 CFS FOR LIVESTOCK WATERING MEASURED AT THE PLACE OF USE.

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:

Use	Period
Domestic Expanded	April 1 - October 31
Irrigation	April 1 - October 31
Livestock Watering	April 1 - October 31

DATE OF PRIORITY: DECEMBER 31, 1902

THE POINTS OF DIVERSIONS AND MAXIMUM RATES:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Authorized Use	Maximum Rate (cfs)
Northerly Pipeline	40 S	4 E	WM	17	NW NW	1640 FEET NORTH AND 4490 FEET WEST FROM E¼ CORNER, SECTION 17	Irrigation	0.81
							Domestic Expanded	0.01
							Livestock	0.008
Southerly Pipeline	40 S	4 E	WM	17	SE NW	445 FEET NORTH AND 2645 FEET WEST FROM E¼ CORNER, SECTION 17	Irrigation	0.34
							Livestock	0.002
Water Cannon	40 S	4 E	WM	17	SW NE	NONE GIVEN	Irrigation	0.13
Water Cannon	40 S	4 E	WM	17	SE NW	NONE GIVEN		

THE PLACE OF USE:

DOMESTIC EXPANDED						
Twp	Rng	Mer	Sec	Q-Q	Acres	Authorized POD
40 S	4 E	WM	17	SE NE	0.50	Northerly Pipeline

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Authorized POD
40 S	4 E	WM	17	SW NE	14.30	Northerly Pipeline
40 S	4 E	WM	17	SW NE	5.20	Southerly Pipeline
40 S	4 E	WM	17	SW NE	3.80	Water Cannon
40 S	4 E	WM	17	SE NE	10.00	Northerly Pipeline
40 S	4 E	WM	17	SE NE	9.70	Southerly Pipeline
40 S	4 E	WM	17	SE NW	10.80	Northerly Pipeline
40 S	4 E	WM	17	SE NW	2.00	Water Cannon

LIVESTOCK						
Twp	Rng	Mer	Sec	Q-Q	Authorized POD	
40 S	4 E	WM	17	SW NE	Northerly Pipeline and Southerly Pipeline	
40 S	4 E	WM	17	SE NE	Northerly Pipeline and Southerly Pipeline	
40 S	4 E	WM	17	NW NW	Northerly Pipeline	

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013


 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication