

BEFORE THE BOARD OF CONTROL OF THE STATE OF OREGON  
WATER DIVISION NO. 2. BAKER AND UNION COUNTIES.

IN THE MATTER OF THE DETERMINATION OF THE )  
RELATIVE RIGHTS OF THE VARIOUS CLAIMANTS )  
TO THE WATERS OF NORTH POWDER RIVER, AND )  
ITS TRIBUTARIES, A TRIBUTARY OF POWDER )  
RIVER. )  
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FINDINGS OF FACT AND ORDER OF DETERMINATION.

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Now on this 22nd day of January, 1912, the above entitled matter coming before the Board of Control of the State of Oregon, at an adjourned meeting of said Board, commenced and held on said day, and it appearing to the said Board that all the evidence taken at the original hearing and in all contests herein has been filed in the office of said Board, and the said Board having carefully considered all of the said evidence, proofs and testimony taken, and the information and data gathered by the State Engineer, and being now fully advised in the premises, makes and orders to be entered of record in its office the following

FINDINGS OF FACT:

I.

North Powder River is a non-navigable, perennial, natural watercourse and stream, with well defined bed and banks and channel, and rises in the Blue Mountains, flowing in a general northeasterly direction to the Powder River, of which it is a tributary; and for a portion of its course forms the boundary line between Baker and Union Counties, Oregon; and since time immemorial has flowed, and continues to flow, in its natural channel, except as the waters are diverted therefrom, as hereinafter set forth.

II.

That Anthony Creek, or the North Fork of said North Powder River, is a well defined, natural watercourse, having banks, a bed and channel, having its sources of supply in the Blue Mountains, in Union County, Oregon, and flowing thence (as it has flowed since time immemorial) in a general southeasterly direction to North Powder River, of which it is a tributary, about nine miles above the point of confluence of said last named stream with main Powder River.

III.

That Pilcher Creek, Dutch Flat Creek and Antoine Creek are small, natural watercourses, tributaries of said North Powder River, and forming a part of the supply of the waters annually flowing in the channel thereof.

IV.

That during the months of May, June, July, August and September of each year, the rainfall in the counties of Baker and Union, Oregon, is light, and the lands in the valley of said North Powder River, and other lands susceptible of irrigation therefrom, become, during the crop-growing period of each year, dry, arid and unproductive, and without moisture, are of little value, and that in order to render said lands productive, it is, and has been at all times ne-

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cessary to divert and use the waters of said North Powder River, and its tributaries, for the irrigation of lands susceptible of irrigation therefrom, and that with irrigation, the said lands yield annually valuable crops of hay, grasses, alfalfa, and grains and produce pasturage for cattle, horses, and other live-stock.

V.

That about the year 1865, the lands through and across which said stream and its tributaries now flow were public, vacant and unoccupied lands of the United States, and the waters then flowing in the same were free and unappropriated and subject to appropriation; that commencing about that year, and subsequent thereto, the claimants hereinafter named, or their predecessors in interest, at different times, initiated rights of appropriation of the waters of said stream and its tributaries, and reclaimed and cultivated the lands in the valley of said stream, and constructed ditches diverting the waters thereof down to and upon said lands, using the said waters so diverted for irrigation and stock and domestic purposes.

VI.

That the lands irrigated from said stream and its tributaries are situated in the counties of Baker and Union, Oregon, and that said stream and its tributaries are situated wholly within said counties.

VII.

That commencing about the first of April of each year, the waters of said stream and its tributaries commence to rise from melting snow in the mountains and in the valley, and the flow thereof increases rapidly during the months of May and June, but about the middle of July the waters of said stream commence to subside, and in the latter part of July and in August and September, the flow of said stream becomes so depleted as to be insufficient to supply the various ditches diverting water therefrom with water necessary for the irrigation of the crop requiring later irrigation; and that said stream and its tributaries remain in such condition until about the first of October of each year, when the fall rains commence; that the chief source of supply for said stream and its tributaries consists of the snows which fall during the winter months in the Blue Mountains, which during the irrigation season melting, flow down the channels of said streams; and that the flow of said streams vary greatly from year to year.

VIII.

That on the 22nd day of May, 1909, there was filed in the office of the Board of Control of the State of Oregon a petition, signed by Andrew O. Lun, requesting a determination of the relative rights of the various claimants to the waters of said stream; that said petitioner is a water user of the waters of said North Powder River, as appears from the Order of Determination herein; that said Board did, after full investigation and due consideration of said petition, find the facts and conditions such as to justify the making of a determination of the relative rights of the various claimants to the waters of said stream, and the tributaries thereof, and accordingly made and entered its order in the records of said office fixing a time and place for the beginning of taking of testimony and the making of such an examination as would enable it to determine the rights of said claimants.

IX.

That a notice was prepared by said Board setting forth the date when the State Engineer, or his assistant, would begin the investigation of the flow of said stream 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 rights of the various claimants to the waters thereof; and the said notice was published in two issues of "The Morning Democrat," a

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newspaper published at Baker City, Baker County, Oregon, and of general circulation in the counties of Baker and Union, Oregon, the date of the last publication of said notice being more than thirty days prior to the date fixed for the making of said examination and measurement of said streams and ditches by the State Engineer and for the beginning of the taking of testimony by the Division Superintendent, to-wit: the 27th day of August, 1910.

## X.

That the Superintendent of Water Division No. 2 of the State of Oregon did, more than thirty days prior to the date fixed therein for the making of such examination by the State Engineer, or for the taking of testimony therein, send by registered mail to each person, firm and corporation claiming a right to the use of any of the waters of said stream, or any tributary thereof, and to each person, firm and corporation owning or being in possession of the lands bordering on or having access to said stream, or its tributaries, in so far as said claimants, owners, or persons 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 certain when the Superintendent of said water division would commence the taking of testimony as to the relative rights of the various claimants to said stream and tributaries, and that said Superintendent did enclose with each of said notices a blank form upon which said claimant, or the person in possession, should present in writing all the particulars necessary for the determination of his rights to the waters of said stream, or a tributary, under oath.

## XI.

That due proof of publication of said notice and of the sending of said notice by registered mail has been made and is duly filed and is now a part of the record hereof.

## XII.

That upon the date named in said notice so published and sent, at the place therein specified, to-wit: on Tuesday, the 4th day of August, 1910, at the hour of ten o'clock A. M., at the City Hall, in the town of North Powder, Union County, Oregon, and on Thursday, the 6th day of October, 1910, at the hour of ten o'clock A. M. in the Circuit Court Room, in the Court House, in Baker City, Baker County, Oregon, the said Superintendent of Water Division No. 2, did commence the taking of testimony as to the relative rights of said claimants, and did continue the taking of the same until completed.

## XIII.

That the following named persons, firms and corporations were duly notified by registered mail and by publication of said notice as hereinbefore set forth, but that each and all of them, although so notified, have failed, neglected, and refused to appear herein and submit proof of their rights to the waters of said stream, if any they have, or claim, and that each of said parties are in default herein, and that said default should be and hereby is entered, to-wit: Edward Ashby, Mrs. H. J. Atteberry, James Anderson, Bank of Commerce of Boise, Idaho, Ephriam Barnes, Thomas Burns, Mrs. E. W. Barnes, W. J. Cavender, John Craig, Oscar Dennings, Emile Forsey, J. M. Gilkison, H. O. Gorham, W. E. Hill, C. A. Holmstrom, S. P. Herring, John Haines, W. E. Haines, H. L. Haines, R. E. Haines, Will Henderson, John Holinger, Mrs. A. R. Hunter, Chas. Harrison, Bennett Harrison, Ira Harrison, Walter Jones, Mrs. F. E. Lynch, Miles Lee, Frank Leonig, J. E. Lenhart, George Lee, E. L. Ledbetter, J. A. McLaren, Mrs. M. McCurry, L. B. Moora, I. W. Maharry, E. Mott, C. Oleson, Oscar Moody, W. L. Moody, Violet Parker, Powder Valley State Bank of North Powder, William Pearson, T. J. Pearce, Harrison Pearson, Ed Riggs, James Riggs, Miran Riggs,

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John Rizor, S. A. Rollins, Otto Schuman, D. B. Sheriff, Howard Sloane, M. R. Shord, Harry Slater, Mrs. A. H. Titus, A. F. Tally, Sanford Vandecarr, Vern Webb, Clarence Wilson, John Yankee, and George Young.

XIV.

That upon the 1st day of January, 1911, George T. Cochran succeeded F. M. Saxton as Superintendent of Water Division No. 2 of the State of Oregon, and thereafter and prior to the opening of the testimony taken at the original hearing herein to public inspection, it appearing to the Board of Control that said Superintendent of Water Division No. 2 was interested in the waters of said stream, and its tributaries, and that he had at the time of the original hearing appeared on behalf of and for various claimants to the waters thereof as their attorney, it was ordered that the further taking of testimony and further proceedings in the matter of the adjudication of said rights should be had by and under the direction of the Superintendent of Water Division No. 1 of the State of Oregon.

XV.

That upon the completion of the taking of testimony by the Superintendent of Water Division No. 1, he did at once give notice by registered mail to each of the various claimants to the waters of said stream, and its tributaries, that at a time and place named in said notice, not less than ten days thereafter, all of said evidence would be open to the inspection of the various claimants or owners, and that said Division Superintendent did, in accordance with said notice, keep said evidence open to inspection at said place for a period of ten full days, and that said notice did also set forth the county in which the determination of the Board of Control would be held by the Circuit Court, to-wit: the Circuit Court of the State of Oregon for the County of Union, due proof of the holding of said inspection and of the sending of said notices by registered mail being a part of the record herein.

XVI.

That at the time specified in said original notice, the 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 of the works diverting water therefrom and an examination and approximate measurement of the lands irrigated and susceptible of irrigation from said ditches and canals, which said observations and measurements were made a matter of record in the office of said State Engineer; that the State Engineer did prepare a plat and map, on a scale of measurement of one inch to the mile, showing with substantial accuracy the course of said stream, and its tributaries, and the location of each ditch and canal diverting water therefrom and the legal subdivisions of land which have been irrigated or are susceptible of irrigation from the ditches and canals already constructed, blue prints and copies of said maps, duly certified to by said Engineer being now on file herein and a part of the record hereof.

XVII.

That from the maps of the State Engineer and the data and information gathered and submitted by him in the above entitled proceeding, it appears that about 21,000 acres of land, lying in the valley of said stream and its tributaries, and susceptible of irrigation therefrom, have been reclaimed and the waters flowing in said streams diverted into ditches and applied thereto for the irrigation thereof; that about 10,000 acres of said lands are annually cultivated to crops of hay, alfalfa, vegetables of various kinds, fruits, and various perennial grasses, and a large portion thereof is what is termed "grain lands," which are cultivated to crops of wheat, oats, barley, rye and grains of various kinds, and all of said lands are cultivated each year and the water applied thereto during the irrigation season of each year; that about 9,000 acres of said lands are what are termed "summerfallowed lands," which are at intervals cultivated to crops of grain of the various kinds but which it is the custom among the irrigators in said valley to summerfallow, or plow and allow the land so plowed to lie fallow during the irrigation

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season and summer months, generally each year succeeding cultivation of the same, and to the lands so summerfallowed no water is applied; that nearly fifty per cent of the lands termed "summerfallowed lands" are not cultivated during each irrigation season, but are actually summerfallowed and the water not applied thereto; that between 2,000 and 3,000 acres of the lands indicated on the State Engineer's maps as irrigated lands are what is termed "pasturage," to which the water is applied with more or less regularity each year for the purpose of growing grasses necessary and essential to the feeding of the live-stock pastured on said lands; that said lands are of little or no value for the cultivation of crops, are largely affected with alkali, and water is applied thereto, if at all, very sparingly, and the chief, or only, value thereof is for the pasturage of live-stock.

**XVIII.**

That the irrigation season in the vicinity of said stream and during which water is applied to said lands commences about the 1st of May of each year, and that the lands cultivated to crops of grain of the various kinds are irrigated up until about the 10th of July of each year, and that after the 10th of July, water is not applied to said grain lands; that the irrigation season in said valley for the irrigation of crops of alfalfa, hays of the various kinds, vegetables, fruits, and like produce, commences about May 1st and terminates about September 1st of each year; that the pasturage above mentioned is irrigated more or less from May to September of each year, being generally after the irrigation of the cultivated crops.

**XIX.**

That said pasture lands consist almost entirely of lands which have never been cultivated apparently, but to which water is applied for the purpose of producing pasturage, and are for the most part strongly affected with alkali, of little value for the production of crops, are covered to a great extent with salt grass and sage brush and grasses of little value except as food for stock, and are used exclusively for pasturage.

**XX.**

That the following named ditches tap North Powder River and Anthony Creek, and the same were constructed for the irrigation of said lands, and constitute all of the diversion works and ditches constructed or through which rights of appropriation were initiated prior to the year 1909; the names of said ditches, commencing with the ditch nearest the source of said stream, and the approximate location of the head of said ditch being as follows:

<u>SOUTH FORK OF NORTH POWDER RIVER</u>		<u>NORTH FORK OR ANTHONY CREEK</u>		<u>MAIN STREAM:</u>	
NAME OF DITCH:	DIVERSION POINT:	NAME OF DITCH:	DIVERSION POINT:	NAME OF DITCH:	DIVERSION POINT:
SOUTH AND EAST BANK:		NORTH AND EAST BANK:			
Joe Savage ditch	SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> S. 30-T.7 S. R. 38 E.	Carnes Company ditch	SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> S.13-T. 6 S. R. 37 E.	Daley ditch	NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> S.27-T. 6 S. R. 38 E. (North Bank)
Upper Mansfield	SE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> S. 19-T. 7 S. R. 38 E.	Tucker Flat ditch	SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> S.13-T. 6 S. R. 37 E.	Davis-Dalton	NE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> S.34-T. 6 S. R. 38 E. (South Bank)
Warfield Burnside	SE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> S. 19-T.7 S. R. 38 E.	Coughanour ditch	SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> S.18-T. 6 S. R. 38 E.	Old Powers ditch	SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> S.35-T. 6 S. R. 38 E. (South Bank)
Lower Mansfield	NE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> S. 19-T.7 S.R. 38 E.	Pilcher-Evans-Filkins	SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> S.18-T. 6 S. R. 38 E.	Davis-Kelsey ditch	SW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> S.35-T. 6 S. R. 38 E. (North Bank)
Hartung-Nicholson	SW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> S. 19-T. 7 S. R. 38 E.	Anthony ditch	NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> S.18-T. 6 S. R. 38 E.	Ellis ditch	NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> S.36-T. 6 S. R. 38 E. (North Bank)
Blume-Zilkey	NW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> S. 19-T. 7 S. R. 38 E.	Pilcher Dryborough	NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> S.20-T. 6 S. R. 38 E.	Kelsey-Wilson ditch	SE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> S.36-T. 6 S. R. 38 E. (South Bank)
Hearing & Angel	SW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> S. 18-T. 7 S. R. 38 E.			Beaty ditch	
Bulger Ditch	SW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> S. 18-T. 7 S. R. 38 E.			Kelsey ditch	SE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> S.36-T. 6 S. R. 38 E.W.H.(North Bank)
Dutch Flat Creek	NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> S. 18-T. 7 S. R. 38 E.			Pearson town ditch	NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> S.31-T. 6 S. R. 39 E. (North Bank)
John Williams	NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> S. 18-T. 7 S. R. 38 E.			Smith-McPhee-Tanner	NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> S.32-T. 6 S. R. 39 E. (South Bank)
Hutchinson Side Hill	SW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> S. 32-T.6 S.R.38 E.			McPhee ditch	SE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> S.32-T. 6 S. R. 39 E. (South Bank)
Gardner Mill Race	SW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> S. 32-T. 6 S. R. 38 E.			Jacobson ditch	SE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> S.28-T. 6 S. R. 39 E. (South Bank)
Powers Company ditch	SW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> S.32-T. 6 S.R. 38 E.			Pearson ditch	SE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> S.28-T. 6 S. R. 39 E. (North Bank)
Hunsaker ditch	SE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> S. 32-T. 6 S. R. 38 E.			Harlan-Sanders	SW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> S.28-T. 6 S. R. 39 E. (South Bank)
Banberger ditch	SE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> S. 32-T. 6 S. R. 38 E.			Mill Race ditch	SE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> S.28-T. 6 S. R. 39 E. (North Bank)

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## XXI.

That upon the completion of the taking of testimony herein in the original hearing as hereinbefore set forth, contests were duly and regularly initiated against the rights claimed by various of said claimants, as follows to-wit:

C. E. Davis et al. v. Andrew Lun; P. L. Smith et al. v. S. W. Holmes; P. L. Smith et al. v. E. M. Sanders; J. T. York and L. M. Daugherty v. Oscar Jacobson; James Dalton et al. v. B. P. Doherty; James Dalton and P. L. Smith v. J. D. Luster, J. D. McPhee et al. v. E. M. Sanders; W. H. Anthony et al. v. S. L. Baer, Sallie Baer, F. S. Heard, Lamonda Heard, Lyle Levinger, Louis Levinger, Byron Vandecarr, Rose Vandecarr, and the Haines Pipe Line Company, a corporation; J. H. Hutchinson et al. v. J. L. Savage; W. M. Gardner v. W. R. Hutchinson; W. M. Gardner v. J. H. Hutchinson; and W. M. Gardner v. Mary F. Hutchinson.

That the statement and notice of contest in each of said contests was duly and regularly filed within the time permitted by law, said statements of contest being verified by the said contestants and setting forth with reasonable certainty the grounds of the proposed contest; and that said Division Superintendent did notify each of the contestants and each of the persons whose rights were so contested in each of the above entitled contests to appear before him, at a time and place designated in said notice, due proof of service of such notice of hearing being a part of the record hereof.

## XXII.

That the contests of W. M. Gardner against Mary F. Hutchinson, J. H. Hutchinson, and W. R. Hutchinson, were upon stipulation entered into between the parties in all things dismissed.

That the contest of J. H. Hutchinson et al. v. J. L. Savage came duly and regularly on for hearing, and upon stipulation and agreement between the parties, the same was in all things dismissed.

That the contests of J. P. McPhee et al. v. E. M. Sanders, and P. L. Smith et al. v. S. W. Holmes, came duly and regularly on for hearing, and upon stipulation and agreement between the parties, the same were in all things dismissed.

That the contests of J. T. York v. Oscar Jacobson, James Dalton v. B. P. Doherty, James Dalton and P. L. Smith v. J. B. Luster, and James York and L. M. Daugherty v. Oscar Jacobson, came duly on for hearing, and the same were in all things dismissed, upon stipulation entered into between the parties.

## XXIII.

That the contest of W. H. Anthony et al. v. S. L. Baer et al. came duly and regularly on for hearing and the testimony offered by the respective parties to said contest was duly and regularly taken before, and a transcript thereof made and filed with the Division Superintendent of Water Division No. 1, said transcript being now a part of the record hereof.

That the contest of C. E. Davis et al. v. Andrew Lun came duly and regularly on for hearing and the testimony offered by the respective parties to said contest was duly and regularly taken, and a transcript thereof made and filed with the Division Superintendent, such transcript being now a part of the record hereof.

THAT THE BOARD FINDS RELATIVE TO THE CONSTRUCTION AND PRESENT OWNERSHIP OF THE VARIOUS DITCHES DIVERTING WATER FROM NORTH POWDER RIVER, AND ITS TRIBUTARIES, AND THE RIGHTS OF APPROPRIATION OF THE VARIOUS CLAIMANTS CLAIMING A RIGHT TO DIVERT WATER THROUGH SAID DITCHES, AS FOLLOWS:

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## XXIV.

JOE SAVAGE DITCH: That the Joe Savage ditch was constructed by one J. L. Savage in the year 1889 and completed in the year 1891; and that J. L. Savage is the owner of a one-fourth interest, W. R. Moore of a one-third interest, George W. Pratt of a one-fourth interest, and A. W. Perkins of a one-sixth interest in said ditch; that about the year 1876 said Savage was the owner of certain lands, hereinafter more particularly described, through and across which flowed (and now flows) Little Muddy Creek, a tributary of Powder River, and a natural watercourse, as set forth more particularly herein in the findings relative to the Mansfield ditches; that commencing about the year 1876, said Savage proceeded to reclaim and irrigate portions of his said lands with the waters of North Powder River, diverted into and through those certain ditches, then used for mining purposes, known herein as the Upper and Lower Mansfield ditches, and within a reasonable time subsequent to 1876 applied the waters so diverted to the irrigation of one hundred thirty-seven (137) acres of his said lands; that in the year 1891, said Savage commenced the irrigation of his lands with water diverted through said Savage ditch, in connection with the waters so diverted through said Mansfield ditches; and in addition to the lands previously irrigated through said Mansfield ditches, applied the waters diverted to the irrigation of twenty-eight acres of his said lands, reclaimed and irrigated within a reasonable time after the construction of said Savage ditch; that said Savage is now the owner of a one-sixteenth interest in said Mansfield ditches, as more particularly set forth hereafter; that one W. R. Moore is the owner of certain lands east of, but contiguous to and adjoining, said lands of J. L. Savage; and that said Moore commenced the irrigation of his lands in the year 1876 with the waters of North Powder River, diverted into and through the said Mansfield ditches; and within a reasonable time thereafter reclaimed and applied the waters so diverted to the irrigation of one hundred and sixteen (116) acres of his said lands; that upon the completion of said Savage ditch, said Moore acquired an interest therein and commenced the irrigation of his said lands through said ditch; and reclaimed and applied the waters diverted through said ditch to the irrigation of one hundred and seventeen (117) acres of his said lands, in addition to lands previously irrigated through said Mansfield ditches, within a reasonable time after the commencement of the construction of said ditch; that all of the said lands of said Moore are now irrigated with the waters of North Powder River diverted into and through said Savage ditch, and that said Moore has no right, title or interest in or to said Mansfield ditches or either of them; that one Armand W. Perkins, or his predecessor, secured an interest in said Savage ditch in the year 1893, and commenced the irrigation of his said lands (more particularly described in the order of determination herein) in said year, and within a reasonable time applied the waters so diverted to the irrigation of about 100 acres of his said lands; that said claimant is also the owner of a one-sixteenth interest in said Mansfield ditches; and said lands are irrigated with waters diverted into and through the said Mansfield ditches, and the said Savage ditch; that said Savage ditch was extended down to the lands of George W. Pratt in the year 1893, and the water diverted into and through the same was applied, within a reasonable time thereafter, to the irrigation of one hundred and fifty-seven (157) acres of his said lands; and in the year 1904, added ten acres to the area already irrigated; that said Savage ditch diverts the waters of North Powder River into the natural channel of said Little Muddy Creek and thence following said channel to the lands of said claimants; and that the maximum carrying capacity of said Savage ditch does not exceed fifteen (15) second feet.

## XXV.

UPPER AND LOWER MANSFIELD DITCHES: That the Upper Mansfield ditch was constructed in the year 1868, and the Lower Mansfield ditch was constructed prior to that year, and not earlier than 1866, and the said ditches were originally constructed for placer mining purposes, and used for such purposes from the time of their construction until about the year 1897, since which time said ditches have been, and now are, used exclusively for the irrigation of the

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lands of the various claimants owning the said ditches; that the original maximum carrying capacity of said ditches was about 700 miner's inches, under six inch pressure; but that by process of cleaning out said ditches and the diversion of waters through the same, the carrying capacity thereof was gradually increased; that said ditches appear to have been considerably enlarged about the year 1907; and that the present carrying capacity of the same is about thirty-five (35) second feet, or about one thousand, four hundred (1,400) miner's inches under six inch pressure; that commencing about the year 1874, the waters of North Powder River were diverted into and through said ditches, and used for irrigation purposes, during the irrigation season as well as for placer mining purposes; that the present owners of said ditches, and their respective interests therein, are as follows: S. L. Baer, Sallie Baer, F. S. Heard, Lamonda Heard, Louis Levinger, Lyle Levinger, Byron Vandecarr, and Rose A. Vandecarr, are each the owners of an undivided one-sixty-fourth interest (or all collectively of a one-eighth interest); Clayton Coleman, one-eighth interest; W. C. Nicholson Estate, one-fourth; Lucinda Hartung, one-eighth; C. L. Kent, A. Long and the P. Roethler Estate, each one twenty-fourth (or collectively a one-eighth interest); Armand W. Perkins, one-sixteenth interest; E. H. Pratt, one-eighth interest; J. L. Savage, one-sixteenth interest; that the rights of appropriation and diversion of said S. L. Baer, F. S. and Lamona Heard, Louis and Lyle Levinger, Byron and Rose A. Vandecarr, are more particularly set forth herein, in Finding No. LIX relative to the contest of Wm. Anthony and others against the rights claimed by S. L. Baer and others; that the predecessors of Clayton Coleman commenced the irrigation of his lands (more particularly described in the order of determination herein) about the year 1893, with the waters diverted through said Mansfield ditches; and within a reasonable time thereafter, reclaimed and applied the waters so diverted to the irrigation of sixty-nine (69) acres of said lands; that said Coleman's predecessors acquired an interest in said Mansfield ditches in the year 1897; and commencing in the year 1906, added about twenty (20) acres to the area previously irrigated; that the W. C. Nicholson Estate (or heirs of W. C. Nicholson, deceased) is the owner of certain lands, more particularly described hereafter, now irrigated with the waters diverted through said Mansfield ditches; and that the predecessors of said owners of said lands commenced the irrigation thereof in the year 1874, with the waters diverted through said Mansfield ditches, and within a reasonable time reclaimed and applied the waters so diverted to the irrigation of sixty (60) acres of said lands; that in the year 1878, the Hartung-Nicholson ditch was constructed, and water diverted and used through the same, in connection with the waters diverted through said Mansfield ditches, for the irrigation of said lands; that commencing about the year 1886, and within a reasonable time thereafter, about one hundred and twenty (120) acres were added to the irrigated area of said lands, and the waters diverted through said ditches applied thereto; and that said heirs are the owners of a one-half interest in said Nicholson-Hartung ditch; that the predecessor of Lucinda Hartung commenced the irrigation of her lands, more particularly described hereinafter, with the waters of North Powder River diverted into and through said Mansfield ditches in the year 1886, and within a reasonable time applied the water so diverted to the irrigation of forty acres of said lands; and in the year 1898 ten acres were added to the area already irrigated; that said Lucinda Hartung acquired an interest in said Mansfield ditches in the year 1897; that C. L. Kent, A. Long and P. Roether Estate (or the predecessor of the heirs of P. Roethler, deceased) commenced the construction of a ditch, known as the Kent-Long-Roethler ditch, in the year 1897, and completed the same in the year 1898, tapping the natural channel of Little Muddy Creek; and in said year 1897 acquired an interest in said Mansfield ditches; and within a reasonable time thereafter applied the waters diverted into and through said Mansfield ditches, and through the natural channel of said Little Muddy Creek, and said ditch tapping the same, to the irrigation of their lands, to the extent hereinafter and in the order of determination herein set forth; that Armand W. Perkins and J. L. Savage are the owners each of an undivided interest in the Savage ditch; and their rights of appropriation are set forth herein in the finding relative to said Savage ditch; that E. H. Pratt commenced the irrigation of his lands, more particularly described in the order of determination herein, in the year 1887, with the waters diverted into and through said Mansfield ditches; and within a reasonable time thereafter applied the waters so diverted to the irrigation of one hundred and four acres (104) of his said lands; that said Pratt acquired an interest in the John Williams ditch (or Hearing and Pratt ditch) in the year 1890, when said ditch was



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extended down to and upon his said lands; and thereafter and within a reasonable time applied the waters diverted into and through said John Williams ditch to the irrigation of two hundred and ten (210) acres of his said lands, in addition to the lands previously irrigated through said Mansfield ditches; that said Pratt acquired an interest in said Mansfield ditches in the year 1897.

## XXVI.

WARFIELD BURNSIDE DITCH: That the Warfield Burnside ditch was constructed in the year 1900, for the irrigation of the lands now owned by J. E. Burnside, Fred E. Spence, Jas. R. Elmer, and Arthur Warfield, claimants herein; that J. E. Burnside has a one-fourth interest in said ditch, and irrigates fourteen (14) acres through the same; Fred E. Spence irrigates thirty-one (31) acres, and has a one-eighth interest in said ditch; Jas. R. Warfield irrigates twenty-three and one-half ( $23\frac{1}{2}$ ) acres and has a one-fifth interest; Elmer Warfield irrigates fifteen (15) acres and has a one-fourth interest; and that said lands were reclaimed and the waters of North Powder River, diverted into and through said ditch, and applied thereto, within a reasonable time after the construction of said ditch; that in the year 1904 W. S. Daugherty, claimant herein, secured a one-eighth interest in said ditch, and thereafter, and within a reasonable time, reclaimed two hundred and ninety-two (292) acres of his said lands (more particularly described herein in the order of determination), and applied the waters so diverted into and through said ditch to the irrigation thereof.

## XXVII.

HARTUNG-NICHOLSON DITCH: The Hartung-Nicholson ditch, originally known as the Bunch ditch, was constructed by one Bunch for mining purposes in the year 1878; that the Estate of W. C. Nicholson, deceased, and one A. J. Hartung, are each the owners of an undivided one-half interest in said ditch; that said ditch was constructed down to the lands of said Nicholson in the year 1880; that said estate have rights of irrigation through said ditch, in connection with the waters diverted through the Mansfield ditches, as set forth herein in the finding relative to said Mansfield ditch; that A. J. Hartung commenced the irrigation of his lands, as more particularly described hereinafter, with the waters of North Powder River, diverted into and through said Nicholson Hartung ditch, in the year 1878, and within a reasonable time thereafter reclaimed and applied the water so diverted to the irrigation of sixty-six and one-half ( $66\frac{1}{2}$ ) acres of his said lands.

## XXVIII.

BLUME-ZILKEY DITCH: That the construction of the Blume-Zilkey ditch was commenced in the year 1879 and completed in the year 1881; that the maximum carrying capacity of said ditch does not exceed eight hundred (800) inches, miner's measurement.

That J. H. Hutchinson is the owner of an undivided one-sixth interest, W. R. Hutchinson, of an undivided one-eighteenth interest, Dora B. Hutchinson of an undivided one-ninth interest, the Estate of M. J. Relling of an undivided one-fourth interest, and W. J. Welch of an undivided one-fourth interest in said ditch.

That J. H. Hutchinson commenced the irrigation of his lands (more particularly described in the order of determination herein) with the waters of the North Powder River, diverted through this ditch in the year 1884, and applied the waters so diverted within a reasonable time to the irrigation of about three hundred and sixty (360) acres of his said lands; that W. R. Hutchinson commenced the irrigation of his lands (more particularly described in the order of determination) by diverting water through this ditch in the year 1884, and within a reasonable time thereafter applied the water diverted into and through said ditch to the irrigation of about ninety-five (95) acres of his said lands; that the predecessors in interest of Dora B. Hutchinson commenced the irrigation of her lands by

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diverting water through said ditch in the year 1903, when said ditch was extended down to and upon said lands, and within a reasonable time thereafter, the said waters so diverted were applied to the irrigation of one hundred and ninety-eight (198) acres thereof; that the predecessors in interest of the estate of M. J. Relling, deceased, commenced the irrigation of the lands of said estate with water diverted through said ditch in the year 1881, when said ditch was completed down to said lands, and within a reasonable time brought under cultivation and applied the water diverted to the irrigation of one hundred (100) acres; that thereafter, and commencing with the year 1893, by a gradual increase in the irrigated area of said lands, one hundred (100) acres were added to the area previously irrigated within a reasonable time; that the predecessors of said Relling Estate acquired an interest in that certain ditch known as the John Williams ditch in the year 1893, and the increase in area of the irrigated land commenced in that year appears to have been made by the diversion of water through said John Williams ditch; that W. J. Welch, or his predecessors in interest, commenced the irrigation of his said lands (more particularly described in the order of determination) with the water diverted through this ditch in the year 1881 upon the completion of said ditch, and that within a reasonable time the water so diverted was applied to the irrigation of about ninety (90) acres; that commencing about the year 1890, said Welch gradually increased the irrigated area of his said lands until about three hundred and sixty (360) acres were added to the area previously irrigated with the water diverted through said ditch; that said ditch appears originally to have been constructed for the irrigation of the lands of said M. J. Relling Estate and the lands now owned by said W. J. Welch.

XXIX.

HEARING AND ANGEL DITCH: That the Hearing and Angel ditch was constructed in the year 1897 and completed in the year 1898; that John Ashworth is the owner of an undivided one-half interest; James Hearing of an undivided one-third interest, and W. M. hearing of an undivided one-sixth interest; that John Ashworth, or his predecessors, commenced the irrigation of his lands (more particularly described hereinafter) in the year 1880, with the waters of North Powder River, diverted through the Hartung and Nicholson ditch, but that said claimant or his predecessor had no interest in said ditch; that within a reasonable time thereafter said claimant or his predecessor applied the waters diverted through said Hartung and Nicholson ditch to the irrigation of eighteen acres of his said lands; that in the year 1897 the said Hearing and Angel ditch was constructed down to his lands, and thereafter the waters of said stream were diverted through said Hearing and Angel ditch and applied to the irrigation of said lands, and a gradual increase of the irrigated area of said lands was commenced, until, within a reasonable time thereafter, one hundred and two (102) acres were added to the area previously irrigated; that W. M. Hearing commenced the irrigation of his lands with the waters diverted through said ditch, upon the completion of the same in the year 1898, and thereafter and within a reasonable time applied the waters so diverted to the irrigation of nine-two (92) acres of his said lands; and that said James hearing commenced the irrigation of his lands (more particularly hereinafter described), in the year 1898, upon the completion of said ditch, and within a reasonable time applied the waters so diverted to the irrigation of twenty-five (25) acres of his said lands; and that said James Hearing has a right to irrigate and has irrigated since 1889 one (1) acre of his said lands with the waters diverted through the Pratt, or John Williams, ditch.

XXX.

BULGER DITCH: That the Bulger ditch was constructed about the year 1871 for mining purposes; and that about the year 1877, the present owners of said ditch, or their predecessors, commenced the irrigation of their lands from said ditch; that H. K. Fisher, L. W. Perkins, and Harry C. Williams are each the owner of an undivided one-eighteenth interest; Seth Hart, the Samuel Hearing Estate, F. McCullough, each, of an undivided one-sixth interest; and C. E. and A. B. Davis, partners, and tenants in common in their lands and water rights, together, of an undivided one-third interest in said ditch; that said ditch was abandoned for mining purposes in the year 1877, and was enlarged and from time to time extended down to and upon the lands of the present owners thereof; that one Ben Fisher has no interest in said ditch, but has the right to divert one-half second foot, or twenty inches of water, miner's measurement, through said ditch, for the irrigation of

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his lands (more particularly described hereinafter) to supplement the flow of certain springs situate upon his lands, now used for the irrigation thereof; that said Ben Fisher commenced the use of the waters diverted through said Bulger ditch in the year 1880; that C. E. and A. B. Davis commenced the irrigation of their lands, hereinafter described, in the year 1903, and within a reasonable time applied the waters diverted through said ditch to the irrigation of sixty-nine (69) acres thereof; and commencing in the year 1903, gradually increased the irrigated area of their said lands, and within a reasonable time added thereto one hundred and fifty (150) acres; that H. K. Fisher commenced the irrigation of his lands in the year 1877, and within a reasonable time applied the waters diverted through said ditch to the irrigation of eighty (80) acres thereof; and added to said irrigated area about ten (10) acres in the year 1905; that Seth Hart commenced the irrigation of his said lands, hereinafter described, in the year 1887, and within a reasonable time applied the water so diverted to the irrigation of one hundred (100) acres; and in the year 1903, commenced the irrigation of thirty-two (32) acres of his said lands, in addition to lands previously irrigated through said ditch; that the predecessor of the Estate of Samuel Hearing, deceased, commenced the irrigation of the lands of said estate, in the year 1884, and within a reasonable time applied the waters of North Powder River, diverted through said ditch, to the irrigation of eighty (80) acres of said lands; that F. McCullough commenced the irrigation of his lands (hereinafter more particularly described) in the year 1877, and within a reasonable time applied the waters diverted to the irrigation of eighty (80) acres; and in the year 1892 commenced a gradual increase of the irrigated area of said lands, until eighty (80) acres were, within a reasonable time, added to the area previously irrigated through said ditch; that L. W. Perkins commenced the irrigation of his lands in the year 1877, and within a reasonable time applied the waters diverted through said ditch to the irrigation of forty acres (40); and in the year 1895 increased the irrigated area of his said lands, irrigated through said ditch, to the extent of ten (10) acres; that Harry C. Williams commenced the irrigation of his lands through said ditch in the year 1880, and within a reasonable time reclaimed and irrigated seventy acres; and in the year 1896 added to said irrigated area to the extent of twenty-three and one-half (23½) acres; that one J. R. Long has diverted and used the waters of North Powder River, through said ditch, since the year 1885, and irrigated therewith about twelve (12) acres, reclaimed and irrigated within a reasonable time; that said J. R. Long also irrigates ten (10) acres through the Blume Zillkey ditch, and the said lands have been irrigated since 1885, but that said Long has no right or interest in either of said ditches, and that his use thereof has been by permission of the owners of the same; that P. S. Poulson has no interest in said Bulger ditch, or the waters diverted into or through the same, or any of the waters flowing in the natural channel of North Powder River, and that his right of use is confined to the waste waters escaping from said Bulger ditch into the natural channel of Little Muddy Creek, and his rights of appropriation are confined to the natural flow of said Little Muddy Creek, and his rights of appropriation are confined to the natural flow of said Little Muddy Creek and waste and seepage waters therein, and are not determined in this proceeding; that G. J. Savage has irrigated fourteen (14) acres in SE¼SE¼, Sec. 9, Tp. 7 S. R. 38 E. since 1903; his interest in said ditch does appear and is left undetermined.

## XXXI.

DUTCH FLAT CREEK DITCH: That the Dutch Flat Creek Ditch taps North Powder River and Dutch Flat Creek, a tributary, and construction thereof was commenced in the year 1904; that on July 1st, 1910, application was made by J. R. Long, Samuel W. Loy, E. H. Pratt, A. L. Savage, Geo. Ensminger, Seth Hart, and G. J. Savage, the owners of said ditch for a permit to appropriate the waters of said streams, through said ditch; and thereafter Permit No. 386 was issued by the State Engineer of the State of Oregon to said applicants; that it appears that said Seth Hart commenced the use of the waters diverted through said ditch in the year 1906, and applied the same to the irrigation of twenty-five and one-half (25½) acres during said year; and that E. H. Pratt applied the waters diverted through said

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ditch to the irrigation of six (6) acres in the year 1904; and that none of the lands of any of the other owners of said ditch were irrigated through this ditch prior to the irrigation season of 1909.

## XXXII.

JOHN WILLIAMS DITCH: That the John Williams ditch, or Hearing and Pratt ditch, was constructed about the year 1875; that M. Ella Haskin, Estate of Samuel Hearing, deceased, and E. H. Pratt are the owners of each an undivided one-third interest in said ditch; that the predecessors in interest of M. Ella Haskin commenced the irrigation of her lands (hereinafter described) in the year 1875, with the waters of said stream, diverted through the Mansfield ditches, until the year 1889, when said John Williams ditch was completed down to and upon her said lands; that about seventy-five (75) acres of said lands were irrigated within a reasonable time subsequent to the year 1875; and in the year 1889, all of said lands, and twenty-two (22) acres in addition thereto, were irrigated with the waters diverted through said John Williams ditch; and that since the year 1889, said lands have been irrigated through said John Williams ditch; that said claimant has no interest in said Mansfield ditches; that the predecessors of the heirs of Samuel Hearing, deceased, commenced the irrigation of their said lands, as hereinafter described, in the year 1877, with the waters diverted through said John Williams ditch, and within a reasonable time applied the waters diverted through said ditch to the irrigation of about ninety-three (93) acres of said lands; and commencing about the year 1898, increased the irrigated area of said lands, within a reasonable time, to the extent of twenty-seven (27) acres; that E. H. Pratt is the owner of a one-third interest in said John Williams ditch; that the lands of said Pratt are irrigated with the waters diverted through said ditch and the Mansfield ditches, and his rights are fully set forth in the finding relative to said Mansfield ditches herein.

## XXXIII.

HUTCHINSON SIDE HILL DITCH: That the Hutchinson Side Hill Ditch was commenced in April, 1873, and completed in 1877, when about two miles of ditch were constructed, and J. H. and W. R. Hutchinson are the owners of said ditch, and each of an undivided one-half interest therein; that said J. H. Hutchinson commenced the irrigation of certain of his lands, hereinafter described, with the waters diverted through said ditch, in the year 1877, and within a reasonable time after the commencement of construction of said ditch, applied the waters so diverted to the irrigation of one hundred and ninety (190) acres of said lands; and in the year 1895, commenced an increase of the irrigated area of his said lands, under said ditch, and within a reasonable time added thereto 313 acres; and again commenced an increase of the irrigated area of his said lands in 1903, and within a reasonable time thereafter added thereto three hundred and one (301) acres; that a portion of the lands covered by said Side Hill ditch, are also irrigated with the waters diverted through that certain ditch known as the Hutchinson Extension of the Gardner Mill Race ditch, to-wit: SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, Sec. 33, and S<sup>1</sup>/<sub>2</sub>S<sup>1</sup>/<sub>2</sub>, Sec. 34, Tp. 6 S. R. 38 E., W. M.; that W. R. Hutchinson commenced the irrigation of certain of his lands, under said ditch, as more particularly hereinafter described, with the waters diverted through said Side Hill Ditch, in the year 1877, and within a reasonable time applied the waters so diverted to the irrigation of one hundred and twenty (120) acres; and in the year 1888 commenced an increase of his irrigated area and added thereto within a reasonable time two hundred and twenty (220) acres; and again, in 1903, added about one hundred and fifty-eight (158) acres to the area irrigated under said ditch; that a portion of the lands under said ditch are also irrigated with the waters diverted into and through the Gardner ditch, to-wit: S<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, Sec. 2, Tp. 7 S. R. 38 E., W. M.

That Charles E. Hutchinson commenced the irrigation of certain of his lands in the year 1902, with the waters diverted through said Side Hill ditch; and that within a reasonable time thereafter, he applied the waters so diverted to the irrigation of about ninety and one-half (90<sup>1</sup>/<sub>2</sub>) acres of said lands, more particularly hereinafter described; that said claimant has no interest in said ditch, but a right to the use of the same by permission of the owners thereof.

## XXXIV.

GARDNER MILL RACE DITCH: That the Gardner Mill Race ditch was constructed about the year 1865, and water diverted through the same by the

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Predecessors in interest of Wm. N. Gardner for stock and domestic purposes, and for the operation of a mill, but that said mill and the right to divert water through said ditch for the development of power, or other use than domestic and stock and irrigation purposes, has long since been abandoned; that in the year 1870, the predecessors of said Gardner commenced the irrigation of the lands now owned by him, more particularly described in the order of determination herein, and within a reasonable time thereafter brought under cultivation and irrigated about eighty-five acres of his said lands; that about the year 1871, J. H. and W. R. Hutchinson, claimants herein, commenced the construction of an extension of said Mill Race ditch down to their lands, and completed the same in the year 1873, and applied the waters of North Powder River, diverted through said Gardner Mill Race and said Hutchinson Extension thereof, to the irrigation of their said lands, more particularly described hereinafter; that at the time of the original hearing herein said J. H. Hutchinson claimed a five-ninths interest, said W. R. Hutchinson a one-third interest, and one Mary F. Hutchinson a one-ninth interest, in said Gardner ditch; that one Charles E. Hutchinson also claims a right through said ditch for the irrigation of certain lands, more particularly described hereinafter, irrigated through said ditch and the Hutchinson Side Hill ditch, by permission of the owners of said ditches; that estate of W. L. Miller, deceased, also claims a right to divert water through said ditch, and J. L. Dodson claims the right to divert water through the same, and into an extension or lateral thereof, and S. A. Dougherty also claims the right to use the water diverted into said last mentioned lateral for the irrigation of about seven acres of his lands; that within the time permitted by law, said W. N. Gardner filed statements of contest against the rights claimed by said W. R., J. H. and Mary F. Hutchinson in said Gardner Mill Race ditch; and the said contests were duly and regularly set for hearing, upon notice to all parties thereto, according to law; and that at the time of the hearing of said contest the said contestant and parties contested appeared both personally and by attorney, and it was stipulated and agreed that contestant, Gardner, should have the first right to the use of any and all water in said ditch, to the extent and amount of water awarded said contestant in this proceeding, based upon his claim filed herein; that said contestees should be entitled to the right and use of the said Mill ditch for the purpose of and to the extent of running therein and flowing therethrough the amount of water awarded said contestees upon their claims to the waters of North Powder River, through said ditch, filed herein, and that said claims of said contestees should be modified and limited to that extent; that said contestees should keep and perform the further conditions of said stipulations, and that the same should be binding upon the heirs and assigns of the parties thereto, and run with the lands and water rights appurtenant thereto, now owned by said parties, and claimed in their proofs of claim herein to be irrigated through the said Mill ditch.

That based upon the proofs herein and said stipulations, said W. N. Gardner is found and determined to be the owner of said Gardner Mill Race ditch, and to have the first right to the use of the same, and to divert water therethrough for irrigation, stock and domestic purposes, to the extent and in the amount limited herein in the order of determination; and said contestees, J. H., W. R., and Mary F. Hutchinson, are found and determined to be the owners of the extension of said Gardner Mill Race ditch, constructed down to their lands, in the following proportions; J. H. Hutchinson, five-ninths, <sup>W. R. Hutchinson, three-ninths,</sup> Mary F. Hutchinson, one-ninth; and said contestees are further found to have the right to the use of said Gardner Mill Race ditch for the purpose of diverting the waters of North Powder River into and through the same, and into their said extension thereof, subject to the prior rights of said contestant, W. N. Gardner, and the prior and superior rights of all other claimants to the waters of said stream, and subject to the performance by them of the conditions by them to be performed, in accordance with said agreement and stipulation herein entered into; that the rights of all other claimants diverting water through said Mill Race ditch, as to their respective interests in or rights to the use of said Gardner Mill Race ditch, are hereby left undetermined, the same being by reason of the inadequacy of the evidence and the record herein not determinable.

That said J. H. Hutchinson commenced the irrigation of his lands, more particularly described in the order of determination herein, through said Gardner ditch extension, in the year 1873, and within a reasonable time thereafter, reclaimed and applied the waters diverted through said ditch to the irrigation of about three hundred and fifty (350) acres of his said lands; that W. R. Hutchinson commenced the irrigation of certain of his lands, through said ditch, in the year 1873,

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and within a reasonable time applied the waters diverted into said ditch to the irrigation of one hundred and sixty (160) acres of his said lands; and commencing about the year 1883, within a reasonable time added seventy-five (75) acres to the irrigated area of said lands; and in the year 1899, about forty-five (45) acres additional were added; that Mary F. Hutchinson, or her predecessor, J. H. Hutchinson, commenced the irrigation of her lands, more particularly described hereinafter, in the year 1873, and within a reasonable time applied the waters diverted into said ditch to the irrigation of eighty (80) acres of her said lands; that Charles E. Hutchinson irrigates about ninety and one-half (90½) acres of his said lands through said Gardner ditch, and through the Side Hill ditch; and his rights are more particularly defined and set forth in the finding relative to said Side Hill ditch herein.

That the rights of said J. L. Dodson, S. A. Dougherty, and Estate of W. S. Miller, deceased, in and to the use of the waters diverted through said Gardner Mill Race ditch, are more particularly set forth in the finding herein relative to the Powers Company ditch, through which water is also diverted for the lands of the said claimants.

## XXXV.

POWERS COMPANY DITCH: That the Powers Company ditch, or Davis Brothers Company ditch, appears to have been constructed in the year 1873, down to and upon the lands now owned by Laura L. Dodson and Wm. N. Gardner, by the predecessors of those claimants; and to have been extended and enlarged about the year 1883; that C. E. and A. B. Davis are partners and tenants in common in their water rights, as herein set forth, and own an undivided one-seventh interest in said ditch; J. L. Dodson, S. A. Dougherty, Wm. Gardner, and the Estate of W. L. Miller, deceased, are each the owners of an undivided one-seventh interest, and Laura L. Dodson is the owner of an undivided two-sevenths interest in said ditch; that of the lands owned by said C. E. and A. B. Davis, or Davis Brothers, as said partnership is known, as the said lands are hereinafter described, seventy (70) acres thereof were reclaimed and irrigated through said ditch within a reasonable time, and commencing about the year 1877; and it appears that said Davis Brothers became the owners of a one-seventh interest in said ditch in the year 1888, and thereafter and within a reasonable time applied the waters diverted through said ditch to the irrigation of four hundred and ninety-six (496) acres, in addition to the area previously irrigated through said ditch; and in the year 1906 added fifteen (15) acres to the area previously irrigated; that the predecessor of Laura L. Dodson brought under irrigation and reclaimed, within a reasonable time after the construction of said ditch, one hundred and forty (140) acres of her lands, more particularly described hereinafter; that of the said lands of said Laura L. Dodson, fifty-three (53) acres were reclaimed and irrigated through that certain ditch known as the Old Powers ditch, about one hundred and forty (140) acres through said Powers Company ditch, and nine (9) acres through the J. L. Dodson ditch; that J. L. Dodson commenced the irrigation of his lands, more particularly described hereinafter, through said ditch, in the year 1884, and within a reasonable time thereafter the waters diverted through said ditch (and other ditches, as hereinafter set forth) were applied to the irrigation of about one hundred (100) acres of his said lands; that said claimant also irrigates his said lands through the Gardner Side Hill ditch, which is an extension or lateral from the said Gardner Mill Race ditch; and with the waters diverted through a certain ditch known as the Daley ditch; that in the year 1906, thirty (30) acres were added by said Dodson to the area of his irrigated lands, under said ditches; that S. A. Dougherty commenced the irrigation of his lands, more particularly hereinafter described, in the year 1881, and within a reasonable time applied the waters diverted through said Powers Company ditch to the irrigation of one hundred and seventy-two (172) acres of his said lands; that in addition to these lands, said S. A. Dougherty is also the owner of seven (7) acres of land which have been irrigated continuously since 1874, with the waters diverted into the Gardner Mill Race ditch, and J. L. Dodson (or Gardner Side Hill) extension thereof; that the interest of said claimant in said last named ditch does not appear; that the predecessor of the heirs of W. L. Miller, deceased (or Estate of W. L. Miller) commenced the irrigation of the lands belonging to said estate, more particularly described hereinafter, through said ditch, in the year 1890, at which time said predecessor acquired

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an interest in said Powers Company ditch; and within a reasonable time thereafter, applied the waters diverted through said ditch to the irrigation of about one hundred and two and one-half (102½) acres of said lands; that the lands of said estate, are also irrigated through that certain ditch known as the Bamberger ditch, and three small lateral ditches tapping the Gardner Mill Race ditch, which said ditches were constructed at different times; that the irrigation of said lands was commenced through said Bamberger ditch in the year 1869, and the water diverted applied to the irrigation of about thirty-eight (38) acres, within a reasonable time; that said lateral ditches were constructed, tapping said Mill Race, one in the year 1865, one in the year 1871, and one in the year 1875; and through said first lateral ditch about fifty (50) acres were irrigated, within a reasonable time; and through said second lateral about twenty-five (25) acres were irrigated within a reasonable time; and through said last mentioned lateral, the waters so diverted were applied to the irrigation of about thirty-five (35) acres within a reasonable time; that the right or interest of said Miller Estate in said Gardner Mill Race ditch does not appear; that W. N. Gardner or his predecessor commenced the irrigation of his lands through said Powers Company ditch in the year 1875, and within a reasonable time applied the water to the irrigation of thirty-seven acres of his said lands; and in 1895, added to said irrigated area to the extent of twenty (20) acres; that said Gardner commenced the irrigation of certain of his lands in the year 1871, through that certain ditch known as the Hunsaker ditch, and within a reasonable time applied the waters diverted through said ditch to the irrigation of thirty (30) acres of his said lands, in addition to lands previously irrigated through other and different ditches.

## XXXVI.

HUNSAKER DITCH: That the Hunsaker ditch was constructed in the year 1871, and that W. N. Gardner is the sole owner thereof.

## XXXVII.

BAMBERGER: That the Bamberger ditch was constructed in the year 1869, and that the Estate of W. L. Miller, deceased, is the owner thereof.

ANTHONY CREEK OR NORTH FORK.

## XXXVIII.

CARNES COMPANY DITCH: That the Carnes ditch, or Anthony Creek Company ditch, was commenced in the year 1898 and construction thereof was completed on June 2nd, 1902, and that said ditch was enlarged in the year 1903, to carry sufficient water to supply the amount appropriated and necessary for the irrigation of the lands under said ditch; that a total area of about 2,000 acres has been reclaimed and irrigated with the waters diverted through said ditch; that Geo. M. and Ed Carnes are together the owners of a one-fourth interest; John Brant of a one-fourth interest; John Shaw of a one-fourth interest; and W. J. and Clara Welch of a one-fourth, undivided interest in said ditch; that of the lands at present irrigated through said ditch belonging to W. J. Welch, one hundred and twenty acres (120) thereof were reclaimed and irrigated within a reasonable time after the completion of construction of said ditch; and the remaining portion of said irrigated lands, or about two hundred and sixty-seven (267) acres were first irrigated and within a reasonable time the water applied thereto, subsequent to and commencing in the year 1906; that the lands of Clara M. Welch were first irrigated in the year 1905, and the waters diverted through said ditch applied to the irrigation thereof within a reasonable time thereafter; that the lands of John Brant, George and Edward Carnes, and John Shaw were reclaimed and irrigated within a reasonable time after the completion of said ditch; the lands of said claimants irrigated through and under said ditch being more particularly described herein in the order of determination; that the carrying capacity of said ditch does not exceed one thousand (1,000) miner's inches under six inch pressure.

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## XXIX.

COUGHANOUR DITCH: That the Coughanour ditch was commenced about the year 1880 and was completed about the year 1885 and the waters of Anthony Creek thereafter diverted through said ditch, and within a reasonable time applied to the irrigation of about eight hundred (800) acres of the lands of William A. Coughanour; that said Coughanour is the owner of said ditch; that commencing about the year 1900, said Coughanour commenced a gradual increase of the irrigated area of his said lands, and within a reasonable time thereafter added about three hundred and forty-eight (348) acres to the area previously irrigated; that the rights of said Coughanour, as against the right claimed by the North Powder Milling and Mercantile Company, as the same were adjudicated and determined in that certain suit in the Circuit Court of Union County, wherein said company was plaintiff and said Coughanour was defendant, are more fully set forth in the finding herein relative to said North Powder Milling and Mercantile Company ditch.

## XL.

TUCKER FLAT DITCH: That the Tucker Flat, or Hutchinson ditch, was commenced in the year 1877, but that the same was not completed, or the water applied to the irrigation of the lands under said ditch, until the year 1885; that J. H. Hutchinson is the owner of a nine-tenths interest in said ditch and one Elmer Shipp is the owner of a one-tenth interest therein; that in about the year 1885 said J. H. Hutchinson commenced the irrigation of his lands, susceptible of irrigation from said ditch, and more particularly described hereinafter, and within a reasonable time thereafter applied the waters so diverted through said ditch to the irrigation of about ninety-seven (97) acres of said lands; that the predecessor of Elmer Shipp commenced the irrigation of his lands, more particularly described hereinafter, with the waters diverted through said ditch in the year 1908, and within a reasonable time applied the waters so diverted through said ditch to the irrigation of about thirty-eight (38) acres of said lands; that said lands, or a portion thereof, of the said Shipp were, commencing about the year 1878, irrigated with the waters of Pilcher Creek, a tributary of North Powder River, diverted through the Pilcher ditch, tapping said Creek; and that the waters of Anthony Creek were first applied thereto in the year 1908, as above set forth.

## XLI.

PILCHER-EVANS-FILKINS DITCH: That the Pilcher-Evans-Filkins ditch, or Pilcher and Evans ditch, was commenced on May 16th, 1890, and completed in the year 1893; that James A. Pilcher, C. C. Garwood, and Juliette Evans Ten Broeck are each the owners of an undivided one-third interest in said ditch; that the predecessors of the claimant, Ten Broeck, commenced the irrigation of thirty (30) acres of her land, more particularly described hereinafter, through the Tucker Flat and Coughanour ditches, but had no interest in said ditches; that the said Pilcher-Evans-Filkins ditch was completed in the year 1893, and thereafter said lands were irrigated through said ditch; and commencing with the completion of said ditch, and within a reasonable time, the water diverted through the same was applied to the irrigation of seventy (70) acres of her said lands, including said lands previously irrigated through said Tucker Flat and Coughanour ditches; and in the year 1904, seventeen (17) acres were added to the area of lands irrigated through said ditch by said claimant, or her predecessor; that James A. Pilcher commenced the irrigation of his lands, under said ditch, upon the completion of the same, and within a reasonable time applied the waters diverted through said ditch to the irrigation of nineteen acres, more particularly described hereinafter; that C. C. Garwood commenced the irrigation of his lands, more particularly described hereinafter, in the year 1893, upon the completion of said ditch, and thereafter within a reasonable time the waters so diverted were applied to the irrigation of thirty-four acres of his said lands; that one Thomas H. Parker appears to have some right or interest in said ditch, the nature of which does not appear from the proofs herein, and has irrigated about seven (7) acres of his lands through the same since the



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year 1905.

## XLII.

ANTHONY DITCH: That the Anthony ditch was constructed in the year 1871, tapping said Anthony Creek, and that Wm. Anthony and the heirs of Sarah Anthony, deceased, are together the owners of an undivided one-half interest in said ditch, and one Lewis Klinefelter of an undivided one-half interest therein; that the lands now owned by said William Anthony, as more particularly described hereinafter, were irrigated and the water applied thereto in the year 1871; and that the lands of the said Sarah Anthony Estate were irrigated and the water applied thereto in the year 1871; that Lewis Klinefelter acquired an interest in said ditch, and commenced the irrigation of his lands, more particularly described hereinafter, in the year 1883, and within a reasonable time applied the waters so diverted to the irrigation of about forty-three (43) acres of said lands; that one Thomas H. Parker has irrigated six and one-half ( $6\frac{1}{2}$ ) acres of his lands through said ditch since the year 1871; but that said Parker has no interest in said ditch and his use thereof has been by permission of the owners thereof.

## XLIII.

PILCHER-DRYBOROUGH DITCH: That the Pilcher Dryborough ditch was constructed in the year 1870 by the predecessors in interest of James A. Pilcher, tapping Anthony Creek and diverting the waters of said stream down upon the lands of said Pilcher; that within a reasonable time after the construction of said ditch forty (40) acres of the lands of said Pilcher were reclaimed and irrigated with the waters so diverted; and commencing in 1884, sixty-one and one-half ( $61\frac{1}{2}$ ) acres were added thereto, within a reasonable time; that said James A. Pilcher is the owner of a two-thirds interest in said ditch, and one A. K. Dryborough of a one-third interest therein; that said Dryborough, or his predecessor, acquired an interest in said ditch in the year 1872, and thereafter and within a reasonable time applied the waters diverted through said ditch to the irrigation of fifty-eight and one-half ( $58\frac{1}{2}$ ) acres of his said lands; the lands of said claimants being more particularly described hereinafter.

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## XLIV.

DALEY DITCH: That the Daley ditch was constructed in about the year 1869; that J. L. Dodson owns a one-tenth interest; J. H. Hutchinson a one-fourth interest; J. O. Pilcher a two-fifths interest; and John Powers a one-fourth interest in said ditch; that J. L. Dodson commenced the irrigation of his lands through said ditch in the year 1884, and his rights are more fully set forth in the finding herein relative to the Powers Company ditch; that J. H. Hutchinson, or his predecessor, commenced the irrigation of his lands under said ditch, more particularly described hereinafter, in the year 1872, and within a reasonable time thereafter fifty-six and one-half ( $56\frac{1}{2}$ ) acres of his said lands were reclaimed and irrigated with the waters diverted through said ditch; that J. O. Pilcher commenced the irrigation of his lands, more particularly described hereinafter, with the waters diverted through said ditch in the year 1869, and within a reasonable time the waters so diverted were applied to the irrigation of seventy-four acres of his said lands; that the predecessors in interest of John Powers commenced the irrigation of his lands, more particularly described hereinafter, with the waters diverted through said ditch, in the year 1870, and within a reasonable time applied the waters diverted to the irrigation of eighty-two and one-half ( $82\frac{1}{2}$ ) acres.

## XLV.

DAVIS DALTON DITCH: The Davis Dalton ditch, or Davis Hutchinson ditch, was constructed in the year 1874, tapping North Powder River,

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down to and upon the lands of J. S. Davis; and was, in the year 1887, enlarged and extended down to and upon the lands now owned by James Dalton, by the predecessor in interest of said Dalton; that James Dalton is now the owner of a two-thirds interest, and said J. S. Davis of a one-third interest in said ditch; the rights of said James Dalton being more particularly set forth in finding No. LX herein; that J. S. Davis is the owner of an interest in the Davis-Kelsey ditch; and that the lands of said claimant are irrigated through said Davis Dalton and Davis Kelsey ditches; that through said Davis-Dalton ditch, said claimant diverted and applied the waters of North Powder River to the irrigation of eighty-four (84) acres, within a reasonable time, and commencing in the year 1874; that through the Davis Kelsey ditch, said claimant has diverted the waters of North Powder River and applied the same to the irrigation of two hundred and twenty-three (223) acres, commencing in the year 1887, and completing the irrigation thereof within a reasonable time thereafter; and that the interest of said J. S. Davis in said Kelsey-Davis ditch is set forth more fully in the finding herein relative to said ditch.

## XLVI.

OLD POWERS DITCH: The Old Powers ditch was constructed in the year 1865, and the waters of said stream diverted through the same and applied to the irrigation of fifty-three (53) acres of lands, now owned by Laura L. Dodson, and that said Laura L. Dodson is the owner of said ditch.

## XLVII.

DAVIS KELSEY DITCH: That the Davis Kelsey ditch, tapping the North bank of said stream, was constructed in the year 1887, and that J. S. Davis, Grant Dalton, W. L. Goff, Will F. Hutchinson, L. S. Kelsey, Chris. Peterson, and J. B. Wilson are the owners thereof; that said ditch as originally constructed was three (3) feet in width and owned by J. S. Davis, J. B. Wilson, L. S. Kelsey, Grant Dalton, and Wm. F. Hutchinson, prior to the enlargement thereof; that in the year 1889, said ditch was enlarged three feet in the width of said ditch; that the present interests of the present owners of said ditch as at present constructed, in so far as can be determined from the proofs herein, is: J. S. Davis, one-fourth; Grant Dalton, one-ninth; W. L. Goff, one-eighteenth; Will F. Hutchinson, one-twelfth; L. S. Kelsey, five-thirty-sixths; J. B. Wilson, five-eightieths, and Chris. Peterson, one-twelfth interest; that the rights of appropriation of J. S. Davis were initiated through this ditch in the year 1887, and within a reasonable time thereafter the waters diverted through said ditch were applied to the irrigation of two hundred and twenty-three (223) acres of his said lands, as above set forth; that Grant Dalton irrigates approximately one hundred and sixty (160) acres of his lands, more particularly described hereinafter, through said Davis Kelsey ditch; that about eighty (80) acres were irrigated, commencing about the year 1887, within a reasonable time; and about the year 1897, upon the enlargement of said ditch, about eighty (80) acres in addition to lands previously irrigated, were reclaimed and irrigated, within a reasonable time; that in addition to said lands, said claimant also irrigates about thirty-six (36) acres of land through that certain ditch, known as the Ellis ditch, the irrigation of which lands was commenced in the year 1904 and completed within a reasonable time thereafter; that W. L. Goff commenced the irrigation of his lands through said ditch in the year 1905, and within a reasonable time applied the waters diverted to the irrigation of about thirty-two acres thereof; that said Goff also irrigates portions of his said lands through those certain ditches known as the Pearson ditch and the Ellis ditch; said lands being more particularly described hereinafter; that said Goff commenced the irrigation of his said lands through said Pearson ditch in the year 1893, and applied the water diverted through the same within a reasonable time to the irrigation of thirty-five (35) acres; and commenced the irrigation of his said lands through the Ellis ditch in the year 1903, and applied the waters diverted through the same to the irrigation of thirty-three (33) acres of his said lands; that L. S. Kelsey commenced the irrigation of certain of his lands through said ditch in the year 1887, and within a reasonable time applied the waters so diverted to the irrigation of about eighty acres; and increased the irrigated area of his said lands in the year 1902 to the extent of forty-two acres irrigated through and under said ditch; that Chris. Peterson commenced the irrigation of his lands in the year 1892, through said Davis Kelsey ditch and the Ellis ditch, and has reclaimed and

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irrigated under said ditches, thirty acres as of the year 1892, two hundred and ninety-three (293) acres as of the year 1898, and ninety-one and one-half (91½) acres as of the year 1904, by appropriations through said ditches, initiated in said year, and application to the said lands of said claimant within a reasonable time thereafter; that J. B. Wilson commenced the irrigation of his lands in the year 1889 with the waters diverted through said ditch and reclaimed and irrigated within a reasonable time about three hundred and ninety (390) acres thereof; that W. F. Hutchinson commenced the irrigation of his lands through said ditch in the year 1896, and within a reasonable time thereafter reclaimed and irrigated one hundred and forty-two and one-half (142½) acres thereof; that the lands of said claimants are more particularly described in the order of determination herein.

## XLVIII.

ELLIS DITCH: That the Ellis ditch was constructed in the year 1879 down to and upon the lands of L. S. Kelsey, hereinafter described as irrigated from said ditch; that the present owners of said ditch are L. S. Kelsey, Chris. Peterson, Grant Dalton, Mrs. Allie Dalton, W. L. Goff, W. R. Hutchinson, and Albert Hutchinson; that said ditch as originally constructed was four feet in width, and was enlarged to increase the carrying capacity thereof in the year 1882 and again in the year 1904, and as enlarged in the year 1904, is claimed to be eight feet in width; that the respective interests of the owners of said ditch therein appear to be impossible of determination in this proceeding from the proofs herein; that L. S. Kelsey commenced the irrigation of his lands under said ditch, more particularly described hereinafter, in the year 1880, and within a reasonable time thereafter applied the waters diverted through said ditch to the irrigation of sixty-two and one-half (62½) acres thereof; that the lands of Chris. Peterson are irrigated through both said Ellis ditch and the Kelsey Davis ditch, and his rights are set forth more fully in the finding herein relative to said last named ditch; that Grant Dalton and Mrs. Allie Dalton commenced the irrigation of their respective tracts of land under said ditch, in the year 1904, after the second enlargement thereof; and said Grant Dalton irrigates about thirty-five and one-half (35½) acres under said ditch, reclaimed and irrigated within a reasonable time after such enlargement; that of the lands of Mrs. Allie Dalton, about thirty-six (36) acres thereof were reclaimed and irrigated within a reasonable time after said second enlargement in 1904; that W. L. Goff began the irrigation of his lands through said ditch in the year 1904, after said second enlargement, and applied the waters diverted to the irrigation of thirty-three (33) acres within a reasonable time thereafter; that W. R. Hutchinson commenced the irrigation of his lands under said ditch with the waters diverted through the same, in the year 1879, and within a reasonable time applied the waters so diverted to the irrigation of one hundred and five and one-half (105½) acres of said lands; that Albert Hutchinson commenced the irrigation of his lands, with the waters diverted through said ditch, in the year 1879, and within a reasonable time applied the waters so diverted to the irrigation of one hundred and forty (140) acres of his said lands; the lands of said claimant being more particularly described hereinafter; that the lands of said claimant, situated in the SE¼SW¼, Section 32, Tp. 6 S. R. 39 E., W. M., have been irrigated through that certain ditch known as the Wilson Kelsey ditch, but that claimant has no interest or right in said ditch; and his use of the waters flowing in the same has been by permission of the owners thereof; that in the year 1896, said claimant added to the area irrigated through the said Ellis ditch to the extent of seventeen (17) acres; that the lands of said claimant irrigated through said Kelsey Wilson ditch were first irrigated in the year 1896.

## XLIX.

KELSEY-WILSON DITCH: That the Kelsey Wilson ditch was constructed about the year 1886 by one L. S. Kelsey, claimant herein, and one J. D. Wilson and son, and another; that as originally constructed said ditch was what is termed a "four foot" ditch, that is, four feet in width; and said Kelsey was the owner of five-eighths; that prior to the year 1888 said Kelsey became the owner of three-eighths of said ditch; that in the year 1888, under

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and by virtue of an agreement between the then owners of said ditch and one James York, J. D. McPhee, and P. L. Smith, claimants herein, and one William Tanner, an enlargement of said ditch was made, which is presumed to have been to double its original capacity; that in that certain suit in the circuit court of the State of Oregon for Baker County, wherein J. D. McPhee and others were plaintiffs, and L. S. Kelsey was defendant, a decree was entered in the year 1906, in Circuit Court Journal "Y" at page 621, upon mandate from the Supreme Court of the State of Oregon, wherein it was determined by the court that in said enlargement of said ditch, the same was probably enlarged to double its former capacity, from the head thereof down to the point known as the "Wilson Tap;" that said L. S. Kelsey was the owner of a four foot interest in said ditch, as originally constructed; that said James Dalton was the owner of the Tanner and McPhee interests in the enlargement of said ditch; that said P. L. Smith still retained his interest; and that one George Neill had succeeded to the interest of said Kelsey in said enlargement (said Kelsey having succeeded to the interest of said York in the same); that in that certain suit in the Circuit Court of the State of Oregon for Baker County, wherein Sam and W. A. Carnes were plaintiffs, and James Dalton was defendant, upon appeal to the Supreme Court of the State of Oregon, on the 6th day of December, 1910, it was found and determined that Sam Carnes and W. A. Carnes, appellants therein, were the owners and in possession of the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 32, Tp. 6 S. R. 39 E., W. M., and the N $\frac{1}{2}$  of the NW $\frac{1}{4}$  of Section 5, and ten (10) acres situated in the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 5, adjoining same, all in Tp. 7 S. R. 39 E., W. M., containing one hundred and twenty (120) acres of land of agricultural lands, of which ninety (90) acres were in orchard, grain and other cultivated crops; that James Dalton, respondent therein, was the owner of the W $\frac{1}{2}$  of Section 3, E $\frac{1}{2}$ SE $\frac{1}{4}$ ; and S $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 4; SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section ten (10); the W $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 2, and the NW $\frac{1}{4}$  of Section 10, all in Tp. 7 S. R. 39 E., W. M., in Baker County, Oregon, of which lands two hundred (200) acres were in alfalfa and other crops, and the balance of said lands being used for pasturing live-stock and for the production of grain, hay, and orchard and garden crops.

That about the year 1886, the predecessors of said appellants made an appropriation of the waters of North Powder River, through said Kelsey Wilson ditch; and that in the year 1888, under an agreement, entered into between one Kelsey, a co-owner of said ditch, the said ditch was enlarged by the respondent, Dalton, and his co-owners, without the consent or by agreement of the appellants or their predecessors in interest, and became what is known as an eight foot ditch, and that a further appropriation of the waters of North Powder River was made through said ditch in said year 1888.

That in said decree it was determined that as against respondent, James Dalton, said appellants, Sam and W. R. Carnes, were entitled to the right to the first use of the waters flowing in said ditch, not exceeding one-eighth of the carrying capacity thereof; and said Dalton was decreed to be entitled to the use of said ditch and the waters flowing therein, when not in use by said appellants, or to an amount in excess of the amount required by the prior rights of said appellants, the respective amounts to which said parties were entitled to be measured as provided in said decree.

That from the statements and proofs of claims herein and from the said decrees and findings of fact and conclusions of law therein, it is found and determined by the Board, that L. S. Kelsey is the owner of an undivided three-eighths interest; James Dalton, of an undivided one-fourth interest; Sam and W. A. Carnes jointly of an undivided one-eighth interest; P. L. Smith, of an undivided one-eighth interest; and George Neill of an undivided one-eighth interest; that the rights of said L. S. Kelsey and Sam and W. R. Carnes were initiated by the construction of said ditch in the year 1886; and that the rights of said James Dalton and P. L. Smith, by the enlargement of said ditch in the year 1888; and that the rights of appropriation of said George W. Neill commenced with the first irrigation of his lands in the year 1901; and that the maximum carrying capacity of said Kelsey Wilson ditch does not exceed one thousand, five hundred (1,500) miner's inches under six inch pressure, or thirty-seven and one-half (37 $\frac{1}{2}$ ) second feet.

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That the predecessors of said Sam. and W. R. Carnes reclaimed and irrigated with the waters diverted through said ditch, about one hundred and nineteen (119) acres of their said lands within a reasonable time after the initiation of their said rights of appropriation.

That L. S. Kelsey has applied the waters diverted into and through said ditch to the irrigation of approximately four hundred and fifty (450) acres of his said lands, more particularly described hereinafter, and that the irrigation of said lands was completed within a reasonable time after the construction of said ditch.

That James Dalton and P. L. Smith initiated rights of appropriation through said ditch for the irrigation of their lands by the enlargement of said ditch in the year 1888, and that said Dalton has reclaimed and irrigated with the waters of said ditch, diverted from North Powder River, about one hundred and seventy-five (175) acres, to which the water was applied within a reasonable time after such enlargement; and that said P. L. Smith, within a reasonable time after such enlargement, reclaimed and irrigated, with the waters diverted through said ditch, about eighty (80) acres of his lands, more particularly hereinafter described.

That the claimant, George W. Neill, is the owner of a one-eighth interest in said Kelsey Wilson ditch, as enlarged, and it appears that said Neill succeeded to the interest of one York in the enlargement made by said claimants by purchase of an interest in said ditch in the year 1901, from said Kelsey, who had succeeded to said interest of said York: that in said year 1901 said Neill purchased of said Kelsey a one foot interest in said ditch, but it does not appear that said Neill acquired or succeeded to any of the rights of appropriation of said Kelsey through said ditch, or that Kelsey's predecessor, York, ever initiated or perfected rights of appropriation through said ditch: that in fact said York, at the time of said enlargement, had no lands susceptible of irrigation from said ditch; and it is, therefore, found and determined that said Neill's rights of appropriation were initiated by the purchase of an interest in said ditch in the year 1901, and the irrigation of his said lands to the extent of one hundred and ninety-two (192) acres, within a reasonable time thereafter; that his rights of appropriation and diversion of water into said ditch and of use of the waters in said ditch appear to be subsequent in point of time to the rights of his said co-owners.

That the waters in said ditch should be distributed by the water master of the district in which said ditch is situated in accordance with said decrees of said circuit court and the findings herein set forth and order of determination herein and decree entered in this proceeding, as far as possible.

That James Dalton and P. L. Smith having been decreed to be the owners of these certain lands referred to in the decree above mentioned in said suit of McPhee et al. vs. Kelsey et al. as the Hutchinson Slough waters, are hereby found and determined to be the owners of the same and entitled to the use thereof, to supplement their rights of appropriation of the waters of North Powder River, in proportion to their respective interests in said Kelsey Wilson ditch.

That one J. B. Luster at the time of the original hearing herein filed a statement and proof of claim, claiming the right to a six inch enlargement, or interest in said Kelsey Wilson ditch, acquired in the year 1902; that said Luster appears to have used the waters in said ditch since said year 1902 for the irrigation of his lands, but that at said time said claimant had no interest in said ditch; that James Dalton and P. L. Smith filed a statement of contest as against the rights of said Luster, through said ditch, and it was stipulated and agreed upon the hearing thereof, that said contest

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should be dismissed, upon the understanding and agreement that the use of said ditch by said Luster should be granted to said contestee upon condition that he enlarge said ditch one and one-half feet from a point near the southeast corner of the northeast quarter of section 5, Tp. 7 S. R. 39 E., W. M., to a point on said ditch between the lands owned by said Dalton and those lands owned by said Luster; that whenever it becomes necessary for the purpose of carrying sufficient water for the use of said contestee, Luster, through said ditch, to enlarge the same to North Powder River, he would enlarge the same to the extent and in the manner stipulated in a certain contract entered into between said James Dalton and others with said Dougherty Brothers by Dougherty Brothers and others, on October 10th, 1900, which is of record in Volume 42, at page 193, Records of Deeds of Baker County, Oregon; and based upon said stipulation and proof it is found and determined that said Luster has a right of appropriation through said ditch as of the year 1902 for the irrigation of thirty-seven (37) acres of his said lands, reclaimed and irrigated within a reasonable time after the first application of water to the same in the year 1902; said right being subordinate in point of time to the rights of each and all of the owners of said ditch as above set forth.

That B. P. Doherty is claiming an interest in said ditch by virtue of the three inch enlargement made in the year 1903, and since said year, it appears that within a reasonable time said B. P. Doherty applied the water diverted through said ditch to the irrigation of thirty-eight and one-half (38½) acres of his lands, more particularly described in the order of determination herein.

L.

BEATY AND KELSEY DITCHES: That L. E. Kelsey is the owner of those certain ditches known as the Kelsey ditch and the Beaty ditch, tapping North Powder; that said Beaty ditch taps said stream on the south bank thereof and irrigates portions of said Kelsey's lands south of said river, and said Kelsey ditch taps said stream on the north side and irrigates portions of his lands north of said river; that said Beaty ditch was constructed in the year 1883, and within a reasonable time thereafter, the waters diverted into and through the same were applied to the irrigation of eighty-four and one-half (84½) acres of said Kelsey's lands; and the said Kelsey ditch was constructed in the year 1886, and within a reasonable time thereafter the waters diverted through the same were applied to the irrigation of about one hundred and seventeen and one-half (117½) acres of said Kelsey's lands; the said lands being more particularly described in the order of determination herein.

LI.

PEARSON TOWN DITCH: The Pearson Town ditch, or North Powder City ditch, tapping North Powder on the north bank thereof, was constructed in the year 1900, by one Henry Pearson, a claimant herein, and enlarged in the year 1905 and extended down to the City of North Powder; that within a reasonable time after the construction of said ditch, said Pearson applied the waters diverted through the same to the irrigation of one hundred and sixty acres of his lands, more particularly hereinafter described; and that in the year 1904, said ditch was enlarged and extended down to the City of North Powder and used by said municipality for the irrigation of lawns, gardens, and orchards within the corporate limits of said municipality; that said North Powder is a municipal corporation and is the owner of a one-half interest in said ditch, and that within a reasonable time after the completion of said enlargement and extension, the waters diverted through said ditch were applied to the irrigation of about eighty (80) acres of gardens, lawns, and orchards within the corporate limits of said municipality; that Henry Pearson is the owner of an undivided one-half interest in said ditch.

LII.

SMITH MCPHEE AND TANNER DITCH: That the Smith McPhee and Tanner ditch, tapping the south bank of North Powder River, was constructed in the year 1869 and completed in 1890 by J. D. McPhee, P. L. Smith, and one James Tanner, and that, as originally constructed, said ditch was about four feet wide; and said Smith was the owner of an undivided one-half interest in said ditch, and said McPhee, having succeeded to the interest of said Tanner, became the owner of

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an undivided one-half interest therein; that in the year 1893, said ditch was enlarged by one James Dalton and others and the carrying capacity thereof increased; that said ditch appears to have been enlarged from time to time by different parties; and that the present owners of said ditch are J. D. McPhee, P. L. Smith, J. T. York, James Dalton, Oscar Jacobson, John Brant, and Byron Vandecarr, and L. M. Daugherty; that the respective interests of said owners of said ditch therein are uncertain, but that it appears from the proofs filed that said ditch is at present a ten foot ditch, that is, ten feet in width at the top, and that James Dalton is the owner of a one-sixth interest, L. M. Daugherty of a one-thirtieth interest, Oscar Jacobson of a two-fifteenths interest, J. D. McPhee of a three-tenths interest, P. L. Smith of a three-fifteenths interest; James York and York & Dustin, partners, together of a one-sixth interest; and that John Brant and Byron Vandecarr have acquired some right or interest in said ditch the nature and extent of which does not appear; and that the respective interests of the owners of said ditch are, therefore, not determined; that J. B. Luster and B. P. Doherty, at the time of the original hearing herein, filed proofs, claiming the right to the use of said ditch for the irrigation of certain of their lands.

That J. D. McPhee is the owner of four hundred and six and one-half (406½) acres of land, more particularly described in the order of determination herein, and that said lands are irrigated through said Smith, McPhee and Tanner ditch, and that certain ditch known as the McPhee ditch; and the rights of said McPhee through said ditches are more particularly set forth in Finding No. LIII hereof; that said McPhee commenced the irrigation of his lands through the Kelsey Wilson ditch in the year 1889; and within a reasonable time applied the waters diverted through said ditch to the irrigation of about one hundred and fifty (150) acres of his said lands; that the said claimant, at the time of the enlargement of said Kelsey Wilson ditch, in 1888, was the owner of an interest in said enlargement, and a portion of his said lands were first irrigated through said ditch; that said claimant disposed of his interest in the Kelsey Wilson ditch in about the year 1894 to James Dalton; and since that time, said lands have been irrigated with the waters diverted through the Smith, McPhee and Tanner ditch; that said claimant is also the owner of an interest in the McPhee ditch and that the remainder of his lands were brought under irrigation with the waters diverted through that ditch.

That P. L. Smith commenced the irrigation of a portion of his lands, more particularly described hereinafter, with the waters diverted through said Smith, McPhee and Tanner ditch, in the year 1890, upon the completion of the construction of the same; that within a reasonable time thereafter said claimant reclaimed and applied the waters so diverted to the irrigation of about three hundred and ten (310) acres of his said lands; that said claimant is also the owner of an interest in the Kelsey Wilson ditch and the McPhee ditch, and portions of his lands are irrigated through said ditches; the rights of said claimant through said ditches, and otherwise, being more fully set forth in the findings herein relative to said ditches, and in finding No. LIII hereof.

That James York commenced the irrigation of his lands through the Kelsey Wilson ditch in the year 1892; that at said time, said York was the owner of the Tanner interest in said Kelsey Wilson ditch, to which said James Dalton afterwards succeeded, as hereinbefore set forth; that said lands were irrigated through said Kelsey Wilson ditch until the year 1893, when said claimant acquired an interest in the Smith, McPhee and Tanner ditch; and thereafter said lands were irrigated through said last named ditch; that the interest of said York in said ditch includes the interest of the partnership of York and Dustin, which said partnership is the owner of a half of said York's interest in said ditch; that within a reasonable time after the year 1892, the waters diverted through said ditch were applied to the irrigation of one hundred and forty-two (142) acres of the lands of said York, more particularly described hereinafter; and that in the year 1902, said York commenced a gradual increase of the irrigated area of his lands, and applied the waters diverted

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through said ditch within a reasonable time, to the irrigation of fifty-one acres in addition to the lands previously irrigated.

That James York and Charles Dustin are the owners jointly of about two hundred (200) acres of land, more particularly described in the order of determination herein; and are jointly the owners of the water rights appurtenant thereto; that the said claimants commenced the irrigation of said lands with the waters diverted through said Kelsey Wilson ditch in the year 1892; and in 1893, commenced the irrigation of their said lands through the Smith, McPhee and Tanner ditch in which said partners and joint owners own one-half of the said York interest, as above set forth; that within a reasonable time thereafter, the waters so diverted were applied to the irrigation of two hundred (200) acres of their said lands; that said claimants have no right or interest in said Kelsey Wilson ditch.

That James Dalton commenced the irrigation of his lands in the year 1893, with the waters diverted into and through said Smith, McPhee and Tanner ditch, and within a reasonable time thereafter the waters so diverted were applied to the irrigation of about three hundred and seventy-six (376) acres of his said lands, more particularly described hereinafter; that said ditch was enlarged by said Dalton and others in the year 1893; that other portions of the lands of said Dalton are irrigated through the Kelsey Wilson and Davis Dalton ditches; and the rights of said claimant are more particularly set forth in the findings relative to said ditches and in finding No. LX hereof.

That Oscar Jacobson and Byron Vandecarr are the owners of certain lands, situated on the east and south sides of main Powder River, in Baker County, Oregon; that in the year 1893, one L. S. Kelsey was the owner of an interest in said Smith, McPhee and Tanner ditch, and in said year conveyed to said Oscar Jacobson an interest in said ditch; and the said ditch was extended across said Powder River down to and upon the lands of said Jacobson; and within a reasonable time the waters diverted through said ditch were applied to the irrigation of forty and one-half (40½) acres of his said lands; that said irrigated area was not increased until the year 1899, when said claimant commenced a gradual increase of his irrigated area until, within a reasonable time thereafter, two hundred and thirty-seven and one-half (237½) acres, in addition to lands previously irrigated, were within a reasonable time, brought under irrigation; that within the time permitted by law, James T. York and L. M. Daugherty, contestants herein, filed a statement of contest against the rights claimed by said Jacobson, and at the time of the hearing thereof, the said parties entered into a stipulation and agreement, in which said contestee stipulated and agreed to modify certain of his statements in his statement and proof of claim herein; and based upon such stipulation, said contest was dismissed.

That Byron Vandecarr extended said ditch down to and upon his lands in the year 1901, and commenced the irrigation of said lands, with the waters diverted into and through said ditch, in said year, and within a reasonable time thereafter, applied the waters so diverted to the irrigation of one hundred and twelve (112) acres of his lands, the land of said Jacobson and Vandecarr being more particularly described hereinafter.

That John Brant acquired an interest in said ditch under and by virtue of a contract with J. D. McPhee in the year 1899; that said claimant now claims an interest in said ditch to the extent of an enlargement made in said year 1899 by himself; that it appears that said claimant commenced the irrigation of his lands, more particularly described hereinafter, and within a reasonable time applied the waters diverted through said ditch to the irrigation of one hundred and fifty-five and one-half (155½) acres of his said lands.

That L. M. Daugherty is the owner of one hundred and twenty-five (125) acres of land, and acquired an interest in said ditch in the year 1898, and within a reasonable time his predecessor in interest applied the waters diverted through said ditch to the irrigation of one hundred and twenty-



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five (125) acres of his said lands.

That B. P. Doherty at the time of the original hearing filed a statement and proof of claim, claiming a one-sixth interest in said ditch, by virtue of an enlargement made in the year 1893, by his predecessors; that within the time permitted by law, James Dalton and others owning interests in said ditch, claimants herein, initiated a contest of the rights claimed by said Doherty, by the filing of a statement of contest; and that at the time of the hearing, it was stipulated between the parties to said contest that said B. P. Doherty has since the year 1893 used the water diverted through said ditch for the irrigation of his lands; that said use has been by permission of the contestants in said contest, under an agreement between the said parties; and that said Doherty should have the right to enlarge said ditch in accordance with his claim herein; and that he would make such enlargement, necessary to carry water sufficient for the irrigation of said lands, at such time as he might be requested so to do by the owners of said ditch; and said contest was thereupon dismissed and withdrawn; that it appears that said Doherty, or his predecessors, within a reasonable time subsequent to the year 1903, applied the waters diverted through said ditch to the irrigation of one hundred and twelve (112) acres of his lands, more particularly described hereinafter.

That J. B. Luster is the owner of thirty and one-half ( $30\frac{1}{2}$ ) acres of land irrigated from said ditch, more particularly described hereinafter, and that he commenced the irrigation of said lands in the year 1901, with the waters diverted through said Smith, McPhee and Tanner ditch, and within a reasonable time applied the waters so diverted to the irrigation of said lands; that his interest (or that he has any interest) in said ditch does not appear.

LIII.

MCPHEE DITCH: That the McPhee ditch was constructed in the year 1890 by J. D. McPhee down to and upon his lands, and that J. D. McPhee is now the owner of a two-fifths interest, P. L. Smith of a two-fifths interest, and H. C. Travillion of a one-fifth interest in said ditch.

That J. D. McPhee commenced the irrigation of his lands through said ditch in the year 1890, and within a reasonable time applied the waters so diverted to the irrigation of two hundred and fifty-six and one-half ( $256\frac{1}{2}$ ) acres of his said lands; that other portions of said claimant's lands are irrigated through the Smith, McPhee and Tanner ditch, in which claimant has an interest, and the rights of said claimant are fully set forth in the finding relative to said ditch, and in finding No. LX herein.

That P. L. Smith commenced the irrigation of his lands in the year 1890, with the waters diverted through said ditch; and within a reasonable time thereafter applied the waters so diverted to the irrigation of one hundred and fifty-eight (158) acres; that said claimant irrigates other portions of his lands through the Kelsey-Wilson and Smith-McPhee and Tanner ditches, and his rights are more fully set forth in the findings relative to said ditches and in finding No. LX hereof.

That H. C. Travillion acquired an interest in said ditch in the year 1893, under an agreement and contract with said J. D. McPhee, and commenced the irrigation of his lands in said year, and within a reasonable time applied the waters diverted through said ditch to the irrigation of thirty-four (34) acres of his said lands.

The lands of the said claimants are more particularly and fully described in the order of determination herein.

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## LIV.

JACOBSON DITCH: That the Jacobson ditch, tapping the south bank of North Powder River, was constructed in the year 1890 and completed in the year 1891; that Chris Johnson is the owner of an undivided one-sixth interest; C. E. Jacobson of an undivided two-thirds interest; and Frank McAllister of an undivided one-sixth interest in said ditch; that said ditch was enlarged in the year 1893 by said C. E. Jacobson and predecessors of said Chris. Johnson and Frank McAllister.

That C. E. Jacobson commenced the irrigation of his lands upon the construction of said ditch in the year 1891 and within a reasonable time applied the waters diverted through the same to the irrigation of one hundred and forty acres of his lands; and after the enlargement of said ditch, in 1893, increased the irrigated area of his lands to the extent of two hundred and thirty-six and one-half (236½) acres, within a reasonable time.

That Chris. Johnson or his predecessor commenced the irrigation of the lands of said claimant in the year 1893, after said enlargement, and within a reasonable time applied the waters diverted into and through said ditch to the irrigation of about one hundred and sixty (160) acres of his said lands.

That Frank McAllister, or his predecessor, commenced the irrigation of his lands in the year 1893, after said enlargement of said ditch, and within a reasonable time thereafter, the water diverted into and through said ditch was applied to the irrigation of two hundred (200) acres of his said lands.

That the lands of said claimants are more particularly described in the order of determination herein.

That said McAllister and said Johnson are also the owners of interests in that certain ditch known as the Harlan-Sanders ditch, and that the lands of said claimants so irrigated through said Jacobson ditch are also covered and irrigated by said Harlan-Sanders ditch; the rights of said claimants in said Harlan Sanders ditch being more particularly set forth in the findings herein relative to said ditch.

## LV.

PEARSON DITCH: That the Pearson ditch was constructed in the year 1893, tapping the north bank of said North Powder River, diverting the waters of said stream down to and upon the lands of Henry Pearson and W. L. Goff, claimants herein; that Henry Pearson is the owner of a one-half interest and said W. L. Goff of a one-half interest in said ditch.

That said W. L. Goff commenced the irrigation of his lands through said ditch in the year 1893, and within a reasonable time thereafter applied the waters so diverted to the irrigation of thirty-eight (38) acres.

That Henry Pearson commenced the irrigation of his lands through said ditch in the year 1893, and within a reasonable time applied the waters diverted through the same to the irrigation of thirty-five (35) acres.

The lands of said claimants being more particularly described in the order of determination herein.

## LVI.

HARLAN SANDERS DITCH: The Harlan-Sanders ditch (marked on the maps of the State Engineer as the A. Lun ditch) was commenced in the year 1881 by one M. T. Harlan, who, in that year, and on April 6th, posted a notice of appropriation of the waters of North Powder River, at the proposed point of diversion of said ditch; and said notice of appropriation was duly recorded in the records of Water Locations of Baker County, Oregon; that M. F. Wilcox, O. D. Thomson, E. M. Sanders, Frank McAllister, Andrew O. Lun, Chris. Johnson, and S. W. Holmes, in their statements and proof of claim herein, are claiming some right,

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title or interest in said ditch, and the right to divert and use the waters of North Powder through the same; but that the respective interests of said parties do not appear from the proofs or evidence herein; and the ownership thereof and respective interests of said parties therein is left undetermined in this proceeding.

That it appears that the predecessor of Andrew O. Lun, a claimant, initiated rights of appropriation through said ditch in the year 1864 and diverted the waters of said stream into and through the same, and within a reasonable time applied the waters so diverted to the irrigation of thirty-eight (38) acres of the lands of said Lun, situated in the S<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub>, Section 27, Tp. 6 S. R. 32 E., T. N.

That said ditch was constructed down to the lands of M. F. Wilcox in the year 1861 and the predecessors of said claimant commenced the irrigation of the lands now owned by said Wilcox in said year; that prior to the year 1867, fifty-four acres of said lands were irrigated; that said ditch appears to have been enlarged in the year 1867, and thereafter the predecessors of said Wilcox applied the waters diverted through the same, within a reasonable time, to the irrigation of one hundred and four (104) acres in addition to the lands irrigated prior thereto; that in the year 1893 said ditch appears to have been again enlarged by the predecessors in interest of Chris. Johnson and Frank McAllister; and the waters of said stream diverted through said ditch for the irrigation of the lands of said claimants; and that within a reasonable time the waters so diverted were, with the waters diverted through said Jacobson ditch, as hereinbefore set forth, applied to the irrigation of the lands of said claimants.

That S. W. Holmes is the owner of certain lands now irrigated with the waters of said stream, diverted into and through said ditch; and that within the time permitted by law, P. L. Smith and others, claimants herein, filed a statement of contest against the rights claimed by said Holmes; and that at the hearing of said contest, it was stipulated and agreed that in the year 1867 said claimant's predecessors initiated rights of appropriation through said ditch, and within a reasonable time thereafter reclaimed and applied the waters so diverted to the irrigation of one hundred and five (105) acres of said lands; that the maps of the State Engineer show that one hundred and nineteen (119) acres of said lands have been irrigated through said ditch.

That one E. M. Sanders at the original hearing filed a statement and proof of claim, claiming the right to an interest in said Harlan-Sanders ditch to the extent of a one foot interest therein, in the width of said ditch; that it appears from said claim that E. M. Sanders is the owner of two hundred and twenty-seven (227) acres of land irrigated with the waters diverted through said ditch; and said lands appear therefrom to have been first irrigated in 1867 and within a reasonable time entirely reclaimed and irrigated; that said claimant claims for said lands one hundred and fifty-eight (158) miner's inches under six inch pressure; that a statement of contest was filed within the time permitted by law by J. D. McPhee and others against the rights claimed by said claimant, Sanders, and at the time of the hearing of said contest, said contestee, E. M. Sanders, appeared in person; that no testimony was taken in said contest, or offered on behalf of said contestants, or by said contestee; that in the contest of P. L. Smith and others against the rights claimed by said Holmes, said Sanders appeared for and on behalf of said Holmes, as his agent, having also appeared at the time of the original hearing herein as agent for said Holmes, and a stipulation was entered into in that contest, as above set forth, in consideration of which stipulation, said Sanders relinquished all claims and demands to the waters of North Powder River.

That the rights of Andrew O. Lun, claimant herein, are more fully set forth in Finding No. LVIII hereof.

That O. D. Thomlinson commenced the irrigation of his lands, hereinafter described, through said Harlan-Sanders ditch in the year 1890, and thereafter and within a reasonable time applied the waters diverted through said ditch to the irrigation of one hundred and sixty acres of his said lands, more particularly described in the order of determination herein.

## LVII.

NORTH POWDER W. AND M. MILL RACE DITCH: That the Mill Race ditch of the North Powder Milling and Mercantile Company, a corpora-

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tion, incorporated under the laws of the State of Oregon, taps North Powder River in the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$ , of Section 28, Tp. 6 S. R. 39 E., W. M., diverting the waters of North Powder River down to the flouring mill of said company for the purpose of producing and developing power for the operation of said mill.

That in the year 1870, the predecessors in interest of said company commenced and within two years thereafter completed the construction of a flour mill on the left bank of North Powder River, in Union County, Oregon, and diverted water from the river at a point about one mile west of the mill site, through a mill race, constructed for that purpose, and made an appropriation of the waters of said stream, to the extent of one thousand (1,000) inches of said waters, miner's measurement, under six inch pressure, or twenty-five (25) second feet; that thereafter and within a reasonable time said predecessors put the amount so appropriated to beneficial use for the development of said power and operation of said mill.

That on the 12th day of January, 1898, at a regular term of the Circuit Court of the State of Oregon for the County of Union, in that certain suit wherein the North Powder Milling Company, a predecessor of said above named corporation, was plaintiff, and one W. A. Coughanour, a claimant to the waters of Anthony Creek herein, and another, were defendants, a decree was entered wherein and whereby it was determined and decreed that said plaintiff was the owner of one thousand (1,000) inches of water, miner's measurement, under six inch pressure, of the natural flow of said North Powder River, and its tributaries, above the diversion point of said mill race, to be used for the purpose of generating and developing power for the operation of said mill, at any and all seasons of the year; and said defendant was forever inhibited and enjoined from in any manner diverting from the channel of Anthony Creek, or North Powder River, at any point or points above the head of plaintiff's mill race, any of the waters flowing in said stream, when such diversion would have the effect of preventing one thousand (1,000) inches of water from reaching the head of plaintiff's mill race, as then located, in the natural channel of North Powder River, unobstructed, for the use of plaintiff and its said mill; that upon appeal to the Supreme Court of the State of Oregon, from said decree, the same was affirmed in all things.

That from the conclusions of law and findings of fact in said suit, and said decree, and the opinion of the Supreme Court therein, as well as the proofs of the various parties herein, and the record and investigations and data gathered and submitted by the assistant of the State Engineer in this proceeding, it is found that on October 4th, 1880, the predecessors in interest of said Coughanour, defendant in said suit, posted at a point on the left bank of Anthony Creek, about eleven (11) miles above the head of said mill race, and filed for record in the office of the county clerk of said Union County, a notice of appropriation, subscribed by them, to the effect that they intended to and would appropriate two thousand (2,000) inches of the waters of said creek, to be diverted at said point and conducted in ditches and flumes to the town of North Powder, to be used for agricultural, mining and mechanical purposes; and that the said predecessors of said claimant immediately thereafter commenced the construction of that certain ditch, known herein and heretofore referred to as the Coughanour ditch, and the same was thereafter and in March, 1886, completed and the waters of said creek diverted and conducted through said ditch down to and upon said lands, now owned by Coughanour; that said Coughanour is now the owner of about one thousand, three hundred and sixty (1360) acres of lands of an arid character, requiring for the profitable cultivation thereof the application of water during the irrigation season; and of which lands over one thousand (1,000) acres appear to be susceptible of irrigation with the waters diverted through said ditch; that said Coughanour raises and has raised, with the aid of said water so diverted, valuable crops of grass, hay, grain, fruit, and vegetables; but that the larger portion of said lands are cultivated to crops of grains of various kinds, and particularly wheat; and said lands are summerfallowed each succeeding year, or every other year, so that about one-half of the said grain lands so summerfallowed are irrigated the same year; that the irrigation season for wheat and other grains grown upon said lands commences the 15th day of April of each year and terminates prior to July 10th of each year; that said lands were first irrigated in the year 1867; that by a gradual increase in the irrigated area of said lands, about eight hundred (800) acres of said lands were reclaimed and irrigated prior to the year 1900; and that in the year 1900 and by a gradual increase thereafter, until the year 1909, about three hundred and forty-eight (348) acres were added to the cultivated

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and reclaimed area of said lands.

That since the year 1860 and prior to 1900 many intervening rights of appropriation have been initiated, both from said Anthony Creek and from said North Powder River; and that the irrigation of said additional lands, commencing in the year 1900, was the initiation of a new and distinct right of appropriation as of the year 1900.

That S. W. Holmes, and his predecessors, have, since the year 1888, diverted and used the waters flowing from said Mill race, and into the Tail Race thereof, through a ditch known as the Sanders ditch, for the irrigation of one hundred and seven and one-half ( $107\frac{1}{2}$ ) acres of his said lands, more particularly described in the order of determination herein; that said lands were reclaimed and irrigated within a reasonable time since the year 1888; but that said claimant has no rights of appropriation of the waters of North Powder River by virtue of said use, but his right of use is confined to the waters flowing in said tail race down to the head of his said ditch.

## LVIII.

CONTEST OF C. E. DAVIS AND OTHERS AGAINST ANDREW LUN: That within the time permitted by law, C. E. Davis, A. B. Davis, W. J. Welch, W. S. Dougherty, E. H. Pratt, P. L. Smith, and Chris. Johnson, claimants herein, filed a statement of contest against the rights claimed by Andrew Lun herein; and the same was duly and regularly set for hearing, upon notice to all parties thereto, given according to law; that the same came regularly on for hearing upon the 28th day of July, 1911, at the hour of ten o'clock A. M., pursuant to such notice, at the City Hall, in the City of North Powder, Union County, Oregon, and testimony therein was duly and regularly taken, according to law, and a record thereof made and filed in this proceeding.

That from the testimony taken in said contest, and from the evidence herein, and exhibits introduced, it is found and determined:

1. That the defendant, Andrew Lun, is the owner and in possession of about fifteen (15) acres of land along the east side of the  $E\frac{1}{2}$  of the  $NW\frac{1}{4}$  of section 28; also all that part of the  $NW\frac{1}{4}$  of section 27, lying southeast of the railroad, and being about one hundred and fifty (150) acres; also all that part of the  $SE\frac{1}{4}SW\frac{1}{4}$  of Section 22, lying southeast of the railroad, and being about twenty-five and six-tenths (25.6) acres; also all that part of the  $SW\frac{1}{4}SW\frac{1}{4}$  of Section 22, lying southeast of the railroad and being about two (2) acres; also all that part of the  $NW\frac{1}{4}SE\frac{1}{4}$  of Section 22, lying southeast of the railroad and being about eleven and six-tenths (11.6) acres; all of the  $NE\frac{1}{4}SE\frac{1}{4}$  of Section 22; also three acres in the southeast corner of the  $SE\frac{1}{4}NE\frac{1}{4}$  of Section 22; also all of the  $SW\frac{1}{4}SE\frac{1}{4}$  of Section 22, excepting four (4) acres in a square located in the southeast corner thereof; all of said property being situated in Township 6 S. R. 39 E., T. M., and in Union and Baker counties, Oregon; that about two hundred and forty (240) acres of said lands have been and are being cultivated to crops of grain and hay, and a portion thereof is used for pasture; and that a portion of said lands is used as an ice-pond for the production of ice during the winter months.
2. That North Powder River flows, and since time immemorial has flowed, down to said lands, at a point at or about the quarter section corner on the west side of section 27 aforesaid, from whence said river flows in a general northeasterly course, through, over and across the said premises, leaving the same at a point near the quarter section corner on the east side of section 22.
3. That the channel of said river in crossing said premises winds back and forth, forming in some places a double and again a triple channel, and has changed from time to time and formed new channels across said lands.

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4. That the changing of said channel has in course of time formed upon defendant's lands numerous sloughs, or depressions, which connect with the channel of said river as it is at present, and during high or flood waters in the channel of said stream, the said sloughs are filled with water which subirrigates said lands, but that as the waters flowing in said channel decrease, the said sloughs dry up, and that it is and has been, since the first irrigation of said lands, necessary to dam said stream and force the waters of the same into said sloughs in order to irrigate said lands.

5. That said lands are dry and arid in character and require for their profitable cultivation the application of water; and without irrigation are of little value for the production of crops, but with the application of water thereto annually produce valuable crops of hay, grasses, and grains and produce pasturage for live-stock.

6. That commencing in about the year 1870, said defendant's predecessors have diverted the waters of said North Powder River into said sloughs and depressions each and every year, and applied the same to the irrigation of said lands; and that said irrigation by said defendant and his predecessors has been continuous down to the present time; that the waters so forced into said sloughs during the irrigation season have been, each and every year dammed and held in said sloughs to cause the waters so impounded to subirrigate the lands of said defendant; and by means of lateral ditches, portions of said lands have been irrigated by the diversion of the waters of said sloughs, so forced into the same, by the diversion of said waters out and over the surface of said lands; and that the irrigation of said lands has been both by means of subirrigation, or subsurface irrigation, and surface irrigation, and the waters have been put to beneficial use each and every year for those purposes; that said defendant and his predecessors reclaimed and irrigated all of said lands within a reasonable time after the first irrigation thereof.

7. That the lands of said claimant, Lun, situate in the SE<sup>1</sup>/<sub>4</sub> of Section 27, Tp. 6 S. R. 39 E., W. M., have been irrigated each and every year since the year 1884 through what is known as the Harlan Sanders ditch, by an appropriation through said ditch, initiated in that year; the rights of said Lun through said ditch being more fully set forth in the finding herein relative to said ditch.

8. That in the year 1886 said defendant Andrew Lun appropriated the waters of said North Powder River for ice-making purposes by diversion of the same into and through a ditch and thence into the Mill Race of the North Powder Milling and Mercantile Company, and diversion from said mill race into and through a ditch to the ice-pond of said claimant; that said water is also diverted from the channel of said river into a reservoir and thence into said ice-pond; and that for the purpose of ice-making said defendant has used and needs not exceeding five (5) acre feet to fill said pond, and thereafter a continuous flow of said water of one-half second feet, to sustain the water at a grade in said pond and sustain the ice-surface of said water; that the season for making said natural ice begins October 15th and ends March 1st of each year.

9. That the rights of said defendant and claimant, Andrew O. Lun, were initiated by virtue of prior appropriation, and that he and his predecessors have, at all times, claimed and elected to claim as appropriators in their claims to the right to the use of the waters of said stream.

10. That said contestee, Andrew O. Lun, shall be deemed to have prevailed herein.

### LIX.

CONTEST OF WM. ANTHONY AND OTHERS AGAINST THE RIGHTS CLAIMED BY S. L. BAER AND OTHERS: That within the time permitted by law, William Anthony and about one hundred of the claimants hereinafter named, through and by their attorney, filed a statement of contest, wherein the rights claimed by S. L. Baer, Sallie Baer, Louis Levinger, Lyle Levinger, F. S. Heard, Lamonda Heard, Byron Vandecarr, and Rose Vandecarr, claimants herein, and the Haines Pipe Line Company, a corporation, through the Mansfield ditches, were contested; that said contest was duly and regularly set for trial and notice of the time and place fixed for the hearing thereof was duly and regularly given each of said contestees and contestants, according to law; and the same came duly and regularly on for hearing upon the 24th day of July.

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1911, before the Superintendent; and said parties appeared by their attorneys, whereupon testimony was taken and a transcript thereof made and filed in this cause, upon the completion of the taking of testimony therein, together with all exhibits and other evidence introduced and offered therein.

That from the testimony and evidence taken and submitted in said contest, it is found and determined by the Board as follows:

1. That the Mansfield ditch, known herein as the Upper Mansfield (or Old Kennedy and Elsworth ditch) was constructed in the year 1868, and completed in the year 1869; and that said ditch taps the south and east bank of the South Fork of North Powder River, at a point in the SE $\frac{1}{4}$  SW $\frac{1}{4}$ , of Section 19, Tp. 7 S. R. 38 E., W. M.; and that the Lower Mansfield ditch (or Old Carrier ditch) was constructed prior to 1868, and about the year 1866, and taps the south and east bank of the South Fork of North Powder River, in about the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 19, Tp. 7 S. R. 38 E., W. M.

2. That prior to the year 1868, the waters of North Powder River were diverted into said Lower Mansfield ditch and into said Upper Mansfield ditch in the year 1869, and the waters so diverted were, commencing at said times, thereafter used for placer mining purposes; and that the owners of said ditches during the time the same were so used for mining purposes were the predecessors in interest in said ditches of these contestees and their present co-owners of the same.

3. That said contestees own jointly an undivided one-eighth interest (or each an undivided one-sixty-fourth interest) in said ditches, the Estate and heirs of W. C. Nicholson, deceased, own an undivided one-fourth interest, Clayton Coleman an undivided one-eighth interest, C. L. Kent, A. Long and the P. Roethler Estate, jointly an undivided one-eighth interest (or each an undivided one-twenty-fourth interest), J. L. Savage an undivided one-sixteenth interest, Armand W. Perkins an undivided one-sixteenth interest, Lucinda Hartung an undivided one-eighth interest, and E. H. Pratt an undivided one-eighth interest in said ditches.

4. That the Lower Mansfield ditch, as originally constructed, had a carrying capacity of about five hundred (500) inches; and the Upper Mansfield ditch, as originally constructed, had a carrying capacity of about two hundred and fifty (250) inches (inches, as used herein, and throughout these findings, refer to inches, miner's measurement, under six inch pressure, in the ratio of one second foot to forty miner's inches); that by constant use of said ditches, the flowing of water through the same, and the cleaning out thereof from year to year, the carrying capacity thereof was greatly increased in the course of years; that the grade of said ditches is very steep and the action of the water flowing through the same has, in the course of time, washed out the same and gradually increased the capacity thereof, until at the present time, the maximum capacity of said ditches, in their present condition, is about thirty-seven (37) second feet, or fifteen hundred (1500) inches; that said ditches appear to have been most materially enlarged by these contestees in the year 1907.

5. That the mining season in the vicinity of North Powder River and the season during which water was diverted and used for placer mining purposes through said ditches, at all times, commenced in May and terminated subsequent to October 1st of each year, or during the period for irrigation or irrigation season in the vicinity of said river.

6. That the testimony taken establishes a fairly continuous use of the waters diverted into and through said ditches, for mining purposes, from the time of the construction thereof, down to the year 1897, but fails to establish to the satisfaction of the Board that it was necessary for the operation of said placer mines to divert or use the waters through said ditch to the extent of the full capacity thereof, or that eight hundred (800) inches was at any time necessary for beneficial use in the operation of said mines, or was actually put to beneficial use in connection therewith, continuously

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during the operation of said mines, or that eight hundred (800) inches were in fact diverted through said ditches and used for the operation of said mines.

7. That the use of said ditches for mining purposes was, in the year 1897, abandoned upon the sale thereof and use thereafter for a different purpose; and that for more than ten years, no waters have been diverted through said ditches for mining purposes.

8. That Little Muddy Creek is a natural watercourse, and a tributary of main Powder River, and forms no part or portion of the supply of North Powder River; that said stream rises about two miles east of the channel of North Powder River, and is fed by natural springs, but that, during the irrigation season furnishes but an inconsiderable supply of water, and the natural flow thereof is of little or no value for irrigation purposes, except as the same is augmented and increased by the diversion of the waters of North Powder River into said natural channel through said Mansfield and other ditches, as hereinafter set forth.

9. That those certain ditches known as the Savage ditch, the Warfield-Burnside ditch, and the Mansfield ditches, diverting the waters of North Powder River, and the waste waters from other ditches, and seepage waters from irrigated lands above the channel of Little Muddy Creek, furnish the principal annual supply of said Little Muddy Creek during the irrigation season, and particularly that portion of the irrigation season, commencing about July 1st of each year; that at the present time the waters diverted into and through said Mansfield, Savage and Warfield-Burnside ditches, are conducted through the same and thence into the natural channel of Little Muddy Creek, down the channel of which said waters flow, mingled together, with the natural flow of said stream; and are diverted into and through various ditches of the different claimants of said waters, and by means of extensions down to and upon the lands of said claimants, including these contestees, the said waters have been put to beneficial use each and every year, from the time of the first irrigation of the lands of said claimants.

10. That the contestees hereinbefore named are the owners of certain lands, more particularly described in the order of determination herein, situated in Sections 13, 14, 15, 22, 23, 24, in Tp. 7 S. R. 39 E., W. M., and the SW $\frac{1}{4}$  of Section 19, in Tp. 7 S. R. 40 E., W. M., in Baker County, Oregon, south and east of main Powder River, and about nine miles from the natural channel of North Powder River, and in an easterly direction therefrom; and that all of said lands are arid and dry in character, and require for their profitable cultivation and the production of crops thereon, the application of water; and with irrigation said lands are valuable and produce crops of hay and grain and produce some pasturage for live-stock.

11. That in the year 1907, said contestees and the Haines Pipe Line Company (a corporation of which said contestees were the stockholders) commenced and in 1908 completed the construction of a ditch and pipe line down to their lines, commencing at a point on that certain ditch known as the Pratt and Dougherty, or Pratt, Hutchinson, Dougherty ditch, and enlarging said last named ditch, and extending the same down to said Powder River, where by means of an inverted syphon, the waters in said ditch were conducted over and across said Powder River, and down on to the lands of these contestees, and applied to the irrigation thereof; and that at said time, and within a reasonable time thereafter, the carrying capacity of said Mansfield ditches was materially increased by said claimants and contestees and the extension ditch aforesaid completed down to and upon their said lands.

12. That in the year 1898 and on the 20th day of October of said year, one P. Basche and J. H. Parker were the owners of a half interest in said Mansfield ditches and the water rights connected therewith, and on said day made and executed a deed of quit-claim of all their undivided one-half interest in said ditches to A. J. Hartung and W. C. Nicholson, together with the water rights connected therewith; that the water rights connected with said ditches at said time were rights of use of said waters of North Powder River for mining purposes and the diversion thereof through the said ditches therefor.

13. That from the year 1875 and up until the year 1889, one W. W. Lucas was the owner of said ditches, and that said Basche and Parker were the owners of said ditches from 1891 until 1898, but that it does not appear said owners were operating or owned any mines in connection with which said ditches were



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used; and at all times during the ownership of said ditches, by said parties, the said ditches were leased to various persons for mining purposes, and the waters diverted through said ditches were used by said lessees at different places and for the operation of different placer mines; and that at no time during their said ownership did said Lucas, Basche and Parker divert or use any of the waters of North Powder River through said ditches for mining, irrigation, or other beneficial use, but said ditches were at all times during said ownership under the control of said lessees.

14. That at all times during the use of said ditches and waters through the same for mining purposes, the water rights for mining purposes have been appurtenant to and connected with said ditches; and at no time appurtenant to or connected with any particular mine or place of use, or tract of land.

15. That commencing about the year 1874, the present owners of said Mansfield ditches, other than these contestees, or their predecessors in interest, commenced the irrigation of their various tracts of lands with the waters of North Powder River diverted through the same; and the said lands have been continuously irrigated ever since with the waters so diverted, and it does not appear that said use has been a permissive use, or other than under a claim of right to the use of said waters for irrigation purposes during the irrigation season for the irrigation of said lands.

16. And the Board further finds that at all times when said waters were diverted and used for mining purposes, either by the owners of said ditches, or their lessees, the said waters were, with the exception of not more than three mining seasons, turned into the natural channel of Little Muddy Creek, thence to flow down to main Powder River; and that said waters, so diverted, were used by said miners and those irrigating therewith in such manner as to entirely deprive the natural channel of North Powder of the same.

17. That on the 18th day of February, 1907, A. J. Hartung and Lucinda Hartung, his wife, transferred to said contestees by deed, or did "bargain, sell, and quitclaim" to them, "an undivided one-eighth interest of, in and to "that certain ditch and water right connected therewith, whereby the waters of the south fork of North Powder River are being diverted at a point about five miles above Gardner's saw mill, known as the Courier ditch, carrying five hundred (500) inches of water," and a like undivided one-eighth interest in the Upper Mansfield ditch, "carrying two hundred and fifty (250) inches of water," "both said ditches carrying water to the Muddy Creek placer mining district;" and that by said instrument of transfer, said contestees became the owners of an undivided one-eighth interest in said Mansfield ditches, and the "water rights connected therewith," at the time of said sale.

18. That A. J. Hartung and Lucinda Hartung, his wife, are the owners of about one hundred and sixty acres of land, situated in the  $W\frac{1}{2}$   $SW\frac{1}{4}$ , section 15, and the  $N\frac{1}{2}$   $NW\frac{1}{4}$  of section 22, all in township 7 south range 38 east, Willamette Meridian; that of these lands not exceeding one hundred and twenty acres have been irrigated, reclaimed, and cultivated; that the Nicholson-Hartung ditch was constructed in the year 1881, and of said lands about eighty acres thereof have been irrigated with the water diverted through said ditch; that commencing about the year 1886, the waters of the North Powder River, diverted through said Mansfield ditches, were applied to the said lands, and thereafter and prior to the year 1898, not exceeding forty acres of the said lands were irrigated through said Mansfield ditches; that subsequent to the year 1898, ten acres had been added to the area irrigated with the waters diverted through said Mansfield ditches; that in the year 1898, said Hartung became the owner of an undivided one-fourth interest in said ditches, and in the year 1908, said Hartung, as hereinbefore set forth, transferred one-half of his said interest in said ditches to these contestees; that since the year 1898 and prior to the year 1908, no further or greater use was made of the waters of said North Powder River by said Hartung for the irrigation of his said lands than had been made prior to said year 1898, except to the extent of the irrigation of ten acres thereafter; that neither said Hartung, nor these contestees, have since the year 1897 used the water diverted through said Mansfield ditches for mining purposes or for any other purpose than the irrigation of their said lands.

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19. That none of the lands of said contestees have been irrigated since the first irrigation thereof or the water diverted through said Mansfield ditches for the irrigation of said lands subsequent to the 20th day of July during any year.

20. That said contestees commenced the use of the waters of North Powder River, upon their said lands, in May, 1908, for the irrigation thereof; and that since that time said claimants have, of their several tracts of land, reclaimed and irrigated, prior to the commencement of these proceedings, a total of about eight hundred and seventy (870) acres; that about five hundred (500) acres of the lands of said claimants were, at the time of the commencement of this proceeding, not yet reclaimed or irrigated, but that it was and is the intention of said claimants to apply the waters diverted through said Mansfield ditches to the irrigation of said lands, and that claimants have exercised due diligence in the application of the said waters to their lands, and have prosecuted the work as diligently as circumstances will permit; that all of said lands should be reclaimed and irrigated prior to January 1st, 1913; and that said time is a reasonable time within which to complete the irrigation of said lands, and fully and completely apply the waters appropriated by said claimants to beneficial use; the several tracts of the said claimants, the number of acres actually irrigated at the time of the commencement of these proceedings and the number of acres at said time remaining to be reclaimed and irrigated being more particularly described and set forth in the order of determination herein, to which reference is hereby made.

21. That no water had been applied to the lands of Sallie Baer and Lamonda Heard at the time of the commencement of this proceeding; that said waters were first applied to the lands of S. L. Baer in the year 1908, F. S. Heard in 1908, F. S. Heard, Louis Levinger, and S. L. Baer, joint owners of a certain tract, in 1908, Louis Levinger in 1908, Lyle Levinger in 1908, Byron Vandecarr in 1908, and Rose A. Vandecarr in 1908.

22. That since the execution of said deed to said contestees, said claimant, Hartung, and his wife, have irrigated the same lands, and to the same extent, and have diverted and used through said Mansfield ditches at all times sufficient of the waters of North Powder for the irrigation of said lands; and have at all times claimed and are now claiming sufficient of the said waters of said stream for the irrigation of their lands, as the same were being irrigated prior to the execution of said deed in the year 1908.

## LX.

That James Dalton is the owner of about seven hundred and sixty (760) acres of land, J. D. McPhee is the owner of about four hundred and ten (410) acres of land; and P. L. Smith is the owner of about five hundred and fifty (550) acres of land, more particularly described in the order of determination herein, and which lands are susceptible of irrigation from, and to the irrigation of which the waters of North Powder River have been applied; that James Dalton irrigates his said lands through the Kelsey Wilson, Davis Dalton, and Smith McPhee & Tanner ditches, as hereinbefore set forth; that J. D. McPhee irrigates his said lands through the Smith McPhee and Tanner, and McPhee ditches, as hereinbefore set forth; and said P. L. Smith irrigates his said lands through the Kelsey Wilson ditch, Smith McPhee and Tanner ditch, and the McPhee ditch, as hereinbefore set forth; that, as hereinbefore set forth, the North Powder Milling & Mercantile Company, a corporation, is entitled to the use of one thousand (1,000) inches of the waters of North Powder River for the purpose of developing power for the operation of a flouring mill, diverted into the head of its ditch, at any and all times during the year.

That in the year 1909, and on the 15th day of June, said corporation, by and through its proper officers, and upon direction of its Board of Directors, made, executed and delivered to said James Dalton, P. L. Smith and J. D. McPhee, an instrument in writing, recorded in the County Records of Union County, in Book 49 of Deeds, at page 628, and in the County Records of Baker County, in Book 70 of Deeds, at page 342, whereby and wherein said company "bargained, sold and quit-

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claimed unto the said James Dalton, P. L. Smith, and J. D. McPhee" four hundred miner's inches, or the two-fifths ( $\frac{2}{5}$ ) of the water right belonging to the said North Powder Milling and Mercantile Company, to be used by the said grantees, their heirs or assigns, during the months of July and August of each year, but at no other time during the year, said amount apportioned as follows: Jas. Dalton, two hundred (200) inches, P. L. Smith one hundred and thirty-three (133) inches, and J. D. McPhee sixty-seven (67) inches.

That since said time said claimants have, each and every year, during the months of July and August, applied said amount of water, to-wit: four hundred (400) inches, miner's measurement, or ten (10) second feet, through their said ditches, to the irrigation of their said lands, as of the year and priority date of 1870; and that during said months of July and August of each year, said corporation has used, for the development of power in its said mill, not to exceed six hundred (600) inches, as of said year 1870, or fifteen (15) second feet.

That the use of said water through said ditches, during said months of July and August, is and has been, at all times a use in subordination, however, to the prior rights of use of their co-owners of the said ditches; and especially of the Kelsey Wilson ditch in accordance with the decrees hereinbefore referred to involving said ditch and the rights of use thereof and of the waters therein.

## LXI.

PILCHER CREEK: That Pilcher Creek is a tributary of North Powder River, and that the Pilcher ditch was constructed in the year 1870 by the predecessor of James A. Pilcher, and that said Pilcher and Elmer Shipp have interests in said ditch, the exact nature of which does not appear; that said Pilcher has irrigated seventeen acres of his lands through said ditch, and the same were reclaimed and irrigated within a reasonable time after the construction of said ditch; and that the predecessor of said Shipp commenced the irrigation of the lands of said claimant in the year 1885; that said Shipp has a one-tenth interest in the Tucker Flat ditch, diverting water from Anthony Creek, and that his said lands are now irrigated through said ditch and are entitled to a priority right therein as of the year 1908; that said Shipp is entitled to a priority date of the year 1885 for his said lands in and to the waters of Pilcher Creek, and that his said rights are subsequent in point of time to the rights of said Pilcher to said waters, for the irrigation of seventeen (17) acres of his said lands, that is, said Shipp is entitled to divert sufficient of the flow of said Pilcher Creek remaining therein after the rights of said Pilcher have been satisfied for the irrigation of said lands, and to supplement said appropriation, if at any time insufficient for the irrigation of said lands, with the waters of Anthony Creek, as of the year 1908, after prior rights to the waters of said Anthony Creek have been satisfied.

## LXII.

ANTOINE CREEK: That Antoine Creek is a tributary of North Powder River, and that the A. O. Smith ditch was constructed in the year 1905, tapping said stream, and diverting the waters thereof down to and upon the lands of A. O. Smith, a claimant herein; and that within a reasonable time after the construction of said ditch, said Smith reclaimed and irrigated twelve (12) acres of his said lands, situated in the  $N\frac{1}{2}$  of the  $SW\frac{1}{4}$  of Section 5, Tp. 7 S. R. 38 E., W. M.

## LXIII.

That wherever in these findings or in the order of determination herein the terms "inch," "miner's inch," and "miner's inches under six inch pressure," are employed, the same shall be taken to mean miner's inches under six inch pressure at the ratio of forty miner's inches to one cubic foot of water per second of time; wherever the term "second feet" is used in these findings or in the order of determination herein, the same shall be taken to mean cubic feet of water per second of time.

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## LXIV.

That there appear to have been made no measurements of the discharge of said stream and its tributaries, but from the testimony herein, and the statements and proofs of the various claimants and investigations and data submitted by the State Engineer herein, it appears that said stream and its tributaries commence to rise early in April, with the melting of the snows in the mountains at the sources thereof, and on the uplands which drain into the channel of said stream, and with the spring rains, and that the flow of said stream continues rapidly to increase until about the middle of June; and about the 1st of July, on the average, said stream and its tributaries commence to subside and the flow thereof diminishes rapidly, until the last of July, when there is quite generally insufficient water flowing in the natural channels of said stream and its tributaries to supply the demands of those diverting water therefrom for the irrigation of said lands.

## LXV.

That under the respective rights of appropriation herein set forth the waters of said stream and its tributaries have been applied to the irrigation of approximately twenty-one thousand, five hundred (21,500) acres of land, of which, approximately, nine thousand, eight hundred (9,800) acres are annually cultivated to different crops, including crops of hay, alfalfa, and general fodder crops, and other crops which are grown annually; and those lands which are cultivated to grain crops of various kinds, which are cultivated and irrigated each and every year, are not summerfallowed; that about nine thousand (9,000) acres of said lands are what is known in that locality as "grain lands," or lands which are summerfallowed, and ~~which includes all these lands which are summerfallowed,~~ and which includes all those lands which are, when irrigated, cultivated to different kinds of grains; and these lands it is the custom to summerfallow, or plough up and allow to lie fallow, during the irrigation season succeeding the cultivation thereof; and when so summerfallowed, no water is applied to said lands for any purpose; that the balance of said lands, which are indicated by the State Engineer's maps as irrigated lands, are, as a general rule, lands which are not suited for the production of cultivated crops of any kind, but, in most instances, are alkaline in character, and are used solely for pasturage.

## LXVI.

That the claimants to the waters of said stream and its tributaries are claiming amounts of water which in the aggregate exceed twenty-eight thousand (28,000) miner's inches, or seven hundred (700) second feet of water, which, it is believed, is a total quantity far in excess of the flow of said stream during the irrigation season; that it appears to the Board, from an examination of the claims filed, that the same are, in a great majority of cases, based upon the capacity of the ditches through which water is diverted, rather than upon the necessities of the lands to which water is applied, or amount of water which said several tracts of land require for their profitable irrigation and cultivation, and which said claimants have actually put to beneficial use under and by virtue of bona fide appropriations.

That since February 24th, 1909, applications have been filed in the office of the State Engineer of the State of Oregon for permits to appropriate water of said stream and its tributaries, which have been approved by said State Engineer in a total amount of ninety-seven and twenty-five-hundredths (97.25) second feet for approximately a total area of seven thousand, seven hundred and eighty (7,780) acres.

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LXVII.

That the soils of the lands susceptible of irrigation from said stream vary from a gravelly loam to heavy black loam, the greater portion of said soils being composed of what is termed a sandy loam, or a black loam, with comparatively little gravel in the subsoil, and portions of said lands are composed of a sandy loam or fine sandy loam, varying in depth, and occasionally underlaid with gravel, boulders or conglomerate; that none of said soils will require for their proper and beneficial irrigation to exceed the rate of one cubic foot per second of water to each sixty (60) acres thereof for lands which are cultivated annually to crops of hay, alfalfa and grasses, and like crops requiring irrigation; that a majority of the lands, which are classed as irrigated lands, and indicated as such on the State Engineer's maps do not require irrigation after the 1st to the 10th of July of each year, and, generally, only crops of alfalfa and hay are irrigated subsequent to the middle of July; that the lands which are usually summerfallowed every other year, or biennially, when the same are irrigated, are cultivated to crops of various grains, which do not require for their proper irrigation to exceed the rate of one second foot for each eighty (80) acres thereof; and the said lands, which are included within the meaning of the term "pasture lands," as herein used, quite largely contain alkali in the surface soils thereof, and the application of water thereto is frequently injurious to the said lands; and it is customary to apply water to the same sparingly, and, generally, after the irrigation of the lands which are cultivated; and accordingly the Board finds that said lands do not require, in the application of the water to the same beneficially, a greater rate than one second foot to each one hundred acres thereof.

LXVIII.

That the Board finds that the maximum amount of water necessary for the proper irrigation of the several tracts of lands of the various claimants herein named does not exceed the rate herein set forth opposite the name of each of such claimants, in the following tabulated statement; and the Board incorporates the following tabulated statement in its findings, showing, approximately, the proportionate parts, or percentage of the lands of said claimants, which are classified as follows: (1) lands annually cultivated and to which water is annually applied; (2) lands which are summerfallowed and to which water is not applied when so summerfallowed, and which when cultivated, are cultivated to crops of wheat, barley, oats, and various other grains; (3) lands which are designated as "pasturage" and which term includes within its meaning such of the lands of the various claimants as are not cultivated, but are used exclusively for pasturage, if at all, and to which very little water is applied during the irrigation season, the percentage of each classification of said lands being as herein set forth, to wit:

NAME OF DITCH:	NAME OF CLAIMANT:	1.	2.	3.	RATE IN CUBIC FEET PER SECOND:
	John Ashworth	75%	None	25%	1 sec. ft. to each 70 acres.
	John Brant	70%	24%	6%	1 sec. ft. to each 70 acres.
Burnside-W'f'd.	J. E. Burnside	100%			1 sec. ft. to each 60 acres.
Kelsey-Wilson	Sam. and W. A. Carnes	50%	20%	30%	1 sec. ft. to each 80 acres.
Mansfield ditch	Clayton Coleman	50%	50%		1 sec. ft. to each 80 acres.
Bulger	C.E. & A. B. Davis	50%	50%		1 sec. ft. to each 80 acres.
Powers Co.	C.E. & A. B. Davis	42%	58%		1 sec. ft. to each 80 acres.
	J. S. Davis	80%	20%		1 sec. ft. to each 70 acres.
	W. S. Dougherty	52%	14%	34%	1 sec. ft. to each 80 acres.

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NAME OF DITCH:	NAME OF CLAIMANT:	1.	2.	3.	RATE IN CUBIC FEET PER SECOND:
	Laura A. Dodson	55%	45%		1 sec. ft. to each 80 acres.
	J. L. Dodson	100%			1 sec. ft. to each 60 acres.
	James Dalton	55%	35%	12%	1 sec. ft. to each 80 acres.
	S. A. Daugherty	16%	70%	14%	1 sec. ft. to each 80 acres.
Kelsey-Wilson	B. P. Doherty	40%		60%	1 sec. ft. to each 80 acres.
Smith-McPhee & Tanner	B. P. Doherty	25%	75%		1 sec. ft. to each 80 acres.
	L. M. Daugherty	20%	60%	20%	1 sec. ft. to each 80 acres.
	Allie Dalton	100%			1 sec. ft. to each 60 acres.
	Grant Dalton	30%	62%	8%	1 sec. ft. to each 80 acres.
	H. K. Fisher	100%			1 sec. ft. to each 60 acres.
	W. L. Goff	37%	33%	30%	1 sec. ft. to each 80 acres.
Bulger	Est. Sam'l. Hearing	75%	25%		1 sec. ft. to each 70 acres.
John Williams	Est. Sam'l. Hearing	77%		23%	1 sec. ft. to each 70 acres.
	James Hearing	100%			1 sec. ft. to each 60 acres.
	W. M. Hearing	100%			1 sec. ft. to each 60 acres.
Mill Race	Wm. N. Gardner	45%		55%	1 sec. ft. to each 80 acres.
Powers Co.	Wm. N. Gardner	40%	60%		1 sec. ft. to each 80 acres.
Side Hill & Gardner	J. H. Hutchinson	10%	85%	5%	1 sec. ft. to each 60 acres.
Blume Zilkey	J. H. Hutchinson	7%	93%		1 sec. ft. to each 80 acres.
Daley	J. H. Hutchinson	70%	30%		1 sec. ft. to each 70 acres.
Side Hill & Gardner	W. R. Hutchinson	10%	90%		1 sec. ft. to each 80 acres.
Blume Zilkey	W. R. Hutchinson	36%	62%		1 sec. ft. to each 80 acres.
Ellis Ditch	W. R. Hutchinson	32%	68%		1 sec. ft. to each 60 acres.
	Chas. E. Hutchinson		100%		1 sec. ft. to each 80 acres.
	Dora B. Hutchinson		100%		1 sec. ft. to each 80 acres.
	Mary F. Hutchinson	50%	50%		1 sec. ft. to each 70 acres.
Davis Kelsey	Will F. Hutchinson	70%	30%		1 sec. ft. to each 70 acres.

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NAME OF DITCH:	NAME OF CLAIMANT:	1.	2.	3.	RATE IN CUBIC FEET PER SECOND.
Mansfield ditch	W. C. Nicholson Est.	90%		10%	1 sec. ft. to each 70 acres.
	Albert Hutchinson	20%	48%	32%	1 sec. ft. to each 80 acres.
	Seth Hart	45%	55%		1 sec. ft. to each 80 acres.
	M. Ella Haskin	100%			1 sec. ft. to each 60 acres.
	A. J. Hartung	100%			1 sec. ft. to each 60 acres.
	Luncinda Hartung	100%			1 sec. ft. to each 60 acres.
Harlan Sanders	S. W. Holmes	16%	40%	44%	1 sec. ft. to each 80 acres.
Mill Race	S. W. Holmes	5%	15%	80%	1 sec. ft. to each 90 acres.
	Chris. Johnson	36%	30%	34%	1 sec. ft. to each 80 acres.
	C. E. Jacobson	64%	10%	26%	1 sec. ft. to each 80 acres.
	Oscar Jacobson	70%	10%	20%	1 sec. ft. to each 80 acres.
Ellis	L. S. Kelsey	55%	25%	20%	1 sec. ft. to each 80 acres.
Davis Kelsey	L. S. Kelsey	45%	55%		1 sec. ft. to each 80 acres.
Kelsey Wilson	L. S. Kelsey	45%	20%	35%	1 sec. ft. to each 80 acres.
Beaty	L. S. Kelsey	75%	25%		1 sec. ft. to each 70 acres.
Kelsey	L. S. Kelsey	25%	50%	25%	1 sec. ft. to each 80 acres.
Mansfield	C. L. Kent	40%		60%	1 sec. ft. to each 80 acres.
	J. R. Long	100%			1 sec. ft. to each 60 acres.
	A. Long	100%			1 sec. ft. to each 60 acres.
Smith-McPhee & Tanner	Andrew O. Lun	80%	12%	8%	1 sec. ft. to each 70 acres.
	J. B. Luster	70%	30%		1 sec. ft. to each 70 acres.
	Kelsey Wilson	J. B. Luster	35%	65%	
Savage	W. R. Moore	32%	50%	18%	1 sec. ft. to each 80 acres.
	Frank McAllister	40%		60%	1 sec. ft. to each 80 acres.
	J. D. McPhee	25%	55%	23%	1 sec. ft. to each 80 acres.
	F. McCullough	100%			1 sec. ft. to each 60 acres.
	Est. W. L. Miller	70%	25%	5%	1 sec. ft. to each 70 acres.
	Geo. A. Neill	27%	46%	27%	1 sec. ft. to each 80 acres.

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NAME OF DITCH:	NAME OF CLAIMANT:	1.	2.	3.	RATE IN CUBIC FEET PER SECOND:
	City, North Powder	100%			1 sec. ft. to each 60 acres.
Gardner & Powers Co.	Armand W. Perkins	100%			1 sec. ft. to each 60 acres.
Mansfield	Armand W. Perkins	100%			1 sec. ft. to each 60 acres.
	L. W. Perkins	100%			1 sec. ft. to each 60 acres.
	Chris. Peterson	70%	17%	13%	1 sec. ft. to each 70 acres.
Daley	J. O. Pilcher	100%			1 sec. ft. to each 60 acres.
	E. H. Pratt	58%	6%	46%	1 sec. ft. to each 80 acres.
	John H. Powers	15%	85%		1 sec. ft. to each 80 acres.
	Geo. W. Pratt	79%	6%	15%	1 sec. ft. to each 70 acres.
	Henry Pearson	16%	15%	69%	1 sec. ft. to each 90 acres.
	Est. Peter Roethler	30%	30%	40%	1 sec. ft. to each 90 acres.
	M. J. Relling, Est. of	80%	20%		1 sec. ft. to each 70 acres.
	P. L. Smith	35%	15%	50%	1 sec. ft. to each 80 acres.
	J. L. Savage	50%	20%	30%	1 sec. ft. to each 80 acres.
	O. D. Thomlinson	15%	15%	70%	1 sec. ft. to each 90 acres.
	H. C. Travillion	100%			1 sec. ft. to each 60 acres.
	Byron Vandecarr	75%	25%		1 sec. ft. to each 70 acres.
	M. F. Wilcox	30%	50%	20%	1 sec. ft. to each 80 acres.
Blume Zilkey	W. J. Welch	50%	50%		1 sec. ft. to each 80 acres.
	James R. Warfield	100%			1 sec. ft. to each 60 acres.
	Elmer Warfield	100%			1 sec. ft. to each 60 acres.
	Harry C. Williams	100%			1 sec. ft. to each 60 acres.
	James B. Wilson	95%		5%	1 sec. ft. to each 70 acres.
	James T. York	95%		5%	1 sec. ft. to each 70 acres.
	York & Dustin	16%	10%	74%	1 sec. ft. to each 90 acres.



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NAME OF DITCH:	NAME OF CLAIMANT:	1.	2.	3.	RATE IN CUBIC FEET PER SECOND:
<u>ANTHONY CREEK</u>					
Anthony ditch	Anthony Estate	100%			1 sec. ft. to each 60 acres.
Anthony ditch	Wm. Anthony	100%			1 sec. ft. to each 60 acres.
Anthony ditch	Lewis Klinefelter	100%			1 sec. ft. to each 60 acres.
Anthony ditch	Thomas H. Parker	100%			1 sec. ft. to each 60 acres.
Carnes ditch	John Brant	16%	84%		1 sec. ft. to each 80 acres.
Carnes ditch	Geo. M. Carnes	65%	35%		1 sec. ft. to each 70 acres.
Carnes ditch	Ed. A. Carnes	30%	70%		1 sec. ft. to each 80 acres.
Carnes ditch	John Shaw	15%	80%	5%	1 sec. ft. to each 100 acres (capacity of ditch)
Carnes ditch	Wm. Welch	25%	75%		1 sec. ft. to each 90 acres (capacity of ditch)
Carnes ditch	Clara M. Welch	20%	80%		1 sec. ft. to each 80 acres.
Coughanour	Wm. A. Coughanour	17%	83%		1 sec. ft. to each 80 acres.
Pilcher-Dryborough	A. K. Dryborough	100%			1 sec. ft. to each 60 acres.
Pilcher-Dryborough	James A. Pilcher	100%			1 sec. ft. to each 60 acres.
Pilcher-Evans-Filkins	C. C. Garwood	100%			1 sec. ft. to each 60 acres.
Pilcher-Evans-Filkins	James A. Pilcher	100%			1 sec. ft. to each 60 acres.
Pilcher-Evans-Filkins	Thomas H. Parker	100%			1 sec. ft. to each 60 acres.
	J. E. Ten Broeck	75%	25%		1 sec. ft. to each 70 acres.
Tucker Flat	J. H. Hutchinson	100%			1 sec. ft. to each 60 acres.
	Elmer Shipp	100%			1 sec. ft. to each 60 acres.
<u>PILCHER CREEK.</u>					
J. O. Pilcher	J. O. Pilcher	100%			1 sec. ft. to each 60 acres.
<u>ANTOINE CREEK.</u>					
Alvin O. Smith	Alvin O. Smith	100%			1 sec. ft. to each 60 acres.

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LXIX.

That the foregoing estimate of the maximum quantity in each case, as expressed in second feet, for the irrigation of the several tracts of the above named claimants is based, first, upon the general climatic conditions, and the nature and character of the soils of the lands to which water is applied; second, upon the capacity of the various ditches through which water is diverted by the said claimants for the various tracts of land, and the proportionate interests of said claimants therein; third, upon the quantity of water available for use, taking into consideration the extent of the lands to be irrigated therewith, and the flow of said stream and its tributaries during the irrigation season; and fourth, the character of said lands, and manner and methods of cultivation of the soils thereof and application of water thereto, in the proper and beneficial irrigation thereof, which includes the division and classification of said lands as above set forth; and the Board finds that the amount granted and confirmed in each case, as set forth in the order of determination herein, is at all times sufficient and ample for the beneficial irrigation of the lands of said claimants and the maximum amount to which said claimants are entitled by virtue of their respective appropriations.

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Based upon the foregoing FINDINGS OF FACT, the Board of Control now makes the following

## ORDER OF DETERMINATION:

I.

That each and all of the following named persons are in default herein, and have no right, title or interest in or to the waters of said North Powder River, or any of the tributaries thereof, and are barred and estopped from hereafter asserting any right, title or interest in or to said waters, to-wit: Edward Ashby, Mrs. M. J. Atteberry, James Anderson, Bank of Commerce of Boise, Idaho, Ephriam Barnes, Thomas Burns, Mrs. E. W. Barnes, W. J. Cavender, John Cavender, John Craig, Oscar Dennings, Emile Forsey, J. M. Gilkison, H. O. Garham, W. E. Hill, C. A. Holmstrom, S. P. Herring, John Haines, W. E. Haines, H. L. Haines, R. E. Haines, Will Henderson, John Holinger, Mrs. A. R. Hunter, Chas. Harrison, Bennett Harrison, Ira Harrison, Walter Jones, Mrs. F. E. Lynch, Miles Lee, Frank Leonig, J. E. Lenhart, George Lee, E. L. Ledbetter, J. A. McLaren, Mrs. M. McCurry, L. B. Moore, I. W. Maharry, E. Mott, C. Oleson, Oscar Moody, W. L. Moody, Violet Parker, Powder Valley State Bank of North Powder, William Pearson, T. J. Pearce, Harrison Pearson, Ed. Riggs, James Riggs, Miran Riggs, John Rizor, S. A. Rollins, Otto Schuman, D. B. Sheritt, Howard Sloane, M. R. Shord, Harry Slater, Mrs. A. H. Titus, A. F. Tally, Sanford Vandecarr, Vern Webb, Clarence Wilson, John Yankee, and George Young.

II.

That the hereinafter named claimants are entitled to divert and use the waters of North Powder River, or its tributaries, whence their respective appropriations are diverted to the extent and for the purposes hereinafter provided, in the order of their respective priorities; and all other per-

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sons, firms and corporations heretofore claiming any right, title or interest in or to the waters of said stream, or its tributaries, or owning or being in possession of lands bordering on or having access to said stream, or its tributaries, are barred and estopped from hereafter asserting any rights which may have been heretofore claimed by them to the waters of said stream, or its tributaries, and shall be deemed to have forfeited all right to the use of said waters which may have heretofore been claimed by them, except as such rights shall have been initiated under and by virtue of the provisions of Chapter 216, General Laws of Oregon for 1909.

## III.

That Andrew O. Lun, and all other owners of lands bordering upon said stream, or its tributaries, or having access thereto, have at all times used, and claimed the right to divert and use, and their predecessors did divert and use, the waters of said stream, and its tributaries, flowing down to their lands by virtue of appropriation thereof, and waived whatever rights by virtue of riparian ownership which may have attached heretofore to said lands.

## IV.

That the following named claimants to the waters of North Powder River, and its tributaries, are appropriators thereof to the extent herein set forth and are entitled to a decree and issuance of certificates of water right in accordance therewith, determining, establishing and confirming their several rights to the use of the waters of said stream as of the date of relative priority, in the quantity in cubic feet per second, for the irrigation of the number of acres through the ditch, or ditches, upon the hereinafter described lands of said claimants, or for such other use as may be herein set forth, as such date, amount, number of acres, use, ditch or ditches, and lands are hereunder set forth in tabulated form opposite the name of each of said claimants under said North Powder River, or the particular tributary whence such appropriations are diverted, to-wit:

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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
<u>NORTH POWDER RIVER.</u>						
John Ashworth, Haines, Oregon	1880 1898	0.26 1.46	18 102	Irrigation	Hearing & Angel one-half interest	38 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 37 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 18 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 27 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 21; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
John Brant, North Powder, Oregon.	1899	2.22	155 $\frac{1}{2}$	Irrigation	Smith-McPhee and Tanner	39 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 27 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 8 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 35; Tp. 6 S. R. 39 E., W. M.; and 28 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 13 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 2; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
J. E. Burnside, Haines, Oregon.	1900	0.23	14	Irrigation	Warfield-Burnside one-fourth interest.	14 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 21; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
Sam. and W. A. Carnes, North Powder, Oregon.	1886	1.49	119	Irrigation	Kelsey-Wilson	40 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 32; Tp. 6 S. R. 39 E., W. M.; 10 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 39 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 30 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 5, Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
Clayton Coleman, Baker, Oregon.	1893 1906	0.86 0.38	69 30	Irrigation	Mansfield one- eighth interest	10 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 30 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 14; 40 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 19 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 23; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
C. E. & A. B. Davis, North Powder, Oregon.	1877 1888 1906	0.88 5.12 0.19	70 496 15	Irrigation, domestic and stock.	Powers Co. one- seventh interest.	28 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 19 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 15 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 12 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 36; 1 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 38 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 35; Tp. 6 S. R. 38 E., W. M.; 160 acres in NE $\frac{1}{4}$ ; 80 acres in E $\frac{1}{2}$ NW $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 37 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 80 acres in N $\frac{1}{2}$ SE $\frac{1}{4}$ ; Sec. 1; 40 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 38 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 2; Tp. 7 S. R. 38 E., W. M.; in Baker County, Oregon.
C. E. & A. B. Davis, North Powder, Oregon.	1877 1903	0.86 1.88	69 150 $\frac{1}{2}$	Irrigation, domestic and stock.	Bulger one-third interest.	26 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 1 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 36 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 11; 80 acres in N $\frac{1}{2}$ NW $\frac{1}{4}$ ; 39 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 38 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 12; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
J. S. Davis, North Powder, Ore.	1874	1.2	84	Irrigation & domestic	Davis-Dalton one-third interest.	21 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 11 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 36; 17 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 33 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 35; Tp. 6 S. R. 38 E., W. M.; all in Baker County, Oregon.
J. S. Davis, North Powder, Oregon.	1887	3.19	223	Irrigation & domestic	Davis-Kelsey one-fourth in- terest.	1 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 7 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 80 acres in S $\frac{1}{2}$ NE $\frac{1}{4}$ ; 16 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 25 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 18 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 32 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 36; 34 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 8 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 35; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
W. S. Dougherty, North Powder, Oregon.	1904	3.65	292	Irrigation	Warfield-Burnside one-eighth interest.	40 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 33 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 7; 21 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 2 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 18; 12 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 23 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 8; 36 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 38 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 26 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 20 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 17; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
Laura A. Dodson, Baker, Oregon.	1865 1873 1886	0.67 1.75	53 140 9	Irrigation and domestic	Old Powers Powers Co. & J. L. Dodson ditches.	25 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 25 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 35 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 37 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 35; Tp. 6 S. R. 38 E., W. M.; all in Baker and Union Counties Oregon.
J. L. Dodson, Baker, Oregon.	1884 1906	1.67 0.5	100 30	Irrigation and domestic	Daley, Powers Co., & Gardner Mill Race ditches.	29 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 34, Tp. 6 S. R. 38 E., W. M., in Union County, Oregon; 23 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 38 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 34, Tp. 6 S. R. 38 E., W. M.; all in Baker County, Oregon.

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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
2-1460	James Dalton, North Powder, Oregon.	1888	1.66	132½	Irrigation, domestic & stock.	Kelsey-Wilson	40 acres in SE¼NW¼; 34 acres in NW¼NW¼; 18½ acres in SW¼NW¼; Sec. 10; 20 acres in NW¼NE¼; 20 acres in SW¼NE¼; Sec. 2, Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
2-1460	James Dalton, North Powder, Oregon.	1888	2.6	208	Irrigation, domestic & stock.	Davis-Dalton	38 acres in NW¼NW¼; 37 acres in SW¼NW¼; 38 acres in NW¼SW¼; 3 acres in NE¼NE¼; 17½ acres in SW¼NE¼; 37 acres in SE¼NE¼; 21½ acres in NE¼SE¼; 16 acres in SE¼SE¼; Sec. 4, Tp. 7 S. R. 39 E., W. M., all in Baker County, Oregon.
2-1460	James Dalton, North Powder, Oregon.	1893	4.14	331	Irrigation, domestic & stock.	Smith, McPhee and Tanner	40 acres in NE¼NW¼; Sec. 10; 17 acres in NE¼NW¼; 35 acres in NW¼NW¼; 40 acres in SW¼NW¼; 39 acres in SE¼NW¼; 160 acres in SW¼; Sec. 3; Tp. 7 S. R. 39 E., W. M., all in Baker County, Oregon.
2-1460	James Dalton, North Powder, Oregon.	1870	5.	above lands	Irrigation, domestic & stock, during July and August	Smith, McPhee and Tanner; Davis-Dalton; Kelsey-Wilson;	This claimant is entitled to 5 second feet of the natural flow of said stream, during July and August of each year, as set forth in paragraph No. VI. hereof, for the irrigation of the above described lands.
2-1460	S. A. Daugherty, North Powder, Oregon.	1881 1874	2.15 0.09	172 7	Irrigation, domestic & stock.	Powers Co. Gardner Mill Race.	80 acres in SE¼NE¼; 39 acres in NE¼NE¼; 30 acres in NW¼NE¼; Sec. 33; 15 acres in SW¼SE¼; 15 acres in SE¼SE¼; Sec. 28; Tp. 6 S. R. 38 E., W. M.; all in Baker County, Oregon.
2-1462	B. P. Doherty, Pendleton, Oregon	1903	0.48	38½	Irrigation & stock	Kelsey-Wilson	38½ acres in SW¼SE¼; Sec. 32; Tp. 6 S. R. 39 E., W. M., in Baker County, Oregon.
2-1462	B. P. Doherty, Pendleton, Oregon	1893	1.4	112	Irrigation & stock	Smith, McPhee & Tanner.	37 acres in NE¼SE¼; 39 acres in NW¼SE¼; 36 acres in SE¼SE¼; Sec. 32; Tp. 6 S. R. 39 E., W. M., all in Baker and Union counties, Oregon.
2-1463	L. M. Daugherty, North Powder, Oregon.	1898	1.57	125	Irrigation, domestic & stock.	Smith, McPhee & Tanner.	80 acres in NE¼NE¼; 40 acres in SW¼NE¼; 5 acres in SE¼SE¼; Sec. 10; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
2-1464	Allie Dalton, North Powder, Oregon.	1904	0.6	36	Irrigation	Ellis	16 acres in NE¼NE¼; 20 acres in NW¼NE¼; Sec. 28, Tp. 6 S. R. 39 E., W. M., in Union County, Oregon.
2-1465	Grant Dalton, North Powder, Oregon.	1887 1897 1904	1.00 1.00 0.45	80 80 35½	Irrigation	Davis-Kelsey & Ellis	160 acres in SE¼; Sec. 21; 16 acres in NE¼SW¼; 16½ acres in SW¼SW¼; 3 acres in SE¼SW¼; Sec. 22; Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.
2-1465	Ben Fisher, Haines, Oregon.	1880	0.5		Irrigation	Bulger	A right to supplement the flow of certain springs for the irrigation of: 38 acres in SW¼SE¼; Sec. 3; 26 acres in NW¼NE¼; Sec. 10; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2-1465	H. K. Fisher, Haines, Oregon.	1877 1905	1.33 0.16	80 9½	Irrigation and domestic	Bulger one-eighth interest	34 acres in SW¼NE¼; 16½ acres in NE¼SE¼; 39 acres in NW¼SE¼; Sec. 10; Tp. 7 S. R. 38 E., W. M., in Baker County, Oregon.
2-1467	W. L. Goff, North Powder, Oregon.	1905 1893 1904	0.4 0.48 0.39	32 38 31	Irrigation	Davis-Kelsey Pearson Ellis	18 acres in NE¼NE¼; 20 acres in NW¼NE¼; 31 acres in SE¼NE¼; 20 acres in NE¼NW¼; 12 acres in NW¼NW¼; Sec. 28, Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.
2-1468	William N. Gardner, North Powder, Oregon.	1862 1870		none 85	Domestic, & stock. Irrigation.	Gardner Mill Race.	40 acres in NE¼SW¼; 38 acres in NW¼SW¼; 7 acres in SE¼SW¼; Sec. 33; Tp. 6 S. R. 38 E., W. M., in Baker County, Oregon.
2-1468	William N. Gardner, North Powder, Oregon.	1871 1875 1895	0.38 0.46 0.25	30 37 20	Irrigation, domestic & stock.	Hunsaker Powers Co.	17 acres in NE¼NW¼; 21 acres in NW¼NW¼; 21 acres in SW¼NW¼; 28 acres in SE¼NW¼; Sec. 33; Tp. 6 S. R. 38 E., W. M.; all in Baker County, Oregon.

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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
J. H. Hutchinson, Union, Oregon.	1873 1895 1903	2.38 3.98 3.76	190 313 301	Irrigation, domestic & stock	Side Hill	10 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 38 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 80 acres in E $\frac{1}{2}$ SW $\frac{1}{4}$ ; 38 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 21 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 7; Tp. 7 S. R. 39 E., 7. M.; 3 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 39 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 80 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 3; 30 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 80 acres in S $\frac{1}{2}$ NE $\frac{1}{4}$ ; 160 acres in SE $\frac{1}{4}$ ; Sec. 12; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
J. H. Hutchinson, Union, Oregon.	1871 1882	4.32 1.25	345 $\frac{1}{2}$ 100	Irrigation, domestic & stock.	Gardner Mill Race.	80 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 28 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 33; 80 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 36 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 160 acres in SE $\frac{1}{4}$ ; Sec. 34; 21 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 35; Tp. 6 S. R. 38 E., W. M., all in Baker County, Oregon.
J. H. Hutchinson, Union, Oregon.	1884	4.59	367 $\frac{1}{2}$	Irrigation	Blume-Zilkey	31 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 37 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 35 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 80 acres in S $\frac{1}{2}$ NW $\frac{1}{4}$ ; 80 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 24 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 11, Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
J. H. Hutchinson, Union, Oregon.	1872	0.81	56 $\frac{1}{2}$	Irrigation	Daley	28 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 18 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 26; 10 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 35; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
W. R. Hutchinson, Union, Oregon.	1873 1888 1903	1.5 2.75 2.36	120 220 188 $\frac{1}{2}$	Irrigation, domestic & stock.	Side Hill	21 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 34 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 37 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 28 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 31 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 2; 80 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 25 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 7 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 1; Tp. 7 S. R. 38 E., W. M.; 10 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 19 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 6; 80 acres in E $\frac{1}{2}$ NW $\frac{1}{4}$ ; 36 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 38 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 7; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
W. R. Hutchinson, Union, Oregon.	1871 1883 1899	2.00 0.62 0.5	160 49 $\frac{1}{2}$ 40	Irrigation, domestic & stock	Gardner Mill Race.	32 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 35 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 39 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 36 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 27 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 2; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
W. R. Hutchinson, Union, Oregon.	1884	1.14	95	Irrigation	Blume-Zilkey	19 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 36 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 14; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
W. R. Hutchinson, Union, Oregon.	1879	1.32	105 $\frac{1}{2}$	Irrigation	Ellis	37 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 29 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 4 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 36; Tp. 6 S. R. 38 E., W. M.; 35 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 31; Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.
Chas. E. Hutchinso, North Powder, Oregon.	1902	1.13	90 $\frac{1}{2}$	Irrigation	Side Hill & Gardner Mill Race.	23 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 30 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 2; 36 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 1; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
Dora B. Hutchinson, Union, Oregon.	1903	2.48	198	Irrigation	Blume-Zilkey	160 acres in NE $\frac{1}{4}$ ; 20 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 18 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 13; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
Mary F. Hutchinson, Union, Oregon.	1871	1.00	80	Irrigation and stock	Gardner Mill Race	80 acres in E $\frac{1}{2}$ SW $\frac{1}{4}$ ; Sec. 35; Tp. 6 S. R. 38 E., W. M.; in Baker County, Oregon.
Will F. Hutchinson, North Powder, Oregon.	1896	2.04	142 $\frac{1}{2}$	Irrigation	Davis-Kelsey	80 acres in E $\frac{1}{2}$ SW $\frac{1}{4}$ ; 36 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 26 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 21; Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.

N. J. Hoberg-See W. C. Nicholson, deceased, Estate of-

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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
2 1475 Albert Hutchinson, North Powder, Oregon.	1882 1896	1.75 0.62	140 49 $\frac{1}{2}$	Irrigation	Ellis	39 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 31; 35 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 40 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 37 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 38 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 32, Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.
2 1476 Albert Hutchinson, North Powder, Oregon.	1896	0.5	40	Irrigation	Kelsey-Wilson No interest.	40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 32; Tp. 6 S. R. 39 E., W. M.; all in Baker County, Oregon.
2 1476 Seth Hart, Haines, Oregon.	1887 1903	1.25 0.4	100 32	Irrigation & domestic	Bulger	23 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 29 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 40 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 11; Tp. 7 S. R. 38 E. W. M.; all in Baker County, Oregon.
2 1476 Seth Hart, Haines, Oregon.	1904	0.32	25 $\frac{1}{2}$	Irrigation	Dutch Flat Creek	5 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 20 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 10; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2 1477 H. Ella Haskin, Haines, Oregon.	1875 1889	1.25 0.37	75 22	Irrigation	John Williams	22 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 35 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 15; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2 1478 A. J. Hartung, Haines, Oregon.	1878	1.11	66 $\frac{1}{2}$	Irrigation	Nicholson-Hartung	26 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 15; 40 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 22; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2 1479 Lucinda Hartung, Haines, Oregon.	1886 1898	0.67 0.17	40 10	Irrigation	Mansfield one-fourth in- terest; Nicholson- Hartung.	10 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 15; 40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 22; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2 1480 SAMUEL HEARING, Dec'd. Estate of: Susan J. Hearing, Fidelia A. Harpham, James A. Hearing, Harvey F. Hearing, Hattie C. Hearing, Nellie M. Hearing, Earnie W. Hearing, Earl F. Hearing, Samuel L. Hearing. Heirs at law.	1884	1.14	80	Irrigation and stock	Bulger one-sixth interest.	40 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 15, Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2 1481 W. M. Hearing, Haines, Oregon.	1877 1898	1.33 0.39	93 27	Irrigation and stock	John Williams one-third in- terest.	40 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 13 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 15; 15 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 12 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 16; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2 1482 James Hearing, Haines, Oregon.	1889 1898	0.2 0.42	1 25	Irrigation	Hearing & Angel	40 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 20 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 32 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 14; Tp. 7 S. R. 38 E. W. M.; all in Baker County, Oregon.
2 1483 S. W. Holmes, Ostrander, Wash.	1887	3.24	259 $\frac{1}{2}$	Irrigation & stock.	Harlan-Sanders.	21 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 35 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 30 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 23; 37 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 24; 25 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 38 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 34 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 26; Tp. 6 S. R. 39 E., W. M.; all in Baker County, Oregon.
2 1484 S. W. Holmes, Ostrander, Wash.	1888	1.19	107 $\frac{1}{2}$	Irrigation, domestic and stock.	N.P.M. Co. Mill Race	32 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 30 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 14; 32 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 13 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 23; Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon; subject to the limitations of paragraph No. VII hereof.
2 1484 Chris. Johnson, North Powder, Oregon.	1893	1.99	159	Irrigation and stock.	Harlan- Sanders & Jacobson ditches.	80 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 39 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 27; Tp. 6 S. R. 39 E., W. M.; all in Baker County, Oregon.
2 1485 C. E. Jacobson, North Powder, Oregon.	1890 1893	1.75 2.96	140 236 $\frac{1}{2}$	Irrigation and stock.	Jacobson	40 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 80 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 37 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 39 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;

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C. E. Jacobson, cont'd.						80 acres in W $\frac{1}{2}$ SE $\frac{1}{4}$ ; 12 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 6 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 26; Tp. 6 S. R. 39 E., W. M.; all in Baker County, Oregon.
Oscar Jacobson, North Powder, Oregon.	1893 1899	0.51 2.97	40 $\frac{1}{2}$ 237 $\frac{1}{2}$	Irrigation		20 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 20 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 5 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 8 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 10; 3 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 13 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 32 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 10 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 34 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 20 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 10 $\frac{1}{2}$ acres NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 30 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 6 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 4 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 11; 17 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 4 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 14; Tp. 7 S. R. 39 E. W. M.; all in Baker County, Oregon.
L. S. Kelsey, North Powder, Oregon.	1887 1902	1.00 0.53	80 42	Irrigation and stock	Davis-Kelsey	22 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 20 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 31 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 2 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 6 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 31; Tp. 6 S. R. 39 E., W. M., all in Union County, Oregon.
L. S. Kelsey, North Powder, Oregon.	1886	5.71	457	Irrigation and stock.	Kelsey-Wilson	40 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 20 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 1 acre in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 35 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 8 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 5; 35 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 80 acres in W $\frac{1}{2}$ NE $\frac{1}{4}$ ; 38 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 80 acres in E $\frac{1}{2}$ NW $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 40 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 6; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
L. S. Kelsey, North Powder, Oregon.	1883	1.21	84 $\frac{1}{2}$	Irrigation and stock.	Beaty	8 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 22 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 24 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 30 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 31; Tp. 6 S. R. 39 E., W. M.; all in Baker County, Oregon.
L. S. Kelsey, North Powder, Oregon.	1886	1.47	117 $\frac{1}{2}$	Irrigation and stock.	Kelsey	39 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 10 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 10 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 15 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 2 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 31; Tp. 6 S. R. 39 E., W. M., in Union County, Oregon.
C. L. Kent, Haines, Oregon.	1897	1.45	116	Irrigation	Mansfield	80 acres in E $\frac{1}{2}$ SE $\frac{1}{4}$ ; 2 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 16; 34 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 21; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
J. R. Long, Haines, Oregon.	1885 1885	0.2 0.17	12 10	Irrigation	Bulger Blume-Zilkey (No interest in ditches)	22 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 15; Tp. 7 S. R. 38 E., W. M., all in Baker County, Oregon.
A. Long, Haines, Oregon.	1897	0.5	30	Irrigation	Mansfield	15 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 15 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 20; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
Andrew O. Lun, North Powder, Oregon.	1884	0.53	37	Irrigation and stock.	Harlan-Sanders	37 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 27, Tp. 6 S. R. 39 E., W. M.; all in Baker County, Oregon.
Andrew O. Lun, North Powder, Ore.	1886	2.5		Ice-making October 15 to March 1	Small ditches	Ice ponds, consisting of about 20 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 22; and NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 27, Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.
Andrew O. Lun, North Powder, Oreg.	1870	2.91	203 $\frac{1}{2}$	Irrigation, domestic and stock	Lun ditches and sloughs.	37 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 17 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 30 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 13 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 22; 35 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 33 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 37 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 27; 1 acre in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 28; Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.
J. B. Luster, North Powder, Oregon.	1901	0.44	30 $\frac{1}{2}$	Irrigation	Smith-McPhee and Tanner	15 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 15 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 4; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
J. B. Luster, North Powder, Oregon.	1902	0.46	37	Irrigation	Kelsey-Wilson	24 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 1 acre in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 11 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 4; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
W. R. Moore, Haines, Oregon.	1876 1889	1.45 1.46	116 117	Irrigation, domestic and stock.	Joe Savage	80 acres in E $\frac{1}{2}$ NE $\frac{1}{4}$ ; 33 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 38 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 17 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 24 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 22; 40 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 23; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.



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2 1473 Frank McAllister, North Powder, Oreg.	1893	2.28	190	Irrigation	Jacobson one-sixth interest. Harlan-Sanders.	160 acres in SW $\frac{1}{4}$ ; Sec. 27; 30 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 28; Tp. 6 S. R. 39 E., W. M.; all in Baker County, Oregon.
2 1474 J. D. McPhee, North Powder, Oreg.	1888	1.88	150	Irrigation, domestic & stock.	Smith-McPhee and Tanner	160 acres in NW $\frac{1}{4}$ ; Sec. 35; 80 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 38 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 30 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 19 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 38 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 25 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 5 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 11 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 34; Tp. 6 S. R. 39 E., W. M.; all in Baker County, Oregon.
2 1474 J. D. McPhee, North Powder, Oreg.	1890	3.21	256 $\frac{1}{2}$		McPhee	
2 1474 J. D. McPhee, North Powder, Oreg.	1870	1.65		Irrigation during July and August	Smith-McPhee and Tanner and McPhee ditches.	This right is defined and fully set forth, in para- graph VI hereof.
2 1475 F. McCullough, North Powder, Oreg.	1877 1892	1.33 1.33	80 80	Irrigation and stock	Bulger one- sixth interest.	80 acres in W $\frac{1}{2}$ NE $\frac{1}{4}$ ; 80 acres in E $\frac{1}{2}$ NW $\frac{1}{4}$ ; Sec. 15; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2 1476 W. L. MILLER, Dec'd. Estate of: Novella E. Miller, Novona A. Miller, Myrtle M. Miller, Vada V. Miller, Wagman C. Miller, Evalina A. Miller, Clayton K. Miller, Belva M. Miller, Nannie M. Miller, Heirs at law, 2350 Carter St., Baker, Oregon.	1865 1871 1875 1869 1890	0.72 0.36 0.5 0.54 1.46	50 25 35 38 102 $\frac{1}{2}$	Irrigation, domestic and stock.	Gardner Mill Race  Bamberger  Powers Co. (one- seventh interest)	8 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 10 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 30 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 3 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 27; 10 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 22 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 24 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 25 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 2 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 28; 35 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 80 acres in W $\frac{1}{2}$ NW $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 34; Tp. 6 S. R. 38 E., W. M.; all in Baker County, Oregon.
2 1477 North Powder Milling & Mercantile Company, a corporation, North Powder, Oregon.	1870	25. except July and August 20 July and August.	none	Power	Company Mill Race	North Powder Milling and Mercantile Co. flour mill, situated in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 22; Tp. 6 S. R. 39 E., W. M., in Union County, Oregon; right limited to the development of 109 theoretical horsepower. See, further, paragraph No. VI hereof.
2 1478 G. W. Neill, Haines, Oregon.	1901	2.4	192	Irrigation and stock.	Kelsey-Wilson	20 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 32 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 20 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 10; 40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 15; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
2 1479 W. C. Nicholson, Dec'd. Estate of: N. J. Hoberg, M. J. Gilbaugh, Verlie T. Berber, Opal Toney, Heirs at law, c/o N. J. Hoberg, Haines, Oregon.	1874 1886	0.86 1.72	60 120 $\frac{1}{2}$	Irrigation, domestic & stock.	Mansfield one- fourth interest. Hartung-Nicholson one-half interest.	15 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 20 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 16; 40 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 12 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 39 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 11 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 21; 5 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 38 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 22; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2 1500 NORTH POWDER, City of North Powder, Oregon.	1904	1.33	80	Irrigation	Pearson Town ditch	80 acres within the corporate limits of the town of North Powder, in Union County, Oregon, consisting of lots, being in NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; and NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 22, Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.

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NORTH POWDER.

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
Armand W. Perkins, Haines, Oregon.	1884	0.53	31½	Irrigation, domestic & stock.	Gardner Mill Race & Power Co.	4 acres in NW¼SE¼; 23 acres in NE¼SE¼; 1½ acres in SW¼SE¼; 3 acres in SE¼SE¼; Sec. 32; Tp. 6 S. R. 38 E., W. M.; all in Baker County, Oregon.
Armand W. Perkins, Haines, Oregon.	1894	1.67	100	Irrigation, domestic & stock.	Savage one-sixth interest Mansfield one- sixteenth interest	20 acres in SE¼SW¼; Sec. 14; 80 acres in N¼NW¼; Sec. 23; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
L. W. Perkins, Haines, Oregon.	1877 1895	0.67 0.17	40 10	Irrigation and domestic	Bulger one-eighth interest	40 acres in SE¼SE¼; Sec. 3; 10 acres in NE¼NE¼; Sec. 10; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
Chris. Peterson, North Powder, Ore.	1892 1898 1904	0.43 4.19 1.32	30 293 92½	Irrigation Irrigation	Davis-Kelsey Ellis	20 acres in NE¼NW¼; 12½ acres in NW¼NW¼; 29 acres in SW¼NW¼; 22 acres in SE¼NW¼; Sec. 28; 14 acres in NE¼NE¼; 39 acres in NW¼NE¼; 40 acres in SW¼NE¼; 39 acres in SE¼NE¼; 160 acres in SE¼; Sec. 29; 40 acres in NW¼NE¼; Sec. 32; Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.
J. O. Pilcher, North Powder, Oreg.	1869	1.23	74	Irrigation, domestic and stock.	Daley	12 acres in NW¼SE¼; 24 acres in SW¼SE¼; 38 acres in SE¼SE¼; Sec. 27; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
E. H. Pratt, Haines, Oregon.	1887 1890	1.3 2.63	104 210½	Irrigation, domestic and stock.	Mansfield (one- eighth interest) & John Williams (one-third in- terest)	20 acres in NE¼NE¼; 38½ acres in NW¼NE¼; 13 acres in SW¼NE¼; 9 acres in SE¼NE¼; 80 acres in E¼NW¼; 38 acres in NW¼NW¼; 38 acres in SW¼NW¼; 40 acres in NE¼SW¼; 30 acres in NW¼SW¼; Sec. 16; 4 acres in NW¼SW¼; 4 acres in SW¼SW¼; Sec. 17; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
E. H. Pratt, Haines, Oregon.	1904	0.8	6	Irrigation, domestic and stock.	Dutch Flat Creek	6 acres in SE¼SE¼; Sec. 17; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
John Powers, Colfax, Washington.	1869	1.04	82½	Irrigation, domestic and stock.	Daley	5 acres in SW¼SE¼; Sec. 26; 40 acres in NW¼NW¼; 37½ acres in NE¼NW¼; Sec. 35; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
George W. Pratt, Haines, Oregon.	1893 1904	2.24 0.14	157 10	Irrigation, domestic and stock.	Savage (one-fourth interest)	27 acres in SW¼NE¼; 27 acres in SE¼NE¼; 80 acres in N¼SE¼; Sec. 18; 3 acres in SW¼NW¼; 20 acres in NW¼SW¼; 10 acres in SE¼SW¼; Sec. 17; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
Henry Pearson, North Powder, Oregon.	1893 1900	0.44 1.78	35 160	Irrigation Irrigation	Pearson Pearson Town or N. P. City ditch.	37 acres in SW¼NE¼; 40 acres in NE¼SW¼; 80 acres in W¼SW¼; 38 acres in SE¼SW¼; Sec. 28; Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.
PETER ROETHLER, Dec'd. Estate of: Althana J. Roethler, Anna M. Morris, Amos M. Roethler, Cora M. Roethler, Peter C. Roethler, Ernest I. Roethler, Hazel J. Neill, Alma C. Roethler, Heirs at law, By Althana J. Roethler, Haines, Oregon.	1897	3.40	305	Irrigation, domestic & stock.	Mansfield one- twenty-fourth interest.	40 acres in SW¼NW¼; 20 acres in SE¼NW¼; 40 acres in NW¼SW¼; 15 acres in NE¼SW¼; 20 acres in SW¼SW¼; Sec. 15; 2 acres in SW¼NE¼; 29 acres in SE¼NE¼; 21½ acres in NW¼SE¼; Sec. 16; 25 acres in NE¼NE¼; 40 acres in NW¼NE¼; 15 acres in SW¼NE¼; 37½ acres in NE¼NW¼; Sec. 21; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.

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2-1576 MICHAEL J. RELLING, Dec'd. Estate of: Francis H. Relling, Agatha C. Relling, Angela R. Conway, Blance C. Wilkins, Euphrosyne Bowen, Geo. M. Relling, Mrs. E. C. Relling, Heirs at law, By Mrs. E. C. Relling, Haines, Oregon.	1881 1893	1.43 1.43	100 100	Irrigation, domestic and stock.	Blume-Zilkey	80 acres in $W\frac{1}{2}NW\frac{1}{4}$ ; 40 acres in $SE\frac{1}{4}NW\frac{1}{4}$ ; 80 acres in $W\frac{1}{2}SW\frac{1}{4}$ ; Sec. 14; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2-1577 P. L. Smith, North Powder, Oregon.	1888 1889 1890	1.00 3.88 1.98	80 310 158	Irrigation, domestic and stock.	Kelsey-Wilson Smith-McPhee and Tanner Mc- Phee	38 acres in $SW\frac{1}{4}SE\frac{1}{4}$ ; 40 acres in $SE\frac{1}{4}SE\frac{1}{4}$ ; Sec. 28; 80 acres in $N\frac{1}{2}NE\frac{1}{4}$ ; 80 acres in $N\frac{1}{2}SE\frac{1}{4}$ ; 39 acres in $SW\frac{1}{4}SE\frac{1}{4}$ ; 31 acres in $SE\frac{1}{4}SE\frac{1}{4}$ ; Sec. 23; 160 acres in $NW\frac{1}{4}$ ; Sec. 34; Tp. 6 S. R. 39 E., W. M.; 80 acres in $N\frac{1}{2}NE\frac{1}{4}$ ; Sec. 4, Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
2-1578 J. L. Savage, Haines, Oregon.	1876 1889	1.92 0.35	137 28	Irrigation, domestic and stock.	Mansfield ditches and Joe Savage ditch.	5 acres in $SE\frac{1}{4}NE\frac{1}{4}$ ; Sec. 22; 40 acres in $SW\frac{1}{4}NE\frac{1}{4}$ ; 80 acres in $SW\frac{1}{4}$ ; 40 acres in $NE\frac{1}{4}SW\frac{1}{4}$ ; Sec. 23; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2-1579 G. J. Savage, Haines, Oregon.	1893	0.23	14	Irrigation	Bulger	14 acres in $SE\frac{1}{4}SE\frac{1}{4}$ ; Sec. 9 Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2-1580 Fred V. Spence, Haines, Oregon.	1907	0.52	31	Irrigation	Warfield-Burn- side.	31 acres in $SE\frac{1}{4}SW\frac{1}{4}$ ; Sec. 13; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2-1581 O. D. Thomlinson, North Powder, Oregon.	1890	1.78	160	Irrigation, domestic and stock.	Harlan-Sanders	160 acres in $SW\frac{1}{4}$ ; Sec. 23; Tp. 6 S. R. 39 E., W. M.; all in Baker County, Oregon.
2-1582 H. C. Travillion, North Powder, Oregon.	1893	0.57	34	Irrigation	McPhee	25 acres in $NW\frac{1}{4}NE\frac{1}{4}$ ; 9 acres in $SW\frac{1}{4}NE\frac{1}{4}$ ; Sec. 35; Tp. 6 S. R. 39 E., W. M.; all in Baker County, Oregon.
Byron Vandecarr, Haines, Oregon.	1901	1.6	112	Irrigation	Smith, McPhee & Tanner	40 acres in $SW\frac{1}{4}NE\frac{1}{4}$ ; 33 acres in $SE\frac{1}{4}NE\frac{1}{4}$ ; Sec. 14; 39 acres in $NW\frac{1}{4}NW\frac{1}{4}$ ; Sec. 13; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
2-1587 M. F. Wilcox, Haines, Oregon.	1881 1887	0.68 1.3	54 104	Irrigation, domestic & stock.	Harlan-Sanders.	30 acres in $SE\frac{1}{4}SE\frac{1}{4}$ ; Sec. 22; 80 acres in $N\frac{1}{2}NE\frac{1}{4}$ ; 40 acres in $SW\frac{1}{4}NE\frac{1}{4}$ ; 8 acres in $SE\frac{1}{4}NE\frac{1}{4}$ ; Sec. 27; Tp. 6 S. R. 39 E., W. M.; all in Baker County, Oregon.
2-1588 W. J. Welch, Haines, Oregon.	1879 1890	1.13 4.54	90 363 $\frac{1}{2}$	Irrigation, domestic and stock.	Blume-Zilkey one-fourth in- terest.	24 $\frac{1}{2}$ acres in $NE\frac{1}{4}SE\frac{1}{4}$ ; 40 acres in $SE\frac{1}{4}SE\frac{1}{4}$ ; Sec. 11; 80 acres in $E\frac{1}{4}SW\frac{1}{4}$ ; 36 $\frac{1}{2}$ acres in $NW\frac{1}{4}SW\frac{1}{4}$ ; 32 $\frac{1}{2}$ acres in $SW\frac{1}{4}SW\frac{1}{4}$ ; Sec. 12; 160 acres in $NW\frac{1}{4}$ ; Sec. 13; 80 acres in $E\frac{1}{4}NE\frac{1}{4}$ ; Sec. 14; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2-1589 James R. Warfield, Haines, Oregon.	1900	0.40	23 $\frac{1}{2}$	Irrigation	Warfield-Burn- side (one-fifth interest)	6 $\frac{1}{2}$ acres in $NW\frac{1}{4}NE\frac{1}{4}$ ; 15 acres in $NE\frac{1}{4}NW\frac{1}{4}$ ; Sec. 28, Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2-1590 Elmer Warfield, Haines, Oregon.	1900	0.25	15	Irrigation	Warfield-Burn- side (one-fourth interest)	15 acres in $SW\frac{1}{4}SE\frac{1}{4}$ ; Sec. 21, Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
2-1591 Harry C. Williams, Haines, Oregon.	1880 1896	1.17 0.39	70 23 $\frac{1}{2}$	Irrigation, domestic & stock.	Bulger (one- eighteenth in- terest)	30 acres in $NE\frac{1}{4}NE\frac{1}{4}$ ; 40 acres in $SE\frac{1}{4}NE\frac{1}{4}$ ; 23 $\frac{1}{2}$ acres in $NE\frac{1}{4}SE\frac{1}{4}$ ; Sec. 10; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.

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Edward W. Warfield, Haines, Oregon.	1894 1906	0.17 0.27	10 16	Irrigation	Mansfield (by permission)	11 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 15 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 21; Tp. 7 S. R. 38 E., W. M.; all in Baker County, Oregon.
James B. Wilson, North Powder, Oregon.	1889	5.57	390	Irrigation, domestic and stock.	Davis-Kelsey	160 acres in NW $\frac{1}{4}$ ; 80 acres in N $\frac{1}{2}$ SW $\frac{1}{4}$ ; 31 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 29; 19 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 8 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 3 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 30; 13 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 31; 14 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 21 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 32; Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.
James T. York, North Powder, Oreg.	1892 1902	2.03 0.73	142 51	Irrigation, domestic and stock.	Smith, McPhee and Tanner.	16 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 15 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 2; 19 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 26 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 36 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 3; Tp. 7 S. R. 39 E., W. M.; all in Baker County, Oregon.
James T. York, and Charles Dustin, North Powder, Oregon.	1892	2.23	200	Irrigation, domestic and stock.	Smith, McPhee and Tanner	40 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 160 acres in SW $\frac{1}{4}$ ; Sec. 33; Tp. 6 S. R. 39 E., W. M.; all in Baker County, Oregon.
ANTHONY CREEK (a tributary)						
William Anthony, North Powder, Oregon.	1871	0.17	10	Irrigation, domestic and stock	Anthony	1 acre in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 9 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 20; Tp. 6 S. R. 38 E., W. M., all in Union County, Oregon.
SARAH ANTHONY, De'd. Estate of: C. H. Anthony, Annie Bozarth, Orel Winchester, Francis Young, Lettie Williams, Dora Riggs, Heirs at law, By Milliard Anthony, 2340 Auburn Ave., Baker, Oreg.	1871	0.52	31	Irrigation, domestic and stock.	Anthony	27 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 4 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 20; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
John Brant, North Powder, Oregon.	1898	6.25	499 $\frac{1}{2}$	Irrigation	Carnes Co.	31 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 19 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 36 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 7; 22 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 38 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 34 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 35 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 33 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 8; 17 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 10 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 40 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 24 $\frac{1}{2}$ acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 38 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 9; Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.
William A. Coughanour, Payette, Idaho.	1880 1900	10.00 4.35	800 348	Irrigation, domestic and stock.	Coughanour	40 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 28 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 37 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 16 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 7 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 39 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 17 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 39 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 21 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 3 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 19; 80 acres in E $\frac{1}{2}$ NE $\frac{1}{4}$ ; 33 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 acres in S $\frac{1}{2}$ NE $\frac{1}{4}$ ; 29 $\frac{1}{2}$ acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 80 acres in S $\frac{1}{2}$ NW $\frac{1}{4}$ ; 29 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 7 $\frac{1}{2}$ acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 80 acres in N $\frac{1}{2}$ SE $\frac{1}{4}$ ; 1 acre in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 13 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 20; 160 acres in NE $\frac{1}{4}$ ; 80 acres in N $\frac{1}{2}$ NW $\frac{1}{4}$ ; 27 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 40 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 21; 80 acres in W $\frac{1}{2}$ NW $\frac{1}{4}$ ; 40 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 22; Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.
Geo. M. Carnes, North Powder, Oregon.	1898	3.28	229 $\frac{1}{2}$	Irrigation, domestic and stock.	Carnes Co. (one-sixth interest)	37 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 29 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 29 $\frac{1}{2}$ acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 29 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 25; Tp. 6 S. R. 38 E., W. M.; 40 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 25 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 30; Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.

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Edward K. Carnes, North Powder, Oregon.	1898	1.55	144	Irrigation, domestic and stock.	Carnes Co. (one-sixth interest)	40 acres in NE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; 35 acres in NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; 35 acres in SW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; 34 acres in SE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; Sec. 30; Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.
A. K. Dryborough, North Powder, Oregon.	1872	0.97	58	Irrigation, domestic and stock.	Pilcher-Dryborough (one-third interest)	3 acres in SE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; Sec. 20; 33 acres in SW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; 9 <sup>1</sup> / <sub>2</sub> acres in SE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; Sec. 21; 11 acres in NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; 2 acres in NW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; Sec. 28; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
C. C. Garwood, North Powder, Oregon.	1890	0.57	34	Irrigation	Pilcher-Evans-Filkins	16 <sup>1</sup> / <sub>2</sub> acres in SW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; 10 acres in SE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; 7 <sup>1</sup> / <sub>2</sub> acres in SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; Sec. 21; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
J. H. Hutchinson, Union, Oregon.	1885	1.62	97	Irrigation, domestic and stock.	Tucker Flat (nine-tenths interest)	20 <sup>1</sup> / <sub>2</sub> acres in NW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; 25 acres in SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; 11 acres in NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; Sec. 16; 6 <sup>1</sup> / <sub>2</sub> acres in NE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; 27 acres in SE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; 7 acres in NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; Sec. 17; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
Lewis Klinfelter, North Powder, Oregon.	1883	0.72	43	Irrigation	Anthony	31 acres in NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; 3 acres in NW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; Sec. 20; 9 acres in NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; Sec. 21; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
James A. Pilcher, North Powder, Oregon.	1890	0.37	22	Irrigation	Pilcher-Evans Filkins	3 acres in NW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; 5 acres in SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; Sec. 27; 10 acres in NE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; 1 acre in SE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; 2 acres in NW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; Sec. 28; 1 acre in SW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; Sec. 21; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
James A. Pilcher, North Powder, Oregon.	1870 1884	0.67 1.03	40 61 <sup>1</sup> / <sub>2</sub>	Irrigation, domestic and stock.	Pilcher-Dry- borough	20 acres in NW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; 28 acres in SW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; 20 acres in SE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; 17 acres in NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; 12 <sup>1</sup> / <sub>2</sub> acres in SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; Sec. 28; 4 acres in SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; Sec. 27; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
Thomas H. Parker, North Powder, Oregon.	1905	0.12	7	Irrigation	Pilcher-Evans Filkins	4 acres in SE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; Sec. 17; 3 acres in NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; Sec. 20; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
	1871	0.12	6 <sup>1</sup> / <sub>2</sub>	Irrigation	Anthony	6 <sup>1</sup> / <sub>2</sub> acres in NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; Sec. 20; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
John Shaw, North Powder, Oregon.	1898	6.42	641 <sup>1</sup> / <sub>2</sub>	Irrigation	Carnes Co.	80 acres in S <sup>1</sup> / <sub>2</sub> SW <sup>1</sup> / <sub>4</sub> ; 160 acres in S <sup>1</sup> / <sub>2</sub> ; Sec. 29; 24 <sup>1</sup> / <sub>2</sub> acres in SE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; Sec. 30; 9 <sup>1</sup> / <sub>2</sub> acres in NE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; Sec. 31; 27 <sup>1</sup> / <sub>2</sub> acres in NE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; 40 acres in NW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; 15 <sup>1</sup> / <sub>2</sub> acres in SW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; 40 acres in NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; 23 <sup>1</sup> / <sub>2</sub> acres in NW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; 3 acres in SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; 32 acres in SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; Sec. 32; 80 acres in E <sup>1</sup> / <sub>2</sub> SW <sup>1</sup> / <sub>4</sub> ; 14 <sup>1</sup> / <sub>2</sub> acres in NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; 32 acres in SW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; Sec. 33; Tp. 5 S. R. 39 E., W. M.; all in Union County, Oregon.
Elmer Shipp, North Powder, Oregon.	1903	0.63	38	Irrigation, domestic and stock.	Tucker Flat (one-tenth interest)	10 acres in SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; 4 acres in SE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; 20 acres in NE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; 4 acres in NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; Sec. 22; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
Juliette E. Ten Broeck, North Powder, Oregon.	1890 1904	1.00 0.25	70 17	Irrigation, domestic and stock.	Pilcher-Evans-Filkins.	18 acres in NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; 22 acres in NW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; 13 <sup>1</sup> / <sub>2</sub> acres in SE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; Sec. 21; 33 <sup>1</sup> / <sub>2</sub> acres in SW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; Sec. 22; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
W. J. Welch, Haines, Oregon.	1898 1906	1.33 2.98	120 267	Irrigation, domestic and stock.	Carnes Co.	40 acres in NE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; 40 acres in NW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; 35 acres in SW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; 32 acres in SE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; Sec. 24; 160 acres in NE <sup>1</sup> / <sub>4</sub> ; Sec. 25; Tp. 6 S. R. 38 E., W. M.; 80 acres in W <sup>1</sup> / <sub>2</sub> NE <sup>1</sup> / <sub>4</sub> ; Sec. 30; Tp. 6 S. R. 39 E., W. M.; all in Union County, Oregon.

8040 in W<sup>1</sup>/<sub>2</sub> NE<sup>1</sup>/<sub>4</sub> Sec. 30 Transferred - See Min. Br. p. 242  
 Cert. of water right # 1541 issued in accordance with transfer.

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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
Clara M. Welch, Haines, Oregon.	1905	1.94	155	Irrigation, domestic and stock.	Carnes Co.	40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 24; 35 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 30 acres in S $\frac{1}{2}$ SW $\frac{1}{4}$ ; Sec. 25; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
<u>PILCHER CREEK</u> (a tributary)						
J. O. Pilcher, North Powder, Oregon.	1870	0.22	17	Irrigation, domestic and stock.	Pilcher	17 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 27; Tp. 6 S. R. 38 E., W. M.; all in Union County, Oregon.
Elmer Shipp, North Powder, Oregon.	1885			Irrigation domestic and stock	Pilcher	A right to supplement the appropriation of this claimant of the waters of Anthony Creek, for the irrigation of the lands hereinbefore described, and for stock and domestic purposes.
<u>ANTOINE CREEK</u> (a tributary)						
Alvin O. Smith, North Powder, Oregon.	1905	0.2	12	Irrigation, domestic and stock.	Smith	2 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 10 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 5; Tp. 7 S. R. 38 E., 7. M.; all in Baker County, Oregon.

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V.

That S. L. Baer, Sallie Baer, Louis and Kyle Levinger, F. S. and Lamonda Heard, and Byron and Ross A. Vandecarr, initiated rights of appropriation as tenants in common in respect to their said water rights through the Mansfield ditches, which are more particularly described in the findings herein, diverting water from the South Fork of North Powder River in the year 1907; that said claimants have been proceeding diligently and prosecuting the work of reclaiming their lands with reasonable speed, but that it appears that the waters appropriated by virtue of the rights thus initiated have not been completely applied in all cases to beneficial use, and that all of the lands of said claimants susceptible of irrigation and intended to be irrigated have not yet been irrigated; that said claimants have not yet had sufficient time within which to make complete application of the waters appropriated; and it is hereby determined that all of said appropriations should be completed and perfected prior to January 1st, 1914, and the waters appropriated completely applied to beneficial use in the irrigation of the lands of each of said claimants during the irrigation season of 1913; and on or after said January 1st, 1914 (or prior thereto should the said rights be perfected prior to said date), the Superintendent of the Water Division in whose district the lands are situate shall take proof or evidence as to the completion of said rights and the application of the waters so appropriated to beneficial use, upon due notice to each of said claimants theretofore given; and thereafter, said Board shall enter an order in accordance with such proof or evidence, and certificates of water right shall be issued to said claimants to the extent they and each of them shall have put the water to beneficial use, in accordance with their respective rights of appropriation, as hereinafter set forth, and each of said claimants shall be and is hereby entitled to divert and use the waters of said stream through said ditches for the irrigation of their said lands as the said lands are reclaimed and made ready for the irrigation thereof; that said lands and the crops grown thereon, and to be grown, and the general conditions of cultivation thereof, do not require, for the proper irrigation thereof, to exceed a quantity of water in the ratio of one second foot to each seventy (70) acres of said lands, and that said claimants shall be permitted to divert the waters of said stream at said rate and in the quantity hereinafter set forth opposite the name of each of said claimants, to the extent that such quantity is necessary for the irrigation of said lands; the names, post-office addresses, date of relative priority of appropriation, amount in cubic feet per second, number of acres, and a description of the lands actually irrigated and to be irrigated being as set forth in the following tabulated statement, to-wit:

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NAME AND POSTOFFICE ADDRESS OF APPROPRIATOR	DATE OF RELATIVE PRIORITY	AMOUNT CU. FT. PER SEC.	NO. ACRES	USE-AND-IRRIGATION	NAME OF DITCH	DESCRIPTION OF LAND OR PLACE OF USE
				SEASON		
				actually irrigated		
				No. acres to be irrigated:		
S. L. Baer, Baker, Oregon.	1907	2.86	160	40	Mansfield	Lands actually irrigated: 80 acres in $W\frac{1}{2}SW\frac{1}{4}$ ; Sec. 14; 80 acres in $N\frac{1}{2}NW\frac{1}{4}$ ; Sec. 23; Lands to be irrigated: 40 acres in $SW\frac{1}{4}NW\frac{1}{4}$ ; Sec. 14; all in Tp. 7 S. R. 39 E., W. M., Baker County, Oregon.
Sallie Baer, Baker, Oregon.	1907	.89		62	Mansfield	Lands to be irrigated: 27 acres in $SW\frac{1}{4}NW\frac{1}{4}$ ; and 35 acres in $SE\frac{1}{4}NW\frac{1}{4}$ ; Sec. 23; All in Tp. 7 S. R. 39 E., W. M.; Baker County, Oregon.
F. S. Heard, Haines, Oregon.	1907	3.46	136	106	Mansfield	Lands actually irrigated: 24 acres in $NE\frac{1}{4}SW\frac{1}{4}$ ; 40 acres in $SW\frac{1}{4}SW\frac{1}{4}$ ; 35 acres in $SE\frac{1}{4}SW\frac{1}{4}$ ; Sec. 13; 37 acres in $NW\frac{1}{4}NW\frac{1}{4}$ ; Sec. 24; Lands to be irrigated: 16 acres in $NE\frac{1}{4}SW\frac{1}{4}$ ; Sec. 13; 30 acres in $SE\frac{1}{4}NE\frac{1}{4}$ ; 30 acres in $NE\frac{1}{4}SE\frac{1}{4}$ ; 30 acres in $SE\frac{1}{4}SE\frac{1}{4}$ ; Sec. 24; All in Tp. 7 S. R. 39 E., W. M. Baker County, Oregon.
Lamonda Heard, Haines, Oregon.	1907	2.29		160	Mansfield	Lands to be irrigated: 160 acres in $SW\frac{1}{4}$ ; Sec. 19; Tp. 7 S. R. 40 E., W. M., Baker County, Oregon.
F. S. Heard, Louis Levinger, and S. L. Baer, Baker, Oregon.	1907	2.00	90	50	Mansfield	Lands actually irrigated: 25 acres in $NE\frac{1}{4}NE\frac{1}{4}$ ; 27 acres in $NW\frac{1}{4}NE\frac{1}{4}$ ; 7 acres in $SW\frac{1}{4}NE\frac{1}{4}$ ; 31 acres in $SE\frac{1}{4}NE\frac{1}{4}$ ; Sec. 22; Lands to be irrigated: 50 acres in $NE\frac{1}{4}$ ; Sec. 22; Tp. 7 S. R. 39 E., W. M., Baker County, Oregon.
Lyle Levinger, Baker, Oregon.	1907	2.43	129	42	Mansfield	Lands actually irrigated: 24 acres in $SE\frac{1}{4}SW\frac{1}{4}$ ; 40 acres in $SW\frac{1}{4}SE\frac{1}{4}$ ; Sec. 14; 40 acres in $NW\frac{1}{4}NE\frac{1}{4}$ ; 25 acres in $SE\frac{1}{4}NE\frac{1}{4}$ ; Sec. 23; All in Tp. 7 S. R. 39 E., W. M.; Lands to be irrigated: 42 acres in $SE\frac{1}{4}SW\frac{1}{4}$ ; and $SW\frac{1}{4}SE\frac{1}{4}$ ; Sec. 14; $NW\frac{1}{4}NE\frac{1}{4}$ ; and $SE\frac{1}{4}NE\frac{1}{4}$ ; Sec. 23; all in Tp. 7 S. R. 39 E., W. M., Baker County, Oregon.
Louis Levinger, Baker, Oregon.	1907	2.00	140		Mansfield	Lands actually irrigated: 40 acres in $SE\frac{1}{4}SE\frac{1}{4}$ ; Sec. 14; 40 acres in $NE\frac{1}{4}NE\frac{1}{4}$ ; Sec. 23; 20 acres in $NE\frac{1}{4}SE\frac{1}{4}$ ; 40 acres in $SE\frac{1}{4}SE\frac{1}{4}$ ; Sec. 15; All in Tp. 7 S. R. 39 E., W. M., Baker County, Oregon.
Byron Vandecarr, Haines, Oregon.	1907	.67	47		Mansfield	Lands actually irrigated: 40 acres in $SW\frac{1}{4}NW\frac{1}{4}$ ; Sec. 13; 7 acres in $SE\frac{1}{4}NE\frac{1}{4}$ ; Sec. 14; Tp. 7 S. R. 39 E., W. M., Baker County, Oregon.
Rose A. Vandecarr, Haines, Oregon.	1907	2.86	161	39	Mansfield	Lands actually irrigated: 13 acres in $SE\frac{1}{4}NW\frac{1}{4}$ ; 28 acres in $NE\frac{1}{4}SW\frac{1}{4}$ ; 80 acres in $N\frac{1}{2}SE\frac{1}{4}$ ; Sec. 14; 40 acres in $NW\frac{1}{4}SW\frac{1}{4}$ ; Sec. 13; Lands to be irrigated: 39 acres in $SE\frac{1}{4}NW\frac{1}{4}$ ; and $NW\frac{1}{4}SW\frac{1}{4}$ ; Sec. 14; Tp. 7 S. R. 39 E., W. M., Baker County, Oregon.



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## VI.

That James Dalton, P. L. Smith, and J. D. McPhee are entitled to divert and use the waters of said North Powder River, and its tributaries, above the heads of their respective ditches for the irrigation of their lands hereinbefore described, through the ditches hereinbefore named, opposite their respective names, as of the priority date of 1870, to the extent of ten second feet of the waters of said stream, proportioned as follows: James Dalton, five (5) second feet; P. L. Smith, three and thirty-two hundredths (3.32) second feet; J. D. McPhee, one and sixty-eight hundredths (1.68) second feet; that the right of said claimants to divert the waters of said stream to said extent and as of said date is confined to the months of August and July of each year, and the right to divert the amounts of the proportional parts thereof of said claimants through said ditches is in subordination to the prior rights of the use of said ditches by the owners thereof other than these claimants; that the quantity to which the appropriation of the North Powder Milling & Mercantile Company is entitled during said months of July and August shall not exceed twenty (20) second feet; and the rights to the use of said water by said claimants, Dalton, McPhee and Smith is appurtenant to the lands of said claimants hereinbefore described, and for the purpose of supplementing their respective appropriations, as hereinbefore set forth, and the quantity of water to which each of said claimants is entitled for the irrigation of said lands does not exceed at any time during the irrigation season, or said months of July and August, the rate of one (1) second foot for each eighty (80) acres thereof.

## VII.

That the rights claimed by S. W. Holmes for the irrigation of his lands through the North Powder Milling & Mercantile Company's mill race depend upon the use of the waste waters flowing in said mill race, after use thereof by the North Powder Milling & Mercantile Company, in accordance with their rights set forth in the Order of Determination, and that said claimant, S. W. Holmes is limited as to such right to the use of such waste waters, and the right decreed said claimant confers no right of use or diversion of the waters of North Powder River, except as the same are diverted into said mill race and may come down to his place of use; and the use of said waste waters is subject to the prior rights of use and methods of use and diversion thereof of said company; that the provisions of this finding shall be substantially incorporated in the Certificate of Water Right issued to said Holmes for the lands described as so irrigated.

## VIII.

That the Board determines that S. L. Baer, Sallie Baer, Louis and Lyle Levinger, F. S. and Lemonda Heard, Byron and Rose A. Vandecarr, claimants herein and contestees in the contest brought against the rights claimed by them, by Wm. Anthony and others, are entitled to no earlier rights in said stream and its tributaries through the Mansfield ditches than their rights of appropriation, initiated in the year 1907, as herein set forth; that said contestees have failed to establish the rights of appropriation claimed by them in their several statements and proofs of claim filed at the original hearing herein, as of the date 1866, or any other or different date, than the year 1907; that there has been no change in the character of the use of the waters diverted through the Mansfield ditches from mining to a use for irrigation, or of place of use from the lands of the predecessors of these contestees to their said lands; and the Board concludes, as a matter of law, that such change, in either character of place or use, if made, would be to the detriment and injury of those having rights in the waters of said stream, initiated subsequent to the construction of said Mansfield ditches and the first appropriation of water through the same; and that the use of said water for mining purposes has been, by non-user thereof for more than ten years, abandoned; that the rights of use of the waters of said stream by the owners of said ditches, other than these contestees, depend upon separate appropriations, dating from the time of diversion and use for the irrigation of the lands of each of said owners of the waters diverted through said

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Mansfield ditches; and that the rights of said contestees in said contest to the use of the waters of said stream depend upon appropriations by them initiated as tenants in common, in the year 1907, by the purchase of an interest in said ditches and the prosecution of the work of enlarging said ditches and extending the same down to their lands with due diligence, and the application of the waters diverted through the same to their lands in the year 1908.

That the contestants, Wm. Anthony and others, in the contest of Wm. Anthony and others against the rights claimed by S. L. Baer and others, as set forth in the findings herein, shall be deemed to have prevailed in said contest.

That the contestee, Andrew O. Lun, in the contest of C. E. Davis and others against the rights claimed by said Lun shall be deemed to have prevailed in said contest as set forth in the findings herein.

### IX.

That all rights to the use of the waters of said stream for irrigation purposes, as herein confirmed, are limited as to period of use to a period of time each year commencing about the 15th day of April and ending the first day of September, and said period is hereby declared to be the irrigation season during which water may be diverted and used for the irrigation of the lands hereinbefore described; and the rights of appropriation herein confirmed confer no rights to the diversion and use of waters which have been lawfully impounded in reservoirs and other storage works which have been, or may be hereafter, constructed in accordance with law, when the same are discharged into the natural channel of said stream, or any tributary thereof, in a lawful manner by those having a lawful right to do so; but the said rights of appropriation herein confirmed are limited and confined to the waters flowing naturally in the natural channel of said stream and its tributaries.

### X.

That the rights of use for stock and domestic purposes hereby confirmed entitle the owner of such right to divert and use such quantity of water as is reasonably necessary for his household and stock use; and for stock use, the amount so diverted and used shall not exceed the rate of one-fortieth ( $1/40$ ) cubic foot per second for each one thousand (1,000) head of stock; and the quantity diverted for irrigation purposes during the irrigation season shall include, when it is so diverted, such amount as may be reasonably necessary for said stock and domestic purposes; and the right to divert and use the waters of said stream, and its tributaries, for stock and domestic purposes continues throughout the year.

### XI.

That the rights of appropriation hereby confirmed are appurtenant to the lands herein described, and for irrigation purposes, the rights of use to the waters of said stream, and its tributaries, by virtue of such rights of appropriation, are limited and confined to the irrigation of the lands herein described to the extent of said lands as herein set forth; and the priorities herein confirmed confer no right of use of the waters of said stream, and its tributaries, of the lands other than those specific tracts to which such rights of appropriation are herein set forth as appurtenant.

### XII.

That the order of the rights of the respective appropriators of the waters of said stream and its tributaries, and in which order they are entitled to divert and use the said water shall be and is according to the date of the relative priority of the right as herein set forth and determined, and the first

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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 priority; 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 purpose for which they are decreed a right of use, at all times, as against those having subsequent rights without let or hinderance; but the priorities herein determined and the priority of the rights of appropriation hereby confirmed, confers no right of use of the waters appropriated upon other lands than those to which the same are appurtenant and for the benefit of which such appropriations were initiated and the waters diverted for the irrigation thereof; and the diversion and use upon other lands shall be and is hereby prohibited; and whenever the water is not required by the appropriator having a prior right to its use for irrigation purposes, or other beneficial use for the beneficial irrigation of his premises, he must and shall permit it to flow down in 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 their priority rights; and at all times, the waters diverted shall be beneficially, economically and reasonably used without waste, by those having a right to do so by reason of the priority of their rights, 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 a valid right to divert the water than such appropriator can beneficially use for the purposes to which the water is to be put, and in no event shall the quantity diverted exceed the quantity herein as the quantity to which such appropriator is entitled, as the same is necessary for the proper and beneficial irrigation of his lands and has been actually put to beneficial use.

## XIII.

That a system of rotation in the use of water among the several appropriators in the same neighborhood, or through the same ditches diverting water from said stream, or its tributaries, has been in use, more or less, in this vicinity, and adds greatly to the duty to which 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 stream and its tributaries is situated, shall arrange such appropriators into groups or systems of rotation, first giving the appropriator who is first in priority a quantity 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 said first appropriator bears to the combined appropriations of said appropriators; and shall next serve the next appropriator in priority with a like quantity of water for his proportional time, and so on, until all the appropriators in said group or system are served; then the distribution of water shall be repeated in the same manner throughout the irrigation season; that in case of two, or more, appropriators in said group or system having the same priorities, then the said water master shall distribute the water as between these 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 in case two, or more, appropriators have equal priorities and divert water through the same ditch, the said water master shall distribute the water as between said appropriators to the one whose lands are first covered by said ditch and nearest the head thereof, first, and to the next lower down on said ditch, next, and so on; and where two, or more, appropriators agree as between themselves as to the manner and system of rotation in the use of the water, the said water master shall distribute the water in accordance with such agreement; provided, always, that such arrangement into groups or systems of distribution under such agreements shall not interfere with the prior rights of any appropriator not a member of such group or system.

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

NORTH POWDER.

XIV.

That none of the parties prevailing in the contests hereinbefore mentioned shall recover costs or disbursements.

By ORDER of the Board of Control of the State of Oregon, made and entered at an adjourned, regular meeting of said Board, commenced on the 15th day of November, A. D. 1911, and adjourned until January 22nd, 1912, at Salem, Oregon.

Dated this 22nd day of January, 1912.

BOARD OF CONTROL OF THE STATE OF OREGON.

By

*John H. Lewis*  
State Engineer, President.

*James T. Chinnock*  
Superintendent of Water Division No. 1.

*Geo. W. Cochran*  
Superintendent of Water Division No. 2.

Attest:

*M. B. Maxon*  
Secretary.