

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF LAKE

IN THE MATTER OF THE DETERMINATION OF THE )  
RELATIVE RIGHTS TO THE USE OF THE WATERS OF )  
BUCK CREEK AND ITS TRIBUTARIES, A TRIBUTARY )  
OF SILVER LAKE. )  
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DECREE MODIFYING FINDINGS OF FACT  
AND ORDER OF DETERMINATION OF  
STATE ENGINEER OF OREGON, AND  
AFFIRMING THE SAME AS MODIFIED.

The State Engineer of Oregon, having heretofore made his Findings of Fact and Order of Determination herein, determining and establishing the several rights to the use of the waters of the above named stream and its tributaries, and there having been filed with the Clerk of this Court on the 10th day of July, 1926, the original evidence filed with said State Engineer, and certified copies of the observations and maps of record in said State Engineer's office in connection with said determination, together with a copy of the evidence taken upon the hearing of contests, and a copy of the Findings of Fact and Order of Determination of said State Engineer, as the same appear of record in his office, and said State Engineer having thereupon procured from this Court an Order fixing October 1, 1926, as the time at which the determination herein would be heard by this Court, and notice of said hearing and the time fixed therefor having been duly and regularly given, in the manner required by law, to all parties interested, and this Court, by an Order duly made and entered in said matter, having extended the time for filing exceptions in writing to such Findings of Fact and Order of Determination of said State Engineer, to and including October 20, 1926, and on October 19, 1926, Walter Kittredge, one of the parties hereto, having filed herein exceptions in writing to such Findings and Order of Determination, which exceptions theretofore had been duly and regularly served in the manner required by law, upon the following named parties and claimants herein, to-wit:

Rhea Luper, State Engineer of Oregon, Louise Adams, H.N. Peterson, Chewacan Land and Cattle Company, W.L. Coshow, Mrs. Isa M. Freeman, E.G. Graves, F.M. Green, B. Heffer, P.W. Jones, W.G. Lane, J.H. Lane, C.E. McKune, Florence Dobkins, Robert C. Pitcher, Frank Porter, Eston Porter and Carl Porter, heirs of S.A.D. Porter, deceased, (said last named eighteen persons and claimants being the only persons and claimants in this proceeding whose rights or interests therein might or could be affected by the modifications of said Findings of Fact and Order of Determination sought and prayed for by said Walter Kittredge in his said exceptions thereto, so made and filed herein on October 19, 1926), and no other exceptions to such Findings and Order of Determination having been filed, and this Court, by an Order duly given and made, having fixed June 18, 1929, at 10 o'clock A.M., as the time at which a

hearing would be had upon said exceptions, and said matter having come on regularly to be heard on said 18th day of June, 1929, at the hour of 10 o'clock A.M., and said Walter Kittredge and said E.G.Graves appearing at said hearing by their attorney, L.F.Conn, and said Chewacan Land and Cattle Company, a corporation, said Louise Adams, and said H.N.Peterson, appearing at said hearing by their attorneys, McCamant & Thompson, and no other person or party having appeared at said hearing, and thereupon the Court, having proceeded to hear the argument of said L.F.Conn as attorney for Walter Kittredge, in support of such exceptions to said Findings and Order, and during the process of such argument said attorneys for said Chewacan Land and Cattle Company, a corporation, said Louise Adams, and said H.N.Peterson, having orally, in open Court, offered to consent and stipulate that said Findings of Fact and Order of Determination of said State Engineer, in so far as the same related to the Statement and Proof of Claim No. 29, of said Claimant, Walter Kittredge, should be modified by the Court in certain respects and particulars, which offer and consent to so stipulate having been then and there accepted and agreed to by L.F.Conn, as attorney for said E.G.Graves and said Walter Kittredge, and then and there upon such stipulation having been reduced to writing and signed by said Louise Adams, H.N.Peterson and Chewacan Land and Cattle Company, a corporation, by and through their attorneys, McCamant & Thompson, and also by said E.G.Graves and said Walter Kittredge, by and through their attorney, L.F.Conn, and such Stipulation, so entered into and executed, then and thereupon having been filed herein by the Clerk of this Court, in which Stipulation it was agreed and provided that all of that portion of said Findings and Order, from and including the words "Maud Section", in Line 24 of Page 12 of said Findings and Order, to and including all of Line 3 of Page 13, of said Findings and Order, should be modified by a Decree of said Court, so as to read as follows:

"Maud Section

(Section 36, T. 27 S. R. 14 E.)

The testimony shows that Section 36, in Township 27 South of Range 14 East W. M., was of a swampy nature and was occupied and used by Eustace Maud and Amy Maud, husband and wife, for stockraising purposes, in the year 1886, and that during the year 1886 said Maud and his said wife enclosed said land with a fence, and cut and put up a considerable quantity of hay thereon; that said land was acquired from said Eustace Maud and said Amy Maud by Mrs. M. J. Kittredge about the year 1892; that in the Spring of 1893 Mrs. M. J. Kittredge had a ditch cut from one of the channels of Buck Creek for the purpose of diverting waters from said Buck Creek, to more effectually irrigate said land. Therefore the water right for irrigating said

section from Buck Creek will be given a date of priority of 1893, for the irrigation of the 489.5 acres described in said Walter Kittredge's Proof of Claim No. 29, filed herein."

And in which Stipulation it was further agreed and provided that this Court may further modify said Findings and Order, by changing the date of the relative priority of the water right to the 489.5 acres of land in Section 36, Township 27 South of Range 14 East W. M., appearing on Page 24 of Paragraph 19, of said Findings and Order, under the heading "Date of Relative Priority", in the second column of said Page 24 of such Findings and Order, so that the same, when modified, shall read "1893" instead of "1904".

And in which Stipulation it was further agreed and provided that said Findings and Order, after having been so modified by the Court, should be confirmed by a Decree of this Court, and said cause thereupon having been submitted to the Court for decision, and said Stipulation and all of the evidence herein having been fully considered, and the Court at this time being fully advised in the premises,

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED AND DECREED that said Findings of Fact and Order of Determination be, and the same hereby are MODIFIED, by striking out all of that portion of Paragraph 12 thereof, from and including the words "Maud Section", in Line 24 of Page 12 of said Findings and Order, to and including all of Line 3 of Page 13 of said Findings and Order, and substituting in lieu thereof, the following:

"Maud Section

(Section 36, T. 27 S. R. 14 E.)

The testimony shows that Section 36, in Township 27 South of Range 14 East W. M., was of a swampy nature and was occupied and used by Eustace Maud and Amy Maud, husband and wife, for stockraising purposes, in the year 1886, and that during the year 1886 said Maud and his said wife enclosed said land with a fence, and cut and put up a considerable quantity of hay thereon; that said land was acquired from said Eustace Maud and said Amy Maud by Mrs. M. J. Kittredge about the year 1892; that in the Spring of 1893 Mrs. M. J. Kittredge had a ditch cut from one of the channels of Buck Creek for the purpose of diverting waters from said Buck Creek, to more effectually irrigate said land. Therefore the water right for irrigating said section from Buck Creek will be given a date of priority of 1893, for the irrigation of the 489.5 acres described in said Walter Kittredge's Proof of Claim No. 29, filed herein."

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED that said Findings and Order be, and the same hereby are MODIFIED, by striking out the figures "1904", where the same appear on Page 24 of Paragraph 19 of said Findings and Order,

under the heading "Date of Relative Priority", in the second column of said Page 24 of said Findings and Order, and inserting in lieu thereof the figures "1893", in order that the date of relative priority of the water right for the 489.5 acres of land in Section 36, Township 27 South of Range 14 East W.M., belonging to said claimant, Walter Kittredge, particularly described in his statement and Proof of Claim No. 29, filed herein, shall hereunder be decreed to be the year 1893, instead of the year 1904, as the same was found and ordered by said State Engineer in his said Findings and Order.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED that, as modified by this Decree, the said Findings of Fact and Order of Determination of the State Engineer of Oregon, be, and the same hereby are, AFFIRMED.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED that all parties to this proceeding, their successors in interest and assigns, and all others acting in their aid or behalf, be, and each of them hereby is, forever restrained and enjoined from diverting or interfering with the flow of the waters of said stream or its tributaries, in such manner as to interfere with the relative rights of the respective parties hereto as decreed herein.

Done in open Court this 3rd day of July, 1929.

Approved 7/1/29  
 McCamant & Thompson  
 OK. L. F. Conn.

Orlando M. Corkins  
 Circuit Judge.

ENDORSED:

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

In the Matter of the Determination of the Relative Rights to the Use of the Waters of Buck Creek and its Tributaries, a Tributary of Silver Lake.	) ) ) )	DECREE MODIFYING FINDINGS OF FACT AND ORDER OF DETERMINATION OF STATE ENGINEER OF OREGON, AND AFFIRMING THE SAME AS MODIFIED.
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Filed July 3<sup>rd</sup> 1929.

Carl W. Pendleton, Clerk.

Recorded in Volume 14, Page 246,  
 Circuit Court Journal for  
 Lake County, Oregon.

By Mae Leyva, Deputy.

STATE OF OREGON,        )  
                               ) ss.  
 County of Lake         )

I, Carl W. Pendleton, County Clerk and Ex-officio Clerk of the Circuit Court in and for said County and State, do hereby certify that the annexed copy of Decree Modifying Findings of Fact and Order of Determination of the State Engineer of Oregon, and Affirming the same as Modified, in the Matter of the Determination of the Relative Rights to the Use of the Waters of Buck Creek and its Tributaries, a Tributary of Silver Lake, is a full true and correct transcript of the original Decree as the same appears on file and

of record in my office and in my custody.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the seal  
of the Circuit Court, this 22nd day of November, 1929.

(SEAL)

Carl W. Pendleton  
County Clerk.

STATE OF OREGON        )  
County of Marion.     ) ss.

I, RHEA LUPER, State Engineer of the State of Oregon, do hereby  
certify that the foregoing copy of Decree Modifying Findings of Fact and Order  
of Determination of State Engineer of Oregon, and Affirming the Same as Modified,  
in the matter of the determination of the relative rights to the use of the waters  
of Buck Creek and its tributaries, a tributary of Silver Lake, was received in  
the office of the State Engineer on the 25th day of November, 1929, and entered  
of record herein this 7th day of January, 1930.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of  
January, 1930.

*Rhea Luper*  
RHEA LUPER,  
State Engineer.