

State of Oregon
Water Resources Department

Claim #: 641

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 (telex 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 (telex 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 SET FORTH BELOW

1. Sources of Water: Sprague River (SP-1)

Tributary to: Williamson River

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

WATER RESOURCES DEPT.
SALEM OREGON

The following table provides monthly instream water claims which are necessary to preserve and protect the Klamath Tribes' hunting, fishing, and gathering rights. The instream flow claims are expressed in cfs for three interdependent components of fish habitat, wildlife habitat, and vegetation, each of which is essential to habitat maintenance. The three components are physical habitat (developed using the IFIM process approved in OAR 690-28-027(2)(a)), riparian habitat maintenance, and structural habitat maintenance. For physical habitat and riparian habitat maintenance, the claim is for the natural flow up to the designated monthly value. The instream flow required to satisfy the structural habitat maintenance need is dependent on the natural flow in the stream. Whenever the natural flow exceeds the structural habitat maintenance trigger flow, the structural habitat maintenance claim shall be implemented; the structural habitat maintenance claim shall be for the natural flow between the trigger flow and the designated cap flow. The physical habitat, riparian habitat maintenance, and structural habitat maintenance flows are not additive.

Nature of Use	From - To	Designated monthly value (cfs)
Physical Habitat	January 1-31	500
Riparian Habitat Maintenance	January 1-31	705
Physical Habitat	February 1-29	500
Riparian Habitat Maintenance	February 1-29	3,436
Physical Habitat	March 1-31	500
Riparian Habitat Maintenance	March 1-31	3,436
Physical Habitat	April 1-30	600
Riparian Habitat Maintenance	April 1-30	3,436
Physical Habitat	May 1-31	600
Riparian Habitat Maintenance	May 1-31	3,436
Physical Habitat	June 1-30	600
Riparian Habitat Maintenance	June 1-30	1,036
Physical Habitat	July 1-31	500
Riparian Habitat Maintenance	July 1-31	533
Physical Habitat	August 1-31	408
Riparian Habitat Maintenance	August 1-31	408
Physical Habitat	September 1-30	392
Riparian Habitat Maintenance	September 1-30	392
Physical Habitat	October 1-31	409
Riparian Habitat Maintenance	October 1-31	409
Physical Habitat	November 1-30	418
Riparian Habitat Maintenance	November 1-30	418
Physical Habitat	December 1-31	500
Riparian Habitat Maintenance	December 1-31	605
Structural Habitat Maintenance	January 1 - December 31	Trigger Flow 774 Cap Flow to 8,099

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CLAIM # 641 PAGE # 011

3. Total amount of water claimed: See Item 2 above.
- 3.1 Cut-of-stream use(s): No out-of-stream uses are claimed.
- 3.2 In-stream use(s): See Item 2 above.
4. Priority Date: Time Immemorial
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:
- Stream Name: Sprague River (SP-1)
- From mile/feature: Chiloquin Dam
- to mile/feature: Williamson River
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 Tribe's 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 physical habitat claim has been developed using the Instream Flow Incremental Methodology, which is recognized as an acceptable methodology under OAR 690-28-027(2)(a). 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. A description of the general changes in the Amended Claim are found on ATTACHMENT TO BIA AMENDED CLAIM NOS. 625 TO 670.

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SALEM, OREGON

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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

KLAMATH ADJUDICATION
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State of Oregon
Water Resources Department

Claim #: 642

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).

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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

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1. Sources of Water: Sprague River (SP-2)

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Tributary to: Williamson River

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

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The following table provides monthly instream water claims which are necessary to preserve and protect the Klamath Tribes' hunting, fishing, and gathering rights. The instream flow claims are expressed in cfs for three interdependent components of fish habitat, wildlife habitat, and vegetation, each of which is essential to habitat maintenance. The three components are physical habitat (developed using the IFIM process approved in OAR 690-28-027(2)(a)), riparian habitat maintenance, and structural habitat maintenance. For physical habitat and riparian habitat maintenance, the claim is for the natural flow up to the designated monthly value. The instream flow required to satisfy the structural habitat maintenance need is dependent on the natural flow in the stream. Whenever the natural flow exceeds the structural habitat maintenance trigger flow, the structural habitat maintenance claim shall be implemented; the structural habitat maintenance claim shall be for the natural flow between the trigger flow and the designated cap flow. The physical habitat, riparian habitat maintenance, and structural habitat maintenance flows are not additive.

Nature of Use	From - To	Designated monthly value (cfs)
Physical Habitat	January 1-31	150
Riparian Habitat Maintenance	January 1-31	700
Physical Habitat	February 1-29	300
Riparian Habitat Maintenance	February 1-29	3,436
Physical Habitat	March 1-31	300
Riparian Habitat Maintenance	March 1-31	3,436
Physical Habitat	April 1-30	300
Riparian Habitat Maintenance	April 1-30	3,436
Physical Habitat	May 1-31	300
Riparian Habitat Maintenance	May 1-31	3,436
Physical Habitat	June 1-30	200
Riparian Habitat Maintenance	June 1-30	1,029
Physical Habitat	July 1-31	200
Riparian Habitat Maintenance	July 1-31	530
Physical Habitat	August 1-31	150
Riparian Habitat Maintenance	August 1-31	406
Physical Habitat	September 1-30	150
Riparian Habitat Maintenance	September 1-30	390
Physical Habitat	October 1-31	150
Riparian Habitat Maintenance	October 1-31	407
Physical Habitat	November 1-30	150
Riparian Habitat Maintenance	November 1-30	415
Physical Habitat	December 1-31	150
Riparian Habitat Maintenance	December 1-31	600
Structural Habitat Maintenance	January 1 - December 31	Trigger Flow 767 to Cap Flow 8,099

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3. Total amount of water claimed: See Item 2 above.
- 3.1 Out-of-stream use(s): No out-of-stream uses are claimed.
- 3.2 In-stream use(s): See Item 2 above.
4. Priority Date: Time Immemorial
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:
- Stream Name: Sprague River (SP-2)
- From mile/feature: Braymill
- to mile/feature: Chiloquin Dam
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 Tribe's 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.

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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 physical habitat claim has been developed using the Instream Flow Incremental Methodology, which is recognized as an acceptable methodology under OAR 690-28-027(2)(a). 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. A description of the general changes in the Amended Claim are found on ATTACHMENT TO BIA AMENDED CLAIM NOS. 625 TO 670.

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

KLAMATH ADJUDICATION
642 012
PAGE #

State of Oregon
Water Resources Department

Claim #: 643

**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 TribesMailing Address: 911 NE 11th Avenue Portland OR 97232Contact 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: Sprague River (SP-3)Tributary to: Williamson River

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

WATER RESOURCES DEPT
SALEM, OREGON

The following table provides monthly instream water claims which are necessary to preserve and protect the Klamath Tribes' hunting, fishing, and gathering rights. The instream flow claims are expressed in cfs for three interdependent components of fish habitat, wildlife habitat, and vegetation, each of which is essential to habitat maintenance. The three components are physical habitat (developed using the IFIM process approved in OAR 690-28-027(2)(a)), riparian habitat maintenance, and structural habitat maintenance. For physical habitat and riparian habitat maintenance, the claim is for the natural flow up to the designated monthly value. The instream flow required to satisfy the structural habitat maintenance need is dependent on the natural flow in the stream. Whenever the natural flow exceeds the structural habitat maintenance trigger flow, the structural habitat maintenance claim shall be implemented; the structural habitat maintenance claim shall be for the natural flow between the trigger flow and the designated cap flow. The physical habitat, riparian habitat maintenance, and structural habitat maintenance flows are not additive.

	Nature of Use	From - To	Designated monthly value (cfs)
	Physical Habitat	January 1-31	300
Riparian	Habitat Maintenance	January 1-31	651
	Physical Habitat	February 1-29	500
Riparian	Habitat Maintenance	February 1-29	3,000
	Physical Habitat	March 1-31	500
Riparian	Habitat Maintenance	March 1-31	3,000
	Physical Habitat	April 1-30	500
Riparian	Habitat Maintenance	April 1-30	3,000
	Physical Habitat	May 1-31	500
Riparian	Habitat Maintenance	May 1-31	3,000
	Physical Habitat	June 1-30	300
Riparian	Habitat Maintenance	June 1-30	972
	Physical Habitat	July 1-31	300
Riparian	Habitat Maintenance	July 1-31	504
	Physical Habitat	August 1-31	300
Riparian	Habitat Maintenance	August 1-31	385
	Physical Habitat	September 1-30	300
Riparian	Habitat Maintenance	September 1-30	368
	Physical Habitat	October 1-31	300
Riparian	Habitat Maintenance	October 1-31	383
	Physical Habitat	November 1-30	300
Riparian	Habitat Maintenance	November 1-30	390
	Physical Habitat	December 1-31	300
Riparian	Habitat Maintenance	December 1-31	559
		Trigger Flow	Cap Flow
Structural	Habitat Maintenance	January 1 - December 31	710 to 6,646

KLAMATH ADJUDICATION
 CLAIM # 643 PAGE # 015

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

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

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

4. Priority Date: Time Immemorial

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:
Stream Name: Sprague River (SP-3)
From mile/feature: Upper S'Ocholis Canyon
to mile/feature: Braymill

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WATER RESOURCES DEPT.
SALEM, OREGON

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 Tribe's 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 physical habitat claim has been developed using the Instream Flow Incremental Methodology, which is recognized as an acceptable methodology under OAR 690-28-027(2)(a). 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. A description of the general changes in the Amended Claim are found on ATTACHMENT TO BIA AMENDED CLAIM NOS. 625 TO 670.

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- 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

KLAMATH ADJUDICATION
CLAIM # **643** PAGE # **016**

State of Oregon

Claim #: 644

Water Resources Department

**AMENDED STATEMENT AND PROOF OF CLAIM
TO THE USE OF SURFACE WATERS OF THE KLAMATH RIVER AND ITS TRIBUTARIES
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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: Sprague River (SP-4)

OCT 01 1999

Tributary to: Williamson RiverWATER RESOURCES DEPT.
SALEM, OREGON

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

The following table provides monthly instream water claims which are necessary to preserve and protect the Klamath Tribes' hunting, fishing, and gathering rights. The instream flow claims are expressed in cfs for three interdependent components of fish habitat, wildlife habitat, and vegetation, each of which is essential to habitat maintenance. The three components are physical habitat (developed using the IFIM process approved in OAR 690-28-027(2)(a)), riparian habitat maintenance, and structural habitat maintenance. For physical habitat and riparian habitat maintenance, the claim is for the natural flow up to the designated monthly value. The instream flow required to satisfy the structural habitat maintenance need is dependent on the natural flow in the stream. Whenever the natural flow exceeds the structural habitat maintenance trigger flow, the structural habitat maintenance claim shall be implemented; the structural habitat maintenance claim shall be for the natural flow between the trigger flow and the designated cap flow. The physical habitat, riparian habitat maintenance, and structural habitat maintenance flows are not additive.

	Nature of Use	From - To	Designated monthly value (cfs)
Riparian Habitat Maintenance	Physical Habitat	January 1-31	200
	Riparian Habitat Maintenance	January 1-31	651
Riparian Habitat Maintenance	Physical Habitat	February 1-29	200
	Riparian Habitat Maintenance	February 1-29	3,000
Riparian Habitat Maintenance	Physical Habitat	March 1-31	200
	Riparian Habitat Maintenance	March 1-31	3,000
Riparian Habitat Maintenance	Physical Habitat	April 1-30	200
	Riparian Habitat Maintenance	April 1-30	3,000
Riparian Habitat Maintenance	Physical Habitat	May 1-31	200
	Riparian Habitat Maintenance	May 1-31	3,000
Riparian Habitat Maintenance	Physical Habitat	June 1-30	200
	Riparian Habitat Maintenance	June 1-30	971
Riparian Habitat Maintenance	Physical Habitat	July 1-31	200
	Riparian Habitat Maintenance	July 1-31	503
Riparian Habitat Maintenance	Physical Habitat	August 1-31	200
	Riparian Habitat Maintenance	August 1-31	385
Riparian Habitat Maintenance	Physical Habitat	September 1-30	200
	Riparian Habitat Maintenance	September 1-30	368
Riparian Habitat Maintenance	Physical Habitat	October 1-31	200
	Riparian Habitat Maintenance	October 1-31	382
Riparian Habitat Maintenance	Physical Habitat	November 1-30	200
	Riparian Habitat Maintenance	November 1-30	389
Riparian Habitat Maintenance	Physical Habitat	December 1-31	200
	Riparian Habitat Maintenance	December 1-31	558
Structural Habitat Maintenance		Trigger Flow	Cap Flow
		January 1 - December 31	710 to 6,645

KLAMATH ADJUDICATION
 CLAIM # 644 PAGE # 011

3. Total amount of water claimed: See Item 2 above.
- 3.1 Out-of-stream use(s): No out-of-stream uses are claimed.
- 3.2 In-stream use(s): See Item 2 above.
4. Priority Date: Time Immemorial
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:
- Stream Name: Sprague River (SP-4)
- From mile/feature: Trout Creek
- to mile/feature: Upper S' Ochohis Canyon
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 Tribe's 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.
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- 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

KLAMATH ADJUDICATION
CLAIM # **644** PAGE # **012**