

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR UMATILLA COUNTY.

Monday, November 28, 1910. Thirty-sixth Judicial Day.

Court met on this day pursuant to adjournment, present the following:

Hon. H. J. Bean, Circuit Judge  
Frank Saling, Clerk  
T. D. Taylor, Sheriff  
G. W. Phelps, Dist. Atty.

And after due proclamation of the opening of the court by the proper officer the Journal of the last day's proceedings was read and is hereby approved and signed, and among other proceedings the following were had, to-wit:

H. J. Bean, Circuit Judge.

IN THE MATTER OF THE DETERMINATION OF THE )  
RELATIVE RIGHTS TO THE WATERS OF THE EAST )  
BRANCH OF MUD CREEK IN UMATILLA COUNTY, OREGON.)

Now on this day this matter coming on to be heard upon the report of the Board of Control of the Final Determination to the right of water on the East Branch of Mud Creek, filed herein on the 17th day of October, 1910; and it appearing to the court that no exceptions or objections thereto have been filed, except W. J. Curts and H. P. Curts have duly filed herein objections and exceptions to the Findings of said Board of Control as to descriptions of different pieces of land for which water was allowed by said Board, which appear to have been omitted from said report by oversight or mistake; and that F. M. Lockwood filed herein objections and exceptions to said report as to description of land for which water was allowed for irrigation of the Five Acres in the Southeast quarter of the Southeast quarter of Section 17, Township 6, North of range 35, E. W. M., whereas in truth and in fact said land should be described as Five acres in the Southwest Quarter of the Southeast quarter of said Section 17, township 6, North Range 35, E. W. M., and also an error as to 10 acres described as in the Southwest quarter of the Southwest quarter of Section 17, Township 6 North range 35, E. W. M., when in truth and in fact the land should be described as 10 acres in the Southwest quarter of the Southwest quarter of Section 16, Township 6 North range 35 E. W. M., and also an omission in said Determination to make Findings for winter irrigation in addition to the regular summer irrigation as claimed by said F. M. Lockwood and as said claimant has for many years been accustomed to irrigating the lands during the winter season, and his predecessors in interest have so used the said water for winter irrigation; and said W. J. Curts and H. P. Curts having submitted testimony in support of said exceptions and in support of the facts alleged in their petition filed herein, and said F. M. Lockwood having submitted testimony in support of the facts alleged in said objection, exceptions and petition filed herein, and the court having duly considered the same, finds that the allegations of fact in said exceptions and petition of said W. J. Curts and H. P. Curts are sustained by the evidence taken and filed herein, and that the allegations of facts in the exceptions and petition of F. M. Lockwood are sustained by the evidence taken and filed herein, and the court having duly made and filed its Findings of fact as to matters alleged in the exceptions and petition of W. J. Curts and H. P. Curts, and also having made and filed its findings of fact as to matters alleged in the exceptions and petition of F. M. Lockwood filed herein;

Now therefore, based upon said Findings of fact and report of the Determination of the Board of Control filed herein, it is hereby ordered, adjudged and decreed by the court that the determination of the Board of Control in the above entitled matter filed herein on the 17th day of October, 1910, be corrected and changed as to the petition and exceptions of W. J. Curts and H. P. Curts, that the same be changed and corrected as to the petition and exceptions of F. M. Lockwood, and that paragraph 14 of the Findings and Determinations of the Board of Control filed herein on said date be and they are hereby corrected and modified so as to read as follows:

## Order Record=Board of Control=State of Oregon

(14)

That the name of each appropriator of water for said stream, arranged in alphabetical order herein, with his postoffice address, and, set opposite such name and post-office address in the following tabulated statement, the date of relative priority of such appropriation, the amount in cubic feet per second of time of such appropriation, the number of acres to which such water is applied and is now limited, with the season during which such water is used for irrigation and to which such use is now limited, the name of the ditch or ditches through which such appropriation is diverted, and a description of the legal sub-divisions in which such irrigated land is situated, or of the place where such water is put to a beneficial use, arranged in tabulated form and under the heading indicating the same, are as follows, to-wit:

	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
16	A. Anderson, R.F.D. #1, Freewater, Ore.	1890	.25	10	Irrigation & Stock Apr. to Oct.	Anderson & Bryne	10 ac. in N. of SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 21, Tp. 6 N. R. 35 E. W. M. Gravelly soil
17	John Byrne, #606 Elm St., Walla Walla, Wn.	1891	.16	9 $\frac{1}{2}$	Irrigation Apr. 1 to Nov. 1st.	Byrne	9 $\frac{1}{2}$ ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 21, Tp. 6, N. R. 35 E. W. M. Soil sandy, gravelly.
18	Howard W. Beach, R. F. D. #1, Freewater, Ore.	1895	.05		Domestic	Beach	
19	W. J. Curts, Freewater, Ore. and H. P. Curts R. F. D. #1, Freewater, Ore.	1890 1904 1875	2.8	104	Irrigation & Domestic  <i>Ch. Pt. of Div. Sp. Or. - Vol 9, p 406 of 302 acres.</i>	Curts	4 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 17, Tp. 6, N. R. 35 E. W. M., 10 ac. SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, Tp. 6, N. R. 35 E. W. M.; 17 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 38 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 20 ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 10 ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17 T. 6, N. R. 35 E. W. M.; 5 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 8, Tp. 6, N. R. 35 E. W. M. Soil rocky.
20	A. C. Conrad R. F. D. #1, Freewater, Ore.	1870 1892	.25 .1	16 4	Irrigation Mar. 1st, to Oct. 1	Conrad	12 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 16, Tp. 6, N. R. 35 E. W. M. 8 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 21 Tp. 6, N. R. 35 E. W. M., 12 ac. Loam soil; 8 ac. gravelly soil.
21	T. O. Goodman, P. O. Box 77, Pendleton, Ore.	1885 1906	.13 .13	10 10	Irrigation	Goodman	20 ac. in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 10 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 22, Tp. 6, N. R. 35 E. W. M. Soil loam.
	Carsten Grosgebauer, R. F. D. No. 1, Freewater, Ore.	1870 1892	.14 .05	6 4	Irrigation Mar. 1 to Nov. 15.	Mantz-Conrad et al	4 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 16 Tp. 6, N. R. 35 E. W. M. 6 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 21. Same Tp. and Range, Soil 5 ac. gravelly.
23	Nick Grosgebauer, R. F. D. # 1, Freewater, Ore.	1881	.38	20	Irrigation Apr 1 to Sept. 20	Grosgebauer	20 ac. N Side SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 22 Tp. 6, N. R. 35 E. W. M. Solid volcanic ash, 5 ac. gravelly.
24	Mary J. Holbrook, R. F. D. #1, Freewater, Ore.	1892	.25	10 $\frac{1}{2}$	Irrigation Apr 1 to Oct. 1st	Holbrook	10 $\frac{1}{2}$ ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 21, Tp. 6, N. R. 35 E. W. M. Soil gravelly.
25	F. M. Lockwood, 833 Hobson St. Walla Walla, Wn.	1888 1890 1888 1890 1885	.25 .5 .88 1.00 .13	10 40 35 83 10	Irrigation & Domestic Apr 1 to Sept 15 & Winter Irrigation	Lockwood Ditches	10 ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 17 Tp. 6, N. R. 35, E. W. M. - gravelly soil. 40 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 17, Tp. 6, N. R. 35, E. W. M. reclaimed alkali; 15 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 20 ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 17, Tp. 6, N. R. 35 E. W. M. - gravelly soil; 29 ac. in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 4 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 5 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 40 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 5 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 17, Tp. 6, N. R. 35, E. W. M. reclaimed alkali; 10 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 16, Tp. 6, N. R. 35 E. W. M. reclaimed alkali.
26	William Mantz, R. F. D. #1, Freewater, Ore.	1865 1870 1892	.25 .25 .18	15 15 10 $\frac{1}{2}$	Irrigation, Domestic & Stock March to October	Mantz et al. Two Ditches	3 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 1 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 16; 24 $\frac{1}{2}$ ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 12 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 21; Tp. 6 N. R. 35 E. W. M. Soil, sand and gravel loam. <i>should be 35<math>\frac{1}{2}</math></i>
27	S. B. Merriman, R. F. D. #1, Freewater, Ore.	1896	.12	6	Irrigation, Domestic & Stock. Apr 1 to Sept 1 <i>(7-3159) chg. pt. of div for 5.5 ac. Sp. Or. Vol 23, p 283</i>	S. B. Merriman	6 ac. in W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 22, Tp. 6 N. R. 35 E. W. M. Soil, volcanic ash.
28	Henry Merriman	1902	.1	8	Irrigation Apr 1 to Oct 1	Winter & Merriman	8 ac in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 22, Tp. 6, N. R. 35 E. W. M., Soil volcanic ash.
29	G. Rencken, R. F. D. #1, Box 90 Freewater, Ore.	1888 1890	.18 .35	10 28	Irrigation, Domestic & Stock Mar to Oct	Rencken Two Ditches	10 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 21, Tp. 6, N. R. 35 E. W. M. Loam soil, slightly gravelly; 4 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 11 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 13 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 16, Tp. 6, N. R. 35, E. W. M. loam soil.

*East Dr. Mud Ev.*

*Subscribed:  
Dist. No. 27924*

*Correction Certificate  
3199 Confirmation  
holder Min. Bk. p 390*

*43791-47747*

*54528*

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.
30 A. T. Smith, R. F. D. #1, Freewater, Ore.	1895	.29	23	Irrigation & Stock Mar to Oct.	Smith	23 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 16, Tp. 6, N. R. 35 E. W. M. Light loam soil.
31 Frank Sporeleder, R. F. D. #2, Walla Walls, Wash.	1892	.13	10	Irrigation & Stock Mar to Sept.	Sporeleder Ditch	10 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 16, Tp. 6, N. R. 35, E. W. M. Light loam soil.
32 832 265 Louis Winter, R. F. D. #1, Freewater, Ore.	1881	.31	25	Irrigation & Domestic May 1 to Sept. 15	Winter	<sup>10</sup> 15 ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; <sup>15</sup> 10 ac. in NW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 22, Tp. 6, N. R. 35 E. W. M. Volcanic ash soil.

*corrected by Decree dated  
Oct. 27, 1967. Vol. 16, p. 545*

And that said Findings and Order of Determination of said Board of Control as so modified and corrected and in all other things be affirmed.

State of Oregon, )  
                          ) SS.  
Umatilla County.)

I, Frank Saling, County Clerk in and for said County and State, and ex-officio Clerk of the Circuit Court of the State of Oregon for Umatilla County, do hereby certify that the foregoing copy of Journal Entry re East Branch Mud Creek has been by me compared with the original, and that it is a correct transcript therefrom, and of the whole of such original, as the same appears of Record and on file at my office, and in my custody.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court this 30th day of January, A. D. 1911.

(Seal County Court,  
Umatilla county, Oregon.)

Frank Saling, Clerk.

State of Oregon, )  
                          ) SS.  
County of Marion. )

I, Robert Eakin, Jr., 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 1st day of February, 1911, and entered of record herein on this 1st day of February, 1911.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Board of Control of the State of Oregon, this 1st day of February, 1911.

Robert Eakin Jr.  
Secretary, Board of Control, State of Oregon.