

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **617**  
BIA claim

**Current Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.  
Portland OR 97232

The general location of the claimed use is Township 34 South, Range 8 East, W.M.

This preliminary evaluation takes into consideration all information available as of September 1, 1999.

**CLAIM INFORMATION**

1. The claim was filed on April 30, 1997.
2. The claim is for an 1864 Treat reserved right, apparently based on reacquisition of the appurtenant land by the Tribes.
3. The future irrigation use claim is for a total of 24.0 acre-feet, at a rate of 0.15 cubic feet per second, for future irrigation from one point of diversion located on Sprague River, for irrigation of 12.8 acres of practicably irrigable acreage located within the Breymill-Reyes Parcel, in the NE 1/4 SW 1/4 Section 19, Township 34 South, Range 8 East, WM.
4. The fish rearing pond use claim is for a total of 376 acre-feet, at a rate of 0.5 cfs, for maintenance of fish-rearing ponds located within the Breymill-Reyes Parcel, in the NE 1/4 SW 1/4 Section 19, Township 34 South, Range 8 East, WM.
5. The claimed period of use is April 1 through October 31 for irrigation and year-round for fish rearing ponds.
6. The claimed priority date is October 14, 1864.

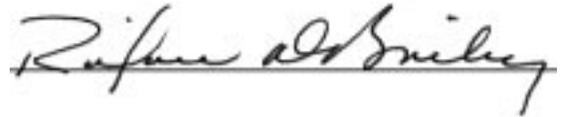
**FINDINGS OF FACT**

7. The record contains no information regarding the status of the water right, if any, appurtenant to this land at the time of reacquisition by the Tribes.

**CONCLUSION**

8. Reacquisition of land by the Tribes does not entitle the Tribes to a Treaty reserved right.
9. The claimant has not demonstrated any other basis for approval of this claim.
10. The claim is DENIED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink on a white background.

Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **618**  
BIA claim

**Current Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.  
Portland OR 97232

The general location of the claimed use is Township 36 South, Range 12 East, W.M.

This preliminary evaluation takes into consideration all information available as of September 1, 1999.

**CLAIM INFORMATION**

1. The claim was filed on April 30, 1997.
2. The claim is for an 1864 Treat reserved right, apparently based on reacquisition of the appurtenant land by the Tribes.
3. The future irrigation claim is for a total of 45.0 acre-feet, at a rate of 0.65 cubic feet per second, from one point of diversion located on the Sprague River, for future irrigation / landscape maintenance of 20 acres in Brown Cemetery, located in the SW 1/4 NE 1/4 and the SE1/4 NE 1/4 Section 13, Township 36 South, Range 12 East, WM.
4. The claimed period of use is April 1 through October 31 for irrigation/landscape maintenance.
5. The claimed period of use is April 1 through October 31 for irrigation and year-round for fish rearing ponds.
6. The claimed priority date is October 14, 1864.

**FINDINGS OF FACT**

7. The record contains no information regarding the status of the water right, if any, appurtenant to this land at the time of reacquisition by the Tribes.

**CONCLUSION**

8. Reacquisition of land by the Tribes does not entitle the Tribes to a Treaty reserved right.
9. The claimant has not demonstrated any other basis for approval of this claim.
10. The claim is DENIED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink on a white background.

Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **619**  
BIA claim

**Current Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.  
Portland OR 97232

The general location of the claimed use is Township 35 South, Range 7 East, W.M.

This preliminary evaluation takes into consideration all information available as of September 1, 1999.

**CLAIM INFORMATION**

1. The claim was filed on April 30, 1997.
2. The claim is for an 1864 Treat reserved right, apparently based on reacquisition of the appurtenant land by the Tribes.
3. The future irrigation claim is for a total of 15.0 acre-feet, at a rate of 0.28 cubic feet per second, from a point of diversion located on the Sprague River and point of diversion located on the Modoc Irrigation District Canal, for future irrigation / landscape maintenance of 20 acres in David Hill Cemetery, located in the NE 1/4 NW 1/4 Section 32, Township 36 South, Range 12 East, WM.
4. The claimed period of use is April 1 through October 31 for irrigation/landscape maintenance.
5. The claimed priority date is October 14, 1864.

**FINDINGS OF FACT**

6. The record contains no information regarding the status of the water right, if any, appurtenant to this land at the time of reacquisition by the Tribes.

**CONCLUSION**

7. Reacquisition of land by the Tribes does not entitle the Tribes to a Treaty reserved right.
8. The claimant has not demonstrated any other basis for approval of this claim.
9. The claim is DENIED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink and is positioned above a horizontal line.

Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **620**  
BIA claim

**Current Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.  
Portland OR 97232

The general location of the claimed use is SE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Section 21, Township 31 South, Range 7 East, W.M.

This preliminary evaluation takes into consideration all information available as of September 1, 1999.

**CLAIM INFORMATION**

1. The claim was filed on April 30, 1997.
2. The claim is for an 1864 Treat reserved right, apparently based on reacquisition of the appurtenant land by the Tribes.
3. The future irrigation claim is for a total of 8.8 acre-feet, at a rate of 0.06 cubic feet per second, for future irrigation from one point of diversion located on the Williamson River, for irrigation of 4.8 acres of practicably irrigable acreage located within the Modoc Pump Station Parcel, in the SE<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> Section 21, Township 31 South, Range 7 East, W.M.
4. The claimed period of use is April 1 through October 31 for irrigation.
5. The claimed priority date is October 14, 1864.

**FINDINGS OF FACT**

6. The record contains no information regarding the status of the water right, if any, appurtenant to this land at the time of reacquisition by the Tribes.

**CONCLUSION**

7. Reacquisition of land by the Tribes does not entitle the Tribes to a Treaty reserved right.
8. The claimant has not demonstrated any other basis for approval of this claim.
9. The claim is DENIED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink and is positioned above a horizontal line.

Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **621**  
BIA claim

**Current Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.  
Portland OR 97232

The general location of the claimed use is Lots 22, 23 and 28 (Casino Parcel), Section 16, Township 35 South, Range 7 East, W.M.

This preliminary evaluation takes into consideration all information available as of September 1, 1999.

**CLAIM INFORMATION**

1. The claim was filed on April 30, 1997.
2. The claim is for an 1864 Treat reserved right, apparently based on reacquisition of the appurtenant land by the Tribes.
3. The future fire protection claim is for a total of 3.7 acre-feet, at a rate of 0.27 cubic feet per second, for future irrigation from one point of diversion located on the Williamson River, for fire protection for a casino constructed on Lots 22, 23 and 28 (Casino Parcel), Section 16, Township 35 South, Range 7 East, W.M..
4. The claimed period of use is year-round.
5. The claimed priority date is October 14, 1864.

**FINDINGS OF FACT**

6. The record contains no information regarding the status of the water right, if any, appurtenant to this land at the time of reacquisition by the Tribes.

## CONCLUSION

7. Reacquisition of land by the Tribes does not entitle the Tribes to a Treaty reserved right.
8. The claimant has not demonstrated any other basis for approval of this claim.
9. The claim is DENIED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink on a white background.

Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **622**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of September, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For fish and wildlife habitat including water quality the BIA claims the following water levels expressed as feet above mean sea level.

November 1 - April 1	Consistent with flood control purposes, the water level shall be raised as quickly as possible to elevation 4,143
July 1- July 31	4,143
August 1 - October 31	4,141

Decreases in water level shall begin no sooner than the last day of the designated period and shall take place over no less than two weeks.
5. The claimed period of use is January 1 to December 31.

6. The claimed priority date is time immemorial.
7. The claimed place of use is the Upper Klamath and Agency Lakes as described by UTM coordinates in the claim.

### **FINDINGS OF FACT**

8. The priority date is time immemorial.
9. The period of use is January 1 to December 31.
10. The BIA has provided information sufficient to demonstrate that maintenance of lake levels is necessary to protect treaty fish and wildlife resources.
11. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

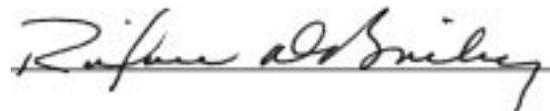
12. The October, 1978 through September, 1979 mean monthly lake levels for the Upper Klamath Lake near Klamath Falls as reported by the United States Geological Survey, measured at USGS gage number 11507001, are:

October:	4140.39	April:	4142.59
November:	4140.34	May:	4142.95
December:	4140.58	June:	4142.06
January:	4140.93	July:	4140.72
February:	4141.44	August:	4139.31
March:	4142.22	September:	4138.57

### **CONCLUSION**

13. For the reason stated in paragraph 11, this claim is DENIED for the quantities of water requested by the BIA.
14. This claim is APPROVED for the quantities of water set out in paragraph 12.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication



**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **623**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims for gathering rights are not proper. *United States v. Adair*, 478 F. Supp. 336 (1979).
3. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

4. The claim was filed on April 30, 1997.
5. For marsh vegetation (primarily yellow pond lily *Nuphar polysepalum*) gathering and wildlife habitat the BIA claims the following minimum monthly water levels to be maintained at "Silver Lake Highway gage."

<u>Month</u>	<u>Water Level (in feet above mean sea level)</u>
January	4,515.2
February	4,515.3
March	4,515.4

April	4,515.3
May	4,514.9
June	4,514.4
July	4,514
August	4,513.8
September	4,513.9
October	4,514.2
November	4,514.9
December	4,514.9

6. The claimed period of use is January 1 to December 31.
7. The claimed priority date is time immemorial.
8. The Tribes do not have gathering rights for the yellow pond lily *Nuphar polysepalum*.
9. The claimed place of use is the Klamath Marsh as described by UTM coordinates in the claim.

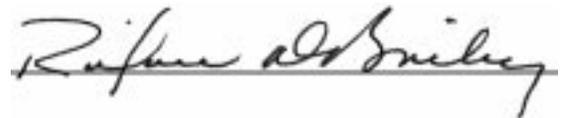
#### **FINDINGS OF FACT**

10. The priority date is time immemorial.
11. The period of use is January 1 to December 31.
12. The BIA has not provided information sufficient to demonstrate that the abundance of migratory waterfowl used by the Klamath for their treaty hunting rights is linked to the decline of *Nuphar polysepalum* and the corresponding replacement by dense bulrush vegetation.

#### **CONCLUSION**

13. For the reason stated in paragraph 12, this claim is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **624**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. Flows for seeps and springs were attached as a separate table.
5. The claimed period of use is January 1 to December 31.
6. The claimed priority date is time immemorial.
7. The claimed place of use was designated by UTM Coordinates as described in a separate table.

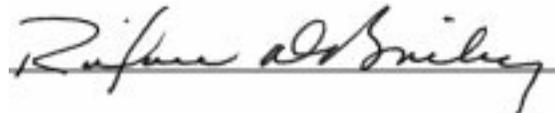
## FINDINGS OF FACT

8. The claim does not demonstrate how the water claimed will protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
9. The claim does not demonstrate that the amount of water claimed is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
10. The claim does not provide supporting documentation of the methods used to estimate water quantities needed to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
11. The claim does not provide information regarding location of the claimed seeps and springs sufficient to determine whether the claimed water is or is not on lands within the former reservation.

## CONCLUSIONS

12. For the reasons outlined in paragraphs 8 through 11, this claim is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **625**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	15 cfs
February	14 cfs
March	16 cfs
April	16 cfs
May	16 cfs
June	38 cfs
July	32 cfs
August	18 cfs
September	12 cfs

October	12 cfs
November	12 cfs
December	14 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	15 cfs
February	14 cfs
March	110 cfs
April	110 cfs
May	110 cfs
June	110 cfs
July	32 cfs
August	18 cfs
September	13 cfs
October	11 cfs
November	12 cfs
December	14 cfs
6. For structural habitat maintenance the BIA claims a trigger flow of 10 cfs and a cap flow of 200 cfs.
7. The claimed period of use is January 1 to December 31.
8. The claimed priority date is time immemorial.
9. The claimed place of use is Scott Creek from Township 31S, Range 7.5E, Section 11 (SW1/4 SE1/4) to Township 31S, Range 7E, Section 1 (SE1/4 NE1/4).

**FINDINGS OF FACT**

10. A portion of the claimed reach is not within the lands of the former Klamath reservation. The only allowed place of use is Scott Creek from Township 31S, Range 7E, Section 1 (SE1/4 NE1/4) (lower reach boundary) up to the border of the former Klamath reservation.
11. The priority date is time immemorial.
12. The period of use is January 1 to December 31.
13. The BIA has provided information sufficient to demonstrate that maintenance of physical

habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

14. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	930 cfs
February	1200 cfs
March	1497 cfs
April	1816 cfs
May	1388 cfs
June	798 cfs
July	551 cfs
August	507 cfs
September	538 cfs
October	633 cfs
November	823 cfs
December	952 cfs

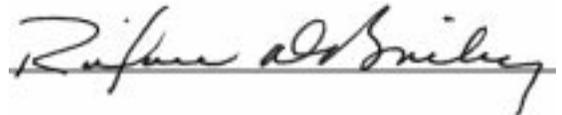
15. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
16. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has

not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

## CONCLUSIONS

17. The place of use is LIMITED AS DESCRIBED IN PARAGRAPH 10.
18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 14.
- |           |        |
|-----------|--------|
| January   | 15 cfs |
| February  | 14 cfs |
| March     | 16 cfs |
| April     | 16 cfs |
| May       | 16 cfs |
| June      | 38 cfs |
| July      | 32 cfs |
| August    | 18 cfs |
| September | 12 cfs |
| October   | 12 cfs |
| November  | 12 cfs |
| December  | 14 cfs |
19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **626**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	650 cfs
February	650 cfs
March	650 cfs
April	700 cfs
May	700 cfs
June	700 cfs
July	650 cfs
August	650 cfs
September	650 cfs

October	650 cfs
November	650 cfs
December	650 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	1,483 cfs
February	1,902 cfs
March	4,453 cfs
April	4,453 cfs
May	4,453 cfs
June	4,453 cfs
July	892 cfs
August	748 cfs
September	750 cfs
October	801 cfs
November	915 cfs
December	1,332 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 1,277 cfs and a cap flow of 9,069 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Williamson River from Township 35S, Range 7E, Section 3 NW 1/4, NW 1/4 to Township 35S, Range 7E, Section 21, SW 1/4, NE 1/4.

## **FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is Five Mile Creek from Township 34S, Range 13E, Section 36 SE 1/4, SE 1/4 to Township 35S, Range 13E, Section 25, NW 1/4, NE 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	930 cfs
February	1200 cfs
March	1491 cfs
April	1825 cfs
May	1440 cfs
June	841 cfs
July	564 cfs
August	513 cfs
September	544 cfs
October	637 cfs
November	822 cfs
December	952 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has

not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED BELOW AS DESCRIBED IN PARAGRAPH 15.

January	650 cfs
February	650 cfs
March	650 cfs
April	700 cfs
May	700 cfs
June	700 cfs
July	564 cfs
August	513 cfs
September	544 cfs
October	637 cfs
November	650 cfs
December	650 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **627**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	665 cfs
February	758 cfs
March	900 cfs
April	1,000 cfs
May	815 cfs
June	549 cfs
July	409 cfs
August	378 cfs

September	375 cfs
October	422 cfs
November	545 cfs
December	450 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	665 cfs
February	758cfs
March	2,200 cfs
April	2,200 cfs
May	2,200 cfs
June	2,200 cfs
July	409 cfs
August	378 cfs
September	375 cfs
October	422 cfs
November	545 cfs
December	450 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 528 cfs and a cap flow of 5,099 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Williamson River from Township 34S, Range 7E Section 9 SE 1/4, NE 1/4 to Township 35S, Range 7E, Section 3 NW1/4, NW 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Williamson River from Township 34S, Range 7E Section 9 SE 1/4, NE 1/4 to Township 35S, Range 7E, Section 3 NW1/4, NW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	510 cfs
February	618 cfs
March	740 cfs
April	739 cfs
May	511 cfs
June	375 cfs
July	315 cfs
August	302 cfs
September	301 cfs
October	302 cfs
November	416 cfs
December	526 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has

not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

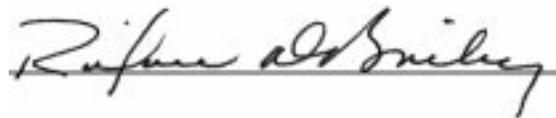
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED BELOW AS DESCRIBED IN PARAGRAPH 15.

January	510 cfs
February	618 cfs
March	740 cfs
April	739 cfs
May	511 cfs
June	375 cfs
July	315 cfs
August	302 cfs
September	301 cfs
October	302 cfs
November	416 cfs
December	450 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **628**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	150 cfs
February	150 cfs
March	150 cfs
April	150 cfs
May	100 cfs
June	100 cfs
July	67 cfs
August	14 cfs

September	29 cfs
October	75 cfs
November	100 cfs
December	150 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	357 cfs
February	444 cfs
March	924 cfs
April	924 cfs
May	924 cfs
June	924 cfs
July	67 cfs
August	14 cfs
September	29 cfs
October	75 cfs
November	187 cfs
December	342 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 205 cfs and a cap flow of 1,176 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Williamson River from Township 33s, Range 7E, Section 36 SW 1/4, NW 1/4 to Township 34S, Range 7E, Section 10, SW 1/4, NW 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Williamson River from Township 33s, Range 7E, Section 36 SW 1/4, NW 1/4 to Township 34S, Range 7E, Section 10, SW 1/4, NW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	209 cfs
February	317 cfs
March	438 cfs
April	435 cfs
May	208 cfs
June	71 cfs
July	11 cfs
August	0 cfs
September	0 cfs
October	0 cfs
November	114 cfs
December	224 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

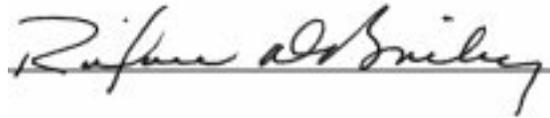
**CONCLUSIONS**

- 18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED BELOW AS DESCRIBED IN PARAGRAPH 15.

January	150 cfs
February	150 cfs
March	150 cfs
April	150 cfs
May	100 cfs
June	71 cfs
July	11 cfs
August	0 cfs
September	0 cfs
October	0 cfs
November	100 cfs
December	150 cfs

- 19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
- 20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **629**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	100 cfs
February	100 cfs
March	100 cfs
April	66 cfs
May	60 cfs
June	60 cfs
July	60 cfs
August	14 cfs

September	29 cfs
October	55 cfs
November	55 cfs
December	100 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	354 cfs
February	439 cfs
March	924 cfs
April	924 cfs
May	924 cfs
June	924 cfs
July	66 cfs
August	14 cfs
September	29 cfs
October	75 cfs
November	185 cfs
December	338 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 203 cfs and a cap flow of 1,176 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Williamson River from Township 33S, Range 7E, Section 1 NE 1/4, NW 1/4 to Township 33S, Range 7E, Section 36, SW 1/4, NW 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Williamson River from Township 33S, Range 7E, Section 1 NE 1/4, NW 1/4 to Township 33S, Range 7E, Section 36, SW 1/4, NW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	185 cfs
February	290 cfs
March	404 cfs
April	405 cfs
May	186 cfs
June	51 cfs
July	0 cfs
August	0 cfs
September	0 cfs
October	0 cfs
November	92 cfs
December	201 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED BELOW AS DESCRIBED IN PARAGRAPH 15.

January	100 cfs
February	100 cfs
March	100 cfs
April	66 cfs
May	60 cfs
June	51 cfs
July	0 cfs
August	0 cfs
September	0 cfs
October	0 cfs
November	55 cfs
December	100 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **630**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	353 cfs
February	439 cfs
March	442 cfs
April	522 cfs
May	356 cfs
June	141 cfs
July	66 cfs
August	14cfs

September	29 cfs
October	74 cfs
November	184 cfs
December	338 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	353 cfs
February	439 cfs
March	924 cfs
April	924 cfs
May	924 cfs
June	924 cfs
July	66 cfs
August	14 cfs
September	29 cfs
October	74 cfs
November	184 cfs
December	338 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 202 cfs and a cap flow of 1,176 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Williamson River from Township 32S, Range 8E, Section 7 NE 1/4, NE 1/4 to Township 33S, Range 7E, Section 1, NE 1/4, NW 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Williamson River from Township 32S, Range 8E, Section 7 NE 1/4, NE 1/4 to Township 33S, Range 7E, Section 1, NE 1/4, NW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	182 cfs
February	287 cfs
March	397 cfs
April	400 cfs
May	183 cfs
June	48 cfs
July	0 cfs
August	0 cfs
September	0 cfs
October	0 cfs
November	90 cfs
December	199 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

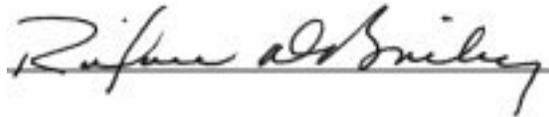
**CONCLUSIONS**

- 18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED BELOW AS DESCRIBED IN PARAGRAPH 15.

January	182 cfs
February	287 cfs
March	397 cfs
April	400 cfs
May	183 cfs
June	48 cfs
July	0 cfs
August	0 cfs
September	0 cfs
October	0 cfs
November	90 cfs
December	199 cfs

- 19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
- 20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **631**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	67 cfs
February	82 cfs
March	113 cfs
April	120 cfs
May	120 cfs
June	115 cfs
July	78 cfs
August	66 cfs

September	68 cfs
October	68 cfs
November	67 cfs
December	69 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	67 cfs
February	82 cfs
March	560 cfs
April	560 cfs
May	560 cfs
June	560 cfs
July	78 cfs
August	66 cfs
September	68 cfs
October	68 cfs
November	67 cfs
December	69 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 69 cfs and a cap flow of 1,122 cfs.
7. The claimed period of use is January 1 to December 31.
8. The claimed priority date is time immemorial.
9. The claimed place of use is the Williamson River from Township 21S, Range 11E, Section 31 NW 1/4, NW 1/4 to Township 30S, Range 10E, Section 16, NW 1/4, NW 1/4.

## **FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.
11. The priority date is time immemorial.
12. The place of use is the Williamson River from Township 21S, Range 11E, Section 31 NW 1/4, NW 1/4 to Township 30S, Range 10E, Section 16, NW 1/4, NW 1/4.
13. The period of use is January 1 to December 31.
14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	76 cfs
February	82 cfs
March	93 cfs
April	125 cfs
May	122 cfs
June	97 cfs
July	67 cfs
August	60 cfs
September	62 cfs
October	69 cfs
November	72 cfs
December	77 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has

not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

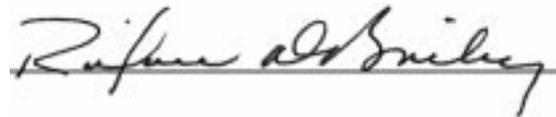
**CONCLUSIONS**

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	67 cfs
February	82 cfs
March	93 cfs
April	125 cfs
May	120 cfs
June	97 cfs
July	67 cfs
August	60 cfs
September	62 cfs
October	68 cfs
November	67 cfs
December	69 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **632**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	57 cfs
February	70 cfs
March	96 cfs
April	100 cfs
May	100 cfs
June	98 cfs
July	67 cfs
August	56 cfs
September	58 cfs

October	58 cfs
November	57 cfs
December	59 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	57 cfs
February	70 cfs
March	460 cfs
April	460 cfs
May	460 cfs
June	460 cfs
July	67 cfs
August	56 cfs
September	58 cfs
October	58 cfs
November	57 cfs
December	59 cfs
6. For structural habitat maintenance the BIA claims a trigger flow of 59 cfs and a cap flow of 897 cfs.
7. The claimed period of use is January 1 to December 31.
8. The claimed priority date is time immemorial.
9. The claimed place of use is the Williamson River from Township 32S, Range 11E, Section 17 NE 1/4, SW 1/4 to Township 31S, Range 11E, Section 31, NW 1/4, NW 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.
11. The priority date is time immemorial.
12. The place of use is the Williamson River from Township 32S, Range 11E, Section 17 NE 1/4, SW 1/4 to Township 31S, Range 11E, Section 31, NW 1/4, NW 1/4.
13. The period of use is January 1 to December 31.
14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and

wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	58 cfs
February	59 cfs
March	62 cfs
April	83 cfs
May	70 cfs
June	63 cfs
July	55 cfs
August	52 cfs
September	55 cfs
October	57 cfs
November	60 cfs
December	60 cfs

16. In the months where the calculation in paragraph 15 does not yield a minimum flow amount, the BIA claim for physical habitat maintenance is determined to be the minimum flow needed to support hunting and fishing treaty rights as of September 27, 1979.
17. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

18. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

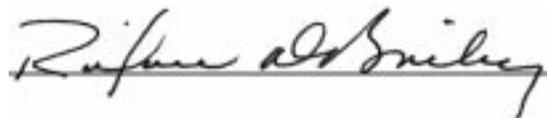
## CONCLUSIONS

19. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED BELOW AS DESCRIBED IN PARAGRAPH 15.

January	57 cfs
February	59 cfs
March	62 cfs
April	83 cfs
May	70 cfs
June	63 cfs
July	55 cfs
August	52 cfs
September	55 cfs
October	57 cfs
November	57 cfs
December	59 cfs

20. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
21. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **633**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	30 cfs
February	36 cfs
March	36 cfs
April	43 cfs
May	42 cfs
June	33 cfs
July	35 cfs
August	29 cfs

September	30 cfs
October	30 cfs
November	30 cfs
December	31 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	30 cfs
February	36 cfs
March	250 cfs
April	250 cfs
May	250 cfs
June	250 cfs
July	35 cfs
August	29 cfs
September	30 cfs
October	30 cfs
November	30 cfs
December	31 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 30 cfs and a cap flow of 460 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Williamson River from Township 33S, Range 11E, Section 4 SW 1/4, SW 1/4 to Township 32S, Range 11E, Section 17, NE 1/4, SW 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Williamson River from Township 33S, Range 11E, Section 4 SW 1/4, SW 1/4 to Township 32S, Range 11E, Section 17, NE 1/4, SW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	36 cfs
February	36 cfs
March	37 cfs
April	49 cfs
May	41 cfs
June	39 cfs
July	34 cfs
August	32 cfs
September	33 cfs
October	35 cfs
November	38 cfs
December	38 cfs

16. In the months where the calculation in paragraph 15 does not yield a minimum flow amount, the BIA claim for physical habitat maintenance is determined to be the minimum flow needed to support hunting and fishing treaty rights as of September 27, 1979.
17. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this

purpose.

18. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

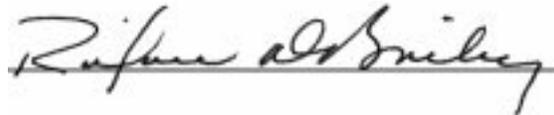
## CONCLUSIONS

19. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	30 cfs
February	36 cfs
March	36 cfs
April	43 cfs
May	42 cfs
June	33 cfs
July	34 cfs
August	29 cfs
September	30 cfs
October	30 cfs
November	30 cfs
December	31 cfs

20. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
21. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **634**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	12 cfs
February	12 cfs
March	12 cfs
April	12 cfs
May	12 cfs
June	12 cfs
July	12 cfs
August	12 cfs

September	12 cfs
October	12 cfs
November	12 cfs
December	12 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	12 cfs
February	12 cfs
March	13 cfs
April	13 cfs
May	13 cfs
June	13 cfs
July	12 cfs
August	12 cfs
September	12 cfs
October	12 cfs
November	12 cfs
December	12 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 11 cfs and a cap flow of 14 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is Larkin Creek from Township 34S, Range 7E, Section 11 SW 1/4, SW 1/4 to Township 34S, Range 7E, Section 3, NE 1/4, SE 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is Larkin Creek from Township 34S, Range 7E, Section 11 SW 1/4, SW 1/4 to Township 34S, Range 7E, Section 3, NE 1/4, SE 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	12 cfs
February	14 cfs
March	17 cfs
April	15 cfs
May	11 cfs
June	10 cfs
July	10 cfs
August	10 cfs
September	10 cfs
October	11 cfs
November	11 cfs
December	12 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has

not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

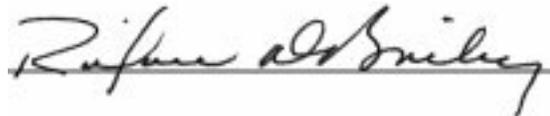
**CONCLUSIONS**

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED BELOW AS DESCRIBED IN PARAGRAPH 15.

January	12 cfs
February	12 cfs
March	12 cfs
April	12 cfs
May	12 cfs
June	12 cfs
July	10 cfs
August	10 cfs
September	10 cfs
October	11 cfs
November	11 cfs
December	12 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **635**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	30 cfs
February	30 cfs
March	40 cfs
April	40 cfs
May	40 cfs
June	30 cfs
July	30 cfs
August	30 cfs

September	24 cfs
October	22 cfs
November	24 cfs
December	30 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	33 cfs
February	32 cfs
March	310 cfs
April	310 cfs
May	310 cfs
June	310 cfs
July	52 cfs
August	31 cfs
September	24 cfs
October	22 cfs
November	24 cfs
December	30 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 20 cfs and a cap flow of 561 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is Sand Creek from Township 31S, Range 7.5E, Section 6 NE 1/4, SW 1/4 to Township 31S, Range 8E, Section 19, NE 1/4, NW 1/4 and NW 1/4/, NE 1/4.

## **FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is Sand Creek from Township 31S, Range 7.5E, Section 6 NE 1/4, SW 1/4 to Township 31S, Range 8E, Section 19, NE 1/4, NW 1/4 and NW 1/4/, NE 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	17 cfs
February	17 cfs
March	12 cfs
April	9 cfs
May	10 cfs
June	23 cfs
July	26 cfs
August	15 cfs
September	14 cfs
October	12 cfs
November	12 cfs
December	19 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

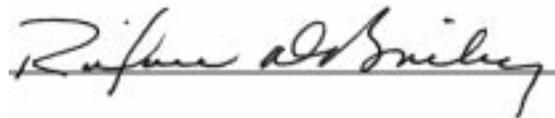
**CONCLUSIONS**

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	17 cfs
February	17 cfs
March	12 cfs
April	9 cfs
May	10 cfs
June	23 cfs
July	26 cfs
August	15 cfs
September	14 cfs
October	12 cfs
November	19 cfs
December	19 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **636**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is time immemorial.
6. The claimed place of use is Scott Creek from Township 31S, Range 7.5E, Section 11 (SW1/4 SE1/4) to Township 31S, Range 7E, Section 1 (SE1/4 NE1/4).

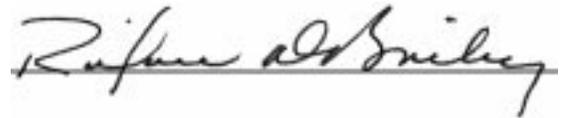
## **FINDINGS OF FACT**

7. The claim does not lie within the boundaries of the former Klamath Reservation.

## **CONCLUSION**

8. For the reason outlined in paragraph 7, this claim is DENIED.

Dated the 4th day of October, 1999.

A handwritten signature in black ink, appearing to read "Richard D. Bailey". The signature is written in a cursive style and is positioned above the typed name.

Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **637**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	14 cfs
February	13 cfs
March	17 cfs
April	20 cfs
May	25 cfs
June	25 cfs
July	25 cfs
August	17 cfs
September	12 cfs

October	10 cfs
November	11 cfs
December	13 cfs

- For riparian habitat maintenance the BIA claims the following amounts:

January	14 cfs
February	13 cfs
March	160 cfs
April	160 cfs
May	160 cfs
June	160 cfs
July	31 cfs
August	17 cfs
September	12 cfs
October	10 cfs
November	11 cfs
December	13 cfs

- For structural habitat maintenance the BIA claims a trigger flow of 8 cfs and a cap flow of 260 cfs.
- The claimed period of use is January 1 to December 31.
- The claimed priority date is time immemorial.
- The claimed place of use is Jackson Creek from Township 30S, Range 11E, Section 25 NW 1/4, NE 1/4 to Township 30S, Range 10E, Section 23, SE 1/4, NE 1/4.

**FINDINGS OF FACT**

- The claimed reach is within the lands of the former reservation.
- The priority date is time immemorial.
- The place of use is Jackson Creek from Township 30S, Range 11E, Section 25 NW 1/4, NE 1/4 to Township 30S, Range 10E, Section 23, SE 1/4, NE 1/4.
- The period of use is January 1 to December 31.
- The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	8 cfs
February	10 cfs
March	12 cfs
April	16 cfs
May	17 cfs
June	9 cfs
July	4 cfs
August	3 cfs
September	4 cfs
October	5 cfs
November	6 cfs
December	7 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

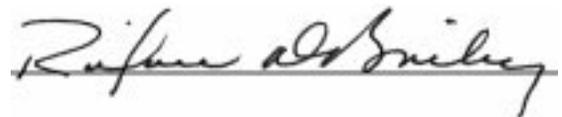
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	8 cfs
February	10 cfs
March	12 cfs
April	16 cfs
May	17 cfs
June	9 cfs
July	4 cfs
August	3 cfs
September	4 cfs
October	5 cfs
November	6 cfs
December	7 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **638**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	2 cfs
February	2 cfs
March	2 cfs
April	2 cfs
May	2 cfs
June	2 cfs
July	2 cfs
August	2 cfs

September	2 cfs
October	2 cfs
November	2 cfs
December	2 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	2 cfs
February	2 cfs
March	2 cfs
April	2 cfs
May	2 cfs
June	2 cfs
July	2 cfs
August	2 cfs
September	2 cfs
October	2 cfs
November	2 cfs
December	2 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 1 cfs and a cap flow of 5 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is Irving Creek from Township 30S, Range 11E, Section 20 SW 1/4, SW 1/4 to Township 30S, Range 10E, Section 13, SE 1/4, SW 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is Irving Creek from Township 30S, Range 11E, Section 20 SW 1/4, SW 1/4 to Township 30S, Range 10E, Section 13, SE 1/4, SW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	2 cfs
February	3 cfs
March	3 cfs
April	4 cfs
May	4 cfs
June	2 cfs
July	1 cfs
August	1 cfs
September	1 cfs
October	1 cfs
November	2 cfs
December	2 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has

not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

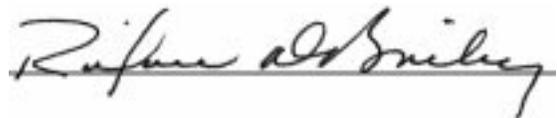
**CONCLUSIONS**

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	2 cfs
February	2 cfs
March	2 cfs
April	2 cfs
May	2 cfs
June	2 cfs
July	1 cfs
August	1 cfs
September	1 cfs
October	1 cfs
November	2 cfs
December	2 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **639**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	8 cfs
February	9 cfs
March	12 cfs
April	12 cfs
May	12 cfs
June	13 cfs
July	9 cfs
August	8 cfs

September	8 cfs
October	8 cfs
November	8 cfs
December	8 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	8 cfs
February	9 cfs
March	150 cfs
April	150 cfs
May	150 cfs
June	150 cfs
July	9 cfs
August	8 cfs
September	8 cfs
October	8 cfs
November	8 cfs
December	8 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 7 cfs and a cap flow of 253 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is Deep Creek from Township 31S, Range 11E, Section 1, SW 1/4/, NE 1/4 to Township 31S, Range 11E, Section 31, NW 1/4/, NW 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is Deep Creek from Township 31S, Range 11E, Section 1, SW 1/4/, NE 1/4 to Township 31S, Range 11E, Section 31, NW 1/4/, NW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	2 cfs
February	3 cfs
March	5 cfs
April	9 cfs
May	13 cfs
June	6 cfs
July	1 cfs
August	1 cfs
September	1 cfs
October	1 cfs
November	2 cfs
December	2 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has

not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

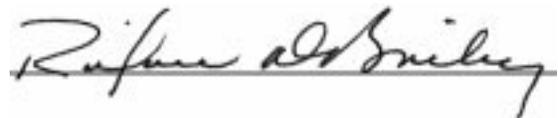
**CONCLUSIONS**

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	2 cfs
February	3 cfs
March	5 cfs
April	9 cfs
May	12 cfs
June	6 cfs
July	1 cfs
August	1 cfs
September	1 cfs
October	1 cfs
November	2 cfs
December	2 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **640**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	336 cfs
February	336 cfs
March	336 cfs
April	336 cfs
May	336 cfs
June	336 cfs
July	336 cfs
August	336 cfs

September	336 cfs
October	336 cfs
November	336 cfs
December	336 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	336 cfs
February	336 cfs
March	358 cfs
April	358 cfs
May	358 cfs
June	358 cfs
July	336 cfs
August	336 cfs
September	336 cfs
October	336 cfs
November	336 cfs
December	336 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 311 cfs and a cap flow of 500 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is Spring Creek from Township 33S, Range 7E, Section 33, SW 1/4/, NE 1/4 to Township 34S, Range 7E, Section 9, SE 1/4/, NE 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is Spring Creek from Township 33S, Range 7E, Section 33, SW 1/4/, NE 1/4 to Township 34S, Range 7E, Section 9, SE 1/4/, NE 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	300 cfs
February	299 cfs
March	300 cfs
April	303 cfs
May	303 cfs
June	303 cfs
July	304 cfs
August	303 cfs
September	302 cfs
October	302 cfs
November	301 cfs
December	301 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has

not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

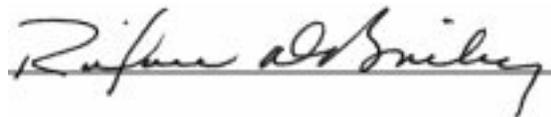
**CONCLUSIONS**

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	300 cfs
February	299 cfs
March	300 cfs
April	303 cfs
May	303 cfs
June	303 cfs
July	304 cfs
August	303 cfs
September	302 cfs
October	302 cfs
November	301 cfs
December	301 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **641**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	500 cfs
February	500 cfs
March	500 cfs
April	600 cfs
May	600 cfs
June	600 cfs
July	400 cfs
August	388 cfs

September	378 cfs
October	404 cfs
November	452 cfs
December	500 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	974 cfs
February	1,175 cfs
March	3,436 cfs
April	3,436 cfs
May	3,436 cfs
June	3,436 cfs
July	532 cfs
August	388 cfs
September	378 cfs
October	404 cfs
November	452 cfs
December	673 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 746 cfs and a cap flow of 8,099 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Sprague River from Township 35S, Range 7E, Section 3, NE 1/4, SE 1/4 to Township 35S, Range 7E, Section 3, NW 1/4, NW 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Sprague River from Township 35S, Range 7E, Section 3, NE 1/4, SE 1/4 to Township 35S, Range 7E, Section 3, NW 1/4, NW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	411 cfs
February	539 cfs
March	774 cfs
April	1083 cfs
May	949 cfs
June	502 cfs
July	280 cfs
August	223 cfs
September	250 cfs
October	318 cfs
November	360 cfs
December	407 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has

not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

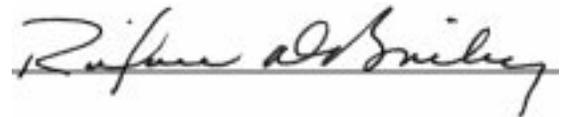
**CONCLUSIONS**

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	411 cfs
February	500 cfs
March	500 cfs
April	600 cfs
May	600 cfs
June	502 cfs
July	280 cfs
August	223 cfs
September	250 cfs
October	318 cfs
November	360 cfs
December	407 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **642**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	150 cfs
February	150 cfs
March	150 cfs
April	150 cfs
May	150 cfs
June	150 cfs
July	150 cfs
August	150 cfs

September	150 cfs
October	150 cfs
November	150 cfs
December	150 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	965 cfs
February	1,165 cfs
March	3,436 cfs
April	3,436 cfs
May	3,436 cfs
June	3,436 cfs
July	528 cfs
August	528 cfs
September	375 cfs
October	401 cfs
November	448 cfs
December	667 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 740 cfs and a cap flow of 8,099 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Sprague River from Township 34S, Range 8E, Section 19, NW 1/4, SE 1/4 to Township 35S, Range 7E, Section 3, NE 1/4, SE 1/4.

## **FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Sprague River from Township 34S, Range 8E, Section 19, NW 1/4, SE 1/4 to Township 35S, Range 7E, Section 3, NE 1/4, SE 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	411 cfs
February	539 cfs
March	774 cfs
April	1085 cfs
May	953 cfs
June	506 cfs
July	281 cfs
August	223 cfs
September	251 cfs
October	318 cfs
November	360 cfs
December	407 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

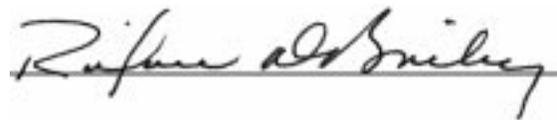
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	150 cfs
February	150 cfs
March	150 cfs
April	150 cfs
May	150 cfs
June	150 cfs
July	150 cfs
August	150 cfs
September	150 cfs
October	150 cfs
November	150 cfs
December	150 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **643**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	300 cfs
February	300 cfs
March	300 cfs
April	300 cfs
May	300 cfs
June	300 cfs
July	300 cfs
August	300 cfs

September	300 cfs
October	300 cfs
November	300 cfs
December	300 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	894 cfs
February	1,079 cfs
March	3,000 cfs
April	3,000 cfs
May	3,000 cfs
June	3,000 cfs
July	300 cfs
August	356 cfs
September	347 cfs
October	371 cfs
November	415 cfs
December	618 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 683 cfs and a cap flow of 6,646 cfs.
7. The claimed period of use is January 1 to December 31.
8. The claimed priority date is time immemorial.
9. The claimed place of use is the Sprague River from Township 34S, Range 9E, Section 9, NE 1/4, NE 1/4 to Township 34S, Range 8E, Section 19, NW 1/4, SE 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.
11. The priority date is time immemorial.
12. The place of use is the Sprague River from Township 34S, Range 9E, Section 9, NE 1/4, NE 1/4 to Township 34S, Range 8E, Section 19, NW 1/4, SE 1/4.
13. The period of use is January 1 to December 31.
14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	411 cfs
February	539 cfs
March	774 cfs
April	1085 cfs
May	953 cfs
June	505 cfs
July	281 cfs
August	223 cfs
September	251 cfs
October	318 cfs
November	360 cfs
December	407 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

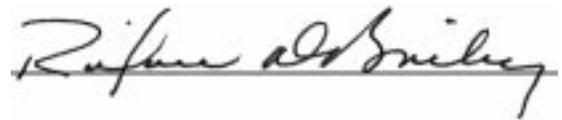
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	300 cfs
February	300 cfs
March	300 cfs
April	300 cfs
May	300 cfs
June	300 cfs
July	281 cfs
August	223 cfs
September	251 cfs
October	300 cfs
November	300 cfs
December	300 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **644**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	200 cfs
February	200 cfs
March	200 cfs
April	200 cfs
May	200 cfs
June	200 cfs
July	200 cfs
August	200 cfs

September	200 cfs
October	200 cfs
November	200 cfs
December	617 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	893 cfs
February	1,078 cfs
March	3,000 cfs
April	3,000 cfs
May	3,000 cfs
June	3,000 cfs
July	488 cfs
August	356 cfs
September	347 cfs
October	371 cfs
November	415 cfs
December	617 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 682 cfs and a cap flow of 6,645 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Sprague River from Township 35S, Range 9E, Section 36 NE 1/4, NW 1/4 to Township 35S, Range 9E, Section 9, NE 1/4, NE 1/4.

## **FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Sprague River from Township 35S, Range 9E, Section 36 NE 1/4, NW 1/4 to Township 35S, Range 9E, Section 9, NE 1/4, NE 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	412 cfs
February	540 cfs
March	776 cfs
April	1095 cfs
May	981 cfs
June	529 cfs
July	288 cfs
August	227 cfs
September	255 cfs
October	321 cfs
November	360 cfs
December	407 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

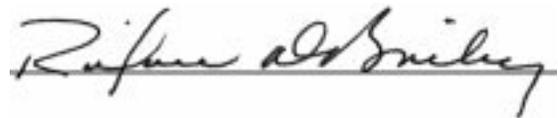
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	200 cfs
February	200 cfs
March	200 cfs
April	200 cfs
May	200 cfs
June	200 cfs
July	200 cfs
August	200 cfs
September	200 cfs
October	200 cfs
November	200 cfs
December	407 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **645**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	450 cfs
February	450 cfs
March	450 cfs
April	450 cfs
May	450 cfs
June	450 cfs
July	413 cfs
August	302 cfs

September	294 cfs
October	314 cfs
November	351 cfs
December	522 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	756 cfs
February	913 cfs
March	2,800 cfs
April	2,800 cfs
May	2,800 cfs
June	2,800 cfs
July	413 cfs
August	302 cfs
September	294 cfs
October	314 cfs
November	351 cfs
December	522 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 574 cfs and a cap flow of 6,168 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Sprague River from Township 36S, Range 12E, Section 10, NW 1/4, SW 1/4 to Township 35S, Range 9E, Section 36, NE 1/4, NW 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Sprague River from Township 36S, Range 12E, Section 10, NW 1/4, SW 1/4 to Township 35S, Range 9E, Section 36, NE 1/4, NW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	412 cfs
February	540 cfs
March	777 cfs
April	1096 cfs
May	982 cfs
June	531 cfs
July	289 cfs
August	227 cfs
September	255 cfs
October	321 cfs
November	360 cfs
December	408 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

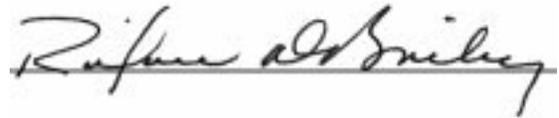
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	412 cfs
February	450 cfs
March	450 cfs
April	450 cfs
May	450 cfs
June	450 cfs
July	289 cfs
August	227 cfs
September	255 cfs
October	314 cfs
November	351 cfs
December	408 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **646**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	200 cfs
February	200 cfs
March	200 cfs
April	200 cfs
May	200 cfs
June	200 cfs
July	200 cfs
August	175 cfs

September	175 cfs
October	175 cfs
November	200 cfs
December	200 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	443 cfs
February	484 cfs
March	2,031 cfs
April	2,031 cfs
May	2,031 cfs
June	2,031 cfs
July	235 cfs
August	179 cfs
September	178 cfs
October	193 cfs
November	222 cfs
December	353 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 341 cfs and a cap flow of 4,275 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Sprague River from Township 36S, Range 12E, Section 13, NW 1/4, SE 1/4 to Township 36S, Range 12E, Section 10, NW 1/4, SW 1/4.

## **FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Sprague River from Township 36S, Range 12E, Section 13, NW 1/4, SE 1/4 to Township 36S, Range 12E, Section 10, NW 1/4, SW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	430 cfs
February	572 cfs
March	830 cfs
April	1236 cfs
May	1194 cfs
June	646 cfs
July	323 cfs
August	246 cfs
September	275 cfs
October	337 cfs
November	374 cfs
December	422 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

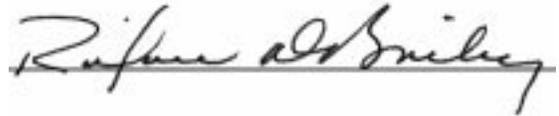
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	200 cfs
February	200 cfs
March	200 cfs
April	200 cfs
May	200 cfs
June	200 cfs
July	200 cfs
August	175 cfs
September	175 cfs
October	175 cfs
November	200 cfs
December	200 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **647**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	436 cfs
February	477 cfs
March	463 cfs
April	626 cfs
May	752 cfs
June	395 cfs
July	232 cfs
August	177 cfs

September	176 cfs
October	190 cfs
November	219 cfs
December	348 cfs

- For riparian habitat maintenance the BIA claims the following amounts:

January	436 cfs
February	477 cfs
March	1,600 cfs
April	1,600 cfs
May	1,600 cfs
June	1,600 cfs
July	232 cfs
August	177 cfs
September	176 cfs
October	190 cfs
November	219 cfs
December	348 cfs

- For structural habitat maintenance the BIA claims a trigger flow of 335 cfs and a cap flow of 3,208 cfs.
- The claimed period of use is January 1 to December 31.
- The claimed priority date is time immemorial.
- The claimed place of use is the Sprague River from Township 36S, Range 14E, Section 19 (NE1/4 NW1/4) to Township 36S, Range 12 E, Section 13 (NW1/4 SE1/4).

**FINDINGS OF FACT**

- A portion of the claimed reach is not within the lands of the former Klamath reservation. The only allowed place of use is the Sprague River at Township 36S, Range 12 E, Section 13 (NW1/4 SE1/4) (lower reach boundary) up to the border of the former Klamath reservation.
- The priority date is time immemorial.
- The period of use is January 1 to December 31.
- The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

14. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	188 cfs
February	247 cfs
March	345 cfs
April	504 cfs
May	557 cfs
June	285 cfs
July	150 cfs
August	113 cfs
September	128 cfs
October	155 cfs
November	168 cfs
December	180 cfs

15. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
16. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

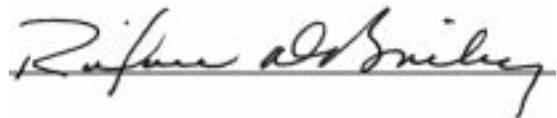
## CONCLUSIONS

17. The place of use is LIMITED AS DESCRIBED IN PARAGRAPH 10.
18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 14.

January	188 cfs
February	247 cfs
March	345 cfs
April	504 cfs
May	557 cfs
June	285 cfs
July	150 cfs
August	113 cfs
September	128 cfs
October	155 cfs
November	168 cfs
December	180 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
18. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **648**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	15 cfs
February	15 cfs
March	11 cfs
April	11 cfs
May	11 cfs
June	22 cfs
July	23 cfs
August	23 cfs

September	23 cfs
October	21 cfs
November	23 cfs
December	15 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	31 cfs
February	30 cfs
March	180 cfs
April	180 cfs
May	180 cfs
June	180 cfs
July	51 cfs
August	29 cfs
September	23 cfs
October	21 cfs
November	23 cfs
December	29 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 14 cfs and a cap flow of 310 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is Trout Creek from Township 35S, Range 9E, Section 35, SW 1/4, SW 1/4 to Township 35S, Range 9E, Section 36, NE 1/4, NW 1/4.

## **FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is Trout Creek from Township 35S, Range 9E, Section 35, SW 1/4, SW 1/4 to Township 35S, Range 9E, Section 36, NE 1/4, NW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	1 cfs
February	2 cfs
March	3 cfs
April	7 cfs
May	8 cfs
June	4 cfs
July	2 cfs
August	2 cfs
September	2 cfs
October	2 cfs
November	2 cfs
December	3 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has

not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

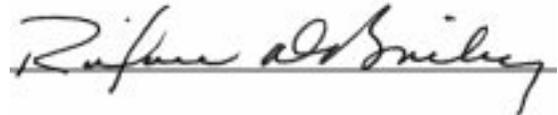
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	1 cfs
February	2 cfs
March	3 cfs
April	7 cfs
May	8 cfs
June	4 cfs
July	2 cfs
August	2 cfs
September	2 cfs
October	2 cfs
November	2 cfs
December	3 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **649**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	72 cfs
February	78 cfs
March	34 cfs
April	36 cfs
May	35 cfs
June	23 cfs
July	38 cfs
August	29 cfs

September	29 cfs
October	31 cfs
November	36 cfs
December	57 cfs

- For riparian habitat maintenance the BIA claims the following amounts:

January	72 cfs
February	78 cfs
March	155 cfs
April	155 cfs
May	155 cfs
June	155 cfs
July	38 cfs
August	29 cfs
September	29 cfs
October	31 cfs
November	36 cfs
December	57 cfs

- For structural habitat maintenance the BIA claims a trigger flow of 20 cfs and a cap flow of 276 cfs.
- The claimed period of use is January 1 to December 31.
- The claimed priority date is time immemorial.
- The claimed place of use is Whiskey Creek from Township 36S, Range 12E, Section 30, SE 1/4, SW 1/4 to Township 36S, Range 11E, Section 12, SE 1/4, SW 1/4.

**FINDINGS OF FACT**

- The claimed reach is within the lands of the former reservation.
- The priority date is time immemorial.
- The place of use is Whiskey Creek from Township 36S, Range 12E, Section 30, SE 1/4, SW 1/4 to Township 36S, Range 11E, Section 12, SE 1/4, SW 1/4.
- The period of use is January 1 to December 31.
- The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	435 cfs
February	578 cfs
March	847 cfs
April	1281 cfs
May	1296 cfs
June	726 cfs
July	348 cfs
August	260 cfs
September	289 cfs
October	348 cfs
November	378 cfs
December	427 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

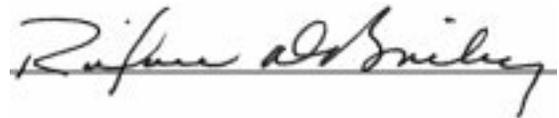
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	72 cfs
February	78 cfs
March	34 cfs
April	36 cfs
May	35 cfs
June	23 cfs
July	38 cfs
August	29 cfs
September	29 cfs
October	31 cfs
November	36 cfs
December	57 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **650**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is time immemorial.
6. The claimed place of use is the North Fork of the Sprague River from Township 35 S, Range 14E, Section 35 (SW1/4SW1/4) to Township 36S, Range 14E, Section 19 (NE1/4 NW1/4).

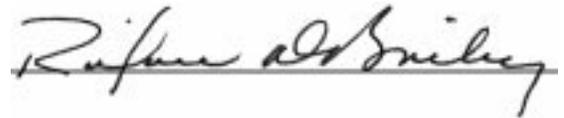
## **FINDINGS OF FACT**

7. The claim does not lie within the boundaries of the former Klamath Reservation.

## **CONCLUSION**

8. For the reason outlined in paragraph 7, this claim is DENIED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink on a white background.

Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **651**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is time immemorial.
6. The claimed place of use is the North Fork of the Sprague River from Township 35S, Range 15E Section 21 (NE1/4 SW1/4) to Township 35S, Range 14E, Section 35 (SW1/4 SW1/4).

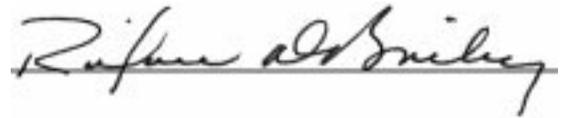
## **FINDINGS OF FACT**

7. The claim does not lie within the boundaries of the former Klamath Reservation.

## **CONCLUSION**

8. For the reason outlined in paragraph 7, this claim is DENIED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink on a white background.

Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **652**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	50 cfs
February	50 cfs
March	20 cfs
April	20 cfs
May	20 cfs
June	50 cfs
July	50 cfs
August	38 cfs

September	38 cfs
October	41 cfs
November	47 cfs
December	50 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	94 cfs
February	103 cfs
March	220 cfs
April	220 cfs
May	220 cfs
June	220 cfs
July	50 cfs
August	38 cfs
September	38 cfs
October	41 cfs
November	47 cfs
December	75 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 38 cfs and a cap flow of 434 cfs.
7. The claimed period of use is January 1 to December 31.
8. The claimed priority date is time immemorial.
9. The claimed place of use is Five Mile Creek from Township 35S, Range 13E, Section 25 (NW1/4 NE1/4) to Township 36S, Range 14E, Section 7 (SW1/4 NW1/4).

**FINDINGS OF FACT**

10. A portion of the claimed reach is not within the lands of the former Klamath reservation. The only allowed place of use is Township 35S, Range 13E, Section 25 (NW1/4 NE1/4) (upper reach boundary) down to the border of the former Klamath reservation.
11. The priority date is time immemorial.
12. The period of use is January 1 to December 31.
13. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

14. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	28 cfs
February	40 cfs
March	49 cfs
April	55 cfs
May	29 cfs
June	23 cfs
July	20 cfs
August	18 cfs
September	19 cfs
October	21 cfs
November	21 cfs
December	23 cfs

15. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
16. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

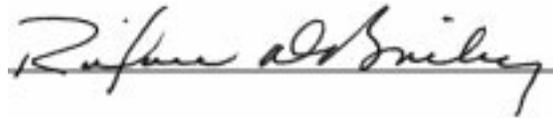
## CONCLUSIONS

17. The place of use is LIMITED AS DESCRIBED IN PARAGRAPH 10.
18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	28 cfs
February	40 cfs
March	49 cfs
April	55 cfs
May	29 cfs
June	23 cfs
July	20 cfs
August	18 cfs
September	19 cfs
October	21 cfs
November	21 cfs
December	23 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **653**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	72 cfs
February	78 cfs
March	34 cfs
April	36 cfs
May	35 cfs
June	23 cfs
July	38 cfs
August	29 cfs

September	29 cfs
October	31 cfs
November	36 cfs
December	57 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	72 cfs
February	78 cfs
March	155 cfs
April	155 cfs
May	155 cfs
June	155 cfs
July	38 cfs
August	29 cfs
September	29 cfs
October	31 cfs
November	36 cfs
December	57 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 20 cfs and a cap flow of 276 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is Whiskey Creek from Township 36S, Range 12E, Section 30, SE 1/4, SW 1/4 to Township 36S, Range 11E, Section 12, SE 1/4, SW 1/4.

## **FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is Whiskey Creek from Township 36S, Range 12E, Section 30, SE 1/4, SW 1/4 to Township 36S, Range 11E, Section 12, SE 1/4, SW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	28 cfs
February	40 cfs
March	49 cfs
April	56 cfs
May	34 cfs
June	27 cfs
July	21 cfs
August	19 cfs
September	20 cfs
October	21 cfs
November	21 cfs
December	23 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

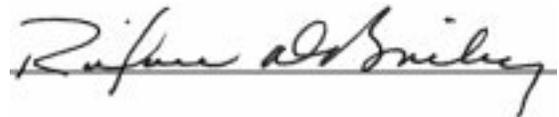
**CONCLUSIONS**

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	28 cfs
February	40 cfs
March	49 cfs
April	56 cfs
May	34 cfs
June	27 cfs
July	21 cfs
August	19 cfs
September	20 cfs
October	21 cfs
November	21 cfs
December	23 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **654**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is time immemorial.
6. The claimed place of use is the South Fork of the Sprague River from Township 36S, Range 14 E, Section 27 (NE1/4 SE1/4) to Township 36 S, Range 14 E, Section 19 (NE1/4 NW1/4).

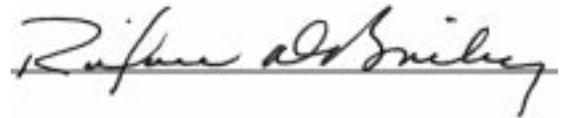
## **FINDINGS OF FACT**

7. The claim does not lie within the boundaries of the former Klamath Reservation.

## **CONCLUSION**

8. For the reason outlined in paragraph 7, this claim is DENIED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink on a white background.

Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **655**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
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This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is time immemorial.
6. The claimed place of use is the South Fork of the Sprague River from Township 37S, Range 15E, Section 9 (NE1/4 SW1/4) to Township 36S, Range 14E, Section 27 (NE1/4 SE1/4).

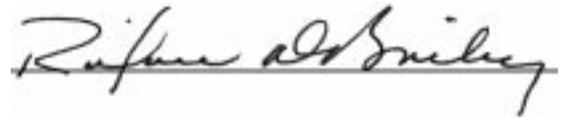
## **FINDINGS OF FACT**

7. The claim does not lie within the boundaries of the former Klamath Reservation.

## **CONCLUSION**

8. For the reason outlined in paragraph 7, this claim is DENIED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink on a white background.

Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **656**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is time immemorial.
6. The claimed place of use is the South Fork of the Sprague River from Township 37S, Range 15E, Section 2 (SE1/4 NW1/4) to Township 37S, Range 15E, Section 9 (NE1/4 SW1/4).

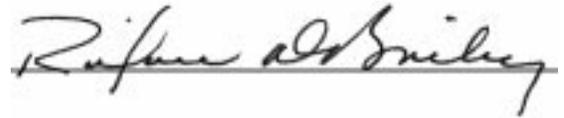
## **FINDINGS OF FACT**

7. The claim does not lie within the boundaries of the former Klamath Reservation.

## **CONCLUSION**

8. For the reason outlined in paragraph 7, this claim is DENIED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink on a white background.

Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **657**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is time immemorial.
6. The claimed place of use is Deming Creek from Township 36S, Range 15E, Section 1 (NE1/4 NW1/4) to Township 36S, Range 14E, Section 28 (NW1/4 NW1/4).

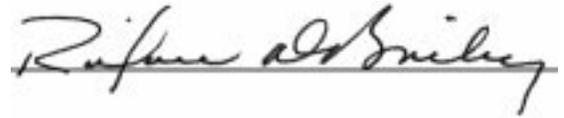
## **FINDINGS OF FACT**

7. The claim does not lie within the boundaries of the former Klamath Reservation.

## **CONCLUSION**

8. For the reason outlined in paragraph 7, this claim is DENIED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink on a white background.

Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **658**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	115 cfs
February	400 cfs
March	400 cfs
April	400 cfs
May	400 cfs
June	333 cfs
July	93 cfs
August	10 cfs

September	29 cfs
October	34 cfs
November	77 cfs
December	87 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	115 cfs
February	413 cfs
March	1,850 cfs
April	1,850 cfs
May	1,850 cfs
June	1,850 cfs
July	93 cfs
August	10 cfs
September	29 cfs
October	34 cfs
November	77 cfs
December	87 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 165 cfs and a cap flow of 3,764 cfs.
7. The claimed period of use is January 1 to December 31.
8. The claimed priority date is time immemorial.
9. The claimed place of use is the Sycan River from Township 35S, Range 12E, Section 5 NE 1/4, SW 1/4 to Township 36S, Range 12E, Section 10, NW 1/4, SW 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.
11. The priority date is time immemorial.
12. The place of use is the Sycan River from Township 35S, Range 12E, Section 5 NE 1/4, SW 1/4 to Township 36S, Range 12E, Section 10, NW 1/4, SW 1/4.
13. The period of use is January 1 to December 31.
14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	417 cfs
February	547 cfs
March	801 cfs
April	1176 cfs
May	1175 cfs
June	685 cfs
July	335 cfs
August	251 cfs
September	280 cfs
October	337 cfs
November	365 cfs
December	413 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

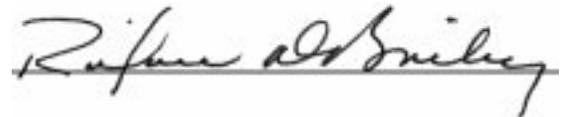
**CONCLUSIONS**

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	115 cfs
February	400 cfs
March	400 cfs
April	400 cfs
May	400 cfs
June	333 cfs
July	93 cfs
August	10 cfs
September	29 cfs
October	34 cfs
November	77 cfs
December	87 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **659**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	111 cfs
February	1160 cfs
March	711 cfs
April	847 cfs
May	888 cfs
June	321 cfs
July	90 cfs
August	9 cfs

September	28 cfs
October	33 cfs
November	74 cfs
December	84 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	111 cfs
February	399 cfs
March	1,850 cfs
April	1,850 cfs
May	1,850 cfs
June	1,850 cfs
July	90 cfs
August	9 cfs
September	28 cfs
October	33 cfs
November	74 cfs
December	84 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 152 cfs and a cap flow of 3,716 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Sycan River from Township 34S, Range 11E, Section 1 NW 1/4, SE 1/4 to Township 35S, Range 12E, Section 5, NE 1/4, SW 1/4.

## **FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Sycan River from Township 34S, Range 11E, Section 1 NW 1/4, SE 1/4 to Township 35S, Range 12E, Section 5, NE 1/4, SW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	40 cfs
February	50 cfs
March	109 cfs
April	271 cfs
May	286 cfs
June	81 cfs
July	16 cfs
August	10 cfs
September	13 cfs
October	17 cfs
November	21 cfs
December	33 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

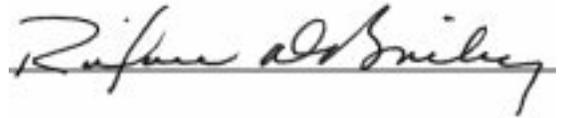
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	40 cfs
February	50 cfs
March	109 cfs
April	271 cfs
May	286 cfs
June	81 cfs
July	16 cfs
August	10 cfs
September	13 cfs
October	17 cfs
November	21 cfs
December	33 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **660**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	103 cfs
February	120 cfs
March	120 cfs
April	120 cfs
May	120 cfs
June	120 cfs
July	83 cfs
August	9 cfs

September	25 cfs
October	30 cfs
November	68 cfs
December	78 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	103 cfs
February	368 cfs
March	1,800 cfs
April	1,800 cfs
May	1,800 cfs
June	1,800 cfs
July	83 cfs
August	9 cfs
September	25 cfs
October	30 cfs
November	68 cfs
December	78 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 128 cfs and a cap flow of 3,571 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Sycan River from Township 33S, Range 12E, Section 22 NE 1/4, SE 1/4 to Township 34S, Range 11E, Section 1, NW 1/4, SE 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Sycan River from Township 33S, Range 12E, Section 22 NE 1/4, SE 1/4 to Township 34S, Range 11E, Section 1, NW 1/4, SE 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	39 cfs
February	49 cfs
March	105 cfs
April	266 cfs
May	281 cfs
June	80 cfs
July	16 cfs
August	10 cfs
September	13 cfs
October	17 cfs
November	20 cfs
December	33 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

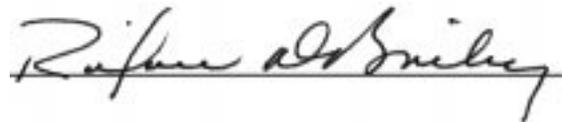
**CONCLUSIONS**

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	39 cfs
February	49 cfs
March	105 cfs
April	266 cfs
May	281 cfs
June	80 cfs
July	16 cfs
August	10 cfs
September	13 cfs
October	17 cfs
November	20 cfs
December	33 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **661**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	102 cfs
February	120 cfs
March	160 cfs
April	160 cfs
May	160 cfs
June	120 cfs
July	82 cfs
August	9 cfs

September	25 cfs
October	30 cfs
November	68 cfs
December	77 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	102 cfs
February	365 cfs
March	1,800 cfs
April	1,800 cfs
May	1,800 cfs
June	1,800 cfs
July	82 cfs
August	9 cfs
September	25 cfs
October	30 cfs
November	68 cfs
December	77 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 126 cfs and a cap flow of 3,563 cfs.
7. The claimed period of use is January 1 to December 31.
8. The claimed priority date is time immemorial.
9. The claimed place of use is the Sycan River from Township 33S, Range 13E, Section 30 NE 1/4, NE 1/4 to Township 33S, Range 12E, Section 22, NE 1/4, SE 1/4.

## **FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.
11. The priority date is time immemorial.
12. The place of use is the Sycan River from Township 33S, Range 13E, Section 30 NE 1/4, NE 1/4 to Township 33S, Range 12E, Section 22, NE 1/4, SE 1/4.
13. The period of use is January 1 to December 31.
14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	26 cfs
February	34 cfs
March	81 cfs
April	238 cfs
May	260 cfs
June	67 cfs
July	5 cfs
August	0 cfs
September	2 cfs
October	6 cfs
November	9 cfs
December	21 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

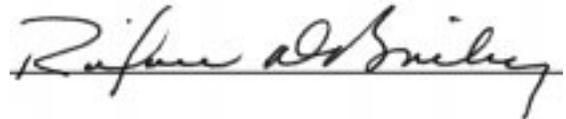
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	26 cfs
February	34 cfs
March	81 cfs
April	160 cfs
May	160 cfs
June	67 cfs
July	5 cfs
August	0 cfs
September	2 cfs
October	6 cfs
November	9 cfs
December	21 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **662**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	83 cfs
February	120 cfs
March	75 cfs
April	75 cfs
May	75 cfs
June	75 cfs
July	67 cfs
August	7 cfs

September	21 cfs
October	25 cfs
November	55 cfs
December	63 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	83 cfs
February	297 cfs
March	1,650 cfs
April	1,650 cfs
May	1,650 cfs
June	1,650 cfs
July	67 cfs
August	7 cfs
September	21 cfs
October	25 cfs
November	55 cfs
December	63 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 83 cfs and a cap flow of 3,098 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Sycan River from Township 33S, Range 13E, Section 10 NE 1/4, SW 1/4 to Township 33S, Range 13E, Section 30, NE 1/4, NE 1/4.

## **FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Sycan River from Township 33S, Range 13E, Section 10 NE 1/4, SW 1/4 to Township 33S, Range 13E, Section 30, NE 1/4, NE 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	22 cfs
February	27 cfs
March	57 cfs
April	197 cfs
May	225 cfs
June	62 cfs
July	4 cfs
August	0 cfs
September	2 cfs
October	5 cfs
November	8 cfs
December	19 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

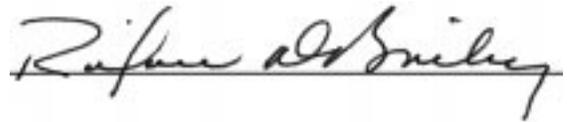
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	83 cfs
February	120 cfs
March	75 cfs
April	75 cfs
May	75 cfs
June	75 cfs
July	67 cfs
August	7 cfs
September	21 cfs
October	25 cfs
November	55 cfs
December	63 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **663**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	55 cfs
February	55 cfs
March	70 cfs
April	70 cfs
May	70 cfs
June	55 cfs
July	55 cfs
August	55 cfs

September	52 cfs
October	52 cfs
November	55 cfs
December	55 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	89 cfs
February	94 cfs
March	1,050 cfs
April	1,050 cfs
May	1,050 cfs
June	1,050 cfs
July	98 cfs
August	62 cfs
September	52 cfs
October	52 cfs
November	60 cfs
December	80 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 62 cfs and a cap flow of 1,892 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Sycan River from Township 32S, Range 14E, Section 36 (SE1/4 NE1/4) to Township 33S, Range 13E, Section 10 (NE1/4 SW1/4).

**FINDINGS OF FACT**

10. A portion of the claimed reach is not within the lands of the former Klamath reservation. The only allowed place of use is the Sycan River at Township 33S, Range 13E, Section 10 (NE1/4 SW1/4) (lower reach) up to the border of the former Klamath reservation.

11. The priority date is time immemorial.

12. The period of use is January 1 to December 31.

13. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

14. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) This amount is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	39 cfs
February	57 cfs
March	41 cfs
April	166 cfs
May	196 cfs
June	53 cfs
July	1 cfs
August	0 cfs
September	0.733 cfs
October	3 cfs
November	21 cfs
December	33 cfs

15. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
16. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

## CONCLUSIONS

17. The place of use is LIMITED AS DESCRIBED IN PARAGRAPH 10.
18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15:

January	39 cfs
February	55 cfs
March	41 cfs
April	70 cfs
May	70 cfs
June	53 cfs
July	1 cfs
August	0 cfs
September	0.733 cfs
October	3 cfs
November	21 cfs
December	33 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **664**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. The claimed period of use is January 1 to December 31.
5. The claimed priority date is time immemorial.
6. The claimed place of use is the Sycan River from Township 33S, Range 15E (SE1/4 NE1/4) to Township 32S, Range 14E, Section 36 (SE1/4 NE1/4).

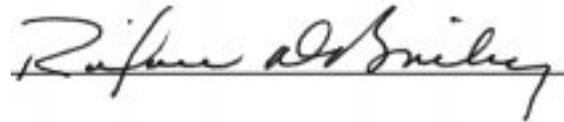
## **FINDINGS OF FACT**

7. The claim does not lie within the boundaries of the former Klamath Reservation.

## **CONCLUSION**

8. For the reason outlined in paragraph 7, this claim is DENIED.

Dated the 4th day of October, 1999.

A handwritten signature in cursive script, reading "Richard D. Bailey". The signature is written in black ink on a white background.

Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **665**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	44 cfs
February	44 cfs
March	30 cfs
April	30 cfs
May	30 cfs
June	110 cfs
July	64 cfs
August	38 cfs

September	22 cfs
October	22 cfs
November	22 cfs
December	41 cfs

- For riparian habitat maintenance the BIA claims the following amounts:

January	44 cfs
February	44 cfs
March	400 cfs
April	400 cfs
May	400 cfs
June	400 cfs
July	64 cfs
August	38 cfs
September	30 cfs
October	28 cfs
November	32 cfs
December	41 cfs

- For structural habitat maintenance the BIA claims a trigger flow of 32 cfs and a cap flow of 716 cfs.
- The claimed period of use is January 1 to December 31.
- The claimed priority date is time immemorial.
- The claimed place of use is Long Creek from Township 31S, Range 12E, Section 5 NW 1/4, NE 1/4 to Township 32S, Range 13E, Section 4, SE 1/4, NE 1/4.

**FINDINGS OF FACT**

- The claimed reach is within the lands of the former reservation.
- The priority date is time immemorial.
- The place of use is Long Creek from Township 31S, Range 12E, Section 5 NW 1/4, NE 1/4 to Township 32S, Range 13E, Section 4, SE 1/4, NE 1/4.
- The period of use is January 1 to December 31.
- The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	5 cfs
February	5 cfs
March	0 cfs
April	0 cfs
May	0 cfs
June	21 cfs
July	9 cfs
August	6 cfs
September	5 cfs
October	5 cfs
November	8 cfs
December	7 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

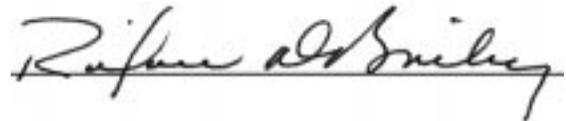
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	5 cfs
February	5 cfs
March	0 cfs
April	0 cfs
May	0 cfs
June	21 cfs
July	9 cfs
August	6 cfs
September	5 cfs
October	5 cfs
November	8 cfs
December	7 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **666**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	8 cfs
February	7 cfs
March	7 cfs
April	7 cfs
May	7 cfs
June	15 cfs
July	15 cfs
August	11 cfs

September	6 cfs
October	6 cfs
November	6 cfs
December	8 cfs

- For riparian habitat maintenance the BIA claims the following amounts:

January	8 cfs
February	7 cfs
March	98 cfs
April	98 cfs
May	98 cfs
June	98 cfs
July	21 cfs
August	11 cfs
September	8 cfs
October	6 cfs
November	7 cfs
December	8 cfs

- For structural habitat maintenance the BIA claims a trigger flow of 6 cfs and a cap flow of 152 cfs.
- The claimed period of use is January 1 to December 31.
- The claimed priority date is time immemorial.
- The claimed place of use is Calahan Creek from Township 30S, Range 12E, Section 34 (NW1/4 SW1/4) to Township 31S, Range 12E, Section 35 (NW1/4 SW1/4).

**FINDINGS OF FACT**

- A portion of the claimed reach is not within the lands of the former Klamath reservation. The only allowed place of use is the Sycauan River at Township 31S, Range 12E, Section 35 (NW1/4 SW1/4) (lower reach) up to the border of the former Klamath reservation.
- The priority date is time immemorial.
- The period of use is January 1 to December 31.
- The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

14. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	3 cfs
February	4 cfs
March	5 cfs
April	10 cfs
May	16 cfs
June	4 cfs
July	2 cfs
August	1 cfs
September	1 cfs
October	2 cfs
November	2 cfs
December	2 cfs

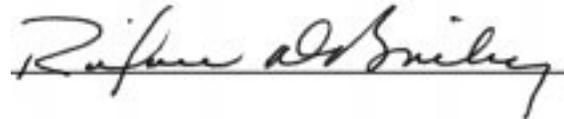
15. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
16. The BIA has provided information sufficient to demonstrate that maintenance of structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this

component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

## CONCLUSIONS

17. The place of use is LIMITED AS DESCRIBED IN PARAGRAPH 10.
18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 14.
- |           |        |
|-----------|--------|
| January   | 3 cfs  |
| February  | 4 cfs  |
| March     | 5 cfs  |
| April     | 10 cfs |
| May       | 16 cfs |
| June      | 4 cfs  |
| July      | 2 cfs  |
| August    | 1 cfs  |
| September | 1 cfs  |
| October   | 2 cfs  |
| November  | 2 cfs  |
| December  | 2 cfs  |
19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **667**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	10 cfs
February	10 cfs
March	6 cfs
April	6 cfs
May	6 cfs
June	10 cfs
July	10 cfs
August	10 cfs

September	3 cfs
October	3 cfs
November	3 cfs
December	10 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	14 cfs
February	13 cfs
March	105 cfs
April	105 cfs
May	105 cfs
June	105 cfs
July	31 cfs
August	17 cfs
September	12 cfs
October	11 cfs
November	11 cfs
December	13 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 4 cfs and a cap flow of 172 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is Coyote Creek from Township 31S, Range 12E, Section 12 SW 1/4, SW 1/4 to Township 31S, Range 13E, Section 25, SW 1/4, SE 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is Coyote Creek from Township 31S, Range 12E, Section 12 SW 1/4, SW 1/4 to Township 31S, Range 13E, Section 25, SW 1/4, SE 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	2 cfs
February	2 cfs
March	0 cfs
April	0 cfs
May	0 cfs
June	0 cfs
July	0 cfs
August	0 cfs
September	0 cfs
October	0 cfs
November	1 cfs
December	1 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

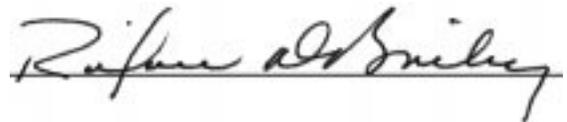
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	2 cfs
February	2 cfs
March	0 cfs
April	0 cfs
May	0 cfs
June	0 cfs
July	0 cfs
August	0 cfs
September	0 cfs
October	0 cfs
November	1 cfs
December	1 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **668**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	200 cfs
February	200 cfs
March	200 cfs
April	200 cfs
May	200 cfs
June	134 cfs
July	130 cfs
August	130 cfs

September	130 cfs
October	130 cfs
November	130 cfs
December	200 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	320 cfs
February	320 cfs
March	426 cfs
April	426 cfs
May	426 cfs
June	426 cfs
July	320 cfs
August	320 cfs
September	320 cfs
October	320 cfs
November	320 cfs
December	320 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 290 cfs and a cap flow of 510 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is the Wood River from Township 33S, Range 7.5E, Section 10 SE 1/4, SW 1/4 to Township 34S, Range 7.5E, Section 13, SW 1/4, SW 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is the Wood River from Township 33S, Range 7.5E, Section 10 SE 1/4, SW 1/4 to Township 34S, Range 7.5E, Section 13, SW 1/4, SW 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	390 cfs
February	388 cfs
March	333 cfs
April	218 cfs
May	208 cfs
June	231 cfs
July	216 cfs
August	239 cfs
September	361 cfs
October	406 cfs
November	398 cfs
December	399 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

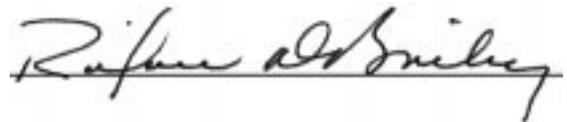
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	200 cfs
February	200 cfs
March	200 cfs
April	200 cfs
May	200 cfs
June	134 cfs
July	130 cfs
August	130 cfs
September	130 cfs
October	130 cfs
November	130 cfs
December	200 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **669**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	100 cfs
February	100 cfs
March	100 cfs
April	100 cfs
May	100 cfs
June	100 cfs
July	100 cfs
August	100 cfs

September	100 cfs
October	100 cfs
November	100 cfs
December	100 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	100 cfs
February	100 cfs
March	107 cfs
April	107 cfs
May	107 cfs
June	107 cfs
July	100 cfs
August	100 cfs
September	100 cfs
October	100 cfs
November	100 cfs
December	100 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 92 cfs and a cap flow of 178 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is Crooked Creek from Township 33S, Range 7.5E, Section 26 NW 1/4, NE 1/4 to Township 34S, Range 7.5E, Section 24, NW 1/4, NE 1/4.

**FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is Crooked Creek from Township 33S, Range 7.5E, Section 26 NW 1/4, NE 1/4 to Township 34S, Range 7.5E, Section 24, NW 1/4, NE 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	84 cfs
February	84 cfs
March	93 cfs
April	91 cfs
May	77 cfs
June	75 cfs
July	70 cfs
August	74 cfs
September	75 cfs
October	90 cfs
November	90 cfs
December	89 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

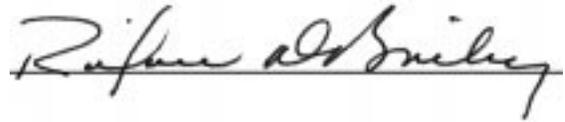
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	84 cfs
February	84 cfs
March	93 cfs
April	91 cfs
May	77 cfs
June	75 cfs
July	70 cfs
August	74 cfs
September	75 cfs
October	90 cfs
November	90 cfs
December	89 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **670**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1997.
4. For physical habitat maintenance the BIA claims the following amounts:

January	103 cfs
February	103 cfs
March	103 cfs
April	103 cfs
May	103 cfs
June	103 cfs
July	103 cfs
August	103 cfs

September	103 cfs
October	103 cfs
November	103 cfs
December	103 cfs

5. For riparian habitat maintenance the BIA claims the following amounts:

January	103 cfs
February	103 cfs
March	115 cfs
April	115 cfs
May	115 cfs
June	115 cfs
July	103 cfs
August	103 cfs
September	103 cfs
October	103 cfs
November	103 cfs
December	103 cfs

6. For structural habitat maintenance the BIA claims a trigger flow of 94 cfs and a cap flow of 126 cfs.

7. The claimed period of use is January 1 to December 31.

8. The claimed priority date is time immemorial.

9. The claimed place of use is Fort Creek from Township 33S, Range 7.5E, Section 23 NW 1/4, NE 1/4 to Township 33S, Range 7.5E, Section 34, NE 1/4, NE 1/4.

## **FINDINGS OF FACT**

10. The claimed reach is within the lands of the former reservation.

11. The priority date is time immemorial.

12. The place of use is Fort Creek from Township 33S, Range 7.5E, Section 23 NW 1/4, NE 1/4 to Township 33S, Range 7.5E, Section 34, NE 1/4, NE 1/4.

13. The period of use is January 1 to December 31.

14. The BIA has provided information sufficient to demonstrate that maintenance of physical habitat is necessary to protect treaty fish and wildlife resources. The BIA has not

provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979.

15. The quantity of water needed to protect the physical habitat component of the Klamath Tribes' treaty rights for hunting and fishing is that amount of unconsumed water flowing through the above-described reach as of September 27, 1979, the date of the District Court decision in *United States v. Adair*, 478 F. Supp. 336 (1979), or the quantity of water claimed by the BIA for physical habitat maintenance flows, whichever is less.
  - a) Unconsumed water is calculated as that amount of natural stream flow present in the above-described reach minus the consumptive uses as of September 27, 1979.
  - b) Consumptive uses are determined by multiplying irrigated acreage times crop water needs (by crop type) over irrigation application efficiency using data provided by the United States Geological Survey and Oregon State University.

Analysis of unconsumed water flowing as of September 27, 1979 through the above-described reach yields the following results:

January	82 cfs
February	82 cfs
March	82 cfs
April	71 cfs
May	47 cfs
June	35 cfs
July	31 cfs
August	38 cfs
September	50 cfs
October	74 cfs
November	83 cfs
December	83 cfs

16. The BIA has provided information sufficient to demonstrate that maintenance of riparian habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.
17. The BIA has provided information sufficient to demonstrate that maintenance of

structural habitat is necessary to protect treaty fish and wildlife resources. The BIA has not provided sufficient information to demonstrate that the amount claimed for this component of the claim is the minimum amount necessary to protect treaty fish and wildlife resources as they existed in 1979. The record does not include other information that would allow the adjudicator to determine the minimum amount necessary for this purpose.

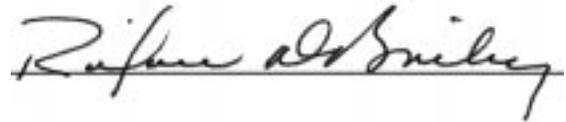
## CONCLUSIONS

18. The amount of water claimed to support the physical habitat component of the Klamath treaty right for hunting and fishing is APPROVED AS DESCRIBED IN PARAGRAPH 15.

January	82 cfs
February	82 cfs
March	82 cfs
April	71 cfs
May	47 cfs
June	35 cfs
July	31 cfs
August	38 cfs
September	50 cfs
October	74 cfs
November	83 cfs
December	83 cfs

19. The claim to support the riparian habitat component of the Klamath treaty right for hunting and fishing is DENIED.
20. The claim to support the structural habitat component of the Klamath treaty right for hunting and fishing is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **671**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1999.
4. For physical habitat maintenance the BIA claims the following amounts:

January	700 cfs
February	700 cfs
March	700 cfs
April	700 cfs
May	700 cfs
June	700 cfs
July	700 cfs
August	700 cfs

September	700 cfs
October	700 cfs
November	700 cfs
December	700 cfs

5. The claimed period of use is January 1 to December 31.
6. The claimed priority date is time immemorial.
7. The claimed place of use is the Klamath River from Township 40S, Range 7E, Section 6 SW 1/4, NW 1/4 to Township 41S, Range 5E, Section 13, NE 1/4, NW 1/4.

### **FINDINGS OF FACT**

8. This claim is for future use “to support an anadromous fishery when salmon are reintroduced to the Upper Klamath Basin” on relicensing of Klamath dams. Letter to Dick Bailey from BIA, March 26, 1999 (pp. 24-25).
9. Anadromous fish have not inhabited the Klamath River in Oregon since before 1979, the date of *United States v. Adair*, 478 F. Supp. 336 (1979).

### **CONCLUSIONS**

10. Because the Tribes’ hunting and fishing rights protect the treaty resources as they existed at the time of *United States v. Adair*, 478 F. Supp. 336 (1979), the Tribes are not entitled to an instream flow to support anadromous fish.
11. This claim is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **672**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1999.
4. For physical habitat maintenance the BIA claims the following amounts:

January	700 cfs
February	700 cfs
March	700 cfs
April	700 cfs
May	700 cfs
June	700 cfs
July	700 cfs
August	700 cfs

September	700 cfs
October	700 cfs
November	700 cfs
December	700 cfs

5. The claimed period of use is January 1 to December 31.
6. The claimed priority date is time immemorial.
7. The claimed place of use is the Klamath River from Township 39S, Range 7E, Section 36 SW 1/4, NW 1/4 to Township 39S, Range 7E, Section 29, SE 1/4, NE 1/4.

### **FINDINGS OF FACT**

8. This claim is for future use “to support an anadromous fishery when salmon are reintroduced to the Upper Klamath Basin” on relicensing of Klamath dams. Letter to Dick Bailey from BIA, March 26, 1999 (pp. 24-25).
9. Anadromous fish have not inhabited the Klamath River in Oregon since before 1979, the date of *United States v. Adair*, 478 F. Supp. 336 (1979).

### **CONCLUSIONS**

10. Because the Tribes’ hunting and fishing rights protect the treaty resources as they existed at the time of *United States v. Adair*, 478 F. Supp. 336 (1979), the Tribes are not entitled to an instream flow to support anadromous fish.
11. This claim is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication

**Summary - Preliminary Evaluation of Claims  
Klamath Basin General Stream Adjudication**

Claim No. **673**  
BIA claim

**Claimant(s) of Record:**

United States of America  
Bureau of Indian Affairs (BIA) as  
Trustees on behalf of the Klamath Tribes  
911 NE 11<sup>th</sup> Ave.,  
Portland, OR 97232

This preliminary evaluation takes into consideration all information available as of August 9, 1999.

**ELEMENTS OF A CLAIM IN SUPPORT OF THE KLAMATH TRIBES' HUNTING AND FISHING RIGHT**

1. Claims for instream flow to fulfill the purposes of the Klamath Tribes' treaty rights for hunting and fishing are proper if the record shows that the claimed amount is the minimum quantity of water necessary to protect treaty fish and wildlife resources as they existed in 1979, the year of the District Court decision *United States v. Adair*, 478 F. Supp. 336 (1979).
2. Claims are proper if they are within the boundaries of the former Klamath reservation or are within boundary waters of the former Klamath reservation.

**CLAIM INFORMATION**

3. The claim was filed on April 30, 1999.
4. For physical habitat maintenance the BIA claims the following amounts:

January	700 cfs
February	700 cfs
March	700 cfs
April	700 cfs
May	700 cfs
June	700 cfs
July	700 cfs
August	700 cfs

September	700 cfs
October	700 cfs
November	700 cfs
December	700 cfs

5. The claimed period of use is January 1 to December 31.
6. The claimed priority date is time immemorial.
7. The claimed place of use is the Klamath River from Township 38S, Range 9E, Section 30 NW 1/4, SE 1/4 to Township 38S, Range 9E, Section 32, NE 1/4, SW 1/4.

### **FINDINGS OF FACT**

8. This claim is for future use “to support an anadromous fishery when salmon are reintroduced to the Upper Klamath Basin” on relicensing of Klamath dams. Letter to Dick Bailey from BIA, March 26, 1999 (pp. 24-25).
9. Anadromous fish have not inhabited the Klamath River in Oregon since before 1979, the date of *United States v. Adair*, 478 F. Supp. 336 (1979).

### **CONCLUSIONS**

10. Because the Tribes’ hunting and fishing rights protect the treaty resources as they existed at the time of *United States v. Adair*, 478 F. Supp. 336 (1979), the Tribes are not entitled to an instream flow to support anadromous fish.
11. This claim is DENIED.

Dated the 4th day of October, 1999.



Richard D. Bailey, Adjudicator  
Klamath Basin General Stream Adjudication