

COPY

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
WATER RESOURCES DEPARTMENT

In the Matter of the Determination of the Relative rights of the Waters of the Klamath River,
a Tributary of the Pacific Ocean

Klamath Irrigation District; Klamath Drainage District; Tulelake Irrigation District; Klamath Basin Improvement District; Ady District Improvement Company; Enterprise Irrigation District; Klamath Hill District Improvement Co.; Malin Irrigation District; Midland District Improvement Co.; Pine Grove Irrigation District; Pioneer District Improvement Company; Poe Valley Improvement District; Shasta View Irrigation District; Sunnyside Irrigation District; Don Johnston & Son; Bradley S. Luscombe; Randy Walthall; Inter-County Title Company; Winema Hunting Lodge, Inc.; Reames Golf and Country Club; Van Brimmer Ditch Company; Plevna District Improvement Company; Collins Products, LLC,
Contestants

**STIPULATION TO RESOLVE
CONTEST NOS. 1717 AND 3521**

Case No. 46

Claim No. 230

Contest(s) 1717 and 3521¹

vs.

James M. Severin,
Claimant/Contestant.

The Oregon Water Resources Department ("OWRD") and James M. Severin (Claimant) and the Klamath Project Water Users (Contestant) hereby agree and stipulate as follows:

A. STIPULATED FACTS

1. Gordon Bettles, a Klamath Indian, filed Claim 230 in the Klamath Adjudication.

Pursuant to an agreement between OWRD and the Klamath Allottees Water Users Association

¹ Don Vincent voluntarily withdrew from Contest 3521. See NOTICE OF WITHDRAWAL OF CLAIMANTS dated November 28, 2000. Berlva Pritchard voluntarily withdrew from Contest 3521. See NOTICE OF WITHDRAWAL OF CLAIMANT dated June 24, 2002.

("KAWUA"), acting on behalf of Gordon Bettles, this claim was filed in three steps, with deadlines of February 1, 1991, September 1, 1991, and November 2, 1992.

2. On October 4, 1999, the Adjudicator issued his Preliminary Evaluation of Claim 230 preliminarily approving the existing use portion of the claim, but denying the future use (Practicably Irrigable Acreage) portion of Claim 230.

3. On May 3, 2000, Gordon Bettles filed Contest 1717, which contested the Adjudicator's Preliminary Evaluation of Claim 230.

4. On May 8, 2000, the Klamath Project Water Users (Contestant) filed Contest 3521.

5. On May 18, 2001, Claimant James M. Severin purchased the property to which Claim 230 is appurtenant. Claimant thereby succeeded to Claim 230, and Contest 1717, originally filed by Gordon Bettles. James M. Severin filed a "Change of Ownership Form" with OWRD, which was received by OWRD on October 1, 2003.

6. OWRD, Claimant and Contestant agree that Contests 1717 and 3521 can be resolved without the need for a hearing pursuant to the terms outlined below.

B. TERMS OF THE AGREEMENT

1. OWRD, Claimant and Contestant agree that Claim 230 should be approved for existing uses as follows:

- a. POINT OF DIVERSION LOCATION: SE ¼ NW ¼, Section 7, Township 35 South, Range 7 East, W.M.
- b. SOURCE: Agency Lake, tributary to Upper Klamath Lake
- c. USE: irrigation of 0.6 acres and livestock use. This does not include any Practicably Irrigable Acreage.

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- d. AMOUNT ACTUALLY BENEFICIALLY USED: 0.02 cubic feet per second, measured at the point of diversion, for irrigation.
30 gallons per day for livestock. Livestock drink directly from the source.
- e. PERIOD OF USE: March 1 – October 31 for irrigation
January 1 – December 31 for livestock
- f. PRIORITY DATE: October 14, 1864
- g. PLACE OF USE:

SE ¼ NW ¼ 0.6 ACRES IRRIGATION
SE ¼ NW ¼ LIVESTOCK
SECTION 7
TOWNSHIP 35 SOUTH, RANGE 7 EAST, W.M.

2. OWRD, Claimant and Contestant agree that the Practicably Irrigable Acreage (PIA) portion of Claim 230 for future water uses should be denied by the Adjudicator.

3. OWRD, Claimant and Contestant agree that pursuant to the terms of this Agreement, Contests 1717 and 3521 have been satisfactorily resolved, and such resolution vitiates the need for a hearing before the Administrative Law Judge on Contests 1717 and 3521.

4. Based upon the agreement of OWRD, Claimant and Contestant that Claim 230, and the contests thereto can be resolved without the need for a hearing, OWRD adjudication staff hereby recommends to the Adjudicator that Claim 230 be approved in the Final Order of Determination issued by the Adjudicator in accordance with the terms of paragraph B.1., above.

5. If the Final Order of Determination issued by the Adjudicator for Claim 230 does not follow the terms listed in paragraph B.1. and B.2. above, Claimant and Contestant reserve any rights they may have to file exceptions to the Final Order of Determination as to Claim 230 in the

Circuit Court for Klamath County, and reserve any rights they may have to participate in any future proceedings authorized by law.

For the Oregon Water Resources Department

HARDY MYERS
Attorney General


Justin Wirth, #00426
Walter Perry, III, #83361
Assistant Attorneys General

12/22/03
Date


Renee Moulun, Agency Representative
Oregon Water Resources Department

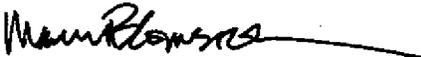
12/23/03
Date

For Contestants, Klamath Project Water Users


Andrew M. Hitchings, Esq.
Pro Hac Vice; Cal. Bar No. 154554
Of Attorneys for Tulelake Irrigation District,
And on behalf of Klamath Project Water Users

12/18/03
Date

For Claimant/Contestant James M. Severin


Mark B. Comstock, #81193
Of Attorneys for Claimant/Contestant

12/15/03
Date