

Reference No. 001F00000040  
BEFORE THE HEARING OFFICER PANEL  
STATE OF OREGON  
for the  
WATER RESOURCES DEPARTMENT

In the Matter of the Determination of the Relative Rights of the Waters of the Klamath River,  
a Tributary of the Pacific Ocean

WaterWatch of Oregon, Inc.; Roger Nicholson,  
Roger Nicholson Cattle Co.; Lloyd Nicholson  
Trust; Dorothy Nicholson Trust; Richard  
Nicholson; Jim McAuliffe; McAuliffeRanches;  
Maxine Kizer; Ambrose McAuliffe; Susan  
McAuliffe; Joe McAuliffe Company; Kenneth  
Tuttle and Karen L. Tuttle DBA Double K  
Ranch; Dave Wood; Kenneth Zamzow; Anita  
Wm. S. Nicholson; John B. Owens; Kenneth  
Owens; Wm. L. Brewer; Mary Jane Danforth;  
Jane M. Barnes; Franklin Lockwood Barnes,  
Jr.; Jacob D. Wood; Elmore E. Nicholson;  
Mary Ann Nicholson; Gerald H. Hawkins;  
Hawkins Cattle Co.; Owens & Hawkins;  
Harlowe Ranch; Terry M. Bengard; Tom  
Bengard; Dwight T. Mebane; Helen Mebane;  
Klamath Irrigation District; Klamath Drainage  
District; Tulelake Irrigation District; Klamath  
Basin Improvement District; Ady Ditch  
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; Sunny Side Irrigation District;  
Don Johnston & Son; Modoc Lumber Co.; Bradley  
S. Luscombe; Berlva Pritchard; Don Vincent;  
Randy Walthall; Inter-County Title Co.; Winema  
Hunting Lodge, Inc.; Van Brimmer Ditch Co.;  
Plevna District Improvement Company; Collins  
Products; Cynthia L. Barrett, Trustee; Elaine G.  
Kerns, Trustee; Sydney K. Giacomini, Trustee; E.  
Martin Kerns, Trustee, Contestants

vs.

United States of America,  
National Park Service, Claimant

**NOTICE OF *EX PARTE* CONTACT AND  
ORDER AMENDING AMENDED  
PROPOSED ORDER**

Case No: 001

Claims 602 through 611

Contests 2729, 2734, 3005 through  
3015, 3094, 3113 through 3117, 3698 through  
3707, 3935 through 3955

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On April 9, 2002 Barbara Scott-Brier, one of the attorneys for the United States of America, National Park Service, informed my assistant of an error in the Amended Proposed Order published March 26, 2001.

In Appendix B at page 8 (Claim 604), item seven now reads:

7. **PLACE OF USE:** Anywhere within that portion of Crater Lake National Park located within the Klamath Basin, as further described in Item 17 of the Proposed Order, and in accordance with Appendix A.

Ms. Scott-Brier pointed out that there is no "Item 17" of the Proposed Order. That item should refer to Finding of Fact Item 8 of the Proposed Order.

**IT IS HEREBY ORDERED** that Appendix B at page 8 (Claim 604) is amended to read:

7. **PLACE OF USE:** Anywhere within that portion of Crater Lake National Park located within the Klamath Basin, as further described in Finding of Fact Item 8 of the Proposed Order, and in accordance with Appendix A.<sup>1</sup>



\_\_\_\_\_  
William D. Young, Administrative Law Judge  
Hearing Officer Panel

Date: April 17, 2002

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<sup>1</sup> As a convenience to the participants I have enclosed a replacement Page 8 for Appendix B. Participants should remove the existing page 8 and replace it with the new page.

# CLAIM 604

1. **BASIS OF RIGHT:** Federal reserved water right.
2. **SOURCE:** Desert Creek within the boundary of Crater Lake National Park. Desert Creek is a tributary to the Williamson River.
3. **USE:** Domestic, administrative, wildlife watering, and fire protection.
4. **QUANTITY:** 0.1 acre feet per year for domestic, administrative, and wildlife watering; 1.0 cfs for fire protection.
5. **PERIOD OF USE:** January 1 through December 31 of each year.
6. **PRIORITY DATE:** May 22, 1902, for all lands described in the Act of May 22, 1902; May 14, 1932, for all lands described in the Act of May 14, 1932; December 5, 1940, for all lands reserved on December 5, 1940; January 30, 1942, for all lands reserved on January 30, 1942; December 19, 1980, for all lands described in the Act of December 19, 1980; September 8, 1982, for all lands described in the Act of September 8, 1982.
7. **PLACE OF USE:** Anywhere within that portion of Crater Lake National Park located within the Klamath Basin, as further described in Findings of Fact Item 8 of the Proposed Order, and in accordance with Appendix A.
8. **POINT(S) OF DIVERSION:** Any points along Desert Creek within Crater Lake National Park as shown on the map "Klamath Drainage Basin, Oregon", State Water Resources Board, 1971, Map Number 14.6. The river miles reported below for Desert Creek are measured upstream relative to the point where Desert Creek exits Crater Lake National Park (park boundary = river mile 0.0). Points of diversion will be located within the following reach:

8.1 Mainstem of Desert Creek, tributary to the Williamson River. A reach beginning at an upstream location defined by the headwaters of Desert Creek (at approximately river mile 1.5), and ending at a downstream location defined by the point where it exits Crater Lake National Park (river mile 0.0), as described in the following table:

Upstream Location					Downstream Location				
River Mile*	Distance/ Bearing	Legal Description	Latitude/ Longitude	USGS 7.5' Quad	River Mile*	Distance/ Bearing	Legal Description	Latitude/ Longitude	USGS 7.5' Quad
1.5	22740.0' S84°45'43"W from NW corner S. 31, T29S,R7E	S.32,T29S, R6E (Projected)	43°00'58"N 122°01'37"W	Pumice Desert East, OR	0.0	15127.5' S85°24'30"W from NW corner S. 31, T29S,R7E	PB.53,T29S, R6E (Projected)	43°01'08"N 121°59'56"W	Weich Butte, OR

\*River miles are measured upstream from the Crater Lake National Park boundary.

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CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2002, I mailed a true copy of the following: **NOTICE OF EX PARTE CONTACT AND ORDER AMENDING AMENDED PROPOSED ORDER**, by depositing the same in the U.S. Post Office, Salem, Oregon 97309, with first class postage prepaid thereon, and addressed to:

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