

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

KLAMATH BASIN GENERAL STREAM ADJUDICATION

| | | |
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| In the Matter of the Claim of DIRITHA CRUME _____ |)))) | PARTIAL ORDER OF DETERMINATION Water Right Claim 261 |
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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, DIRITHA CRUME¹ (Claimant) timely submitted a Statement and Proof of Claim (Claim 261) 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. Claim 261 was submitted for a total of 114.3 acre-feet of water from the Sprague River and unnamed springs, tributary to the Williamson River, for domestic use and irrigation of 36.9 practicably irrigable acres. The duty claimed for practicably irrigable acres is 3.1 acre-feet per acre. The claimed period of use is year-round for domestic use and March 1 through October 16 for irrigation. The claimed priority date is October 14, 1864.
3. Counsel signed Claim 261 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 no existing uses were claimed, and the inchoate portion of the claim was denied because the elements for a practicably irrigable acreage right were not established.
5. On May 3, 2000, the Claimant timely filed Contest 1738 to the Preliminary Evaluation of Claim 261.
6. On May 8, 2000, the following parties, hereinafter collectively referred to as the "Klamath Project Water Users," filed Contest 3543: Klamath Irrigation District, Klamath

¹ The name on the original claim was incorrectly listed as Biritha Lerume.

Drainage District, Tulalake Irrigation District, Klamath Basin Improvement District, Ady District Improvement Company, Enterprise Irrigation District, Klamath Hills District Improvement Co.², 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 Pritchard³, Don Vincent⁴, 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 66.
8. On April 7, 2005, the Klamath Project Water Users withdrew Contest 3543. *See* NOTICE OF WITHDRAWAL OF CONTEST NO. 3543 (Apr. 7, 2005).
9. On August 1, 2005, OWRD and the Claimant executed a STIPULATION TO RESOLVE CONTEST 1738 (Settlement Agreement) thereby resolving the remaining contest to Claim 261.
10. On August 4, 2005, the Adjudicator withdrew Case 66 from the Office of Administrative Hearings.
11. The following statement is made in the claim: "There is current domestic use of surface water at this property. This requires the irrigation of ½ acre of lawn area. This water requirement is included in the area delineated as practicably irrigable acreage." Also stated in the claim however, is the statement: "There are no acres of currently irrigated lands to be included in this claim" (Claim # 261, Page 017). In fact, no claim was made for current irrigation. *See* RESERVED WATER RIGHTS CLAIM (REVISED REPORT), Oct. 12, 1999 (Claim # 261, Pages 077 and 078). Thus, although OWRD finds current domestic use, the 0.5 acres of the claim stipulated in the Settlement Agreement for irrigation included under "Domestic Use for One Family" is more appropriately included with the irrigation of practicably irrigable acreage.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD and the Claimant is adopted and incorporated as if set forth fully herein, with the exception that although domestic use is approved, the 0.5 acres of irrigation listed under "Domestic Use for One Family" is added to the acreage for irrigation of practicably irrigable acreage.

² Klamath Hills District Improvement Company voluntarily withdrew from Contest 3543 on January 16, 2004. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY KLAMATH HILLS DISTRICT IMPROVEMENT COMPANY

³ Berlva Pritchard voluntarily withdrew from Contest 3543 on June 24, 2002. *See* NOTICE OF WITHDRAWAL OF CLAIMANT.

⁴ Don Vincent voluntarily withdrew from Contest 3543 on November 29, 2000. *See* NOTICE OF WITHDRAWAL OF CLAIMANTS.

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 261 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 261
FOR A VESTED AND INCHOATE WATER RIGHT

CLAIM MAP REFERENCE: CLAIM # 261, PAGE 65

CLAIMANT: DIRITHA CRUME
BOX I
BEATTY OR 97621

VESTED (DEVELOPED) PORTION

SOURCE OF WATER: UNNAMED SPRINGS, tributary to the SPRAGUE RIVER

PURPOSE OR USE: DOMESTIC FOR ONE HOUSEHOLD.

RATE OF USE:
0.01 CUBIC FOOT PER SECOND (CFS) MEASURED AT THE POINT OF DIVERSION.

PERIOD OF ALLOWED USE:

| Use | Period |
|----------|-------------------------|
| Domestic | January 1 - December 31 |

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

| Twp | Rng | Mer | Sec | Q-Q |
|------|------|-----|-----|-------|
| 36 S | 12 E | WM | 7 | NE NE |

THE PLACE OF USE IS LOCATED AS FOLLOWS:

| Twp | Rng | Mer | Sec | Q-Q |
|------|------|-----|-----|-------|
| 36 S | 12 E | WM | 7 | NE NE |

INCHOATE PORTION

SOURCE OF WATER: The SPRAGUE RIVER, tributary to the WILLIAMSON RIVER

PURPOSE or USE: IRRIGATION OF 36.9 PRACTICABLY IRRIGABLE ACRES FROM POD A.

RATE OF USE:

0.66 CUBIC FEET 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:

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

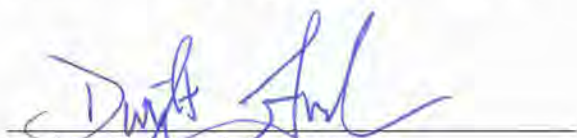
| POD Name | Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|----------|------|------|-----|-----|-------|--|
| POD A | 36 S | 12 E | WM | 7 | SW NE | 462 FEET NORTH AND 858 FEET EAST FROM C¼ CORNER, SECTION 7 |

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 | 7 | NE NE | 36.9 | POD A |

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013



 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication