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Lake

State of Oregon  
Water Resources Department

OCT 01 1999

Claim #: 622

WATER RESOURCES DEPT.  
SALEM, OREGON

**AMENDED STATEMENT AND PROOF OF CLAIM  
TO THE USE OF SURFACE WATERS OF THE KLAMATH RIVER AND ITS TRIBUTARIES**

**FEDERAL OR INDIAN RESERVED WATER RIGHT**

**Claimant:** United States, Bureau of Indian Affairs, as Trustee on behalf of the Klamath Tribes

**Mailing Address:** 911 NE 11th Avenue

Portland

OR

97232

**Contact Person:** Barbara Scott-Brier, Office of the Solicitor, Pacific Northwest Region, U.S. Dept. of the Interior, 500 N.E. Multnomah Street, Suite 607, Portland, OR. 97232, 503-231-2139 (telefax 503-231-2166).

**Service:** All notices and service of contests or other matters regarding this water right shall also be made on the United States' Attorney General's representative, David Harder, U.S. Dept. of Justice, 999 18th Street, Suite 945 - North Tower, Denver, CO. 80202 (telefax 303-312-7379).

**Name of Federal Reservation:** The current Klamath Indian Reservation, the former Klamath Indian Reservation, and areas that are necessary for the protection of and continued and future enjoyment of the Klamath Tribes' treaty protected hunting, fishing and gathering rights.

**THE UNITED STATES OF AMERICA CLAIMS A FEDERAL RESERVED WATER RIGHT AS DESCRIBED BELOW**

**1. Sources of Water:** Upper Klamath Lake

(Place of use)

**Tributary to:** N/A

**2. Water is claimed for the following uses for the federal reservation:**

Nature of Use	From - To	Water Level (in feet above mean sea level)
Fish and wildlife habitat including water quality	January 1 - March 31	Consistent with flood control purposes, the water level shall be raised as quickly as possible to elevation 4,143.0
Fish and wildlife habitat including water quality	April 1 - June 30	4,143.0
Fish and wildlife habitat including water quality	July 1 - July 31	4,142.0*
Fish and wildlife habitat including water quality	August 1 - October 31	4,141.0*
Fish and wildlife habitat including water quality	November 1 - November 30	4,141.5**
Fish and wildlife habitat including water quality	December 1 - December 31	4,142.0**

\*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.

\*\*Increases in water levels shall be reached no later than the last day of the designated period.

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**KLAMATH ADJUDICATION**

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3. Total amount of water claimed: See Item 2 above.

3.1 Out-of-lake use(s): No out-of-lake uses are claimed.

3.2 In-lake use(s): See Item 2 above.

4. Priority Date: Time Inmemorial

5. Date of creation of the federal reservation: October 14, 1864

6. Basis of right claimed: Indian Reserved Water Right, Aboriginal Water Right, Treaty of October 14, 1864.

7. Purpose(s) of Reservation: For the purposes encompassed by the Treaty of October 14, 1864, between the United States of America and the Klamath and Moadoc Tribes and Yahooskin Band of Snake Indians, 16 Stat. 707.

8. Place of use: Upper Klamath and Agency Lakes (bounded within the area defined by the following UTM coordinates-Zone 10)

NW Coordinate:	<u>572905.3068</u>	<u>4715618.8645</u>
NE Coordinate:	<u>598681.6615</u>	<u>4716076.0132</u>
SE Coordinate:	<u>599395.6295</u>	<u>4675697.3838</u>
SW Coordinate:	<u>573620.1367</u>	<u>4675242.4531</u>

and see attached amended maps.

9. Point of diversion: No diversion is claimed.

10. County(ies) of place of use: Klamath

11. Other water rights claimed for this federal reservation: The BIA as Trustee on behalf of the Klamath Tribes is claiming water rights in Klamath Marsh and its tributary streams, Klamath Lake and its tributary streams, and the Klamath River and its tributary streams to support the Tribes' fishing, hunting and gathering rights. Other water right claims include, among others, those for domestic, commercial, municipal and industrial uses; religious and cultural uses; and agricultural uses.

12. Remarks: This Amended Claim form changes items 2 and 3 from the original claim. This Amended Claim incorporates Exhibits B-G to the original claim. A new Exhibit A (maps) is enclosed. This is a claim for present use. The species of fish and wildlife to be supported by this claim are provided in the Bureau of Indian Affairs Appendix, Attachment G, and as further described in the Bureau of Indian Affairs' oral and written responses to OWRD questions throughout 1999. The only changes to the lake claim were to add interim lake levels for the over-wintering period to prevent poor water quality.

THIS FORM IS AN ATTACHMENT TO A LETTER FORWARDING THE CLAIM OF THE UNITED STATES ON BEHALF OF THE U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS. THE SIGNATURE AND AFFIRMATION OF SUCH LETTER CONSTITUTES THE SIGNATURE OF THE AUTHORIZED AGENT REPRESENTING THE UNITED STATES OF AMERICA REQUIRED FOR SUCH CLAIM.

ATTACH THE FOLLOWING EXHIBITS TO THIS CLAIM FORM:

- A. Map of water use, including point(s) of diversion and place(s) of use: SEE ATTACHED AMENDED MAPS
- B. Legal description of the reservation: see Bureau of Indian Affairs Appendix, previously submitted
- C. List of documents creating the reservation: see Bureau of Indian Affairs Appendix, previously submitted
- D. Description of the legal status of the land prior to creation of the federal reservation: see Bureau of Indian Affairs Appendix, previously submitted
- E. Development history of the water use (Describe history of water use, including timing of development and chain of title) : see Bureau of Indian Affairs Appendix, previously submitted
- F. Description of diversion facility: Not Applicable
- G. Additional supporting documentation: see Bureau of Indian Affairs Appendix, previously submitted

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