

IN THE CIRCUIT COURT OF THE STATE OF OREGON,  
FOR THE COUNTY OF CROOK.

IN THE MATTER OF THE DETERMINATION )  
OF THE RELATIVE RIGHTS TO THE WATERS )  
OF PAULINA CREEK AND PAULINA LAKE, )  
TRIBUTARY TO THE DESCHUTES RIVER, )  
IN CROOK COUNTY, OREGON. )

D E C R E E .

Now on this 5th day of Nov. 1910, this cause coming on for a decree upon the findings of fact and order of determination heretofore made by the Board of Control of the State of Oregon, and filed in the above entitled court, and the court having heretofore approved and adopted the findings of the Board of Control of the State of Oregon, as the findings of this court, and being now fully advised in the premises:

It is hereby ordered, adjudged and decreed that Deschutes Lumber Co., Mrs. R. C. Richie, C. W. Richie, Scanlon Lumber Co., T. H. Shevlin and H. W. Stone, and each and all of them, and all other persons, firms and corporations claiming any right to the waters of said stream or lake, who have not appeared and filed their statements of claim to the waters of said stream or lake, and made proofs herein as to their said rights, and each and all of them are in default herein, and such default is hereby entered.

It is hereby further ordered, adjudged and decreed that each of the several appropriations of water for the purpose of irrigation hereinafter set forth in tabulated form is limited to an amount of water sufficient for the irrigation and reclamation of the lands described herein as being the lands to which such water is appurtenant, and the total volume of water so appropriated and hereby confirmed in each case shall not exceed the rate of one cubic foot per second of time for each seventy (70) acres of land irrigated.

It is hereby further ordered, adjudged and decreed that a system of rotation in the use of water, among the appropriators of small amounts of water, in the same neighborhood, has been in use, more or less, upon said stream, and adds greatly to the duty which said water may be made to perform; and that in the absence of an agreement between such appropriators arranging for such rotation and the manner in which such water shall be used in such rotation, the water master of the water district in which such water is situated shall arrange such appropriators in groups or systems of rotation, first giving to the appropriator who is first in priority an amount of water equal to the combined appropriations of all the appropriators in said group or system, for a length of time bearing the same ratio to the whole time required to make the complete rotation through the whole group of appropriators as the appropriation of the said first appropriator bears to the combined appropriations of all of said appropriators, and shall next serve the next appropriator in priority with a like amount of water for his proportionate time and so on, until all the appropriators in said group are served; then the distribution of the water shall be repeated in the same manner throughout the irrigating season; that in case any two or more of the appropriators in said group shall have the same priorities, then the said water master shall distribute the water as between those appropriators having the same priorities to the one whose ditch taps the stream nearest its source first, and the next lower down next and so on; and where two or more appropriators agree as between themselves as to a system and manner of rotation in the use of their water, the said water master shall distribute their water in accordance with such agreement, Provided, that such arrangement into groups and systems shall not interfere with the prior rights of any appropriator not a member of such group or system.

It is further ordered, adjudged and decreed that the name and postoffice address of each appropriator of water from said lake and stream, in alphabetical order, together with the date of relative priority of each appropriation, the amount of such appropriation in cubic feet per second, the number of acres of land to which such appropriation is applied and to which such water is appurtenant, the use or uses for which such water was appropriated and is now applied, with the irrigation season thereunder in cases where such water is used for irrigation, the name of the ditch or ditches through which such appropriation is diverted, and a description of the legal subdivision in which such irrigated land is situated, with the number of acres in each such subdivision, arranged and set forth in tabulated form, opposite the name of each such appropriator, are as follows:

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NAME AND POSTOFFICE ADDRESS OF APPROPRIATOR.	DATE OF RELATIVE PRIORITY.	AMOUNT CU. FT. PER. SEC.	NO. ACRES.	USE AND IRRIGATION SEASON.	NAME OF DITCH.	DESCRIPTION OF LAND OR PLACE OF USE.
Grover H. Caldwell, Rosland, Oregon.	1901	.71	49 $\frac{1}{2}$	Irrigation & domestic April 1, to August 15th.	Caldwell ditches No. 9, 4 & 11.	12 ac. in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 7 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 16 $\frac{1}{2}$ ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 19; 14 ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 30, Tp. 21 S. R. 11 E.W.M.
L. C. Caldwell, Rosland, Oreg.	1900	1.76	125 $\frac{1}{2}$	Irrigation & domestic April 1st to November 1st.	Caldwell ditches No. 4, 5 & 6.	24 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 25 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 39 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 37 $\frac{1}{2}$ ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; NE $\frac{1}{4}$ of NW $\frac{1}{4}$ ← Sec. 30, Tp. 21 S.R. 11 E.W.M.
Hubert G. Caldwell, Rosland, Oregon.	June 1899	1.35	94 $\frac{1}{2}$	Irrigation & domestic April 1st to August 1st or November 1st.	Caldwell ditches No. 8, 9 & 10.	21 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 36 $\frac{1}{2}$ ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 20 ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 17 ac. in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; All in sec. 19, Tp. 21, S.R. 11 E.W.M.
R. H. Caldwell, Rosland, Oregon.	1899	1.48	103 $\frac{1}{2}$	Irrigation & domestic April 1st to Nov. 30th	Joint ditch with H.G. Caldwell.	28 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 27 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 13; 19 $\frac{1}{2}$ ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 29 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 24, Tp. 21, S.R. 10, E.W.M.
E. G. Rourk, Crescent, Oregon.	April 1908	.38	26 $\frac{1}{2}$	Irrigation & domestic April 1st to Dec. 1st.	Ditch No. 4, jointly owned.	21 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 5 $\frac{1}{2}$ ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 30, Tp. 21, S.R. 11 E.W.M.
Elizabeth V. Rease, Rosland, Oregon.	1900	.49	34	Irrigation & domestic April 1st to August 30.	Rease ditch	$\frac{1}{2}$ ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 12 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 14 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 7 $\frac{1}{2}$ ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 29, Tp. 21, S.R. 11 E.W.M.
D. F. Rease, Rosland, Oregon.	1900	1.38	96 $\frac{1}{2}$	Irrigation & domestic April 1st to August 30.	Rease joint ditch	22 $\frac{1}{2}$ ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 15 $\frac{1}{2}$ ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 37 $\frac{1}{2}$ ac. in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 21 ac. in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 29, Tp. 21, S.R. 11, E.W.M.
S. S. Stearns, Prineville, Oregon.	May 1909	.03	530.0	Domestic		No right for irrigation acquired because of failure to comply with provisions of Chapter 216, General Laws of Oregon for 1909.
The Christian Muller Land & Timber Co. Davenport, Iowa.	Dec. 1909.	.03		Domestic		The right for stream power being initiated under Chapter 216, Gen. Laws of Oregon for 1909, shall be completed in accordance therewith. (Permit No. 166, approved Jan- uary 13th, 1910).

It is hereby further ordered, adjudged and decreed that W? D? Fordham initiated an appropriation of the waters of said Paulina Creek on the 21st day of October, 1908, for the irrigation of 120 acres in the SE $\frac{1}{4}$  of Section 24, Township 21, S. R. 10 E. W. M., by beginning the construction of ditches leading from said stream to his said land and be proceeding to clear and prepare his said land for irrigation, but has not yet applied said water to a beneficial use; that he has not had sufficient time in which to complete his appropriation, although he has used due diligence in his prosecution of same; that he be allowed until January 1st, 1913 in which to complete such appropriation, and be allowed to divert water from said stream sufficient to irrigate said 120 acres, or any part thereof, not to exceed the rate of one (1) second foot to each seventy acres thereof, as of the priority of October 1st, 1908; that upon the expiration of said time, to-wit: January 1st, 1913, the Water Superintendent of Water Division No. 2, shall, after notice to said Fordham or his successor in interest, take proof or evidence as to whether said appropriation has been completed; that the said Board of Control shall make findings thereon and that a supplemental decree be entered pursuant thereto.

It is hereby further ordered, adjudged and decreed that E. G. Rourk initiated an appropriation of the waters of said Paulina Creek in April, 1908, for the irrigation of 53 $\frac{1}{2}$  acres in the N $\frac{1}{2}$  of the SE $\frac{1}{4}$  of Section 30, Tp. 21 S. R. 11 E. W. M., in addition to the land already irrigated by him as above declared, by the construction of ditches and preparation of the land for irrigation, but has not yet irrigated the said 53 $\frac{1}{2}$  acres; that he has not had sufficient time in which to complete his said appropriation, although he has used due diligence in his prosecution of the same; that he be allowed until January 1st, 1913, in which to complete such appropriation and be allowed to divert water from said stream, (in addition to the water allowed him herein) sufficient to irrigate said 53 $\frac{1}{2}$  acres, or any part thereof, not to exceed the rate of one (1) second foot to each seventy (70) acres thereof, as of the priority of April, 1908; that upon the expiration of said time, to-wit: January 1st, 1913, the Superintendent of Water Division No. 2, shall, after notice to said Rourk, or his successor in interest, take proof or evidence as to whether said appropriation has been completed; that the Board of Control shall make findings thereon, and that a supplemental decree be entered pursuant thereto.

It is hereby further ordered, adjudged and decreed that all appropriations of water from said stream, as found herein, are limited to a beneficial use by the appropriators for the purposes therein specified.

It is hereby further ordered, adjudged and decreed that the use of water for domestic purposes includes household use and water for live stock throughout the year.

It is hereby further ordered, adjudged and decreed that all appropriations of water from said stream for domestic purposes as found herein are limited to a sufficient amount for the needs of the appropriator not to exceed the rate of one-fortieth ( $1/40$ ) second foot to each one thousand (1000) head of stock; Provided, that the amount of water for irrigation specified herein, includes the water for domestic purposes to which said appropriator is entitled during the irrigation season.

It is hereby further ordered, adjudged and decreed that Grover H. Caldwell, L. C. Caldwell, Hubert C. Caldwell, R. H. Caldwell, Elizabeth V. Rease, and D. F. Rease, have, and since the year 1899 have had the right to use the waters now or to be stored in Paulina Lake to a height of eight feet above the normal lake outlet, to supplement the regular flow of Paulina Creek, so as to deliver, for irrigation, to the above described lands of each of said parties respectively, an amount of water not to exceed the amount of water to which said land is entitled as above stated; and that all of said rights to the use of said stored waters are co-equal in priority. Also that said persons have co-equal rights in all of the said waters so stored which have been, on or before January 1st, 1914, put to a beneficial use, not exceeding, for irrigation, the rate of one cubic foot of water per second for seventy (70) acres; Provided, that all such stored waters not put to a beneficial use as above provided on or before January 1st, 1914, shall revert to the public and be subject to appropriation.

W. L. BRADSHAW  
Judge of the Circuit Court for Crook County, 7<sup>th</sup> Judicial District.

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State of Oregon, )  
 )  
 County of Crook. )

I, Warren Brown, County Clerk for the above named County and State and Clerk of the Circuit Court for said County and State, do hereby certify that the foregoing is a true and correct copy of DECREE based upon the findings and order of determination of the BOARD OF CONTROL, in the Matter of the Determination of the Waters of Paulina Creek and Lake, as the same appears of record in my office at Prineville, Oregon, in Circuit court Journal No. 5 at page 267.

WITNESS my hand and official seal this 2nd day of December, 1910.

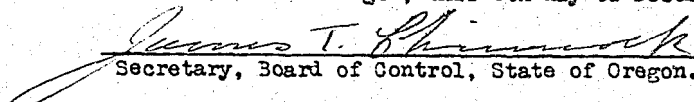
WARREN BROWN,

County Clerk.

State of Oregon, )  
 : ss.  
 County of Marion )

I, James T. Chinmook, Secretary of the Board of Control of the State of Oregon, do hereby certify that the foregoing copy and Transcript of Journal Entry was received in the office of the Board of Control the 6th day of December, 1910, and entered of record herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Board of Control of the State of Oregon, this 6th day of December, 1910.

  
 Secretary, Board of Control, State of Oregon.