

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

**KLAMATH BASIN GENERAL STREAM ADJUDICATION**

In the Matter of the Claim of	)	PARTIAL ORDER OF
WOKSAM VIEW LLC	)	DETERMINATION
	)	
_____	)	Water Right Claim 231

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 January 31, 1991, PRISCILLA BETTLES (ON BEHALF OF THE BETTLES FAMILY OF OREGON, LTD) timely submitted Statements and Proof of Claim for 2 properties to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as an Indian allottee on the former Klamath Reservation, claiming a vested and inchoate Indian reserved water right (Allottee claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. The claim for Property 1 was submitted for a total of 7.4 acre-feet for irrigation of 2.4 practicably irrigable acres. The duty claimed for practicably irrigable acres is 3.1 acre-feet per acre. The claimed period of use is March 1 through October 16 for irrigation. The claimed priority date is October 14, 1864. According to the map submitted with the claim, Property 1 is located in Section 21, Township 35 South, Range 7 East, W.M. (Claim # 231, Page 020).
3. The claim for Property 2 was submitted for a total of 86.83 acre-feet of water from the Williamson River, a tributary of Upper Klamath Lake, being 0.03 acre-feet for livestock watering of 3 horses directly from the lake, and 86.8 acre-feet for irrigation of 28.0 practicably irrigable acres. The claimed period of use is year-round for livestock watering, and March 1 through October 16 for irrigation. The claimed priority date is October 14, 1864. According to the map submitted with the claim, Property 2 is located in the Section 7, Township 35 South, Range 7 East, W.M. (Claim # 231, Page 042).
4. Counsel signed the Statements and Proofs of Claim attesting that the information contained in the claims is true.
5. OWRD assigned Property 1 to Claim 231 and Property 2 to Claim 680.

6. On February 17, 1999, OWRD combined Claim 231 and 680 into one claim, Claim 231(see Claim # 231, Page 0105).
7. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) for Claim 680 stating, “[t]his claim was combined with claim number 231.”
8. On October 4, 1999, following investigation of the evidence submitted, the Adjudicator issued a Summary and Preliminary Evaluation of Claims (Preliminary Evaluation) stating the vested portion of Claim 231 for livestock watering from the lake was approved, and the inchoate portion of the claim was denied because the elements for a practicably irrigable acreage right were not established.
9. On October 12, 1999, Property 1 of Claim 231 was withdrawn by counsel for the claimant as noted in the following statement: “Please note that the same claim number, Claim No. 231, was assigned for two separate properties. We are withdrawing the claim for Property 1 only. The claim for Property 2 is still valid.” (See Claim # 231, Page 121).
10. On May 3, 2000, the Property 2 Claimant, the BETTLES FAMILY CORPORATION, timely filed Contest 1718 to the Preliminary Evaluation of Claim 231 with respect to Property 2.
11. On May 8, 2000, the following parties, hereinafter collectively referred to as the “Klamath Project Water Users,” filed Contest 3522: Klamath Irrigation District, Klamath Drainage District, Tulalake Irrigation District, Klamath Basin Improvement District, Ady District Improvement Company, Enterprise Irrigation District, Klamath Hills District Improvement Co.<sup>1</sup>, 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, Bradley S. Luscombe, Berlva Pritchard<sup>2</sup>, Don Vincent<sup>3</sup>, Randy Walthall, Inter-County Title Co., Winema Hunting Lodge, Inc., Reames Golf and Country Club, Van Brimmer Ditch Co., Plevna District Improvement Co., and Collins Products, LLC.
12. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 47.
13. On April 7, 2005, the Klamath Project Water Users withdrew Contest 3522. See NOTICE OF WITHDRAWAL OF CONTEST NO. 3522 (Apr. 7, 2005).

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<sup>1</sup> Klamath Hills District Improvement Company voluntarily withdrew from Contest 3522 on January 16, 2004. See VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

<sup>2</sup> Berlva Pritchard voluntarily withdrew from Contest 3522 on June 24, 2002. See NOTICE OF WITHDRAWAL OF CLAIMANT.

<sup>3</sup> Don Vincent voluntarily withdrew from Contest 3522 on November 29, 2000. See NOTICE OF WITHDRAWAL OF CLAIMANTS.

14. On July 12, 2005, OWRD and PRISCILLA BETTLES, BETTLES FAMILY OF OREGON, LTD (for Property 2) executed a STIPULATION TO RESOLVE CONTEST 1718 (contest to Property 2) (Settlement Agreement) thereby resolving the remaining contest to Claim 231.
15. On July 12, 2005, the Adjudicator withdrew Case 47 from the Office of Administrative Hearings.
16. The property appurtenant to Claim 231 (Property 2) was transferred to the BETTLES FAMILY CORPORATION (Claimant) from the BETTLES FAMILY OF OREGON, LTD. *See* STATUTORY BARGAIN AND SALE DEED, COUNTY OF KLAMATH RECORDS, VOL. M95, PAGE 28441 (Oct. 18, 1995) and CHANGE OF OWNERSHIP FORM (Jan. 26, 2009).
17. The property appurtenant to Claim 231 (Property 2) was transferred to the WOKSAM VIEW LLC (Claimant) from the BETTLES FAMILY CORPORATION. *See* BARGAIN AND SALE DEED – STATUTORY FORM, COUNTY OF KLAMATH RECORDS (March 19, 2010) and CHANGE OF OWNERSHIP FORM (March 21, 2011).

## **B. DETERMINATION**

1. Based upon the file and record herein, including the October 12, 1999 letter withdrawing Property 1 from Claim 231 (described in Finding 10, above), IT IS ORDERED that the portion of Claim 231 pertaining to Property 1 is denied and is of no force or effect.
2. The Settlement Agreement executed between OWRD and PRISCILLA BETTLES, BETTLES FAMILY OF OREGON, LTD (for Property 2) is adopted and incorporated as if set forth fully herein.
3. The elements of an Allottee claim are established for Property 2. The GENERAL CONCLUSIONS OF LAW CONCERNING ALLOTTEE CLAIMS is incorporated as if set forth fully herein.
4. Because there is no evidence on the record to the contrary, the standard rate for irrigation, being 1/40 of one cubic foot per second per acre as outlined in the GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION will apply.
5. Based on the file and record herein, IT IS ORDERED that the portion of Claim 231 pertaining to Property 2 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 231 (PROPERTY 2 ONLY)**  
**FOR A VESTED AND INCHOATE WATER RIGHT**

**CLAIM MAP REFERENCE:** CLAIM # 231, PAGE 116

**CLAIMANT:** WOKSAM VIEW LLC  
1972 11<sup>TH</sup> AVE  
SAN FRANCISCO, CA 94116

**VESTED (DEVELOPED) PORTION**

**SOURCE OF WATER:** AGENCY LAKE, tributary to UPPER KLAMATH LAKE

**PURPOSE OR USE:** LIVESTOCK WATERING OF 3 HORSES

**RATE OF USE:**

0.00005 CUBIC FOOT PER SECOND MEASURED AT THE PLACE OF USE, NOT TO EXCEED 30 GALLONS PER DAY.

**PERIOD OF ALLOWED USE:**

Use	Period
Livestock Watering	January 1 - December 31

**DATE OF PRIORITY:** OCTOBER 14, 1864

**THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Remarks
35 S	7 E	WM	7	SE NW	10	No specific point of diversion – livestock drink directly from Agency Lake

**THE PLACE OF USE IS LOCATED AS FOLLOWS:**

LIVESTOCK WATERING					
Twp	Rng	Mer	Sec	Q-Q	GLot
35 S	7 E	WM	7	SE NW	10

**INCHOATE PORTION**

**SOURCE OF WATER:** AGENCY LAKE, tributary to UPPER KLAMATH LAKE

**PURPOSE or USE:** IRRIGATION OF 28.0 PRACTICABLY IRRIGABLE ACRES FROM POD A.

**RATE OF USE:**

0.5 CUBIC FOOT PER SECOND FROM POD A, MEASURED AT THE POINT OF DIVERSION.

THE RATE OF USE FOR IRRIGATION MAY NOT EXCEED 1/40 OF ONE CUBIC FOOT PER SECOND PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.

**DUTY:**

3.1 ACRE-FEET PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.

**PERIOD OF ALLOWED USE:**

Use	Period
Practicably Irrigable Acreage	March 1 - October 16

**DATE OF PRIORITY:** OCTOBER 14, 1864

**THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:**

POD Name	Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
POD A	35 S	7 E	WM	7	SE NW	10	132 FEET NORTH AND 1188 FEET WEST FROM C¼ CORNER, SECTION 7

**THE PLACE OF USE IS LOCATED AS FOLLOWS:**

PRACTICABLY IRRIGABLE ACREAGE							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
35 S	7 E	WM	7	SE NW	9	12.8	POD A
35 S	7 E	WM	7	SE NW	10		
35 S	7 E	WM	7	NE SW	15	15.2	
35 S	7 E	WM	7	NE SW	16		

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013

  
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 Dwight French, Adjudicator  
 Klamath Basin General Stream Adjudication