

**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)	CORRECTED PARTIAL ORDER OF
CALEDONIA PROPERTIES, LLC; AND)	DETERMINATION
JELD-WEN, INC. (RUNNING Y, INC.))	
)	
)	Water Right Claim 734

The GENERAL FINDINGS OF FACT of the FINAL ORDER OF DETERMINATION is incorporated as if set forth fully herein.

A. FINDINGS OF FACT

1. For purposes of the Final Order of Determination and any subsequent certificates, OWRD bifurcated a portion of Claim 144 and labeled it Claim 734. OWRD bifurcated Claim 144 after Claim 144 was withdrawn from the Office of Administrative Hearings. Claim 734 includes the property appurtenant to Claim 144 *not* transferred by ownership update on June 1, 2011, to RLF RUNNING Y RANCH, LLC.
2. On January 15, 1991, SHAMROCK HOLDINGS OF CALIFORNIA, DBA RUNNING Y RANCH timely submitted a Statement and Proof of Claim (Claim 144) to the Oregon Water Resources Department (OWRD) pursuant to ORS Chapter 539 in the Klamath Basin Adjudication based upon use of water beginning prior to February 24, 1909 (pre-1909 claim).
3. Claim 144 was submitted for a total 77.0 cubic feet per second (cfs) of water from Upper Klamath Lake, a tributary of the Klamath River, for irrigation of 5572.6 acres and livestock watering of 4500 head, each with a "Continuous Year Around" season of use. The claimed priority date is 1866.
4. An authorized agent of SHAMROCK HOLDINGS OF CALIFORNIA, DBA RUNNING Y RANCH signed the Statement and Proof of Claim for Claim 144 attesting that the information contained in the claim is true.
5. On April 7, 1994, the title to the property appurtenant to Claim 144 was transferred from SHAMROCK HOLDINGS OF CALIFORNIA, DBA RUNNING Y RANCH. *See* STATUTORY WARRANTY DEED, COUNTY OF KLAMATH, VOL. M94, PAGE 10525 (Claim #144, Page 079). RUNNING Y, INC. is a subsidiary of JELD-WEN, INC. (Claim #144, Page 081).

6. 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 for a smaller quantity of water than claimed for livestock use, and for a shorter season of use than claimed for irrigation.
7. On May 5, 2000, JELD-WEN, INC. (RUNNING Y RANCH) timely filed Contest 2044 to the Preliminary Evaluation of Claim 144.
8. On May 8, 2000, Horsefly Irrigation District, Langell Valley Irrigation District, Rogue River Valley Irrigation District, and Medford Irrigation District filed Contest 3138 to the Claim and/or Preliminary Evaluation of Claim 144.
9. On May 8, 2000, the United States of America timely filed Contest 3828 to the Claim and/or Preliminary Evaluation of Claim 144.
10. On May 8, 2000, the Klamath Tribes timely filed Contest 4169 to the Claim and/or Preliminary Evaluation of Claim 144.
11. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 120. Case 120 was consolidated with Case 118. Case 118 was subsequently consolidated with Case 3. The consolidation with Case 3 was reversed by INTERIM ORDER (Jan 12, 2006) at 31.¹
12. On March 21, 2003, Langell Valley Irrigation District and Horsefly Irrigation District voluntarily withdrew from Contest 3138. *See* VOLUNTARY WITHDRAWAL OF CONTEST BY LANGELL VALLEY IRRIGATION DISTRICT AND HORSEFLY IRRIGATION DISTRICT (Mar. 21, 2003).
13. On August 15, 2006, the Klamath Tribes withdrew without prejudice Contest 4169. *See* KLAMATH TRIBES' WITHDRAWAL OF CONTESTS (Aug. 15, 2006).
14. On March 23, 2006, OWRD, JELD-WEN, INC. (RUNNING Y RANCH), Rogue River Valley Irrigation District, and Medford Irrigation District, executed a STIPULATION TO RESOLVE CONTEST 3138 AGAINST CLAIM NO. 144 thereby resolving Contest 3138.
15. On August 27, 2007, OWRD, JELD-WEN, INC. (RUNNING Y RANCH), and the United States of America, executed a STIPULATION TO RESOLVE CONTESTS 2044 AND 3828 TO CLAIM 144 (Settlement Agreement) thereby resolving all remaining contests to Claim 144.
16. On August 29, 2007, the Adjudicator withdrew Case 120 (portion of Consolidated Case 118) from the Office of Administrative Hearings.

¹ This Interim Order was amended by an AMENDED INTERIM ORDER (May 24, 2006) issued *sua sponte* by the Administrative Law Judge to provide clarification of certain matters raised in correspondence and to correct typographical errors noted since the original order was issued.

17. Jeld-Wen, Inc. (Running Y Ranch), OWRD and the United States stipulated, in part, to irrigation of 5569.5 acres.
18. On June 1, 2011, a portion of the property appurtenant to Claim 144, being 3480.6 acres, was transferred to RLF RUNNING Y RANCH, LLC from JELD-WEN, INC. *See* SPECIAL WARRANTY DEED, dated May 17, 2011 and CHANGE OF OWNERSHIP FORM (June 1, 2011). The location of the 3480.6 acres was clearly identified on a copy of the 2007 Settlement Map submitted with the ownership update.
19. Of the 2088.9 remaining stipulated acres appurtenant to Claim 144, most of the acreage was transferred to RUNNING Y DEVELOPMENT, LLC. *See* SPECIAL WARRANTY DEED, dated January 18, 2011 and CHANGE OF OWNERSHIP FORM (July 18, 2011). On July 18, 2011, this same portion of the property appurtenant to Claim 144 was then transferred to CALEDONIA PROPERTIES, LLC. *See* CHANGE OF OWNERSHIP FORM (July 18, 2011). Based on the map submitted with the July 18, 2011 ownership update for Claim 144, JELD-WEN, INC (RUNNING Y RANCH) retains an interest in a small portion of the property within the NW¼ and SW¼ SW¼ of Section 4, and the NE¼ and SE¼ of Section 5, Township 38 South, Range 8 East, W.M. A place of use listing did not accompany the transfer to Caledonia Properties, LLC. Furthermore, in the quarter quarters where there is joint ownership, OWRD cannot discern from the map submitted with the ownership change precisely how the claimed acreage should be divided between CALEDONIA PROPERTIES, LLC and JELD-WEN, INC (RUNNING Y RANCH). Therefore CALEDONIA PROPERTIES, LLC and JELD-WEN, INC (RUNNING Y RANCH) are Co-claimants.
20. As described in Findings 18 and 19, above, Claim 144 has been divided into two ownership groups, being (1) RLF RUNNING Y RANCH, LLC, and (2) CALEDONIA PROPERTIES, LLC and JELD-WEN, INC (RUNNING Y RANCH). Therefore, OWRD finds it practical to bifurcate Claim 144; OWRD has retained the designation of Claim 144 for the portion of the claim pertaining to RLF RUNNING Y RANCH, LLC (Claimant) and has designated the portion of the claim pertaining to CALEDONIA PROPERTIES, LLC and JELD-WEN, INC (RUNNING Y RANCH) (Co-claimants) as Claim 734.
21. Section B.1.c. of the Settlement Agreement specifies incidental livestock watering of 4500 head of cattle. OWRD prorated the 4500 head for incidental livestock watering, based on grazing acres available within the two bifurcated portions of Claim 144². OWRD finds the number of head for incidental livestock watering is limited to 2813 head for Claim 144, and 1687 head for Claim 734.

B. DETERMINATION

1. The Settlement Agreement executed between OWRD, JELD-WEN, INC. (RUNNING Y RANCH), and the United States of America is adopted and incorporated as if set forth fully herein.

² 3480.6 acres / 5569.5 acres = 62.5% for Claim 144; and 2088.9 acres / 5569.5 acres = 37.5% for Claim 734

2. The elements of a pre-1909 claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING PRE-1909 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 144 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 734

CLAIM MAP REFERENCE: CLAIM # 144 SETTLEMENT MAP (Mar. 21, 2007)

CLAIMANT: JELD-WEN, INC. (RUNNING Y, INC.)
401 HARBOR ISLES BLVD
KLAMATH FALLS OR 97601

CALEDONIA PROPERTIES, LLC
1691 CROSS ROAD
KLAMATH FALLS, OR 97601

SOURCE OF WATER: UPPER KLAMATH LAKE, tributary to KLAMATH RIVER

PURPOSE or USE:

IRRIGATION OF 2088.9 ACRES , BEING 1194.4 ACRES FROM POD 1, 424.0 ACRES FROM POD 2, AND 470.5 ACRES FROM POD 3; LIVESTOCK WATERING OF 1687 HEAD.

RATE OF USE:

25.841 CUBIC FEET PER SECOND (CFS) AS FOLLOWS:

25.81 CFS FOR IRRIGATION MEASURED AT THE POINTS OF DIVERSION, BEING 14.93 CFS FROM POD 1, 5.00 CFS FROM POD 2, AND 5.88 CFS FROM POD 3; AND

0.031 CFS FOR LIVESTOCK WATERING FROM POD 1, POD 2 AND POD 3, MEASURED AT THE PLACES OF USE; NOT TO EXCEED A TOTAL OF 20,244 GALLONS PER DAY.

DIVERSION OF STOCK WATER TO THE PLACE OF USE IS LIMITED TO THAT WHICH HAS BEEN HISTORICALLY DIVERTED FOR BENEFICIAL USE AND IS REASONABLY NECESSARY TO TRANSPORT THE WATER AND TO PREVENT THE DITCHES AND CHANNELS FROM BEING COMPLETELY FROZEN WHEN TRANSPORTING WATER.

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:

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

PERIOD OF ALLOWED USE:

Use	Period
Irrigation	January 1 - December 31
Livestock Watering	January 1 - December 31

DATE OF PRIORITY: DECEMBER 31, 1889

THE POINTS OF DIVERSION ARE LOCATED AS FOLLOWS:

POD Name	Twp	Rng	Mer	Sec	Q-Q	GLot
POD 1	37 S	8 E	WM	32	NE NW	3
POD 2	37 S	8 E	WM	29	SE SE	
POD 3	38 S	8 E	WM	7	SE NW	5

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION and LIVESTOCK WATERING							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
37 S	8 E	WM	31	NE NE	1	0.9	POD 1
37 S	8 E	WM	31	SW NE	1	18.0	
37 S	8 E	WM	31	SE NE	1	37.5	
37 S	8 E	WM	31	NE SE		39.6	
37 S	8 E	WM	31	NW SE	2	8.4	
37 S	8 E	WM	31	SE SE		22.5	
37 S	8 E	WM	32	NE NE	1	4.7	
37 S	8 E	WM	32	NW NE	2	25.0	
37 S	8 E	WM	32	SW NE		40.0	
37 S	8 E	WM	32	SE NE		18.2	
37 S	8 E	WM	32	NE NW	3	13.4	
37 S	8 E	WM	32	NW NW	4	8.0	
37 S	8 E	WM	32	SW NW	4	40.0	
37 S	8 E	WM	32	SE NW		37.9	
37 S	8 E	WM	32	NE SW		38.8	
37 S	8 E	WM	32	NW SW		40.0	
37 S	8 E	WM	32	SW SW		40.0	
37 S	8 E	WM	32	SE SW		40.0	
37 S	8 E	WM	32	NE SE		32.5	
37 S	8 E	WM	32	NW SE		39.1	
37 S	8 E	WM	32	SW SE		37.9	
37 S	8 E	WM	32	SE SE		40.0	
37 S	8 E	WM	33	SW SW		6.1	
38 S	8 E	WM	4	NW NW		19.8	
38 S	8 E	WM	4	SW NW		33.7	
38 S	8 E	WM	4	NE SW	11	0.4	
38 S	8 E	WM	4	NW SW	10	2.0	
38 S	8 E	WM	4	SW SW	15	20.8	
38 S	8 E	WM	5	NE NE		40.0	
38 S	8 E	WM	5	NW NE		38.0	
38 S	8 E	WM	5	SW NE		38.0	
38 S	8 E	WM	5	SE NE		35.0	
38 S	8 E	WM	5	NE NW		40.0	
38 S	8 E	WM	5	NW NW		35.6	

IRRIGATION and LIVESTOCK WATERING								
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD	
38 S	8 E	WM	5	SW NW		10.4	POD 1	
38 S	8 E	WM	5	SE NW		39.8		
38 S	8 E	WM	5	NE SW		19.8		
38 S	8 E	WM	5	NE SW	1	0.8		
38 S	8 E	WM	5	NE SE		21.7		
38 S	8 E	WM	5	NW SE		37.0		
38 S	8 E	WM	5	NW SE	2	1.9		
38 S	8 E	WM	5	SW SE				
38 S	8 E	WM	5	SW SE	3	48.9		
38 S	8 E	WM	5	SE SE				
38 S	8 E	WM	6	NE NE		2.4		
38 S	8 E	WM	8	NE NE	12	2.6		
38 S	8 E	WM	9	NE NW	1	6.2		
38 S	8 E	WM	9	NE NW	9	19.2		
38 S	8 E	WM	9	NW NW	8	34.2		
38 S	8 E	WM	9	SW NW	8	3.9		
38 S	8 E	WM	9	SE NW	10	6.4		
38 S	8 E	WM	9	SE NW	2	7.4		
37 S	8 E	WM	33	NW NW	8	9.5		POD 2
37 S	8 E	WM	33	SW NW	7	27.3		
37 S	8 E	WM	33	NE SW	6	8.4		
37 S	8 E	WM	33	NW SW		38.6		
37 S	8 E	WM	33	SW SW		32.6		
37 S	8 E	WM	29	SE SE		1.1		
37 S	8 E	WM	32	NE NE	1	31.0		
37 S	8 E	WM	32	SE NE		20.2		
37 S	8 E	WM	32	NE SE		5.8		
37 S	8 E	WM	33	SE SW	5	36.9		
37 S	8 E	WM	33	SW SE	5	4.0		
38 S	8 E	WM	4	NW NE	1	1.7		
38 S	8 E	WM	4	NW NE	14	29.0		
38 S	8 E	WM	4	SW NE	2	0.5		
38 S	8 E	WM	4	SW NE	13	31.5		
38 S	8 E	WM	4	NE NW		40.0		
38 S	8 E	WM	4	NW NW		19.7		
38 S	8 E	WM	4	SW NW		5.8		
38 S	8 E	WM	4	SE NW		39.9		
38 S	8 E	WM	4	NE SW	11	14.5		
38 S	8 E	WM	4	NE SE	12	1.4		
38 S	8 E	WM	4	NW SE	12	23.9		
38 S	8 E	WM	4	NW SE	3	0.7		
38 S	8 E	WM	15	NE SW	3	2.5	POD 3	
38 S	8 E	WM	15	SW SW	9	7.2		
38 S	8 E	WM	15	SE SW	10	44.4		
38 S	8 E	WM	15	SW SE	11	14.9		
38 S	8 E	WM	22	NE NE	8	4.1		
38 S	8 E	WM	22	NW NE	8	31.8		
38 S	8 E	WM	22	SW NE		37.6		
38 S	8 E	WM	22	SE NE	7	12.2		

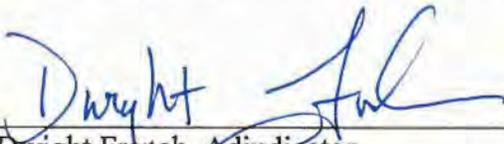
IRRIGATION and LIVESTOCK WATERING							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
38 S	8 E	WM	22	NE NW		32.3	POD 3
38 S	8 E	WM	22	NW NW		18.0	
38 S	8 E	WM	22	SW NW		32.9	
38 S	8 E	WM	22	SE NW		35.0	
38 S	8 E	WM	22	NE SW		37.2	
38 S	8 E	WM	22	NW SW		37.4	
38 S	8 E	WM	22	SW SW		40.0	
38 S	8 E	WM	22	SE SW		40.0	
38 S	8 E	WM	22	NE SE	6	0.9	
38 S	8 E	WM	22	NW SE	6	23.6	
38 S	8 E	WM	22	SW SE	5	18.5	

FURTHER LIMITATIONS:

USE OF WATER ON THE PLACE OF USE DESCRIBED IN THIS CLAIM, WHEN COMBINED WITH USE OF WATER UNDER ANY OTHER RIGHT ADJUDICATED IN THE KLAMATH BASIN ADJUDICATION FOR ANY PORTION OR ALL OF THE SAME PLACE OF USE, MAY NOT EXCEED THE RATE AND DUTY NECESSARY FOR BENEFICIAL USE AS DETERMINED IN THE KLAMATH BASIN ADJUDICATION.

[End of Water Right Claim Description]

Dated at Salem, Oregon on February 28, 2014


 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication