

**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
ANGELINE RIDDLE TECUMSEH, AND)	DETERMINATION
STAN TECUMSEH)	
_____)	Water Right Claim 273

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, ANGELINE RIDDLE TECUMSEH timely submitted a Statement and Proof of Claim (Claim 273) 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 an inchoate Indian reserved water right (Allottee claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 273 was submitted for a total of 107.2 acre-feet of water from an Unnamed Creek (East Branch of Whiskey Creek), a tributary of the Sprague River, for irrigation of 34.6 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. The claimed priority date is October 14, 1864.
3. Counsel signed Claim 273 attesting that the information contained in the claim is true.
4. The claim was subsequently transferred to ANGELINE RIDDLE TECUMSEH AND STAN TECUMSEH, SR. (Claimants). *See* RESERVED WATER RIGHTS CLAIM (REVISED REPORT), Oct. 12, 1999 (Claim # 273, Page 63).
5. 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 denied because the elements for a practicably irrigable acreage right were not established.
6. On May 3, 2000, the Claimants timely filed Contest 1747 to the Preliminary Evaluation of Claim 273.
7. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3554: 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.¹, 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 Pritchard², Don Vincent³, 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.

8. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 74.
9. On April 7, 2005, the Klamath Project Water Users withdrew Contest 3554. *See* NOTICE OF WITHDRAWAL OF CONTEST NO. 3554 (Apr. 7, 2005).
10. On August 1, 2005, OWRD and Claimants⁴ executed a STIPULATION TO RESOLVE CONTEST 1747 (Settlement Agreement) thereby resolving the remaining contest to Claim 273.
11. On August 4, 2005, the Adjudicator withdrew Case 74 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and Claimants is adopted and incorporated as if set forth fully herein.
2. The elements of an Allottee claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING ALLOTTEE CLAIMS is incorporated as if set forth fully herein.
3. 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.
4. Based on the file and record herein, IT IS ORDERED that Claim 273 is approved as set forth in the following Water Right Claim Description.

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3554 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

² Berlva Pritchard voluntarily withdrew from Contest 3554 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3554 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

⁴ A letter submitted to OWRD confirms that both Angleine Riddle Tecumseh and Stanley L. Tecumseh were members of the Klamath Allottee Water Users Association represented by the Natural Resources Consulting Engineers and Fredericks, Pelcyger & Hester, LLC. (Claim 273, Pages 76-86). Although the stipulation only names Angleine Riddle Tecumseh, it is apparent that Stanley L. Tecumseh was a claimant represented by the counsel who signed the stipulation. Stanley L. Techumseh withdrew from counsel by letter on December 4, 2006, which is after the stipulation was signed. (*See* LETTER in claim file received by OWRD on Dec. 4, 2006.)

CLAIM NO. 273
FOR AN INCHOATE WATER RIGHT

CLAIM MAP REFERENCE: CLAIM # 273, PAGE 68

CLAIMANT: ANGELINE RIDDLE TECUMSEH
502 DELTA STREET
KLAMATH FALLS, OR 97603

STAN TECUMSEH
4015 JANA DR.
KLAMATH FALLS, OR 97603

SOURCE OF WATER: EAST BRANCH WHISKEY CREEK, tributary to WHISKEY CREEK

PURPOSE or USE: IRRIGATION OF 34.6 PRACTICABLY IRRIGABLE ACRES FROM POD A

RATE OF USE:

0.62 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:

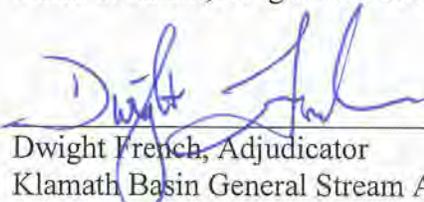
POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
POD A	36 S	12 E	WM	33	SW NW	990 FEET EAST FROM W¼ CORNER, SECTION 33

THE PLACE OF USE IS LOCATED AS FOLLOWS:

PRACTICABLY IRRIGABLE ACREAGE						
Twp	Rng	Mer	Sec	Q-Q	Acres	Authorized POD
36 S	12 E	WM	33	NW NW	0.4	POD A
36 S	12 E	WM	33	SW NW	25.8	
36 S	12 E	WM	33	SE NW	8.4	

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



Dwight French, Adjudicator
Klamath Basin General Stream Adjudication