

**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)
ERNESTINE S. KIRK, AND) PARTIAL ORDER OF
JERRY ALLEN PARRISH) DETERMINATION
)
)
)
) Water Right Claim 692

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, ERNESTINE S. KIRK AND JERRY ALLEN PARRISH (Claimants) timely submitted a Statement and Proof of Claim (Claim 692) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as Indian allottees 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 692 was submitted for a total of 117.8 acre-feet of water from Brown Creek, a tributary of the Sprague River for irrigation of 38.0 practicably irrigable acres. The claimed period of use is March 1 through October 16. The claimed priority date is October 14, 1864.
3. Counsel signed Claim 692 attesting that the information contained in the claim is true.
4. 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.
5. On May 3, 2000, the Claimants timely filed Contest 1763 to the Preliminary Evaluation of Claim 692.
6. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3573: 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.

7. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 92.
8. On April 7, 2005, the Klamath Project Water Users withdrew Contest 3573. *See* NOTICE OF WITHDRAWAL OF CONTEST NO. 3573 (Apr. 7, 2005).
9. On June 15, 2005, OWRD and the Claimants executed a STIPULATION TO RESOLVE CONTEST 1763 (Settlement Agreement) thereby resolving the remaining contest to Claim 692.
10. On June 20, 2005, the Adjudicator withdrew Case 92 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and the 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 692 is approved as set forth in the following Water Right Claim Description.

¹ Klamath Hills District Improvement Company voluntarily withdrew from Contest 3573 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

² Berlva Pritchard voluntarily withdrew from Contest 3573 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

³ Don Vincent voluntarily withdrew from Contest 3573 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

[Beginning of Water Right Claim Description]

CLAIM NO. 692
FOR AN INCHOATE WATER RIGHT

CLAIM MAP REFERENCE: CLAIM # 692, PAGE 74

CLAIMANT: ERNESTINE S. KIRK, AND
JERRY ALLEN PARRISH
PO BOX 181
BEATTY OR 97621

SOURCE OF WATER: BROWN (MINERAL) CREEK, tributary to the SPRAGUE RIVER

PURPOSE or USE: IRRIGATION OF 38.0 PRACTICABLY IRRIGABLE ACRES FROM POD A.

RATE OF USE:

0.68 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
POD A	36 S	12 E	WM	23	SW NE	15

THE PLACE OF USE IS LOCATED AS FOLLOWS:

PRACTICABLY IRRIGABLE ACREAGE							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
36 S	12 E	WM	23	SW NW	12	19.0	POD A
36 S	12 E	WM	23	SW NW	13	19.0	

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication