

**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
PERNOLL RANCH, LLC)	DETERMINATION
)	
)	
_____)	Water Right Claim 24

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 December 5, 1990, L. H. RANCH, INC. timely submitted a Statement and Proof of Claim (Claim 24) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication, as a non-Indian successor to allotted Klamath Reservation lands, claiming a vested Indian reserved water right (Walton claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 24 was submitted for a total of 21.5 cfs of water, being 20.0 cfs from Long Creek, and 1.5 cfs from Coyote Creek, both tributaries of the Sycan River, for irrigation of 864.4 acres. The claimed period of use is April 1 through October 15 for irrigation. The claimed priority date is October 14, 1864.
3. GEORGE E. CARLON, DIRECTOR OF L.H. RANCH, INC. signed Claim 24 attesting that the information contained in the claim is true.
4. In 1978, an OWRD field inspection report was prepared, describing the present use of water on the property substantially as stated in Claim 24 (See Claim # 24, WIP, Pages 00024 through 00026).
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 approved, but with a longer season of use than claimed.
6. On May 8, 2000, WaterWatch of Oregon, Inc. timely filed Contest 2820 to the Claim and/or Preliminary Evaluation of the Klamath Tribes Claim 24.

7. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 255.
8. The claim was transferred to PERNOLL RANCH, LLC (Claimant) from L. H. RANCH, INC. *See* WARRANTY DEED, COUNTY OF LAKE (Sept. 18, 2000), and CHANGE OF OWNERSHIP FORM (Feb. 14, 2003).
9. On April 3, 2003, WaterWatch was dismissed from Case 003, and under a January 17, 2003 Stipulation, that dismissal was also effective to dismiss WaterWatch from Case 255. *See* STIPULATION RE: STANDING OF WATERWATCH OF OREGON INC.'S CONTESTS (Jan. 17, 2003), *and* ORDER ON RENEWED MOTION TO STRIKE CONTESTS AND DISMISS WATERWATCH AS A PARTY AND MOTION TO RECONSIDER (April 3, 2003).
10. On May 5, 2003, the Adjudicator withdrew Case 255 from the Office of Administrative Hearings.
11. Based on the sworn statements in Claim 24, along with the field inspection report, the following findings are made:
 - a. The claimed water use is on former Klamath Indian Reservation Land.
 - b. The claimed water use is on land that was transferred from Indian ownership.
 - c. Beneficial use of water for the claimed purpose was not made prior to transfer from Indian ownership.
 - d. Beneficial use of water for the claimed purpose has been made with reasonable diligence following the transfer from Indian ownership.

B. DETERMINATION

1. The elements of a Walton claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS is incorporated as if set forth fully herein.
2. Because there is no evidence on the record to the contrary, the standard duty for irrigation, being 3.5 acre-feet per acre, and 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.
3. Based on the file and record herein, IT IS ORDERED that Claim 24 is approved as claimed and set forth in the following Water Right Claim Description.

CLAIM NO. 24

CLAIM MAP REFERENCE: OWRD INVESTIGATION MAPS – T 31 S, R 13 E and T 32 S, R 13 E

CLAIMANT: PERNOLL RANCH, LLC
 PO BOX 35
 SUMMER LAKE, OR 97640

SOURCE OF WATER: LONG CREEK and COYOTE CREEK, tributaries of the SYCAN RIVER

PURPOSE or USE:
 IRRIGATION OF 864.4 ACRES, BEING 806.1 ACRES FROM LONG CREEK AND 58.3 ACRES FROM COYOTE CREEK.

RATE OF USE:
 21.46 CUBIC FEET PER SECOND (CFS), BEING 20.0 CFS FROM LONG CREEK AND 1.46 CFS FROM COYOTE CREEK.

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:
 3.5 ACRE-FEET PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.

PERIOD OF ALLOWED USE: APRIL 1 - OCTOBER 15

DATE OF PRIORITY: OCTOBER 14, 1864

THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:

POD Name	Twp	Rng	Mer	Sec	Q-Q
Long Creek	32 S	13 E	WM	4	SW NE
Coyote Creek	31 S	13 E	WM	27	NE SE

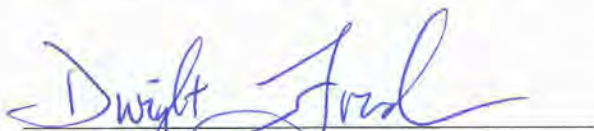
THE PLACE OF USE IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
31 S	13 E	WM	34	NE SW		25.1	Long Creek
31 S	13 E	WM	34	SW SW		2.7	
31 S	13 E	WM	34	SE SW		38.9	
31 S	13 E	WM	34	NE SE		40.0	
31 S	13 E	WM	34	NW SE		40.0	
31 S	13 E	WM	34	SW SE		40.0	
31 S	13 E	WM	34	SE SE		40.0	
31 S	13 E	WM	35	SW NW		21.7	
31 S	13 E	WM	35	NW SW		40.0	
31 S	13 E	WM	35	SW SW		40.0	
32 S	13 E	WM	1	NE NW	3	39.7	
32 S	13 E	WM	1	NW NW	4	39.6	

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
32 S	13 E	WM	1	SW NW		40.0	Long Creek
32 S	13 E	WM	1	SE NW		40.0	
32 S	13 E	WM	2	NE NE	1	39.6	
32 S	13 E	WM	2	NW NE	2	39.6	
32 S	13 E	WM	2	SW NE		40.0	
32 S	13 E	WM	2	SE NE		40.0	
32 S	13 E	WM	2	NE NW	3	39.6	
32 S	13 E	WM	2	NW NW	4	39.6	
32 S	13 E	WM	2	SW NW		40.0	
32 S	13 E	WM	2	SE NW		40.0	
31 S	13 E	WM	35	NW NW		40.0	
31 S	13 E	WM	35	SW NW		18.3	

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013


 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication