

**BEFORE THE DIRECTOR
OF THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON**

KLAMATH BASIN GENERAL STREAM ADJUDICATION

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|--|-----------------------|
| In the Matter of the Claim of the UNITED) | PARTIAL ORDER OF |
| STATES DEPARTMENT OF INTERIOR,) | DETERMINATION |
| BUREAU OF LAND MANAGEMENT) | |
| _____) | |
|) | Water Right Claim 355 |

The GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION is incorporated as if set forth fully herein.

A. FINDINGS OF FACT

1. On April 30, 1997, the UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT (BLM) timely submitted a Statement and Proof of Claim (Claim 355) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication claiming a federal reserved water right under an Executive Order entitled Public Water Resource (PWR) No. 107, authorized by President Coolidge.
2. On August 3, 1999, the BLM timely amended Claim 355 as to the location and reducing the rate and duty.
3. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation), stating the claim was approved. However, in making his preliminary evaluation of this claim, due to the timing involved in issuing the Preliminary Evaluation, the Adjudicator did not evaluate or account for BLM's claim amendment as to the location and reducing the rate and duty.
4. On May 8, 2000, BLM timely filed Contest 3978 to the Preliminary Evaluation of Claim 355.
5. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users", filed Contest 3608: Klamath Irrigation District, Klamath Drainage District, Tulelake Irrigation District, Klamath Basin Improvement District, Ady District Improvement Company, Enterprise Irrigation District, Klamath Hills District

Improvement Co., Malin Irrigation District, Midland District Improvement Company, Pine Grove Irrigation District, Pioneer District Improvement Company, Poe Valley Improvement District, Shasta View Irrigation District, Sunnyside Irrigation District, Don Johnston & Son, Modoc Lumber Co., Bradley S. Luscombe, Berlva Pritchard¹, Don Vincent², Randy Walthall, Inter-County Title Co., Winema Hunting Lodge, Inc., Van Brimmer Ditch Co., Plevna District Improvement Co., and Collins Products, LLC.

6. These matters were referred to the Office of Administrative Hearings for a contested case hearing. The Office of Administrative Hearings designated these matters and other like claims of the BLM as Case 276.
7. On November 14, 2003, Klamath Project Water Users voluntarily withdrew Contest 3608. *See* NOTICE OF WITHDRAWAL OF CERTAIN CONTESTS (Nov. 14, 2003).
8. On August 2, 2004, the OWRD and BLM executed SETTLEMENT AGREEMENT BETWEEN THE OREGON WATER RESOURCES DEPARTMENT AND THE UNITED STATES BUREAU OF LAND MANAGEMENT ON CLAIM NOS. 325-375 (Settlement Agreement) which resolved the remaining contest (Contest 3978).
9. On August 2, 2004, the Adjudicator withdrew Case 276 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and BLM is adopted and incorporated as if set forth fully herein, with the exception that gallons per minute have been converted to cubic feet per second and rounded up to the nearest thousandth for administrative convenience.
2. The Executive Order entitled PWR No. 107 for a federal reserved water right is a valid basis for this claim. The GENERAL CONCLUSIONS OF LAW CONCERNING CLAIMS BASED ON PUBLIC WATER RESERVE NO. 107 is incorporated as if set forth fully herein.
3. Based on the file and record herein, IT IS ORDERED that Claim 355 is approved as set forth in the following Water Right Claim Description.

¹ Berlva Pritchard voluntarily withdrew from Contest 3608 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

² Don Vincent voluntarily withdrew from Contest 3608 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

[Beginning of Water Right Claim Description]

CLAIM NO. 355

CLAIM MAP REFERENCE: CLAIM # 355, PAGE 12

CLAIMANT: UNITED STATES DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
3040 BIDDLE RD
MEDFORD, OR 97504

BLM PROJECT NUMBER: 41312-4

SOURCE OF WATER: UNNAMED SPRING, tributary to ROCKY GULCH

PURPOSE or USE: HUMAN CONSUMPTION AND LIVESTOCK WATERING

RATE OF USE: 0.006 CUBIC FEET PER SECOND

DUTY: 1.711 ACRE FEET PER YEAR

PERIOD OF ALLOWED USE:

| Use | Period |
|------------------------------------|---------------------|
| Human Consumption And Livestock | May 15 - October 15 |

DATE OF PRIORITY: APRIL 17, 1926

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|-----|-----|-----|-------|--|
| 41 S | 3 E | WM | 12 | NE SW | 1910 FEET NORTH AND 2770 FEET WEST FROM SE CORNER, SECTION 12 |

THE PLACE OF USE IS LOCATED AS FOLLOWS:

| Twp | Rng | Mer | Sec | Q-Q |
|------|-----|-----|-----|-------|
| 41 S | 3 E | WM | 12 | NE SW |

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication