

94328

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BEFORE THE STATE ENGINEER OF OREGON

Klamath County

IN THE MATTER OF)
THE CANCELLATION)
OF A WATER RIGHT)

O R D E R

On August 27, 1974, Robert C. and Mildred E. Clark, 310 S. Fifth Street, Klamath Falls, Oregon, submitted an affidavit that they are the owners of the following described land:

Beginning at a point in Section 3, T. 37S, R. 14E., W.M., which bears South 1635 feet, thence West 820 feet and thence North 710.7 feet from the intersection of the east line of said Section 3, with the southwesterly right of way line of the old Pelican Bay Lumber Company's logging railroad, which point of beginning is on the west line of a parcel of land deeded to J. C. Harrison, and described in a deed recorded in Klamath County Deed Records, Volume 134, Page 419; thence N. 87° 34' W. 1239 feet, more or less to the easterly right of way line of the old Bonanza-Bly County Road; thence N. 27° 01' East, along the easterly right of way line of said road, a distance of 767 feet, more or less, to the easterly extension of Metler Street in First Addition to Bly, a platted subdivision in Klamath County, Oregon; thence S. 89° 40' East, along the south line of said Metler Street extended, a distance of 889.7 feet, more or less, to the westerly line of J. C. Harrison property mentioned above; thence South, along the west line of said Harrison property, a distance of 731 feet, more or less, to the point of beginning; being a portion of Section 3, T. 37S., R. 14 E., W.M., containing 17.15 acres, more or less.

Beginning at the point of intersection of the Easterly right-of-way boundary of the old Bonanza-Bly County road with the Easterly extension of the South line of Metler Street in the townsite of Bly, Oregon; thence, South 27 degrees 11' 14" West along the Easterly boundary of the aforesaid road (Record: N. 27 degrees 13' E. and N. 27 degrees 01' E.) a distance of 767 feet to the true point of beginning; thence, South 86 degrees 43' 46" East, 1223.74 feet, more or less (Deed: N. 87 degrees 34' W. 1239') to the Easterly boundary of the parcel of land described in Vol. 312, pages 563 and 564 of Deed Records of Klamath County, Oregon; thence, along said boundary South 2 degrees 12' 14" West, 403.7 feet and South 79 degrees 23' 29" West, 1214.45 feet, more or less, (Deed: S. 71 degrees 40' W. 1240') to the point of intersection of two portions of the Easterly boundary of the said old Bonanza-Bly County road; thence, along said boundary North 4 degrees 37' 46" West 625 feet (Deed: N. 5 degrees 25' W. 625') and North 27 degrees 11' 14" East 83 feet to the true point of beginning containing 15.56 acres, more or less.

NO FEE

By Harold Clark

Deputy

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and the water right appurtenant thereto; that they have abandoned any and all interest in and to the said water right and request the same to be canceled,

The water right in question is part of that evidenced by the certificate recorded at Volume 9, page 9970, State Record of Water Right Certificates, and is for the appropriation of not to exceed one-fortieth cubic foot per second per acre of water prior to June 15th, and one-eightieth cubic foot per second per acre of water after June 15th from South Fork of Sprague River, with a priority date of 1900 for irrigation of:

15.0 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$
6.8 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$
Section 3
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as established by Decree of the Circuit Court for Klamath County entered February 5, 1930 in the name of J. C. and T. M. Edgall.

That part of the water right evidenced by said certificate for the appropriation of not to exceed one-fortieth cubic foot per second per acre of water prior to June 15th, and one-eightieth cubic foot per second per acre of water after June 15th from South Fork of Sprague River, with a priority date of 1900 for domestic, stock use, and irrigation of:

37.5 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$
6.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$
10.4 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$
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is not in question.

ORS 540.621 provides that: "Whenever the owner of a perfected and developed water right certifies under oath to the State Engineer that the water right has been abandoned by him and that he desires cancellation thereof, the State Engineer shall enter an order canceling the water right."

NOW, THEREFORE, it hereby is ORDERED that the water right for the use of one-fortieth cubic foot per second per acre of water prior to June 15th, and one-eightieth cubic foot per second per acre of water after June

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15th from South Fork of Sprague River with a date of priority of 1900, for
irrigation of:

15.0 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$
6.8 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$
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is canceled.

It is FURTHER ORDERED that the certificate of water right recorded
at Volume 9, page 9970 is canceled and in lieu thereof a new certificate be
issued to J. C. and T. M. Edsall covering that part of the water right not
in question which is for the appropriation of not to exceed one-fortieth
cubic foot per second per acre of water prior to June 15th, and one-eightieth
cubic foot per second per acre of water after June 15th from South Fork of
Sprague River, with a priority date of 1900, for domestic, stock use, and
irrigation of:

37.5 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$
6.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$
10.4 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$
Section 3
T. 37 S., R. 14 E., W.M.

Dated at Salem, Oregon this 10th day of October, 1974.

/s/ CHRIS L. WHEELER
State Engineer