

JEFFERSON COUNTY

FINDINGS OF FACT  
AND  
ORDER OF DETERMINATION.

### FINDINGS OF FACT AND ORDER OF DETERMINATION.

That on the 31st day of August, 1914, there was filed in the office of the State Water Board of the State of Oregon a petition signed by Wharton Bros of Antelope, Oregon, and others, requesting a determination of the relative rights of the various claimants to the use of the waters of said stream. That thereupon the State Water Board after a full investigation and due consideration of said petition, finding the facts and conditions such as to justify the making of a determination of the relative rights of the various claimants to the use of the waters of said stream and its tributaries, made and entered an order in the records of said office fixing a time and place for the beginning and making of such an examination of said stream by the State Engineer as would enable said Board to determine the rights of said claimants, and also the time and place for the beginning and taking of testimony by the Superintendent of Water Division No. 2 (now called State Water Superintendent). That the said time and place where the State Engineer or his assistant should begin the examination of said stream was set for Friday the 19th day of July, 1918, and the time when the Superintendent of Water Division No. 2 should attend and take the testimony of the various claimants was set by order of said Board for Saturday, the 20th day of July, 1918, at the grade school building of Jefferson County School District No. 5, at Burnt Ranch, Oregon, beginning at the hour of ten o'clock A. M. and continuing until the hour of four o'clock P. M., and for a period of 30 days thereafter in the office of the Superintendent of Water Division No. 2 at La Grande, Oregon.

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2.

That a notice was prepared by the State Water Board setting forth the date when the State Engineer or his assistant would begin the investigation of the flow of said stream and its tributaries and the ditches diverting water therefrom, and the time and place certain when the Superintendent of Water Division No. 2 would begin the taking of testimony as to the relative rights of the various claimants to the use of the waters thereof, and said notice was published in two successive issues of the Madras Pioneer, a newspaper published weekly at Madras, Jefferson County, Oregon, and in general circulation in the county in which said stream is situated, said two issues being those of May 16 and 23, 1918.

3.

That on the 4th day of June, 1918, the Superintendent of Water Division No. 2 did send by registered mail to each person, firm or corporation claiming a right to the use of the waters of said stream or any tributary thereof, and to each person, firm or corporation owning or being in possession of land bordering on or having access to said stream or its tributaries in so far as said claimants, owners, firms or corporations in possession could be reasonably ascertained, a similar notice to such published notice, setting forth the date when the State Engineer would commence the examination of said stream and its tributaries and the ditches diverting water therefrom, and the time and place when the said Superintendent would commence taking testimony as to the relative rights of the various claimants to the use of the waters of said stream and its tributaries, and the said Superintendent did enclose with each of said notices a blank form upon which said claimants or persons in possession could prepare in writing all of the particulars necessary for the determination of their rights to the waters of said stream or tributary thereof, under oath. That due proof of the publication of said notice and of the sending of said notice and blank form by registered mail has been made and is duly filed and is a part of the record hereof.

4.

That at the time specified in the said original notice a duly qualified assistant of the State Engineer of the State of Oregon did proceed to make an examination of said stream and its tributaries and all of the ditches diverting water therefrom and of the land irrigated and susceptible of irrigation from said ditches and canals, together with the measurements thereof, which observations and measurements were made of record in the office of the State Engineer, and the State Engineer did prepare a plat and map on a scale of measurement of four inches to the mile, showing

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with substantial accuracy the course of said stream and its tributaries and the location of the various ditches diverting water therefrom and the legal subdivisions of land which had been irrigated or which were susceptible to irrigation from said ditches and canals already constructed, blue prints and copies of said maps and information duly certified to by the State Engineer being now on file herein and a part of the record hereof.

5.

That statements and proofs of claimants to the use of the waters of said stream and its tributaries were filed with the Superintendent of Water Division No. 2 by the following named persons, firms and corporations:

|                                                     |                      |
|-----------------------------------------------------|----------------------|
| Kaser, Jacob                                        | Antelope, Oregon.    |
| Prineville Land & Livestock Co., 4th & Oak Streets, | Portland, Oregon.    |
| Shrum, Roy                                          | Burnt Ranch, Oregon. |
| Wharton, W. M.                                      | Burnt Ranch, Oregon. |

6.

That Anna E. LaFollette, Burnt Ranch, Oregon, and Walter N. Lidwick, Burnt Ranch, Oregon, were duly notified by registered mail and by publication of said notice as hereinbefore set forth, and that each of them, although so notified, has failed, neglected and refused to appear herein and submit proof of their rights to the use of the waters of said stream, if any they have or claim, and that such parties are in default, and that such default is here and now entered against them and each of them is hereby enjoined and inhibited from using or asserting any rights to the use of the waters of said stream and its tributaries except by, through or under the rights of such persons, firms or corporations whose water rights are defined herein, or under and by virtue of appropriations hereafter made in accordance with law.

7.

That upon the completion of the taking of testimony by the Superintendent of Water Division No. 2, said Superintendent did on the 5th day of September, 1918, give notice by registered mail to each of the various claimants to the waters of said stream and its tributaries that at the time and place mentioned in said notice, to-wit: Beginning on Monday the 23rd day of September, 1918, and ending on Saturday the 5th day of October, 1918, (Sundays excepted) from nine to twelve o'clock A. M. and from two to five o'clock P. M. at the office of the Superintendent of Water Division No. 2

in La Grande, Union County, Oregon, all of said evidence would be open to inspection by the various claimants or owners, and said Superintendent did, in accordance with said notice, attend<sup>at</sup> said times and places and keep said evidence open for the period named in said notice. That said notice did also state therein the county in which the determination of the State Water Board would be heard by the Circuit Court, to-wit: the County of Jefferson. That due proof of the sending of said notice by registered mail and the holding of said inspection has been made and filed herein.

8.

That within the time fixed by law therefor, the following contests were initiated by the filing with said Superintendent of notices or statements of contest in writing, and the said Superintendent did thereafter fix a time and place for the hearing of said contests, and in the case of each contest, the contestant and each person, association, or corporation whose rights were thereby contested, were duly and regularly notified of the time and place fixed for the hearing of such contest, said contests being as follows, to-wit:

Contest No. 1 Roy Shrum,

Contestant

vs

Prineville Land & Livestock Co.,  
a corporation

Contestee

Contest No. 2 Jacob Kaser,

Contestant

vs

W. M. Wharton,

Contestee.

Contest No. 3 Jacob Kaser,

Contestant

vs

Prineville Land & Livestock Co.,  
a corporation,

Contestee

Contest No. 4 Prineville Land & Livestock Co.,  
a corporation

Contestant

vs

Jacob Kaser

Contestee

9.

CONTEST NO. 1 - ROY SHRUM, Contestant, vs. PRINEVILLE LAND AND LIVESTOCK COMPANY, a corporation, Contestee.

This contest was set for hearing and pursuant to notice regularly given, came on to be heard before R. W. Potter, duly authorized reporter. From the evidence taken before said reporter, it appears that the first appropriation of water for the irrigation of the lands of the contestee was initiated by the construction of the East Freitas ditch in the year 1884, for the irrigation of 25 acres of contestee's land, and that said lands were reclaimed and irrigated thereafter within a reasonable time, and that said irrigation has been continued to the present time. In the year 1888 a ditch was constructed on the west side of Cherry Creek, diverting water therefrom for the irrigation of two (2) acres of contestee's lands, but the use of said ditch was discontinued in the year 1900. In the year 1910 a lateral ditch, referred to as the West Freitas ditch, was constructed, tapping the East Freitas ditch on the east side of Cherry Creek, and extending therefrom across the channel of Cherry Creek by means of a flume, and covering sixteen acres of land on the west side of the channel of Cherry Creek. That twenty-six years had elapsed from the time contestee's water right was initiated until the construction of said lateral ditch known as the West Freitas ditch, and that such time does not show due diligence on the part of the contestee and the doctrine of relation cannot therefore apply. The Board further finds that the construction of said lateral ditch in the year 1910 was not made in compliance with the law requiring appropriators to obtain a permit from the State Engineer to appropriate water, and that therefore no water right has been perfected thereby. That the rights of the Prineville Land & Livestock Company, contestee herein, are as set forth in the tabulation and general findings herein contained.

10.

CONTEST No. 2 - JACOB KASER, Contestant, vs W. M. WHARTON, Contestee.

This contest regularly came on for hearing before R. W. Potter, duly appointed reporter, and after the hearing of said contest it being made to appear that Jacob Kaser had succeeded to all of the rights and interests of said W. M. Wharton, contestee, and upon motion of the contestant, said contest was dismissed.

11.

CONTEST NO. 3 - JACOB KASER, Contestant vs PRINEVILLE LAND AND LIVESTOCK COMPANY, a corporation, Contestee, and

CONTEST NO. 4 PRINEVILLE LAND AND LIVESTOCK COMPANY, a corporation, Contestant, vs. JACOB KASER, Contestee.

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Contests Nos. 3 and 4 being in the nature of cross contests between the same parties, each contesting the other's claims, regularly came on for hearing before R. W. Potter, duly appointed reporter, and from the evidence and testimony so taken the Board finds and it is hereby ordered,

That the rights of the contestants and the contestees named in said contests, are as set forth in the tabulation herein contained, except as herein otherwise provided.

12.

That the following named claimants are the holders of permits issued by the State Engineer of Oregon, and that the rights initiated by the applications made to said State Engineer for each of said permits, shall be completed and perfected in accordance with the terms and conditions set forth in said permits and the laws of the State of Oregon, and that the name of claimants holding such permits, together with the permit number, the date of priority, and the stream from which the appropriation is to be made, are as follows, to-wit:

| Name and Post Office<br>address of appropriator. | Stream       | Date of relative<br>priority | No<br>acres | Permit<br>No. |
|--------------------------------------------------|--------------|------------------------------|-------------|---------------|
| Shrum, Roy<br>Burnt Ranch, Oregon.               | Cherry Creek | April 20, 1914               | 20          | 2197          |
| Wharton, W. M.<br>Burnt Ranch, Oregon.           | Cherry Creek | December 12, 1916            | 26          | 3234          |

13.

That Cherry Creek and its tributaries form a natural water course, rising in the Blue Mountains in the eastern part of Jefferson County and flowing thence northerly and easterly to its junction with the John Day River, and that said stream is entirely situated within Jefferson County. That the flow of said stream is subject to great fluctuation in accordance with the season and weather conditions, and that during the spring freshets the water flowing is more than sufficient to provide for the lands of the claimants herein, but that the flow of said stream fails early in the season, after which water is available for only a small proportion of the lands for which a water right herein is claimed.

14.

That the soil of the irrigable lands lying along said stream consists chiefly of sandy or silty loam in places mixed with gravel and alluvial deposits carried from the erosion of the adjoining hills, underlaid with a subsoil of clay or gravel; and crops grown

consist of alfalfa, hay and grain, and family gardens and orchards; and that the land is semi-arid in character; and that irrigation is necessary to properly mature the crops grown.

15.

#### DUTY OF WATER

That a proper head of water is necessary for the most successful and economical irrigation of a piece of land, and that three acre feet of water measured at the point of diversion is a sufficient quantity to apply on one acre for the proper irrigation thereof during any one season; that a continuous flow of one-eightieth of a second foot will supply such quantity in approximately one hundred and twenty days, but that a head of water of one-eightieth of a second foot per acre is inadequate for the irrigation of an acre; that in order to irrigate any land it is not necessary to keep a continuous flow of water upon each and every acre of the same, and that the intermittent use of water on each acre of land makes it possible to use a set system of rotation so that the head of water necessary for the irrigation of an acre is obtained.

That in order to meet the foregoing conditions, the rights to the use of water from Cherry Creek and its tributaries, except as otherwise provided herein, shall be limited to the diversion of not to exceed one-fortieth of a second foot per acre up to July 1st of each year and thereafter not to exceed one-eightieth of a second foot per acre; and the total quantity of water diverted during the irrigation season shall not exceed three acre feet per acre.

16.

That all claimants herein for water for irrigation shall be entitled to use such water for stock and domestic purposes, and the right of use for stock and domestic purposes is hereby confirmed and entitled the owner of such right to divert and use such a quantity of water as is reasonably necessary for his domestic and household use and for stock purposes, provided the amount so diverted and used shall not exceed the rate of one-fortieth of one cubic foot per second for each one thousand head of stock, and the quantity of water diverted for irrigation purposes during the irrigation season shall include such an amount as may be reasonably necessary for said stock and domestic purposes, but the right to divert and use water for stock and domestic purposes shall continue throughout the year.

17.

That the rights to the use of water for irrigation purposes hereby confirmed are appurtenant to the lands herein described, and the rights of use of the waters of said

stream and its tributaries by virtue of such rights, are limited and confined to the irrigation of the lands herein described to the extent of said lands herein set forth, and the priorities of right herein confirmed, confer no right of use of the waters of said stream and its tributaries on any lands other than those specified tracts to which such rights are herein set forth as appurtenant, and each and every person shall be, and hereby is, prohibited, restrained and enjoined from diverting and using water from said stream on such other lands without lawful permit first obtained from the State Engineer.

18.

That the order of the rights of the respective appropriators of waters of said stream and its tributaries, and in which order they are entitled to divert and use the said waters shall be and is according to the date of the relative priority of the rights as herein set forth and determined, and the first in order of time according to the date of relative priority shall be and is the first in order of right and so on down to the date of the latest right, and those having prior rights are entitled to divert and use the waters of said stream and its tributaries when necessary for beneficial use in connection with the irrigation of their respective lands or other useful and beneficial purposes for which they are decreed the right of use, at all times against those having subsequent rights without let or hinderance; and whenever the water is not required by the appropriator having a prior right to its use for the purpose for which said water was appropriated, he must and shall permit it to flow down the natural channel of the stream as it was wont to flow in its natural course without hinderance or diversion thereof, and those having subsequent rights are entitled to the use of such water and to divert the same to the extent of their rights of appropriation according to the order of priority of their rights; and at all times the waters shall be beneficially, economically, and reasonably used without waste by those having a right to the use of such waters and no rights of appropriation are hereby confirmed to divert a greater quantity of water into the head of the ditch or ditches of the appropriator having valid right to divert water than such appropriator can beneficially use for the purpose to which the water is to be put.

19.

The Water Master of the district in which Cherry Creek and its tributaries are situated, shall arrange such system or systems of rotation as may be best applicable, either by giving a greater amount of water for a proportionately less time, or by arranging such appropriators in groups or systems for such rotation. first giving 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 complete rotation through the whole group or system as the appropriation of the first appropriator bears to the combined appropriations of said appropriators, and shall serve the next appropriator in priority next 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 water shall be repeated in the same manner throughout the irrigating season. And in case any two or more appropriators in said group shall have the same priority, then the said Water Master shall distribute the water as between those having the same priority to the one whose ditch taps the stream next its source first, and the next lower down next, and so on. And when two or more appropriators agree among themselves as to a manner and system of rotation in the use of their water, the said Water Master shall distribute their water in accordance with such agreement. That in case the water flowing in the channel of Cherry Creek sinks or fails to flow down the channel thereof so as to be of beneficial use to the appropriator having the prior right to its use, the Water Master shall allow the diversion thereof by the next in order of priority who can make a beneficial use of such water, providing that nothing contained in these findings shall operate to interfere with the prior rights of any appropriator not a member of any of such groups or systems of rotation.

20.

That the name and address of each appropriator of waters from said Cherry Creek and its tributaries arranged in a tabulated form, together with the date of relative priority of such appropriation, the number of acres to which such appropriation is applied, the use or uses for which said water was applied and is now limited, the name of the ditch or ditches through which the water so appropriated is diverted, the name of the stream or streams from which the water so appropriated is diverted, and the description of the land upon which such water is used, the tabulated rights of each appropriator, being set opposite and following the name and post office address of each appropriator, are as follows, to-wit:

And the State Water Board of the State of Oregon, being fully advised in the premises, it is hereby CONSIDERED AND ORDERED that the relative rights to the use of the waters of the said Cherry Creek and its tributaries, are hereby adjudicated, determined, and settled in accordance with and as set forth in the foregoing findings.

STATE WATER BOARD OF OREGON

By *Percy A. Cooper*  
PERCY A. COOPER,

State Engineer, President.

(SEAL OF STATE WATER BOARD)

*GEO. T. COCHRAN*  
GEO. T. COCHRAN,

State Water Superintendent.

ATTEST:

*R. W. Potter*  
R. W. POTTER.

Secretary.

consist of alfalfa, hay and grain, and family gardens and orchards; and that the land is semi-arid in character; and that irrigation is necessary to properly mature the crops grown.

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17.

That the rights to the use of water for irrigation purposes hereby confirmed are appurtenant to the lands herein described, and the rights of use of the waters of said

stream and its tributaries by virtue of such rights, are limited and confined to the irrigation of the lands herein described to the extent of said lands herein set forth, and the priorities of right herein confirmed, confer no right of use of the waters of said stream and its tributaries on any lands other than those specified tracts to which such rights are herein set forth as appurtenant, and each and every person shall be, and hereby is, prohibited, restrained and enjoined from diverting and using water from said stream on such other lands without lawful permit first obtained from the State Engineer.

18.

That the order of the rights of the respective appropriators of waters of said stream and its tributaries, and in which order they are entitled to divert and use the said waters shall be and is according to the date of the relative priority of the rights as herein set forth and determined, and the first in order of time according to the date of relative priority shall be and is the first in order of right and so on down to the date of the latest right, and those having prior rights are entitled to divert and use the waters of said stream and its tributaries when necessary for beneficial use in connection with the irrigation of their respective lands or other useful and beneficial purposes for which they are decreed the right of use, at all times against those having subsequent rights without let or hinderance; and whenever the water is not required by the appropriator having a prior right to its use for the purpose for which said water was appropriated, he must and shall permit it to flow down the natural channel of the stream as it was wont to flow in its natural course without hinderance or diversion thereof, and those having subsequent rights are entitled to the use of such water and to divert the same to the extent of their rights of appropriation according to the order of priority of their rights; and at all times the waters shall be beneficially, economically, and reasonably used without waste by those having a right to the use of such waters and no rights of appropriation are hereby confirmed to divert a greater quantity of water into the head of the ditch or ditches of the appropriator having valid right to divert water than such appropriator can beneficially use for the purpose to which the water is to be put.

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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 complete rotation through the whole group or system as the appropriation of the first appropriator bears to the combined appropriations of said appropriators, and shall serve the next appropriator in priority next 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 water shall be repeated in the same manner throughout the irrigating season. And in case any two or more appropriators in said group shall have the same priority, then the said Water Master shall distribute the water as between those having the same priority to the one whose ditch taps the stream next its source first, and the next lower down next, and so on. And when two or more appropriators agree among themselves as to a manner and system of rotation in the use of their water, the said Water Master shall distribute their water in accordance with such agreement. That in case the water flowing in the channel of Cherry Creek sinks or fails to flow down the channel thereof so as to be of beneficial use to the appropriator having the prior right to its use, the Water Master shall allow the diversion thereof by the next in order of priority who can make a beneficial use of such water, providing that nothing contained in these findings shall operate to interfere with the prior rights of any appropriator not a member of any of such groups or systems of rotation.

20.

That the name and address of each appropriator of waters from said Cherry Creek and its tributaries arranged in a tabulated form, together with the date of relative priority of such appropriation, the number of acres to which such appropriation is applied, the use or uses for which said water was applied and is now limited, the name of the ditch or ditches through which the water so appropriated is diverted, the name of the stream or streams from which the water so appropriated is diverted, and the description of the land upon which such water is used, the tabulated rights of each appropriator, being set opposite and following the name and post office address of each appropriator, are as follows, to-wit:

| Name and Postoffice Address of Appropriator     | Date of Relative Priority | Amount Cubic Feet Per Second | Number Acres | Use        | Name of Ditch                  | Stream       | Description of Land or Place of Use                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------------------|---------------------------|------------------------------|--------------|------------|--------------------------------|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Kaser, Jacob<br>Antelope, Ore.<br>(Proof No. 1) | 1879                      |                              | 23.5         | Irrigation | Kaser No. 1                    | Cherry Creek | 4 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$<br>3 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$<br>14 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$<br>2.5 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$<br>Section 34,<br>T 9 S. R. 19 E. W. M.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| (Proof No. 2)                                   | 1879                      |                              | 19           | Irrigation | Kaser No. 2<br>(Good-Raush)    | Cherry Creek | 2 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$<br>3.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$<br>12.5 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$<br>1 acre in SE $\frac{1}{4}$ NW $\frac{1}{4}$<br>Section 34,<br>T 9 S. R. 19 E. W. M.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| (Proof No. 3)                                   | 1874                      |                              | 61.5         | Irrigation | Kaser Nos. 3, 4, 5, 6, 7, 8, 9 | Cherry Creek | 2 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$<br>Section 20<br>7.5 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$<br>1 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$<br>1.5 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$<br>4.5 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$<br>10 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$<br>1 acre in SE $\frac{1}{4}$ SW $\frac{1}{4}$<br>1 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$<br>10 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$<br>2 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$<br>Section 29<br>7 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$<br>Section 32<br>11 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$<br>7 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$<br>4 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$<br>3 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$<br>Section 33<br>T 10 S. R. 19 E. W. M. |
|                                                 | 1884                      |                              | 11           |            |                                |              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                 | 1889                      |                              | 6.5          | Irrigation | Kaser No. 8                    | Cherry Creek | 0.5 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$<br>Section 29<br>6 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$<br>Section 32<br>T 10 S. R. 19 E. W. M.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| (Proof No. 4)                                   | 1875                      |                              | 2            | Irrigation | Kaser No. 13                   | Wyman Creek  | 1 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$<br>1 acre in SW $\frac{1}{4}$ NW $\frac{1}{4}$<br>Section 31<br>T 10 S. R. 19 E. W. M.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                                                 | 1902                      |                              | 18.5         | Irrigation | Kaser Nos. 11, 12 & 14         | Wyman Creek  | 1 acre in SW $\frac{1}{4}$ SW $\frac{1}{4}$<br>7 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$<br>2.5 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$<br>1 acre in SW $\frac{1}{4}$ SE $\frac{1}{4}$<br>Section 30<br>7 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$<br>Section 31<br>T 10 S. R. 19 E. W. M.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                                                 | 1903                      |                              | 2            | Irrigation | Kaser No. 10                   | Wyman Creek  | 1 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$<br>1 acre in SE $\frac{1}{4}$ NE $\frac{1}{4}$<br>Section 30<br>T 10 S. R. 19 E. W. M.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                                                 |                           |                              |              |            |                                |              | CHERRY CREEK -10-                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

| Name and Postoffice Address of Appropriator                                                 | Date of Relative Priority                                                     | Amount Cubic Feet Per Second | Number Acres | Use                           | Name of Ditch          | Stream       | Description of Land or Place of Use                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|------------------------------|--------------|-------------------------------|------------------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Kasor, Jacob<br>Antelope, Ore.<br>(Successor in interest to W. F. Wharton)<br>(Proof No. 9) | Dec.12 1916<br><br>(Under State Engineer's permit No. 3234)                   | 0.33                         | 26           | Irrigation                    | N 5                    | Cherry Creek | 18 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$<br>8 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$<br>Section 24<br>T 9 S. R. 19 E. W. M.                                                                                                                                                                                                                                                              |
| (Proof 10)                                                                                  | 1882                                                                          |                              | 32.5         | Irrigation domestic and stock | Wharton Nos 1 and 2    | Cherry Creek | 2.5 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$<br>1 acre in NW $\frac{1}{4}$ SW $\frac{1}{4}$<br>Section 25<br>2 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$<br>9 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$<br>1 acre in SE $\frac{1}{4}$ SW $\frac{1}{4}$<br>9 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$<br>8 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$<br>Section 26<br>T 9 S. R. 19 E. W. M. |
| (Proof No. 11)                                                                              | 1878                                                                          |                              | 56.5         | Irrigation domestic and stock | Wharton No. 3          | Cherry Creek | 8 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$<br>2 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$<br>17 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$<br>28 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$<br>1.5 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$<br>Section 25<br>T 9 S. R. 19 E. W. M.                                                                                                           |
| Prineville Land & Livestock Co.<br>4th & Oak Streets,<br>Portland, Ore.<br>(Proof No. 5)    | 1884                                                                          |                              | 25.5         | Irrigation domestic and stock | East Freitas           | Cherry Creek | 6.5 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$<br>5 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$<br>14 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$<br>Section 4<br>T 10 S. R. 19 E. W. M.                                                                                                                                                                                                            |
| (Proof No. 7)<br><i>See Decree Vol. 7, page 167</i>                                         | 1888                                                                          |                              | 2            | Irrigation and Domestic       | Garden                 | Cherry Creek | 2 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$<br>Section 9<br>T 10 S. R. 19 E. W. M.                                                                                                                                                                                                                                                                                                               |
| Shrum, Roy<br>Burnt Ranch, Ore.<br>(Proof No. 8)                                            | Apr.20 1914<br><br>(Under State Engineer's permit No. 2197, Certificate 1384) | 0.35                         | 20           | Irrigation and domestic       | Thompson $\frac{1}{2}$ | Cherry Creek | 20 acres in W $\frac{1}{2}$ SW $\frac{1}{4}$<br>Section 9<br>T 10 S. R. 19 E. W. M.                                                                                                                                                                                                                                                                                                               |

And the State Water Board of the State of Oregon, being fully advised in the premises, it is hereby CONSIDERED AND ORDERED that the relative rights to the use of the waters of the said Cherry Creek and its tributaries, are hereby adjudicated, determined, and settled in accordance with and as set forth in the foregoing findings.

STATE WATER BOARD OF OREGON

By *Percy A. Cooper*  
PERCY A. COOPER,

State Engineer, President.

(SEAL OF STATE WATER BOARD)

*GEO. T. COCHRAN*  
GEO. T. COCHRAN,

State Water Superintendent.

ATTEST:

*R. W. Potter*  
R. W. POTTER.

Secretary.