

**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
CHARLES E. TROUTMAN,)	DETERMINATION
MARILYN E. TROUTMAN,)	
CHUCK TROUTMAN, AND)	
VAL TROUTMAN)	
_____)	Water Right Claim 217
)	

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 28, 1990, LARRY A. LEONARD timely submitted a Statement and Proof of Claim (Claim 217) 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 217 was submitted for a total 348 gallons per minute (gpm) water, being 20 gpm from 2 springs, tributary to Fall Creek, for domestic use for two households; and 328 gpm from a spring area and an unnamed stream, both tributary to Fall Creek, for irrigation of 29.5 acres and livestock watering for 60 head. The season of use claimed for domestic use and livestock watering is “year around,” and the season of use claimed for irrigation is “May to the end of October.” The claimed priority date is 1895.
3. LARRY A. LEONARD signed the Statement and Proof of Claim for Claim 217 attesting that the information contained in the claim is true.
4. On May 6, 1999, Claim 217 was transferred to CHARLES E. TROUTMAN, MARILYN E. TROUTMAN, CHUCK AND VAL TROUTMAN (Claimants); and WILLIAM E. AND KRISTY L. GOLDMAN.
5. 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, and with longer season of use than claimed for irrigation.

6. On May 8, 2000, the United States of America timely filed Contest 3854 to the Claim and/or Preliminary Evaluation of Claim 217.
7. On May 8, 2000, the Klamath Tribes timely filed Contest 4196 to the Claim and/or Preliminary Evaluation of Claim 217.
8. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 144.
9. On September 20, 2002, WILLIAM EARL GOLDMAN AND KRISTY LEE GOLDMAN transferred their interest in the property appurtenant to Claim 217 to CHUCK TROUTMAN AND VAL TROUTMAN *See* BARGAIN AND SALE DEED, COUNTY OF JACKSON RECORDS, (Recorded Jan. 17, 2003).
10. On December 5, 2003, the Klamath Tribes voluntarily withdrew Contest 4196. *See* KLAMATH TRIBES' VOLUNTARY WITHDRAWAL OF CONTEST (Dec. 5, 2003).
11. On September 29, 2005, OWRD, the Claimants, and the United States of America, executed a STIPULATION TO RESOLVE CONTESTS (Settlement Agreement) thereby resolving the remaining contest to Claim 217.
12. On October 5, 2005, the Adjudicator withdrew Case 144 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD, the Claimants, and the United States of America is adopted and incorporated as if set forth fully herein.
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. Diversion of stock water to the place of use is limited to that which has been historically diverted for beneficial use and is reasonably necessary to transport the water.
4. Because there is no evidence on the record to the contrary, the standard rate for irrigation, being 1/40 of one cubic foot per second per acre as outlined in the GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION will apply.
5. Based on the file and record herein, IT IS ORDERED that Claim 217 is approved as set forth in the following Water Right Claim Description.

CLAIM NO. 217

CLAIM MAP REFERENCE: CLAIM # 217 SETTLEMENT MAP (Aug. 15, 2005)

CLAIMANT: CHARLES E. TROUTMAN,
MARILYN E. TROUTMAN,
CHUCK TROUTMAN, AND
VAL TROUTMAN
9921 COPCO RD
ASHLAND OR 97520

SOURCE OF WATER: FOUR UNNAMED SPRINGS, tributary to FALL CREEK

PURPOSE or USE:

DOMESTIC FOR TWO HOUSEHOLDS FROM SPRING POD 1; AND
IRRIGATION OF 20.0 ACRES, AND LIVESTOCK WATERING OF 60 HEAD FROM
SPRING POD 2, SPRING POD 3 AND SPRING POD 4.

RATE OF USE:

A MAXIMUM TOTAL OF 0.521 CUBIC FEET PER SECOND (CFS) AS FOLLOWS:

0.02 CFS, FOR DOMESTIC USE FROM SPRING POD 1, BEING 0.01 CFS PER
HOUSEHOLD, MEASURED AT THE POINT OF DIVERSION;

0.5 CFS FOR IRRIGATION FROM SPRING POD 2, SPRING POD 3, AND SPRING POD 4,
MEASURED AT THE POINTS OF DIVERSION; AND

0.001 CFS FOR LIVESTOCK WATERING FROM SPRING POD 2, SPRING POD 3, AND
SPRING POD 4, MEASURED AT THE PLACE OF USE, NOT TO EXCEED 720 GALLONS
PER DAY.

DIVERSION OF STOCK WATER TO THE PLACE OF USE IS LIMITED TO THAT WHICH
HAS BEEN HISTORICALLY DIVERTED FOR BENEFICIAL USE AND IS REASONABLY
NECESSARY TO TRANSPORT THE WATER.

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	May 1 - October 31
Livestock Watering	January 1 - December 31

DATE OF PRIORITY: DECEMBER 31, 1895

THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Remarks
Spring POD 1	41 S	4 E	WM	2	SW NE	NORTH 34 DEGREES 36 MINUTES 10 SECONDS WEST, 3514 FEET FROM SE CORNER, SECTION 2	Domestic Only
Spring POD 2	41 S	4 E	WM	2	SE NW	NORTH 38 DEGREES 9 MINUTES 40 SECONDS WEST, 4325 FEET FROM SE CORNER, SECTION 2	Irrigation and Livestock Watering Only
Spring POD 3	41 S	4 E	WM	2	SE NW	NORTH 40 DEGREES 53 MINUTES 24 SECONDS WEST, 4163 FEET FROM SE CORNER, SECTION 2	
Spring POD 4	41 S	4 E	WM	2	SE NW	NORTH 42 DEGREES 53 MINUTES 11 SECONDS WEST, 4060 FEET FROM SE CORNER, SECTION 2	

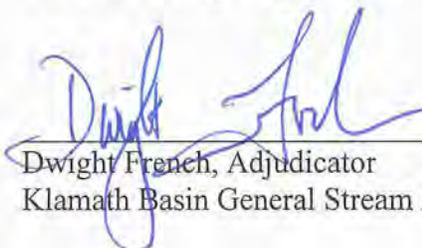
THE PLACE OF USE IS LOCATED AS FOLLOWS:

DOMESTIC						
Twp	Rng	Mer	Sec	Q-Q	Twp	Authorized POD
41 S	4 E	WM	2	NE SW	41 S	Spring POD 1

IRRIGATION and LIVESTOCK WATERING							
Twp	Rng	Mer	Sec	Q-Q	Twp	Acres	Authorized POD's
41 S	4 E	WM	2	SE NW	41 S	20.00	Spring POD 2, 3 and 4

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication