

**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
HORST FORSTER, NANCY MARTIN,)	DETERMINATION
CYNTHIA NORTON, AND WESLEY)	
NORTON)	
_____)	Water Right Claim 213

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

A. FINDINGS OF FACT

1. Claim 213 (Claimants: HORST FORSTER, NANCY MARTIN, CYNTHIA NORTON, AND WESLEY NORTON) and its associated contests (3201, 5656) were referred to the Office of Administrative Hearings for a contested case hearing which was designated as Case 17¹.
2. The Office of Administrative Hearings conducted contested case proceedings and ultimately issued a PROPOSED ORDER (Proposed Order) for Claims 213 and 214 on October 16, 2002.
3. Exceptions were filed to the Proposed Order within the exception filing deadline by Claimants Wesley Norton, Cynthia Norton, Richard Martin², and Nancy Martin. These exceptions pertained solely to Claim 214.
4. On February 24, 2012, the Adjudicator issued an AMENDED PROPOSED ORDER (Amended Proposed Order) (1) to modify the season of use for Claims 213 and 214 because the seasons of use in the 2002 Proposed Order exceeded the claimed seasons of use, and (2) to address fee sufficiency issues in Claim 214. Except as modified, the Amended Proposed Order fully incorporated the 2002 Proposed Order.
5. Exceptions were filed to the Amended Proposed Order within the exception filing deadline by the Claimants Wesley Norton, Cynthia Norton, and Nancy Martin. These exceptions pertained solely to Claim 214.

¹ Claim 213 (Case 17) and Claim 214 (Case 18) were consolidated by Order and heard as Case 17 (*See* ORDER GRANTING MOTION TO CONSOLIDATE, January 17, 2002.)

² Nancy Martin succeeded to the interests of Richard Martin, now deceased.

6. The evidentiary record for Claims 213 and 214 is identical. For this reason, and because of the similar history of development for the lands underlying each of these claims, this Partial Order of Determination does not modify the Proposed Order for the sole purpose of separating out the portions of the Proposed Order that pertain only to Claim 213.
7. The Amended Proposed Order is adopted and incorporated in its entirety as if set forth fully herein.

B. DETERMINATION

1. The Amended Proposed Order is adopted and incorporated in its entirety as if set forth fully herein.
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. Based on the file and record herein, IT IS ORDERED that Claim 213 is approved as set forth in the following Water Right Claim Description.

[Beginning of Water Right Claim Description]

CLAIM NO. 213

CLAIM MAP REFERENCE: CLAIM # 213, PAGE 26

CLAIMANT: HORST FORSTER
2324 COLESTIN
HORN BROOK, CA 96044

WESLEY NORTON
CYNTHIA NORTON
PO BOX 417
ASHLAND, OR 97520

NANCY MARTIN
PO BOX 5396
SANTA ANA, CA 92704

SOURCES OF WATER:

WEST FORK COTTONWOOD CREEK, tributary to COTTONWOOD CREEK; and
MILL CREEK, tributary to COTTONWOOD CREEK

PURPOSE OR USE:

IRRIGATION OF 99.4 ACRES AND DAIRY LIVESTOCK WATERING UP TO 120 HEAD,
AS FOLLOWS:

- 4.1 ACRES FROM WEST FORK COTTONWOOD CREEK (POD 4), AND
- 95.3 ACRES FROM MILL CREEK (POD 6)

RATE OF USE:

2.486 CUBIC FEET PER SECOND (CFS) AS FOLLOWS:

2.48 CFS FOR IRRIGATION MEASURED AT THE POINTS OF DIVERSION, BEING 0.10 CFS OF WATER FROM WEST FORK COTTONWOOD CREEK (POD 4) AND 2.38 CFS OF WATER FROM MILL CREEK (POD 6)

0.006 CFS OF WATER FROM WEST FORK COTTONWOOD CREEK AND/OR MILL CREEK FOR DAIRY LIVESTOCK WATERING MEASURED AT THE PLACE OF USE, NOT TO EXCEED 4200 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 WATERCOURSE FROM BEING COMPLETELY FROZEN WHEN TRANSPORTING WATER OUTSIDE OF THE IRRIGATION SEASON.

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	May 1 - October 31
Livestock Watering	January 1 - December 31

DATE OF PRIORITY: DECEMBER 31, 1854

THE POINT OF DIVERSION IS LOCATED AS FOLLOWS:

POD Name	Source	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
POD 4	West Fork Cottonwood Creek	41 S	1 E	WM	13	NW NW	570 FEET SOUTH AND 230 FEET EAST FROM NW CORNER, SECTION 13
POD 6	Mill Creek	41 S	1 E	WM	11	NE NW	1000 FEET SOUTH AND 3980 FEET WEST FROM NE CORNER, SECTION 11

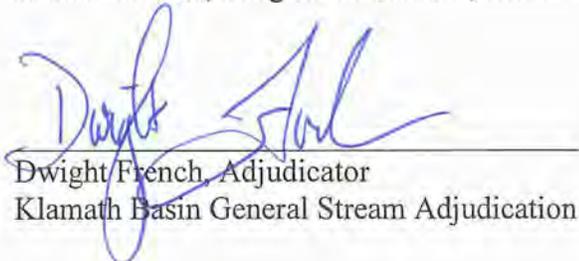
THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION AND LIVESTOCK WATERING						
Twp	Rng	Mer	Sec	Q-Q	Acres	Authorized PODS
41 S	1 E	WM	13	NE NW	2.7	POD 4
41 S	1 E	WM	13	NW NW	0.8	
41 S	1 E	WM	13	SE NW	0.6	

IRRIGATION AND LIVESTOCK WATERING						
Twp	Rng	Mer	Sec	Q-Q	Acres	Authorized PODS
41 S	1 E	WM	11	SE SE	16.2	POD 6
41 S	1 E	WM	12	NW SW	1.5	
41 S	1 E	WM	12	SW SW	34.2	
41 S	1 E	WM	13	NE NW	17.8	
41 S	1 E	WM	13	NW NW	21.2	
41 S	1 E	WM	14	NE NE	4.4	

[End of Water Right Claim Description]

Dated at Salem, Oregon on March 7, 2013


 Dwight French, Adjudicator
 Klamath Basin General Stream Adjudication