

**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 the UNITED )	PARTIAL ORDER OF
STATES DEPARTMENT OF INTERIOR, )	DETERMINATION
BUREAU OF LAND MANAGEMENT )	
_____ )	
)	Water Right Claim 358

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 358) 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 30, 1999, the BLM timely amended Claim 358 as to point of diversion coordinates.
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 [as amended].
4. On May 8, 2000, BLM timely filed Contest 3979 to the Preliminary Evaluation of Claim 358 to address a typographical error.
5. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users", filed Contest 3609: 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., 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 Pritchard<sup>1</sup>, Don Vincent<sup>2</sup>, 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 3609. *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 3979).
9. On August 2, 2004, the Adjudicator withdrew Case 276 from the Office of Administrative Hearings.
10. The original Claim 358 and the August 30, 1999 amendment to Claim 358 both state that the source of water (Unnamed Spring 41404-2) is tributary to an unnamed tributary of Skookum Creek. The purpose of the amendment was to clarify the distance of the Unnamed Spring 41404-2 from a section corner. The location description on the original claim and the location description on the August 30, 1999 amendment both clearly place the point of diversion as tributary to an unnamed tributary of Jenny Creek. Therefore, OWRD finds the Unnamed Spring 41404-2 should be listed as a tributary to Jenny Creek rather than as a tributary to an unnamed tributary of Skookum Creek.

## **B. DETERMINATION**

1. The Settlement Agreement executed between OWRD and BLM is adopted and incorporated as if set forth fully herein, with two exceptions:
  - a. the gallons per minute have been converted to cubic feet per second and rounded down to the nearest ten-thousandth for administrative convenience, and
  - b. the source of water, an unnamed spring, is identified as a tributary to Jenny Creek.
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.

---

<sup>1</sup> Berlva Pritchard voluntarily withdrew from Contest 3609 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

<sup>2</sup> Don Vincent voluntarily withdrew from Contest 3609 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

3. Based on the file and record herein, IT IS ORDERED that Claim 358 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

**CLAIM NO. 358**

**CLAIM MAP REFERENCE:** CLAIM # 358, PAGE 7

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

**BLM PROJECT NUMBER:** 41404-2

**SOURCE OF WATER:** UNNAMED SPRING, tributary to JENNY CREEK

**PURPOSE or USE:** HUMAN CONSUMPTION AND LIVESTOCK WATERING

**RATE OF USE:** 0.0006 CUBIC FEET PER SECOND

**DUTY:** 0.164 ACRE FEET PER YEAR

**PERIOD OF ALLOWED USE:**

Use	Period
Human Consumption And Livestock	May 15 - September 10

**DATE OF PRIORITY:** APRIL 17, 1926

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

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	4 E	WM	4	SE SW	420 FEET NORTH AND 1080 FEET WEST FROM S1/4 CORNER, SECTION 4

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

Twp	Rng	Mer	Sec	Q-Q
41 S	4 E	WM	4	SE SW

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013

  
\_\_\_\_\_  
Dwight French, Adjudicator  
Klamath Basin General Stream Adjudication