

**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
MARTIN LESTER PERNOLL, MD)	DETERMINATION
)	
_____)	Water Right Claim 25

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 3, 1990, MARTIN LESTER PERNOLL, M.D. (Claimant) timely submitted a Statement and Proof of Claim (Claim 25) 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 and inchoate Indian reserved water right (Walton claim) under the Treaty of October 14, 1864, 16 Stat. 707.
2. Claim 25 was submitted for a total of 23.31 cfs of water, being 22.3175 cfs from Long Creek, and 0.9925 cfs from Coyote Creek, both tributaries of the Sycan River, for irrigation of 932.4 acres with incidental livestock watering for 600 head. The claimed period of use is April 1 through October 1 for irrigation. The claimed priority date is "1864."
3. MARTIN LESTER PERNOLL, M.D. signed Claim 25 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 approved for irrigation, but with a longer season of use than claimed.
5. On May 8, 2000, the United States of America timely filed Contest 3780 to the Claim and/or Preliminary Evaluation of Claim 25.

6. On May 8, 2000, the Klamath Tribes timely filed Contest 4082 to the Claim and/or Preliminary Evaluation of Claim 25.
7. On May 8, 2000, WaterWatch of Oregon, Inc. filed Contest 2821 to the Claim and/or Preliminary Evaluation of Claim 25.
8. These matters were referred to the Office of Administrative Hearings for a contested case hearing which were designated as Case 170.
9. On March 19, 2003, WaterWatch of Oregon, Inc. withdrew Contest 2821. *See* WATERWATCH'S VOLUNTARY WITHDRAWAL OF CONTEST NO. 2821 (Mar. 19, 2003).
10. On March 30, 2004, the Claimant, OWRD, the United States of America, and the Klamath Tribes executed a STIPULATION TO RESOLVE CONTESTS NOS. 3780 AND 4082 (Settlement Agreement) thereby resolving the remaining contests to Claim 25.
11. On April 8, 2004, the Adjudicator withdrew Case 170 from the Office of Administrative Hearings.

B. DETERMINATION

1. The Settlement Agreement executed between the Claimant, OWRD, the United States of America, and the Klamath Tribes is adopted and incorporated as if set forth fully herein.
2. The elements of a Walton claim are established. The GENERAL CONCLUSIONS OF LAW CONCERNING WALTON CLAIMS is incorporated as if set forth fully herein.
3. Based on the file and record herein, IT IS ORDERED that Claim 25 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 25
FOR A VESTED WATER RIGHT

CLAIM MAP REFERENCE:
OWRD INVESTIGATION MAPS – T 31 S, R 13 E and T 32 S, R 13 E;
CLAIM # 25 SETTLEMENT MAP (May 26, 2004)

CLAIMANT: MARTIN LESTER PERNOLL, M.D.
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 917.4 ACRES, BEING 892.7 ACRES FROM LONG CREEK AND 24.7 ACRES FROM COYOTE CREEK.

RATE OF USE:

22.94 CUBIC FEET PER SECOND (CFS) MEASURED AT THE POINTS OF DIVERSION, BEING 22.32 CFS FROM LONG CREEK, AND 0.62 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:

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

PERIOD OF ALLOWED USE: APRIL 1 - OCTOBER 1

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	35	NE NE		40.0	Long Creek
31 S	13 E	WM	35	NW NE		39.2	
31 S	13 E	WM	35	SW NE		40.0	
31 S	13 E	WM	35	SE NE		40.0	
31 S	13 E	WM	35	NE NW		4.6	
31 S	13 E	WM	35	SE NW		36.5	
31 S	13 E	WM	35	NE SW		40.0	
31 S	13 E	WM	35	SE SW		40.0	
31 S	13 E	WM	35	NE SE		40.0	
31 S	13 E	WM	35	NW SE		40.0	
31 S	13 E	WM	35	SW SE		40.0	
31 S	13 E	WM	35	SE SE		40.0	
32 S	13 E	WM	2	NE SW		40.0	
32 S	13 E	WM	2	NW SW		28.5	
32 S	13 E	WM	2	SW SW		2.0	
32 S	13 E	WM	2	SE SW		18.2	
32 S	13 E	WM	2	NE SE		40.0	
32 S	13 E	WM	2	NW SE		40.0	
32 S	13 E	WM	2	SW SE		40.0	
32 S	13 E	WM	2	SE SE		40.0	
32 S	13 E	WM	3	NE NE	1	27.7	
32 S	13 E	WM	3	NW NE	2	28.5	
32 S	13 E	WM	3	SW NE		15.3	
32 S	13 E	WM	3	SE NE		36.1	

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Authorized POD
32 S	13 E	WM	3	NE NW	3	34.0	Long Creek
32 S	13 E	WM	3	NW NW	4	20.7	
32 S	13 E	WM	3	SW NW		15.5	
32 S	13 E	WM	3	SE NW		25.9	
31 S	13 E	WM	35	NE NW		24.7	Coyote Creek

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013


 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication