

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF KLAMATH.

W. R. Campbell, G. W. Morgan and Katie E.)
Morgan, husband and wife, L. Gerber, A.S.)
Conner, J.P. McAuliffe, W.W. Finley, and)
Nancy A. Fibley, husband and wife,)

Plaintiffs,)

vs.)

Luke E. Walker, Leonard J. Woodruff,)
Bertha Bell, James O. Watt, J. A.)
Parker, Ed Bloomingcamp, T.M. Edsall,)
J. C. Edsall, Spratt Wells,)
Mary H. Dixon, F. M. Miller, John Doe,)
Administrator of the Estate of Pheobe)
Wells, Bertha Bell, Administratrix of)
the Estate of James Bell,)

Defendants.)

MODIFIED FINDINGS
AND
DECREE

-----)
In the Matter of the Determination of)
the Relative Rights to the Use of the)
Waters of Sprague River and Its Tribu-)
taries (outside of the Klamath Indian)
Reservation), a Tributary of Williamson)
River.)
-----)

The State Engineer having heretofore made his Findings of Fact and Order of Determination herein, determining and establishing the several rights to the waters of the above named stream and its tributaries, and there having been filed with the Clerk of this Court on the 13th day of February, 1929, the original evidence filed with said State Engineer in connection with such determination, together with a copy of the Findings of Fact and Order of Determination of said State Engineer as the same appears of record in his office, and said State Engineer having thereupon procured from this Court an order fixing the first day of May, 1929, as the time at which the determination herein would be heard by this Court, and notice of said hearing and of the time fixed therefor having been duly and regularly given to all parties interested in the matter and within the time required by law, and exceptions in writing to the Findings and Order of Determination of said State Engineer having been duly and regularly served in the manner required by law and filed herein prior to the time for said hearing by the following parties and claimants, namely: A. S. Conner, W. R. Campbell and Eva D. Campbell, his wife, L. Gerber, G. W. Morgan and Katie E. Morgan, J. P. McAuliffe and Nora McAuliffe; Spratt Wells, Camilla E. Owen and Phebe M. Bailiss; and at

the time fixed for said hearing, to-wit: the first day of May, 1929, and this Court having by an order duly given and made, fixed the third day of June, 1929, at ten 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 third day of June, 1929, at the hour of ten o'clock A. M., said A. S. Conner, W. R. Campbell, L. Gerber, Eva D. Campbell, J. P. McAuliffe and Nora McAuliffe, G.W. Morgan and Katie E. Morgan appearing at said hearing by their attorney H.M. Manning of the firm of Manning, McColloch and Driscoll and Ralph W. Horan; said Spratt Wells, Camilla E. Owen and Phebe M. Bailiss appearing at said hearing by their attorney J. C. Rutenic of Rutenic and Yaden, attorneys, and no other persons or parites having appeared at said hearing, and the Court having ordered that additional evidence might be introduced at said hearing, and there being at said time and at a time subsequent, pursuant to the Court's order, namely: the 29th day of June, 1929, other evidence introduced, being in addition to that submitted before the State Engineer, and the cause now being before this Court for decision, and having considered all of the evidence herein and the Court being fully advised in the premises, finds as follows:

1.

That on the 28th day of July, 1924, there was filed in the office of the State Engineer an order of the Circuit Court of the State of Oregon for Klamath County, dated June 11, 1924, in the case of W. R. Campbell et al v. Luke E. Walker et al., directing that said cause be referred to the State Engineer for the purpose of adjudicating the relative rights of the various claimants to the use of the water from Sprague River and its tributaries. That the State Engineer thereupon entered an order directing that such determination be made, fixing a time for the making of the necessary surveys and examinations, and the beginning and taking of such testimony as would enable him to determine the rights of the various claimants to the use of the water from said stream, as provided by law.

2.

That a notice was prepared by the State Engineer setting forth the date when he or his assistants would begin an investigation of the flow of said stream and its tributaries, and the ditches diverting water therefrom; and said notice was published in two issues of The Evening Herald, a newspaper published daily at Klamath Falls, Klamath County, Oregon, and of general circulation in said County; said two issues being those of August 28 and 29, 1924; and said

notice was also published in two issues of the Lake County Examiner, a newspaper published weekly at Lakeview, Lake County, Oregon, and of general circulation in said county; said two issues being those of Sept. 4 and 11, 1924; the date of the last publication of the notice in each case being more than ten days prior to the date fixed for the beginning of the measurements of said stream by the State Engineer, as provided by law.

3.

That the time when the State Engineer or his assistants should begin the examinations of said stream and its tributaries was set for the 22nd day of September, 1924. That at the time so specified, duly qualified assistants of the State Engineer did proceed to make an examination and surveys of said stream and its tributaries, and of the ditches and canals diverting water therefrom, and of the lands irrigated by the waters of said stream and its tributaries; which observations and measurements were reduced to writing and made a matter of record in his office. And the State Engineer did cause to be prepared a set of maps or plats, on a scale of measurement of four inches to the mile, showing with substantial accuracy the course of said stream and its tributaries, the location of the various ditches diverting water therefrom, and the number of acres of land which had been irrigated in each legal subdivision; blue prints of said maps being now on file and a part of the record herein. And the State Engineer did also prepare a report showing the capacity, and the quantity of water actually carried, by each of the various streams, canals and ditches, and such other hydrographic and climatological data as were available, said report also being filed as a part of the record herein.

4.

That after said examinations and measurements were completed, a notice was prepared by the State Engineer setting forth a time and place certain when he would begin the taking of testimony (statements and proofs of claim) as to the relative rights of the various claimants to the use of the waters of said stream and its tributaries; and said notice was published in two issues of The Evening Herald, a newspaper published daily at Klamath Falls, Klamath County, Oregon, and of general circulation in said county, said two issues being those of May 7 and 14, 1925; and said notice was also published in two issues of the Lake County Examiner, a newspaper published weekly at Lakeview, Lake County, Oregon, and of general circulation in said county, said two issues being those of May 14 and 21, 1925; the date of the

last publication of said notice in each case being more than thirty days prior to the date fixed for the beginning of the taking of testimony by the State Engineer, as provided by law.

5.

That on the 14th day of May, 1925, the State Engineer did send by registered mail to each person, firm or corporation claiming a right to the waters of said stream, or any tributary thereof, and to each person, firm or corporation owning or being in possession of land bordering on or having access to said stream, or its tributaries, insofar as the names of said claimants, owners, firms or corporations could be reasonably ascertained, a notice similar to the published notice as described in Paragraph 4, setting forth a time and place when the State Engineer would commence the taking of testimony (statements and proofs of claim) as to the relative rights of the various claimants to the waters of said stream or its tributaries. And the State Engineer did enclose with each of said notices a blank form upon which said claimants or persons in possession could present in writing all the particulars necessary for the determination of his rights to the waters of said stream, under oath.

6.

That the times and places when and where the said State Engineer or his duly authorized assistants should attend and take the testimony of the various claimants were fixed as follows, to-wit::

On Wednesday, June 24, 1925, at the Hall at Bly, Oregon.

And for a period of 30 days beginning Monday, June 29, and ending Tuesday, July 28, 1925, at the office of the State Engineer in the Capitol Building at Salem, Oregon.

That during the period so specified, claims to the use of the waters of Sprague River and its tributaries were filed by the following parties, to-wit:

Bloomingcamp, Edw., Klamath Falls, Ore.	Givan, E.T., Bly, Oregon.
Boyd, Geo. S., Bly, Oregon	Griffin, L. L., Bly, Oregon.
Campbell, W.R., Bly, Oregon	Holbrook, G.L., 617 Alameda St., Klamath Falls, Oregon.
Casebeer, E., Bly, Oregon	Howard, O. W. Bly, Oregon.
Conner, A.S. Bly, Oregon	
Dennis, Louis, Ashland, Oregon	Knott, Mae, Bly, Oregon
Dixon, Mary H., Bly, Oregon.	
Edsall, J. C. & T. M., Bly, Oregon	Lapham, Gilbert C., Vistallis, Ore.
	Lowery, Mrs. Anite, Bly, Oregon
Furgeson, Jessie M., Ashland, Ore.	Lundy, Amos, Bly, Oregon
Gerber, Louis, Lorella, Oregon	McAuliffe, J.P. & Nora, Ft. Klamath, Ore.
	McNair, Pearl Obenchain, Beatty, Oregon

Miller, F. M., Lakeview, Ore
Morgan, G. W. & Katie E., Bly, Ore.
Modoc Realty Co., Klamath Falls, Ore.

Obenchain, Frank, Bly, Oregon
Obenchain, Frank, Bly, Oregon, By
Minnie Lewis, Jacksonville, Ore.
Owen, James H., Bly, Oregon
Owen, James H. & Mary E., Bly, Ore.

Richardson, L. A., Bly, Oregon
Richardson, Isa, Bly, Oregon

Taylor, Estate of James, by John A. &
Clarence Taylor, Exec., Ashland, Ore.

Watts, J. O., Bly, Ore.
Watts, J. S., Bly, Ore.
Walker-Woodruff Land & Livestock Co.,
Klamath Falls, Oregon
Walker, Luke E., Klamath Falls, Ore
Wells, Spratt, Trail, Oregon.
Camilla E. Owen, Ashland, Oregon
Phebe M. Bayliss, Ashland, Ore.
By J. C. Rutenic, Klamath Falls, Ore.
Weyerhaeuser Timber Co., Lakeview, Ore.

7.

That the following named persons were duly notified by registered mail and by publication of said notice as hereinbefore set forth, and that each of them, although so notified, has failed, neglected and refused to appear herein and submit proof of a right to the use of the waters of said stream or its tributaries, if any they have or claim, and that such parties are in default, and that such default is here and now entered against them, and each of them, and said parties are hereby enjoined and inhibited from using or asserting any right to the use of the waters of said stream, or any tributary thereof, except by, through or under the rights of the persons whose water rights are defined herein, or under and by virtue of permits issued by the State Engineer:

Bell, Bertha, Bly, Oregon
Bode, Ivan, Bly, Oregon
Casebeer, E. J., Bly, Oregon
Dixon, James, Bly, Oregon
Garrett, W. T., Bly, Oregon
Garrett, Thos., Bly, Oregon
Givens, J. N., Bly, Oregon
Givens, E., Bly, Oregon
Hall, Basil, Bly, Oregon
Knot, Merle, Bly, Oregon
Owens, J. L. Bly, Oregon
Parker, J. P., Bly, Oregon.

Redding, Jas., Bly, Oregon.
Warren, G. W., Bly, Oregon.
Whetstone, E. W., Bly, Oregon.
Boyd, Jas., Ashland, Oregon
Briggs, Att., W. M., Ashland, Ore.
Campbell, et at., W. R., Klamath Falls, Ore.
Ferguson, Atty., Chas. J., Klamath Falls, Ore.
Woodruff, Leonard, Ft. Klamath, Oregon.
Oregon Valley Land Co., Lakeview, Ore.
Boyd, Jas., Talent, Oregon.
Chinnock, Jas. T., Grants Pass, Oregon.

8.

That upon the completion of the taking of said testimony (claims), the State Engineer did on the 5th day of October, 1925, give notice by registered mail to each of the various claimants to the use of the waters of said stream, that at the times and places named in said notice, to-wit:

On Wednesday, October 21, 1925, at the City Library at Medford,
Jackson County, Oregon.

On Friday, October 23, 1925, in the Hall at Bly, Klamath
County, Oregon.

On Saturday, October 24, 1925, in the Circuit Court Room of the County Court House at Klamath Falls, Klamath County, Oregon,

the testimony and proofs of claim would be open to public inspection by the various claimants or owners. That a duly authorized representative of said State Engineer did, in accordance with said notice, keep said evidence and claims open to inspection at the times and places aforesaid.

That said notices did also state therein the county in which the determination of the State Engineer in said proceeding would be heard by the Circuit Court of the State of Oregon, to-wit: the County of Klamath.

9.

That within the time fixed by law therefor, the following contests were initiated by the filing with the State Engineer of notices of contest in writing:

1. James H. Owen and Mary E. Owen, Contestants, v. Louis Gerber, Contestee.
2. James H. Owen and Mary E. Owen, Contestants, v. Edward Bloomingcamp, Contestee.
3. James H. Owen and Mary E. Owen, Contestants, v. J. O. Watts, Contestee.
4. James H. Owen and Mary E. Owen, Contestants, v. Gilbert C. Lapham, Contestee.
5. James H. Owen and Mary E. Owen, Contestants, v. Estate of James Taylor, by John A. Taylor & Clarence Taylor, Contestees.
6. Walker-Woodruff Land & Livestock Company, Spratt Wells, Camilla E. Owen, Phebe M. Bayliss, James H. Owen and Mary E. Owen, Contestants, v. Louis Gerber, Contestee.
7. Walker-Woodruff Land & Livestock Company, Spratt Wells, Camilla E. Owen, Phebe M. Bayliss, James H. Owen and Mary E. Owen, Contestants, v. Mrs. Anita Lowery, Contestee.
8. Walker-Woodruff Land and Livestock Company, and J. C. Rutenic for Spratt Wells, Camilla E. Owen, Phebe M. Bayliss, James H. Owen and Mary E. Owen, Contestants, v. W. R. Campbell, Contestee.
9. Walker-Woodruff Land & Livestock Company, Spratt Wells, Camilla E. Owen, Phebe M. Bayliss, James H. Owen and Mary E. Owen, Contestants, v. F. M. Miller, Contestee.
10. Walker-Woodruff Land & Livestock Company, Spratt Wells, Camilla E. Owen, Phebe M. Bayliss, James H. Owen and Mary E. Owen, Contestants, v. Mary H. Dixon, Contestee.
11. Walker-Woodruff Land & Livestock Company, Spratt Wells, Camilla E. Owen, Phebe M. Bayliss, James H. Owen and Mary E. Owen, Contestants, v. A. S. Conner, Contestee.
12. Spratt Wells, Camilla E. Owen, Phebe M. Bayliss, James H. Owen and Mary E. Owen, Contestants, v. G. W. Morgan and Katie E. Morgan, Contestees.
13. Spratt Wells, Camilla E. Owen, Phebe M. Bayliss, James H. Owen and Mary E. Owen, Contestants, v. J.P. McAuliffe and Nora McAuliffe, Contestees.
14. W. R. Campbell, Eva D. Campbell, W. W. Finley and Nancy A. Finley, J. P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner, and Louis Gerber, Contestants, v. Spratt Wells, Camilla E. Owen and Phebe M. Bayliss, Contestees.
15. W. R. Campbell, Eva D. Campbell, W. W. Finley, and Nancy A. Finley, J.P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner, and Louis Gerber, Contestants, v. Spratt Wells, Camilla E. Owen, and Phebe M. Bayliss, Contestees.
16. W. R. Campbell, Eva D. Campbell, W. W. Finley, and Nancy A. Finley, J. P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner, and Louis Gerber, Contestants, v. Spratt Wells, Camilla E. Owen, and Phebe M. Bayliss, Contestees.

17. W. R. Campbell, Eva D. Campbell, W. W. Finley, and Nancy A. Finley, J. P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner and Louis Gerber, Contestants, v. Walker-Woodruff Land & Livestock Company, Contestee.
18. W. R. Campbell, Eva D. Campbell, W. W. Finley and Nancy A. Finley, J. P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner and Louis Gerber, Contestants, v. Walker-Woodruff Land & Livestock Company, Contestee.
19. W. R. Campbell, Eva D. Campbell, W. W. Finley, and Nancy A. Finley, J. P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner and Louis Gerber, Contestants, v. F. M. Miller, Contestee.
20. W. R. Campbell, Eva D. Campbell, W. W. Finley and Nancy A. Finley, J. P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner and Louis Gerber, Contestants, v. Modoc Realty Company, an Oregon Corporation, Contestee.
21. W. R. Campbell, Eva D. Campbell, W. W. Finley and Nancy A. Finley, J. P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner and Louis Gerber, Contestants, v. Modoc Realty Company, an Oregon Corporation, Contestee.
22. W. R. Campbell, Eva D. Campbell, W. W. Finley, and Nancy A. Finley, J. P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner and Louis Gerber, Contestants, v. Modoc Realty Company, an Oregon Corporation, Contestee.
23. W. R. Campbell, Eva D. Campbell, W. W. Finley and Nancy A. Finley, J. P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner and Louis Gerber, Contestants, v. Luke E. Walker, Contestee.
24. W. R. Campbell, Eva D. Campbell, W. W. Finley and Nancy A. Finley, J. P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner and Louis Gerber, Contestants, v. Luke E. Walker, Contestee.
25. Edward Bloomingcamp, Mary H. Dixon, T; M. Edsall, O. W. Howard and J. O. Watts, Contestants, v. Spratt Wells, Camilla E. Owen, and Phebe M. Bayliss, Contestees.
26. Edward Bloomingcamp, Mary H. Dixon, T.M.Edsall, O.W.Howard and J.O. Watts, Contestants, v. Spratt Wells, Camilla E. Owen, and Phebe M. Bayliss, Contestees.
27. Edward Bloomingcamp, Mary H. Dixon, T. M. Edsall, O.W. Howard, and J.O. Watts, Contestants, v. Spratt Wells, Camilla E. Owen, and Phebe M. Bayliss, Contestees.
28. Edward Bloomingcamp, Mary H. Dixon, T. M. Edsall, O. W. Howard, and J. O. Watts, Contestants, v. Walker-Woodruff Land & Livestock Co., Contestee.
29. Edward Bloomingcamp, Mary H. Dixon, T. M. Edsall, O. W. Howard, and J. O. Watts, Contestants, v. Walker-Woodruff Land & Livestock Co., Contestee.
30. Edward Bloomingcamp, Mary H. Dixon, T. M. Edsall, O. W. Howard, and J. O. Watts, Contestants, v. F. M. Miller, Contestee.
31. Edward Bloomingcamp, Mary H. Dixon, T. M. Edsall, O. W. Howard, and J. O. Watts, Contestants, v. Modoc Realty Company, Contestee.
32. Edward Bloomingcamp, Mary H. Dixon, T. M. Edsall, O. W. Howard, and J. O. Watts, Contestants, v. Modoc Realty Company, Contestee.
33. Edward Bloomingcamp, Mary H. Dixon, T. M. Edsall, O. W. Howard, and J. O. Watts, Contestants, v. Modoc Realty Company, Contestee.
34. Edward Bloomingcamp, Mary H. Dixon, T. M. Edsall, O. W. Howard, and J. O. Watts, Contestants, v. Luke E. Walker, Contestee.
35. Edward Bloomingcamp, Mary H. Dixon, T. M. Edsall, O. W. Howard, and J. O. Watts, Contestants, v. Luke E. Walker, Contestee.
36. Edward Bloomingcamp, Mary H. Dixon, T. M. Edsall, O. W. Howard, and J. O. Watts, Contestants, v. Mrs. Anita Lowery, Contestee.
37. W. R. Campbell, and Eva D. Campbell, W. W. Finley and Nancy A. Finley, Contestants, v. Luke E. Walker, Contestee.
38. Gilbert C. Lapham, Contestant, v. Edward Bloomingcamp, Louis Gerber, F. M. Miller, James H. Owen, Mary E. Owen, Clara Kincaid, Clarence Taylor, Elizabeth Jane Hamaker and J. O. Watts, Contestees.

10.

That after the filing of said statements of contest, the State Engineer did fix a time and place for the hearing of each of said contests, and

did on the 13th day of March, 1926, serve by registered mail notice of hearing of said contests on each of the parties to said contests; the date fixed for hearing being more than thirty and less than sixty days from the date the notice of hearing was served upon said parties, as provided by law. That upon the date and at the place as fixed for said hearings, to-wit: Wednesday, April 14, 1926, at 10 A. M., in the Circuit Court Room of the County Court House at Klamath Falls, Klamath County, Oregon, the hearing of said contests was commenced before a duly authorized assistant and reporter for the State Engineer, and continued until all of said contests were fully heard or otherwise disposed of.

11.

That due proof of the sending of the various notices by registered mail as hereinbefore set forth has been made and filed as a part of the record herein.

12.

Contest No. 1

James H. Owen and Mary E. Owen,
Contestants,

v.

Louis Gerber,

Contestee.

This contest involves Contestee's Claim No. 30, for the use of water from Fish Hole Creek with priority of 1875, for the irrigation of 147 acres of land in Section 27, T. 36 S. R. 14 E. This claim is contested upon the ground that no water from Fish Hole Creek was beneficially applied to said land until the last ten or fifteen years, and then only during freshet seasons. It appears that Fish Hole Creek has no well-defined channel through this land, and the water during the high water stage naturally spreads out over the adjacent land, and as the water recedes it is carried in several comparatively shallow sloughs and depressions. In these dams are placed after the spring freshets are past, to divert the water over the lands, thereby further moistening and irrigating them and producing a growth of wild grasses which have been cut for hay or used for pasturing stock. It appears that this has been the practice for many years, and that sufficient water has been secured from Fish Hole Creek to produce a good growth of meadow grass every year, with the exception of one or two extremely dry seasons. It appears that as far back as 1875 or '6 hay was cut from these lands, but that they were a part of the public domain until April, 1877, when O. C. Applegate made application to the State to purchase all of said Section 27 as swamp land.

The right of this Contestee is allowed with a date of priority of 1877, for the acreage as set forth in his claim and as tabulated herein.

13.

Contest No. 2

James H. Owen and Mary E. Owen,
Contestants,

v.

Edward Bloomingcamp,
Contestee.

Contestee filed a claim (Proof No. 1) for the use of water from Fish Hole Creek with priority of 1877 for the irrigation of 49 acres of land in Section 34, T. 36 S. R. 14 E. This claim is contested upon the ground that no water from Fish Hole Creek was ever appropriated for irrigation purposes upon these lands except during spring freshets. It appears that Fish Hole Creek flows through Contestee's land in several comparatively shallow channels or sloughs, which have not sufficient capacity to carry all of the water during the high water stages. The water at these times spreads out over the adjacent lands, moistening them and producing a good growth of wild grasses valuable for feeding stock when cut for hay, or pastured. Dams have been placed in the sloughs for the purpose of diverting the water over the adjacent meadows after the floods have passed. Sufficient water has been secured from Fish Hole Creek, with the exception of one or two extremely dry seasons, to produce a good growth of wild meadow grasses which have been utilized for hay or pasture. All of Section 34 was acquired by the State from the Federal Government as Agricultural College land in 1874.. On July 5, 1879, J. P. Gearhart made application to the State to purchase all of the SE $\frac{1}{4}$ of the section, and deed was issued in 1884. As far back as 1876 hay was cut from this land, but it appears that until 1877 the land was not fenced and no attempt was made to acquire title or exercise control to the exclusion of others. Contestee's claim is allowed, for the acreage as claimed, with priority of 1877.

14.

Contest No. 3

James H. Owen and Mary E. Owen,
Contestants,

v.

J. O. Watts,
Contestee.

Contestee has filed a claim (Proof No. 68) for the use of water from Fish Hole Creek with priority of 1876 for the irrigation of 150.6 acres of land in Section

2, T. 37 S. R. 14 E. This claim is contested upon the ground that no water of Fish Hole Creek was ever appropriated for the irrigation of this land except during spring freshets. Contestants also claim a right superior to Contestee by adverse user. It appears that Fish Hole Creek from time immemorial has flowed through the west half of Section 2 in several comparatively shallow channels or sloughs which overflow during the high water seasons, moistening the adjacent lands and producing a growth of wild grasses valuable for feeding stock when cut for hay, or pastured. It appears that the flow of Fish Hole Creek during the latter part of the irrigation season in normal years is not sufficient to adequately irrigate all of the meadow lands involved in this contest, and that in 1900 a ditch was constructed from the South Fork of Sprague River and a supplemental supply was secured from this source. It appears that some hay was cut upon these lands as early as 1876, but at that time and for some time afterwards the lands were un-fenced, and stock grazed upon them at will. All of Section 2 was acquired by the State as Agricultural College land, being a part of Clear List No. 1. No evidence was submitted to show when application was made to the State to purchase these lands, but this appears to have been 1880. The use of water by the Contestants has not been such an invasion of the rights of Contestee as to divest him of his rights, although it appears that it has been the practice to depend largely upon water secured from the South Fork of Sprague River for late irrigation. Contestee is allowed a right from Fish Hole Creek with priority of 1880 for the irrigation of the lands described in this claim, with the limitation that water from the South Fork of Sprague River shall be first used so long as this supply is available and needed.

15.

Contest No. 4

James H. Owen and Mary E. Owen,
Contestants,
v.
Gilbert C. Lapham,
Contestee.

Contestee filed eight claims (Proofs Nos. 36-A, 37, 38, 39, 40, 41, 42 and 43) for the use of water from Fish Hole Creek and its tributaries, for the irrigation of 463.4 acres of land located in Sections 30, 31 and 32, T. 38 S. R. 16 E., Section 36, T. 38 S. R. 15 E., and Section 1, T. 39 S. R. 15 E. He also filed claims for rights to the storage and use of water in four reservoirs, with a combined capacity of about 710 acre feet. These claims were contested upon the ground that by reason of a former adjudication by Court decree, Contestants were awarded a superior

rights to 80 miners inches of water, and that as against Contestants, Contestee was forever enjoined from interfering with the flow of such quantity of water. Contestants also claim a right superior to Contestee by adverse user. As to the latter point, it appears that Owen's use of water has in no way constituted an invasion of Contestee's rights. The contest in this respect is denied. The provisions of the Court decree above referred to are set forth in Paragraph 49 hereof. Contestee's rights for the various tracts involved will be taken up in order.

Tract No. 1 (Lots 2, 3, and 4, and the SE₄NW₄ of Section 1, T. 39 S. R. 15 E.)

It appears that Almon N. Lapham made settlement upon these lands in 1886, claiming them under the pre-emption laws of the United States, and resided there continuously until 1891, when he filed a homestead entry for the lands, obtaining patent in 1896. Contestee purchased the lands in 1897. At the time Almon N. Lapham settled upon these lands, they were dry and arid, and in order to irrigate the land said Almon N. Lapham in 1887 constructed a ditch diverting water from Fish Hole Creek, and under this appropriation irrigated 103.8 acres. This ditch was extended in 1898 for an additional 4 acres. Accordingly a right is allowed for the irrigation of 103.8 acres with a priority of 1887 and 4 acres with a priority of 1898, as set forth in Proofs Nos. 40 and 42 and as tabulated herein.

Tract No. 2 (NE₂NE₄, SE₂NE₄, and NE₄SE₄ of Section 31, T. 38 S.R.16 E.)

In 1886 Mary L. McKendree made application and settlement under the pre-emption laws of the United States for the above described lands, and received a patent in 1891. At the time of said application 78.9 acres of these lands were moistened and irrigated by the natural overflow of the waters of Fish Hole Creek and three small creeks flowing upon said lands, producing a good growth of wild grasses valuable for feeding stock when cut for hay or pastured. In 1886 and each year thereafter, hay was cut from these overflowed lands. These lands have also been irrigated since 1895 from the Lapham Reservoir. In 1895 an additional area of 35.3 acres of these lands was irrigated, and has been irrigated each year thereafter, from the Lapham Reservoir. Contestee is allowed a right for the irrigation of 78.9 acres from Fish Hole Creek with priority of 1886, and 35.3 acres from water stored in Lapham Reservoir with priority of 1895, as set forth in Proofs Nos. 36-A and 37 and as tabulated herein. There is also an area of 22.4 acres in this tract irrigated from water stored in Big Swamp Reservoir, with priority of 1895, as tabulated herein under Proof No. 38.

Tract No. 3 (SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 36, T. 38 S. R. 15 E.)

In November, 1887, Contestee purchased these lands from the State. During the irrigation season of 1887 Contestee, being then in possession, irrigated 18.6 acres of these lands with water diverted from Fish Hole Creek, and this area has been irrigated each year with such direct flow and also with water stored in his reservoirs. A right is allowed for the irrigation of 18.6 acres of land in the above tract from Fish Hole Creek as set forth in Proof No. 39 and as tabulated herein, with a date of priority of 1887.

Tract No. 4 (N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 1, T. 39 S. R. 15 E.)

Mary Dillard filed a homestead entry upon this land in October, 1891, and received a patent in 1897. Contestee purchased the lands in 1903. In 1893, water was diverted from Fish Hole Creek through a lateral ditch constructed in 1889 by Almon N. Lapham, and 10 acres of this tract was irrigated thereby. In 1898 Contestee, then in possession, diverted additional water from Fish Hole Creek through the said Almon N. Lapham ditch and irrigated an additional area of 7.2 acres of the tract. Contestee is allowed a right for 10 acres with priority of 1893, and for 7.2 acres with priority of 1898, as set forth in Proofs Nos. 41 and 42 and as tabulated herein.

Tract No. 5 (SW $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 1, T. 39 S.R.15 E)

On January 30, 1893, Contestee made a homestead entry for these lands, and received a patent in 1899. In 1893 Contestee, than in possession, diverted water from Fish Hole Creek through the Almon N. Lapham ditch constructed in 1887, and irrigated 112 acres of these lands. In 1898 an additional area of 28 acres of the tract was irrigated with water diverted from Fish Hole Creek through the Almon N. Lapham ditch. Each year thereafter these lands have been irrigated from water diverted from the direct flow of Fish Hole Creek and from water stored in reservoirs owned by Contestee. Contestee is allowed a right for 112 acres from Fish Hole Creek with priority of 1893, and a right for 28 acres from Fish Hole Creek with priority of 1898, as set forth in Proofs Nos. 41 and 42 and as tabulated herein.

Tract No. 6 (SW $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 32, T.³⁸S. R. 16 E.)

One Kate Colohan filed a timber and stone application covering the lands in this tract on December 7, 1907, and received a patent in 1908. in 1921 Contestee purchased this land. About 12.5 acres of the tract was irrigated by the natural overflow from a small tributary of Fish Hole Creek which flows across this tract. It appears that one Mary L. McKendree and her successors in interest had said lands under fence and cut hay from them as early as 1886. But there was no privity of interest that would permit Contestee to tack his right onto that of the

former parties. A right is allowed for the irrigation of 12.5 acres in the SW $\frac{1}{2}$ NW $\frac{1}{2}$ of Section 32 with priority of 1907, as tabulated herein. About 6 acres of the 12.5 has a supplemental right from the Lapham Reservoir.

Tract No. 7 (S $\frac{1}{2}$ SE $\frac{1}{2}$ of Section 30, and NW $\frac{1}{2}$ NW $\frac{1}{2}$ of Section 32, T. 38 S.R.16 E.)

An area of 14.9 acres in the NW $\frac{1}{2}$ NW $\frac{1}{2}$ of Section 32 is irrigated by natural overflow from Fish Hole Creek, producing a growth of grasses valuable for feeding stock when cut for hay or pastured. In 1895 Mary L. McKendree took up the lands in Tract No. 2 as a pre-emption, and enclosed the same by fence, which enclosure also included these overflow lands, In 1915 Contestee made application to purchase this tract, and the following year received a patent. Each year since 1895 Contestee or his predecessors in interest have annually harvested grasses grown upon these overflow lands. Contestee is allowed a right from Fish Hole Creek for the 14.9 acres in the NW $\frac{1}{2}$ NW $\frac{1}{2}$ of Section 32 with priority of 1895, as tabulated herein. An area of 15.8 acres in the S $\frac{1}{2}$ SE $\frac{1}{2}$ of Section 30 is irrigated from water stored in Big Swamp Reservoir, with priority of 1895, as tabulated under Proof 38.

Lapham Reservoir

In the year 1895 one Wilfred McKendree, predecessor in interest of Contestee, constructed a reservoir, located within the NW $\frac{1}{2}$ NW $\frac{1}{2}$ of Section 5 and NE $\frac{1}{2}$ NE $\frac{1}{2}$ of Section 6, T. 39 S. R. 16 E., known as the Lapham Reservoir, having a capacity of 84.6 acre feet. Each year after the construction of said reservoir the early spring runoff from the surrounding hills has been stored and used in the irrigation of 8.8 acres in the NW $\frac{1}{2}$ NE $\frac{1}{2}$, 12.7 acres in the SE $\frac{1}{2}$ NE $\frac{1}{2}$, and 13.8 acres in the NE $\frac{1}{2}$ SE $\frac{1}{2}$ of Section 31, T. 38 S. R. 16 E., and as a supplemental water supply for the irrigation of lands in Tracts Nos. 1, 3, 4 and 5 as hereinbefore described. It appears that the storage and use of water in said Lapham Reservoir does not deprive prior rights of any water which they can beneficially use. Contestee is found to have a right to store annually in the Lapham Reservoir, 84.6 acre feet of the early spring flood water, with priority of 1895, and use the same for watering stock and as a supplemental water supply for the irrigation of lands in said Tracts 1, 2, 3, 4 and 5 as set forth in the tabulation herein, and as a primary supply for the irrigation of the 35.8 acres covered by Proof No. 37 as tabulated herein.

Big Swamp Reservoir

In the year 1895 Almon N. Lapham, Mary L. Kendree and Contestee Gilbert C. Lapham, began the construction of a reservoir known as the Big Swamp Reservoir in Sections 28 and 29, T. 38 S. R. 16 E., and completed the same in the year 1898,

with a storage capacity of approximately 350 acre feet. During the freshet season of each year since 1895 water from the adjacent hills together with that of a small creek having its source in the eastern part of Section 28, known as Cold Spring or Spring Creek, has been conveyed to said reservoir by means of ditches constructed for that purpose, and stored therein. This water has been used in supplementing the direct flow, for the irrigation of lands in said Tracts Nos. 1, 2, 3, 4 and 5. It appears that storage and use of water in said reservoir has not operated to deprive prior rights of water for irrigation of their lands. Contestee's right to divert and store annually 350 acre feet of water in the Big Swamp Reservoir with priority of 1895, for the irrigation of lands in said Tracts 1, 2, 3, 4 and 5 as tabulated herein and for watering stock, is hereby recognized.

Deep Lake Reservoir.

In the year 1898 Wilfred McKendree and Contestee Gilbert C. Lapham commenced the construction of a reservoir, known as Deep Lake Reservoir, located in the SE $\frac{1}{4}$ of Section 20 and the SW $\frac{1}{4}$ of Section 21, T. 38 S. R. 16 E., and completed the same in 1901, with a capacity of approximately 185 acre feet. Each year since the construction of this reservoir the runoff from the adjacent hills has been impounded and used as a supplemental water supply in irrigating lands in said Tracts 1, 2, 3, 4 and 5. It appears that the storage of said water in this reservoir has not deprived ^{prior} rights of any water they could have beneficially used. Contestee is found to have a right to store annually 185 acre feet in the Deep Lake Reservoir with priority of 1898, to be used for watering stock and as a supplemental supply for the irrigation of lands in said Tracts 1, 2, 3, 4 and 5 as tabulated herein.

Lofton Lake Reservoir.

In the fall of 1901 Wilfred McKendree and Contestee Gilbert C. Lapham commenced the construction of a reservoir, known as the Lofton Lake Reservoir, in the SW $\frac{1}{4}$ of Section 22, T. 38 S. R. 16 E. This reservoir was completed in the year 1906, with a capacity of approximately 90 acre feet. Each year since 1905 the Lofton Lake Reservoir has been used to store the water flowing from a spring, and flood water from the adjacent hills, which has been used as a supplemental supply for the irrigation of lands in said Tracts 1, 2, 3, 4 and 5. Contestee has acquired all rights to said reservoir, and in 1920 secured a State Engineer's permit to enlarge said reservoir to a capacity of approximately 250 acre feet. Such enlargement work has been started but is as yet not completed. The storage and use of water in said Lofton Lake Reservoir has not deprived any other appropriator of water that needed

or could have been beneficially used. Contestee is found to have a right to store annually in Lofton Lake Reservoir 90 acre feet of water, for use in watering stock and as a supplemental supply for the irrigation of the land in said Tracts 1, 2, 3, 4 and 5, with priority of 1901; also such rights as he may finally secure under said permit, when perfected.

The storage rights of Contestee Gilbert C. Lapham as herein confirmed, namely, the right to store 84.6 acre feet of water in Lapham Reservoir with priority of 1895, 350 acre feet in Big Swamp Reservoir with priority of 1895, 185 acre feet in Deep Lake Reservoir with priority of 1898, and 90 acre feet in Lofton Lake Reservoir with priority of 1901, shall continue throughout the year, and shall entitle said Contestee to store, when not needed by prior rights, said amounts, respectively, during each winter season, or period Sept. 1st to August 1st.

16.

Contest No. 5

James H. Owen and Mary E. Owen

Contestants,

v.

Estate of James Taylor, by John A. Taylor and Clarence Taylor, Executors,

Contestees.

This contest was settled by stipulation, wherein Contestees' right to the use of water during the irrigation season from Fish Hole Creek in the amount of 150 miners inches, measured at the lower line of Contestants' lands, (in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, T. 38 S. R. 15 E.) is recognized to be prior and superior to any rights claimed by Contestants, and that this quantity measured at said point is the total amount claimed by Contestees as against the Contestants. The rights of Contestees are determined accordingly, and the provisions of said stipulation shall be carried out in the distribution of water by the water master.

17.

Contest No. 6

Walker-Woodruff Land & Livestock Company, Spratt Wells, Camilla E. Owen, Phebe M. Bayliss, James H. Owen and Mary E. Owen,

Contestants,

v.

Louis Gerber,

Contestee.

In this contest the Contestants question the priority and extent of

beneficial use under Contestee's Claim No. 28. This claim covers a good portion of Section 27, T. 36 S. R. 14 E., which was purchased by Elisha L. Applegate from the Oregon Central Military Road Company, June 2, 1871. A water right for 440 acres of the section is claimed from the South Fork of Sprague River, with priority of 1875. The land, it appears, was naturally overflowed, and produced native grasses which were used for pasturage and hay. Use of this character by the owner of the land was shown by the evidence to have been made beginning about 1877. There was some confusion in the early days as to the title to this land, it appearing that in 1877 O. C. Applegate applied to purchase this land from the State, although he apparently already had title through the Road Company, and a State deed was actually issued to him in 1889. Later he apparently secured a loan on the land through the State, and in 1900, being unable to satisfy the mortgage, conveyed the land to the State by quit-claim deed. Louis Gerber, the Contestee herein, applied to purchase the land from the State in 1901, and subsequently obtained title. It appears, however, that the water right as originally secured for the land was not impaired by these events. The priority of the right is therefore fixed as of 1877, the date of first beneficial use of the water.

The exceptions to the above findings of the State Engineer in this contest are not well taken and are denied. It is shown from the testimony and records in this case that the lands of Contestee are low and subject to overflow of the waters of the South Fork of the Sprague River and have been beneficially irrigated each and every year, prior to 1877, to the time of taking the testimony in these proceedings. That a good and sufficient chain of title has been established, dating back to 1877, when O. C. Applegate filed application with the State of Oregon for the purchase of these lands. In 1889 deed was issued to the said O. C. Applegate, who subsequently (1900) deeded the land back to the State. Thereafter, during the year 1901, application was made to the State of Oregon by Louis Gerber for the purchase of said lands, and deed was issued to the applicant in 1911.

18.

Contest No. 7

Walker-Woodruff Land & Livestock Co.,
Spratt Wells, Camilla E. Owen, Phebe M.
Bayliss, James H. Owen and Mary E. Owen,
Contestants,

v.

Mrs. Anita Lowery,
Contestee.

The contest against this claimant brings in issue her claim for

water rights from the South Fork of Sprague River for lands in the $S\frac{1}{2}SW\frac{1}{4}$ Section 17, $S\frac{1}{2}SE\frac{1}{4}$ Section 18, $N\frac{1}{2}$ of Section 19, and a small acreage in the northern part of the $S\frac{1}{2}$ of Section 19, all in T. 36 S. R. 14 E. The priority originally claimed was 1895, but some attempt was made at the hearing to change it to an earlier date. The evidence shows that the land was naturally overflowed, and native grasses produce thereon which were utilized by the occupants of the premises, beginning about the year 1895. This land will accordingly be allowed a water right as of that date.

19.

Contest No. 8

Walker-Woodruff Land & Livestock Co.,
Spratt Wells, Camilla E. Owen, Phebe
M. Bayliss, James H. Owen and Mary E.
Owen,

Contestants,

v.

W. R. Campbell,

Contestee.

Contestants under this contest question the priority of Contestee's rights under his Proofs Nos. 5 and 6 filed herein. Rights are claimed from the South Fork of Sprague River under Proof 5 for 122.8 acres with priority of 1880, and under Proof 6 for 290.4 acres with priority of 1879. The lands involved in these claims are as follows:

$S\frac{1}{2}NW\frac{1}{4}$, Section 26, - - Application to purchase from State, filed
by John W. Wells, June 3, 1879.

$S\frac{1}{2}NE\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}$,
 $SW\frac{1}{4}SE\frac{1}{4}$, Section 26, - Application to purchase from State, filed
by Geo. W. Rook, July 11, 1879.

$NW\frac{1}{4}SE\frac{1}{4}$, Section 26, - Application to purchase from State, filed
by C. K. Klum, August 28, 1883.

$N\frac{1}{2}NW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$
Section 36, - Application to purchase from State, filed
by C. K. Klum, August 13, 1883.

$NW\frac{1}{4}NE\frac{1}{4}$, Section 36, - Application to purchase from State, filed
by Wm. Robinson, Mar. 3, 1888.

As to the $S\frac{1}{2}NW\frac{1}{4}$ of Section 26, the evidence shows that this land was occupied and used as pasture and hay land in the seventies. It was testified that a man named Deming was on the place as early as 1876, and that in 1879 he sold his improvements to John W. Wells, who continued the occupation and use of the land. The priority of the water right for this land is fixed as of 1876. The date of filing application to purchase from the State will also fix the priorities of the water rights for the other lands in Section 26. These lands have been utilized from the time of acquisition from the State, by ^{the}mowing of the

native grasses produced thereon by natural overflow from the South Fork of Sprague River. The right for the S₂NE₄¹, E₂SE₄¹ and SW₄SE₄¹, Section 26, shall date from July 11, 1879; and the right for the NW₄SE₄¹ shall date from August 28, 1883.

A water right is claimed for 122.8 acres in four subdivisions of Section 36. It was shown that this land was naturally overflowed, and was occupied and used for hay and pasturage beginning about 1882. The right for this land shall therefore date from 1882.

Exceptions to the above findings were made on the following grounds:

1. The date of occupation of a squatter on State lands prior to purchasing the same being used as setting the date of priority for the initiation of the water right for such lands.
2. That mowing grasses produced by natural overflow constitute an appropriation of water.
3. That the lands involved were not enclosed by a fence and were swamp lands in character and should not be given a water right until such lands were reclaimed by construction of drains, etc.
4. That Findings of State Engineer would give lands a water right for the entire irrigation season while the water used was restricted to April overflow.
5. That the Exceptors, being upper-owners on the stream, had used the waters adversely to Contestee and his predecessors in interest.
6. That the NW₄NE₄¹ of Section 36 were State lands until 1888 and open to purchase, while those in the NW₄ were State lands until June 28, 1883, and no effort was made to irrigate said lands by the owner thereof until afterwards.

There is no evidence in the record which justifies a modification of the finding except the water right awarded Contestee for the irrigation of 5.7 acres in the NW₄NE₄¹ Section 36, T. 36 S. R. 14 E. W. M., with a date of priority of 1882. The testimony shows that this right was not initiated until 1888 and the finding is modified so that such priority shall be of the year 1888 instead of the year 1882, for the said 5.7 acres. All other exceptions are overruled and denied.

20.

Contest No. 9

Walker-Woodruff Land & Livestock Co.,
Spratt Wells, Camilla E. Owen, Phebe
M. Bayliss, James H. Owen and Mary E.
Owen,

Contestants,

v.

F. M. Miller,

Contestee.

This contest brings in issue Proof No. 50 filed by Contestee Miller. Under this proof a right is claimed from Fish Hole Creek and the South Fork of

Sprague River for 156 acres of land, in the NE $\frac{1}{4}$ of Section 34, T. 36 S. R. 14 E., with priority of 1879. Application to purchase this land was filed by Wm. Robinson June 12, 1879, and title was later secured from the State. It appears that this land was occupied from the time of purchase, but that the water it received came mostly from Fish Hole Creek, until about the year 1900, when the Bly Ditch from the South Fork of Sprague River was extended to this land. There is an area of about 35 acres (30 in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 5 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$) east of the channel of Fish Hole Creek which received water from the South Fork through Gearhart Slough before 1900, and as early as 1879. A right is allowed from the South Fork of Sprague River for this acreage with priority of 1879; and the remaining acreage is allowed a right from the South Fork with priority of 1900; all to be supplemental to the right from Fish Hole Creek.

There being no testimony introduced in the record to support the exceptions taken to the above findings, said exceptions are denied.

21.

Contest No. 10

Walker-Woodruff Land & Livestock Co.,
Spratt Wells, Camilla E. Owen, Phebe
M. Bayliss, James H. Owen and Mary
E. Owen,

Contestants,

v.

Mary H. Dixon,

Contestee.

This contest involves the priority of the right under Contestee's Proof No. 25 for the E $\frac{1}{2}$ of Section 28, T. 36 S. R. 14 E. This land was acquired from the State of Oregon in three parcels, applications for purchase being filed as follows: Sept. 1, 1878, by Daniel Walker, for the NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$; December 21, 1887, by Daniel Walker, for the SW $\frac{1}{4}$ SE $\frac{1}{4}$; June 20, 1879, by John D. Walker, for the SE $\frac{1}{4}$ SE $\frac{1}{4}$. The lands were settled upon and hay cut therefrom beginning about 1879. The water right will date from that year.

Contestee excepted to the above finding on the ground of adverse user and that said lands were swamp lands. No evidence was submitted to substantiate the Exceptor's contention and is therefore denied.

22.

Contest No. 11

Walker-Woodruff Land & Livestock Co.,
Spratt Wells, Camilla E. Owen, Phebe
M. Bayliss, James H. Owen and Mary
E. Owen,

Contestants,

v.

A. S. Conner,

Contestee.

The main issue of this contest is as to the date of priority of the

right under Contestee's Proof No. 19, claiming rights from the South Fork of Sprague River for 526.5 acres of land with priority of 1876. The evidence shows the following as to the title to the lands under this claim:

- SW $\frac{1}{4}$, Section 16, - - Application to purchase from State, filed by L. B. Applegate, Nov. 27, 1871.
- E $\frac{1}{2}$ NW $\frac{1}{4}$, Section 21, - - No showing made.
- E $\frac{1}{2}$, Section 21, - - Application made to purchase from State, filed by J. F. Munz, Apr. 23, 1877.
- SW $\frac{1}{4}$, Section 22, - - Application to purchase from State, filed by J. F. Munz, June 10, 1879.
- SE $\frac{1}{4}$, Section 22, - - Application to purchase from State, filed by John Elesser, June 14, 1879.

A right is claimed for 55 acres in the S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 16, and the earliest use of this land as shown by the evidence was in 1879, the land being pastured and cut over for hay beginning that year. The priority is therefore fixed as of that date.

The E $\frac{1}{2}$, and the E $\frac{1}{2}$ NW $\frac{1}{4}$, of Section 21, was naturally overflowed land, and was first utilized by Munz for the stock feed it produced, in 1876. The priority of the right for this tract will be fixed as of that date.

The evidence shows that Munz and Elesser were occupying and claiming parts of the S $\frac{1}{2}$ of Section 22 which were later purchased by them, as early as 1886, and were utilizing these lands for hay and pasturage. The water right for these lands shall have a priority of 1886.

Exceptors Spratt Wells, Camilla E. Owen, Phebe M. Bayliss, object to the above findings in that the lands involved were swamp lands and remained so long after exceptors and their grantors had perfected their appropriation of the water and that the lands were not reclaimed and made suitable for practical irrigation purposes until the building of a dyke was accomplished; also that the findings would give a right to the Contestee for the use of the waters throughout the irrigation season, and that the E $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 21 was not shown to have been used by Munz nor was title acquired by him until long after 1884, also said Exceptors' use was adverse to that of the Contestee and his predecessors.

There is no evidence of sufficient nature to uphold the exceptions nor is there evidence supporting the claim of Exceptors on the ground of Adverse Use and the exceptions are therefore denied.

Exceptions were also filed by Contestee A. S. Conner, wherein a water right was awarded for the irrigation of 155.5 acres with a date of priority of 1886. The evidence shows that Munz and Elesser were occupying and claiming parts of the S $\frac{1}{2}$ of Section 22, which were later purchased by them, as early as 1876, and were

utilizing these lands for hay and pasturage. The water right for these lands shall have a priority of 1876.

23.

Contest No. 12

Spratt Wells, Camilla E. Owen, Phebe M. Bayliss, James H. Owen and Mary E. Owen,
Contestants,

v.

G. W. Morgan and Katie E. Morgan,
Contestees.

The contest against these claimants involves the priority of the right for 297.1 acres of land in Section 20, T. 36 S. R. 14 E., for which a right is claimed from the South Fork of Sprague River under Proof No. 51 with priority of 1881. This land was naturally overflowed by water from the South Fork of Sprague River, and at an early date cattle were pastured on the land, and hay cut therefrom. The land was acquired from the State of Oregon as swamp land, as follows: (1) September 8, 1880, application was filed by M. D. Childers to purchase the $E\frac{1}{2}NW\frac{1}{4}$ and $W\frac{1}{2}NE\frac{1}{4}$ of Section 20. The rights under this application were later assigned, and the deed was issued to Amos Lundy. (2) November 2, 1885, application was filed by Amos Lundy to purchase the $W\frac{1}{2}SE\frac{1}{4}$ of Section 20. (3) December 14, 1886, application was filed by James D. Walker to purchase the $NE\frac{1}{4}SE\frac{1}{4}$ of Section 20. (4) January 5, 1894, application was filed by Harvey Howard to purchase the $W\frac{1}{2}NW\frac{1}{4}$ of Section 20. In this case the dates of first occupation and use, so far as shown by the evidence, approximately coincide with the dates of purchase. Water rights will be allowed for these lands with priorities as of the respective dates that applications to purchase were filed with the State.

It is clear from the testimony that lands were utilized for pasturing purposes, and the cutting of hay, which was fed to stock, beginning in 1880. There is no evidence supporting adverse use on the part of Exceptors, and the exception filed in the above finding is overruled and must be denied.

24.

Contest No. 13

Spratt Wells, Camilla E. Owen, Phebe M. Bayliss, James H. Owen and Mary E. Owen,
Contestants,

v.

J. P. McAuliffe and Nora McAuliffe,
Contestees.

This contest involves the priority of the right under Proof No. 49. Under this proof a right is claimed from South Fork of Sprague River for 160 acres of land with priority of 1878. The land involved, consisting of the $SW\frac{1}{4}$ of Section 26, T. 36 S. R. 14 E., was naturally overflowed from the South Fork of Sprague River, and was settled upon by James Barnes about 1877 or 1878. Mr. Barnes on

July 19, 1879, filed with the State Land Board his application for purchase of this land, and secured a deed from the State February 25, 1888. The land produced natural grass hay, which was utilized by the occupant from the time of settlement. The water right shall date from the time of the first occupation and beneficial use, - 1878.

The grounds upon which the exceptions to the above findings are based are not supported by the evidence, and therefore denied.

25.

Contest No. 14

W. R. Campbell, Eva D. Campbell, W.W.Finley
and Nancy A. Finley, J.P.McAuliffe and
Nora McAuliffe, G. W. Morgan and Katie E.
Morgan, A. S. Conner and Louis Gerber,
Contestants,

v.

Spratt Wells, Camilla E. Owen and Phebe
M. Bayliss,
Contestees.

This contest involves Proof No. 75 of the Contestees, under which water rights are claimed from the South Fork of Sprague River for 339 acres of land with priority of 1883. This land was acquired in four separate parcels, apparently all as government land entries, although the record does not clearly show the character of all of the filings. The $N\frac{1}{2}SE\frac{1}{4}$ of Section 6 was first filed upon in 1880 as a homestead, by Hatcher, then later as a timber culture by Munz, but was finally secured as a pre-emption in 1889 by Schwenck. Fritz Munz secured patent in 1880 for the $S\frac{1}{2}NE\frac{1}{4}$ of Section 6. The $NW\frac{1}{4}$ was patented to Frank E. Howard in 1878, and the $SW\frac{1}{4}$ was patented to H. H. Blecher in 1884. It appears that these lands were occupied and control exercised over them under claim of right, as follows: The $E\frac{1}{2}$ of Section 6, beginning about 1883, by Fritz Munz and his nephew, Geo. Schwenck; the $NW\frac{1}{4}$ of Section 6, beginning about 1878, and the $SW\frac{1}{4}$ of Section 6, about 1880, by H. H. Blecher. The claimants under this proof assert that the water rights should relate back for priority to a notice of appropriation by H. H. Blecher recorded Mar. 25, 1883. It appears that after an agreement between Blecher and Munz, Dec. 3, 1883, the work done pursuant to the notice was for the benefit of the lands both in the $E\frac{1}{2}$ and the $W\frac{1}{2}$ of the section. However, some work was evidently done on the ditch before that time, and a considerable area was irrigated within a few years in the east part of the section as well as in the west part, taken up by Blecher. The area reclaimed was gradually increased from year to year, and it may be said that reasonable diligence was used in completing the appropriation to its present extent. The rights for these lands are allowed as claimed, with priority relating back to the notice of 1883.

Exceptions to the above findings are not well taken and are denied. An examination of the evidence submitted in support of the claim filed by Contestee

shows an intention on the part of said Contestee's predecessors to irrigate the acreage allowed as found by the State Engineer, and that due diligence was exercised in the completion of the appropriation of the water for use upon the lands.

26.

Contest No. 15

W. R. Campbell, Eva D. Campbell, W.W.Finley,
and Nancy A. Finley, J. P. McAuliffe and
Nora McAuliffe, G. W. Morgan and Katie E.
Morgan, A. S. Conner and Louis Gerber,
Contestants,

v.

Spratt Wells, Camilla E. Owen, Phebe M.
Bayliss,

Contestees.

This contest involves Proof No. 76 and Contest No. 16 involves Proof 77 of Contestees. Proof 76 covers the $S\frac{1}{2}SW\frac{1}{4}$, and $SW\frac{1}{4}SE\frac{1}{4}$ of Section 36, and Proof 77 covers the $N\frac{1}{2}SW\frac{1}{4}$ and the $SW\frac{1}{4}NW\frac{1}{4}$ of Section 36, T. 36 SE. R. 14 E. Water rights for 85.5 acres under Proof 76 and for 106.4 acres under Proof 77, are claimed, with priorities of 1880 and 1883, respectively. This land was acquired as swamp land from the State, application to purchase the $S\frac{1}{2}S\frac{1}{2}$ Section 36 being filed August 16, 1879, and the $N\frac{1}{2}SW\frac{1}{4}$ and $SW\frac{1}{4}NW\frac{1}{4}$ of said section November 20, 1882. Although some of this land was naturally irrigated in the early days, the rights asserted by these claimants are based upon the construction of a dam, ditch or other works, by which artificial irrigation was accomplished, after the posting of a notice of appropriation by W. A. Walker February 25, 1884. It appears that such works were actually constructed, soon after the notice was given, and the water applied to the acreage for which a right is claimed within a reasonable time thereafter. A right will therefore be allowed for the land under these proofs with priority of Feb. 25, 1884.

The main and material contention made by the exceptors to the above finding is based upon the failure of the Contestees to apply the water to beneficial use upon the lands involved until a later date than that for which the lands were given a priority of 1883. The lands were irrigated within a reasonable time after notice of appropriation of the water had been posted and the exceptions are therefore denied.

27.

Contest No. 16.

W. R. Campbell, Eva D. Campbell, W.W.Finley,
and Nancy A. Finley, J.P.McAuliffe and Nora
McAuliffe, G. W. Morgan and Katie E. Morgan,
A. S. Conner and Louis Gerber,
Contestants,

v.

Spratt Wells, Camilla E. Owen and Phebe M.
Bayliss,

Contestees.

As stated in the preceding paragraph, this contest involves Proof No. 77

of Contestees Wells, Owen and Bayliss, and the findings in respect thereto are as set forth in said paragraph.

28.

Contest No. 17

W. R. Campbell, Eva D. Campbell, W.W.Finley,
and Nancy A. Finley, J.P.McAuliffe and Nora
McAuliffe, G. W. Morgan and Katie E.Morgan,
A. S. Conner and Louis Gerber,
Contestants,

v.

Walker-Woodruff Land & Livestock Company,
Contestee.

This contest involves Proof 70, and Contest No. 18 involves Proof 71, of Contestee. Proof 70 covers the $E\frac{1}{2}$ of Section 35, T. 36 S. R. 14 E., for which a right is claimed from the South Fork of Sprague River for 314.4 acres of land with priority of 1883. Proof 71 covers the $W\frac{1}{2}$ of Section 35, for which a right is claimed from the South Fork of Sprague River for 250.7 acres with priority of 1877. The $E\frac{1}{2}$ of Section 35 was acquired from the Oregon-Central Military Road Company prior to 1880, and the $W\frac{1}{2}$ was acquired from the State of Oregon by H. H. Blecher December 12, 1883. The testimony shows that the lands were not artificially irrigated in the early days. They were covered somewhat with sage and rabbit brush, but were utilized for pasture. In certain seasons they were naturally flooded by water, but it appears that this came mostly from Fish Hole Creek. They were also sub-irrigated to some extent. In later years their condition became improved, the brush was cleared out, and better meadow grass was produced. In 1909 the Walker-Wells ditch, which had been built from Gearhart Slough, was extended westerly, whereby the irrigation of Section 35 was accomplished by water from the South Fork of Sprague River. It does not appear that any appropriation was made from the South Fork of Sprague River before that time. A right for the acreage now claimed and shown as irrigated by the official state survey will be allowed, with priority of 1909.

29.

Contest No. 18

W. R. Campbell, Eva D. Campbell, W. W.
Finley and Nancy A. Finley, J.P.McAuliffe
and Nora McAuliffe, G. W. Morgan and Katie
E. Morgan, A. S. Conner and Louis Gerber,
Contestants,

v.

Walker-Woodruff Land & Livestock Company,
Contestee.

As stated in the preceding paragraph, this contest involves Proof 71 of Contestee, and the findings in respect thereto are set forth in said paragraph.

30.

Contest No. 19

W. R. Campbell, Eva D. Campbell, W.W.
Finley and Nancy A. Finley, J.P.McAuliffe
and Nora McAuliffe, G. W. Morgan and Katie
E. Morgan, A. S. Conner and Louis Gerber,
Contestants,

v.

F. M. Miller,

Contestee.

The issues raised by this contest are the same as those involved
in Contest No. 9, and are fully disposed of by the findings as to said contest.

31.

Contest No. 20

W. R. Campbell, Eva D. Campbell, W. W.
Finley and Nancy A. Finley, J.P.McAuliffe
and Nora McAuliffe, G. W. Morgan and Katie
E. Morgan, A. S. Conner and Louis Gerber,
Contestants,

v.

Modoc Realty Company,

Contestee.

This contest involves Contestee's Proof No. 52. Under this proof
Contestee claims a right for the irrigation of 180 acres of land from the South
Fork of Sprague River, with priority of 1871. By this contest it is alleged that
the lands were not irrigated from the South Fork prior to about 1889. It appears
that this land was naturally overflowed by water from the South Fork of Sprague
River, and that the native grasses produced thereby were used for hay and pasture
in the early days. The $E\frac{1}{2}NE\frac{1}{4}$ Section 20 was acquired from the State as swamp land,
application to purchase being filed by James G. Walker December 14, 1886. It was
not shown how title was acquired to the $W\frac{1}{2}NW\frac{1}{4}$ of Section 21. It appears that
control was being exercised over this land by one W. J. Pengra as early as 1888.
The 20 acres claimed in the $N\frac{1}{2}NW\frac{1}{4}$ of Section 28 was apparently first utilized
about 1881. Priorities will be fixed as follows: $E\frac{1}{2}NE\frac{1}{4}$ Section 20, - 1886; $W\frac{1}{2}NW\frac{1}{4}$
Section 21, - 1888; 20 acres in the $N\frac{1}{2}NW\frac{1}{4}$ Section 28, - 1881.

32.

Contest No. 21

W. R. Campbell, Eva D. Campbell, W. W.
Finley and Nancy A. Finley, J.P.McAuliffe
and Nora McAuliffe, G. W. Morgan and Katie
E. Morgan, A. S. Conner and Louis Gerber,
Contestants,

v.

Modoc Realty Company,

Contestee.

This contest brings in issue Proof No. 53 of Contestee. Under this
proof a right is claimed from the South Fork of Sprague River for 95 acres of land
in the $SW\frac{1}{4}$, and 20 acres in the $SE\frac{1}{2}NW\frac{1}{4}$ of Section 28, T. 36 S. R. 14 E. It appears

that this land was not naturally overflowed, but was first irrigated after the construction of the Bly Extension Ditch in 1900. Priority is fixed as of that date.

33.

Contest No. 22

W. R. Campbell, Eva D. Campbell, W.W. Finley and Nancy A. Finley, J.P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner and Louis Gerber, Contestants,

v.

Modoc Realty Company, Contestee.

This contest involves Proof No. 54 of Contestee. Under this proof a right is claimed for 120 acres of land in the NW $\frac{1}{4}$ of Section 28, T. 36 S. R. 14 E. This land was irrigated by natural overflow, and was used as pasture for stock and for hay as early as 1881. Priority is fixed as of that date.

34.

Contest No. 23

W. R. Campbell, Eva D. Campbell, W.W. Finley and Nancy A. Finley, J.P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner and Louis Gerber, Contestants,

v.

Luke E. Walker, Contestee.

This contest involves the priority under Contestee's proof No. 73. Under this proof a right is claimed from South Fork of Sprague River for the SW $\frac{1}{4}$ of Section 21 and 15 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, T. 36 S.R. 14 E., with priority of 1871. This was State land. The SW $\frac{1}{4}$ of Section 20 was deeded to J. F. Munz December 12, 1883, application to purchase having been filed April 23, 1877. Deed to the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20 was secured from the State July 9, 1881. This land was naturally overflowed by water from the South Fork of Sprague River. The testimony shows occupation and beneficial use since about 1875. However, in accordance with a stipulation entered into at the hearing (Transcript, page 2526) the priority of this right is fixed as of the year 1881, and said right shall be inferior to the rights of the following parties: W. R. Campbell, under Proofs 5 and 6; A. S. Conner, under Proof 19; Louis Gerber, under Proof 28; G. W. & Katie E. Morgan, under Proof 51; J. P. & Nora McAuliffe, under Proof 49.

35.

Contest No. 24

W. R. Campbell, Eva D. Campbell, W. W. Finley and Nancy A. Finley, J.P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, A. S. Conner and Louis Gerber, Contestants,

v.

Luke E. Walker, Contestee.

This contest involves the priority under Contestee's Proof No. 74.

Under this proof a right is claimed from the South Fork of Sprague River for 25 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20 and 15 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 29, T. 36 S. R. 14 E., south or west of the channel of the South Fork of Sprague River, with priority of 1881. The testimony shows occupation and use of the land for hay and pasture beginning about 1881. But in accordance with a stipulation entered into at the hearing (Transcript, page 2527) the priority of this right is fixed as of the year 1905, and said right shall be inferior to the rights of the following parties: Ed Bloomingcamp, under Proofs 1 and 2; Mary H. Dixon, under Proofs 24 and 25; J. C. and T. M. Edsall, under Proof 26; O. W. Howard, under Proof 35; and J. O. Watts, under Proofs 68 and 69.

36.

Contest No. 25

Edward Bloomingcamp, Mary H. Dixon, T.M.
Edsall, O. W. Howard and J. O. Watts,
Contestants,

v.

Spratt Wells, Camilla E. Owen, and Phebe
M. Bayliss,

Contestees.

This contest involves Proof No. 75 of Contestees, and is fully disposed of by the findings hereinbefore made with respect to Contest No. 14.

37.

Contest No. 26

Edward Bloomingcamp, Mary H. Dixon, T.M.
Edsall, O. W. Howard and J.O.Watts,
Contestants,

v.

Spratt Wells, Camilla E. Owen and Phebe
M. Bayliss,

Contestees.

This contest involves Proof No. 76 of Contestees, and is fully disposed of by the findings hereinbefore made with respect to Contest No. 15.

38.

Contest No. 27

Edward Bloomingcamp, Mary H. Dixon, T. M.
Edsall, O. W. Howard and J. O. Watts,
Contestants,

v.

Spratt Wells, Camilla E. Owen, and Phebe
M. Bayliss,

Contestees.

This contest involves Proof No. 77 of Contestees, and is fully disposed of by the findings hereinbefore made with respect to Contest No. 15.

39.

Contest No. 28

Edward Bloomingcamp, Mary H. Dixon, T. M.
Edsall, O. W. Howard and J.O.Watts,
Contestants,

v.

Walker-Woodruff Land & Livestock Company,
Contestees.

This contest involves Proof No. 70 of Contestee, and is fully disposed

by the findings hereinbefore made with respect to Contest No. 17.

40.

Contest No. 29

Edward Bloomingcamp, Mary H. Dixon, T.M.
Edsall, O. W. Howard, and J. O. Watts,
Contestants,

v.

Walker-Woodruff Land & Livestock Company,
Contestee.

This contest involves Proof No. 71 of Contestee, and is fully disposed of by the findings hereinbefore made with respect to Contest No. 17.

41.

Contest No. 30.

Edward Bloomingcamp, Mary H. Dixon, T. M.
Edsall, O. W. Howard and J. O. Watts,
Contestants,

v.

F. M. Miller,
Contestee.

This contest involves Proof No. 50 of Contestee and is fully disposed of by the findings hereinbefore made with respect to Contest No. 9.

42.

Contest No. 31

Edward Bloomingcamp, Mary H. Dixon, T.M.
Edsall, O. W. Howard, and J.O.Watts,
Contestants,

v.

Modoc Realty Company,
Contestee.

This contest involves Proof No. 52 of Contestee, and is fully disposed of by the findings hereinbefore made with respect to Contest No. 20.

43.

Contest No. 32

Edward Bloomingcamp, Mary H. Dixon, T.M.
Edsall, O. W. Howard, and J.O.Watts,
Contestants,

v.

Modoc Realty Company,
Contestee.

This contest involves Proof No. 53 of Contestee, and is fully disposed of by the findings hereinbefore made with respect to Contest No. 21.

44.

Contest No. 33

Edward Bloomingcamp, Mary H. Dixon, T. M.
Edsall, O. W. Howard, and J. O. Watts,
Contestants,

v.

Modoc Realty Company, Contestee.

This contest involves Proof No. 54 of Contestee, and is fully disposed of by the findings hereinbefore made with respect to Contest No. 22.

45.

Contest No. 34

Edward Bloomingcamp, Mary H. Dixon,
T. M. Edsall, O. W. Howard, and J.O.
Watts,
Contestants,
v.
Luke E. Walker,
Contestee.

This contest involves Proof No. 73 of Contestee, and is fully disposed of by the findings hereinbefore made with respect to Contest No. 23.

46.

Contest No. 35

Edward Bloomingcamp, Mary H. Dixon, T.M.
Edsall, O. W. Howard, and J.O.Watts,
Contestants,
v.
Luke E. Walker,
Contestee.

This contest involves Proof No. 74 of Contestee, and is fully disposed of by the findings hereinbefore made with respect to Contest No. 24.

47.

Contest No. 36

Edward Bloomingcamp, Mary H. Dixon, T.M.
Edsall, O. W. Howard, and J. O. Watts,
Contestants,
v.
Mrs. Anita Lowery,
Contestee.

This contest involves Proof No. 46 of Contestee, and is fully disposed of by the findings hereinbefore made with respect to Contest No. 7.

48.

Contest No. 37

W. R. Campbell, and Eva D. Campbell, W.W.
Finley and Nancy A. Finley,
Contestants,
v.
Luke E. Walker,
Contestee.

This contest involves Proof No. 73 of Contestee, and is fully disposed of by the findings hereinbefore made with respect to Contest No. 23.

49.

Contest No. 38

Gilbert C. Lapham,
Contestant,
v.
Louis Gerber, Edward Bloomingcamp, J.O.
Watts, F. M. MILLER, James H. & Mary E.
Owen, and Estate of James Taylor, (Clara
Kincaid, Clarence Taylor and Elizabeth
Jane Hamaker, devisees),
Contestees.

The above named contestees have filed claims for the use of water for irrigation and stock purposes from Fish Hole Creek and its tributaries. This contest involves the acreage and priorities of some of these claims, and Contestant Lapham also claims to have acquired rights by adverse user as against the Contestees, to the storage of the waters described in his claims and the use of same for irrigation and stock purposes. From the testimony and evidence taken the following facts appear: The Contestant fills his reservoirs during the annual spring floods when the tributaries of Fish Hole Creek below furnish ample water to supply the needs of all prior rights, or during the non-irrigation season. The storage of water by the Contestant in his reservoirs has not operated to deprive any of the prior appropriators of water which they could have beneficially used. And while Contestant has therefore not acquired any adverse rights to the use of water from Fish Hole Creek or its tributaries as against any of the Contestees, he has an exclusive right to the water stored by him in his reservoirs.

Louis Gerber.

The right of Contestee Gerber to the use of the waters of Fish Hole Creek as set forth in his Proof No. 30 is not questioned in this contest, Contestant Lapham only claiming a superior right by virtue of adverse use. This question is decided above. Contestee's rights have been passed upon herein in connection with Contest No. 1, Page 8.

Edward Bloomingcamp

The only question involved in this contest which affects the right of Contestee Bloomingcamp is that of adverse user, which has been decided. Contestee's rights on Fish Hole Creek have been determined in connection with Contest No. 2, Page 9.

J. O. Watts

The only issue in this contest against this Contestee is as to the question of adverse user, which is decided above. Contestee's rights on Fish Hole Creek are determined elsewhere herein in connection with Contest No. 3, Page 9.

F. M. Miller

This contest does not bring in issue the rights of this Contestee to the waters of Fish Hole Creek, but as to him simply raises the question of adverse use, which is decided above.

James H. Owen. (SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 20, W $\frac{1}{2}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 29, T. 38 S.R.16 E.)

Contestee James H. Owen has filed a claim (Proof No. 60) for the use of the waters of Fish Hole Creek for the irrigation of 75.9 acres of land, claiming a priority of 1882. This claim has been contested by Contestant Lapham as to

priority and acreage. Contestant also claims a superior right, by virtue of adverse use, to the storage of water in his reservoirs, and use therefrom. This question is decided above. It appears that Geo. W. Owen, predecessor in interest of Contestee, made settlement in 1886, on the above described lands, and subsequently acquired title under the homestead laws. About the time of settlement said Owen constructed temporary dams in the channel of Fish Hole Creek for the purpose of raising the water, causing it to flood the adjacent land, and each year since has used the water diverted in this manner, irrigating an area of 58 acres, and producing a good quality of meadow grasses valuable for feeding stock when cut for hay, or pastured. Of the 75.9 acres described in Proof No 60 as irrigated from Fish Hole Creek, 17.9 is not irrigated from Fish Hole Creek but from water supplied by springs and drainage from the adjacent hills. Contestee is allowed a right with priority of September, 1886, for the irrigation of 58 acres from Fish Hole Creek, as follows: 18.4 acres in SW₂SW₄, Section 20; 18.2 acres in NW₄NW₄, 12.4 acres in the SW₂NW₄, and 9 acres in the NW₄SW₄ of Section 29, T. 38 S .R. 16 E. W. M. A right is allowed with priority of September, 1886, for the irrigation of 17.9 acres with water from springs and drainage from the adjacent hills, as follows: 11.9 acres in SW₂SW₄, Section 20; 2.5 acres in NW₄NW₄, and 3.5 acres in SW₂NW₄ Section 29, T. 38 S. R. 16 E. W. M.

James H. and Mary E. Owen. (W₂NE₄, NW₄SE₄ and S₂SE₄, Section 22; E₂NE₄, N₂SE₄ and SW₂SE₄, Section 27; SW₂NW₄ and NW₄SW₄, Section 26; T. 38 S. R. 15 E. W. M.)

The above named Contestees filed a claim (Proof No. 62) for the use of water from Fish Hole Creek for the irrigation of 177.2 acres of land in the above described subdivisions, with priority of 1884. This contest raises the question of acreage, priority and source of supply. Contestant also claims a superior right by adverse user, which question is already decided. It appears that Jacob M. Casebeer, predecessor in interest of Contestees, made settlement in or about the year 1880 upon the SW₂SE₄, SE₂SE₄ of Section 22, NE₂NE₄ and SE₂NE₄ of Section 27, T. 38 S. R. 15 E., and acquired title to same under the pre-emption laws. Of the 82.9 acres claimed as irrigated, 68.1 are irrigated from Fish Hole Creek, and the balance from Lost Valley Creek and Shone Springs. Of the 68.1 acres irrigated from Fish Hole Creek, 10 acres in the SE₂NE₄ of Section 27 were not irrigated until about 1888. But it is believed that this fact alone does not prove lack of diligence or necessitate the allowance of a later date of priority. An area of 68.1 acres in this tract is allowed a water right from Fish Hole Creek, 10.5 acres is allowed a water right from Shone Springs, and 4.3 acres is allowed a water right from Lost Valley Creek, and springs, all with priority of 1884, as hereinafter tabulated.

In September, 1886, Edwin Casebeer filed upon the following lands under the pre-emption laws: SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27, T. 38 S. R. 15 E. He subsequently acquired title and sold the same to James H. Owen and Mary E. Owen. Contestees claim a right from Fish Hole Creek for the irrigation of 44.1 acres in this tract with priority of 1884. Of this area, 24.1 acres are irrigated from Lost Valley Creek and springs. The earliest date that any land in this tract was irrigated from Fish Hole Creek appears to have been in 1888. 14.6 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27 is moistened naturally by water derived from springs and surface runoff from the adjacent hills. As a result of this annual irrigation, a good growth of grasses has been produced, which appears to have been cut for hay as early as 1886. None of this land has ever been irrigated from Fish Hole Creek. While title to this 40-acre tract was not acquired from the Government until about 1913, it is believed that the Contestees are entitled to a date of priority of 1886 for the irrigation of this land, as the water has been beneficially used since that date. The rights to the use of water for the Edwin Casebeer pre-emption are determined as follows: 11.5 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26 is allowed a water right from Lost Valley Creek with priority of 1886; 14.6 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, 11.3 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, and 1.3 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, is allowed a water right from springs tributary to these lands, with priority of 1886; 3.5 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 11 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, of Section 26, and 5.5 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, is allowed a water right from Fish Hole Creek with priority of 1888.

On October 21, 1889, Caroline H. Watts, predecessor in interest of Contestees James H and Mary E. Owen, filed upon the NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$, of Section 22, T. 38 S. R. 15 E., as a homestead, and made final proof in 1894. The only question raised in this contest pertaining to this tract is as to priority. It appears that these lands were irrigated prior to 1889 by the Casebeer Brothers, but there is nothing in the record to show a continuity of title that would justify a priority earlier than the date of the homestead filing. A water right is allowed from Fish Hole Creek with priority of Oct. 21, 1889, for the irrigation of 35.6 acres of land in the Caroline Watts homestead, as follows: 3.6 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 15 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, and 17 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 22, T. 38 S. R. 15 E. W. M.

Estate of James Taylor

Clara Kincaid, Clarence Taylor and Elizabeth Jane Hamaker, as devisees of James Taylor, deceased, (through John A. Taylor and Clarence Taylor, executors), have filed claim (Proof No. 65) for water from Fish Hole Creek and storage in

Devils Lake Reservoir, for the irrigation of 326.2 acres of land in Sections 13, 14 and 24, T. 37 S. R. 14 E. W. M., with priority of 1874. The source of supply for some of the lands, and date of priority, have been brought in issue by this contest. From the evidence and testimony offered the following facts appear: Fish Hole Creek flows in a general northwesterly course through Sections 24, 13 and 14 in no well-defined channels, having from time immemorial spread out during the high water seasons, flooding a considerable area of these sections. This produces a good growth of grasses, valuable for feeding stock when cut for hay or pastured. Ditches and small dams have been constructed in order to conserve and better distribute the water after the spring floods have passed. A ditch (which is shown upon the State Engineer's maps as diverting from Fish Hole Creek near the center of the E $\frac{1}{2}$ of Section 24 and extending in a general northwesterly course along the Southwest side of the above described meadow lands) was constructed about the year 1898. Practically all of the lands now irrigated by said ditch were, prior to the construction thereof, producing a good growth of grasses, suitable for hay, which growth was the result of irrigation by flooding or by sub-irrigation. Certain areas (9.2 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13 and 13 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 24) for which rights are claimed from Fish Hole Creek, have in fact never been irrigated from Fish Hole Creek, but are irrigated by spring flood waters and drainage from the adjacent hills. This appears to be true also of 4.1 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and 3.2 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 24, which are irrigated not from Fish Hole Creek but from springs and drainage from the surrounding hills when the winter snows are melting or when excessive rains occur.

On the 27th of April, 1908, said James Taylor made application to purchase the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 14 under the Timber and Stone Act. Prior to that date no lands in this tract appear to have been irrigated. No land located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 14 is irrigated from Fish Hole Creek. The SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14 was about public land until/1911, when it was purchased as an isolated tract, and the record does not warrant the allowance of a priority earlier than 1911 for this tract.

In accordance with the above statements of facts the rights for the lands under Proof No. 65 are determined as follows: 287.8 acres of land, the description of which is set forth in the tabulation herein, is allowed a right from Fish Hole Creek with priority of 1874. 5.6 acres and 1.3 acres in Section 14, the location of which is shown in the tabulation herein, is allowed a water right from Fish Hole Creek with priorities of 1908 and 1911 respectively. 4.1 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and 3.2 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 24, are allowed a water right from springs and water which collects in a swale which flows upon said lands, with priorities of 1874 and 1908,

respectively. 9.2 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13 and 13 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24 are allowed a water right from flood waters and drainage from adjacent hills, with priority of 1874.

About the year 1905 James Taylor constructed ditches for the purpose of diverting the spring flood water from the adjacent drainage into Devils Lake, a natural lake or reservoir, to be stored for use later in the season, as a supplemental supply for the irrigation of lands in Sections 13, 14 and 24, T. 37 S.R. 14 E., and by means of said ditches approximately 650 acre feet of water was annually diverted and stored in said reservoir. James O. Watts and Martha Watts have also acquired rights to store water in Devils Lake Reservoir and use the same for irrigation and watering of stock, which rights were initiated by securing a permit from the State Engineer, under which final proof has been made and a certificate issued, being Certificate No. 503, with priority of Oct. 11, 1910. The rights to the use of water stored in Devils Lake appear to have been determined by an agreement signed by E. Casebeer and James Taylor and Clarissa Taylor, predecessors in interest of the above named parties, which agreement is recorded in Book 46, at page 153, of the Deed Records of Klamath County, Oregon, a copy of which is in evidence. By the conditions of said agreement it appears that James O. Watts and Martha Watts are entitled to two-thirds and the heirs of James Taylor to one-third, of the water stored in Devils Lake Reservoir. The water stored in said reservoir belonging to the heirs of James Taylor is to be used as a supplemental supply for the irrigation of lands in Sections 13, 14 and 24, which have been allowed a water right herein from Fish Hole Creek for irrigation and stock purposes.

On June 10, 1901, decree was rendered in a suit then pending in the Circuit Court of the State of Oregon for Klamath County, wherein James Taylor, James H. Owen and Mary E. Owen were plaintiffs, and Gilbert C. Lapham was defendant, being a suit to adjudicate the rights of these parties to the use of water from Fish Hole Creek. By said decree Defendant Lapham was enjoined from diverting or interfering with the waters of Fish Hole Creek so as to prevent 230 miners inches under six inch pressure, from flowing past his lands in Section 1, T. 39 S. R. 15 E., during the months of April, May and up to June 20 of each year. It appears that at the time of the entry of said decree Defendant Lapham was the owner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, T. 38 S. R. 15 E., and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and Lots 2, 3 and 4 of Section 1, T. 39 S. R. 15 E. (covered by Proofs 39 and 40 herein) and that all other lands for which Gilbert C. Lapham has claimed a water right in this proceeding have been acquired subsequent to the entry of said decree and were not involved in said suit, and are therefore not bound by said decree. It also appears that the right to the impounding and use of waters stored in the reservoirs owned by said Lapham was not involved

in said suit, except that none of the waters of Fish Hole Creek or its tributaries can be diverted for storage when the flow of water in Fish Hole Creek in said Section 1 is 230 miners inches or less, during the period April 1 to June 20 of each year. It appears that at the time of the entry of said decree, James Taylor was the owner of the following described lands: NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$, of Section 14, and S $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13, and N $\frac{1}{2}$ NW $\frac{1}{4}$ and the NE $\frac{1}{4}$, of Section 24, T. 37 S. R. 14 E.; and that James H. and Mary E. Owen were the owners of the following described lands: NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$, of Section 27, and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26, T. 38 S. R. 15 E. All of the other lands for which the heirs of James Taylor and James H. and Mary E. Owen are claiming water rights from Fish Hole Creek were acquired subsequent to the entry of said decree and were not involved therein. The provisions of said decree shall be carried out by the water master in the distribution of water on Fish Hole Creek.

50.

Sprague River is situated in Klamath and Lake Counties, Oregon, and is tributary to Williamson River, which flows into the north end of Upper Klamath Lake. This adjudication proceeding involves only that part of the Sprague River watershed above and East of the Klamath Indian Reservation, embracing mainly the north and south forks of the river down to their junction. The country which is drained by these two forks is situated on the west slope of a high range of hills, which are covered in the eastern portion with timber, broken by irregular draws and canyons, and which toward the west become gradually more open and level, and merge into the flat lands of the main valley. The lands irrigated in the higher part of the watershed consist of small isolated areas along the stream channels, while in the lower portions the irrigated areas form a more or less compact body of meadow lands. The principal tributaries of the North Fork of Sprague River are Five Mile Creek, which lies mostly within the Indian Reservation, and Meryl Creek, of which Long Creek is a branch, and into which Graney Creek drains. The principal tributaries of the South Fork of Sprague River are Fish Hole Creek, Fritz Creek, Deming Creek, Paradise Creek and Round Grove Creek. The country is arid in character, and irrigation is necessary for the successful growing of crops. However, the irrigation is accomplished to a large extent by the natural overflow which takes place upon the rapid thawing of the winter snows, the flood waters thus caused being distributed over the nearly level meadow lands, assisted by dams, dikes or other obstructions placed in the channels. The streams all run low by mid-summer. The winters are cold, with considerable snow, and the growing season is short. The

crops consist mostly of native grasses, utilized for hay or pasture, the raising of other crops being prohibited by frosts due to the elevation and the unprotected situation of the valley. The soil is for the most part a light sandy silt underlaid in the vicinity of the river-bed by rather coarse gravel and hardpan. That in the uplands is a sandy loam, coarser in texture than the silt of the bottom lands. The total area of irrigated lands^{as} involved in this proceeding is about 11,500 acres.

51.

There was filed in this proceeding a decree of the Circuit Court of the State of Oregon for Klamath County, dated June 26, 1919, in the case of J.A. Parker et al v. J. P. McAuliffe et al. It appears that by this decree the Court determined the quantities of water which the parties to said suit were entitled to divert and use through the Bly Extension Ditch which was constructed in 1900, upon the lands owned by said parties and involved in said suit. This decree is binding upon the owners of said lands and their successors in interest, and shall be enforced by the water master in the distribution of water hereunder. The decree awards to the defendants McAuliffe, Wells and Wells, 300 miners inches of water from the South Fork of Sprague River for use upon 339 acres of land covered by Proof No. 75 filed herein by Wells, Owen and Bayliss. Rights to 600 additional miners inches are awarded in seven equal shares (85.7 miners inches each) as follows:

- (1) Defendants McAuliffe, Wells and Wells, 54 acres (10.3 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 39.7 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 35, T. 36 S.R.14 E., and 4 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, T. 37 S. R. 14 E.) covered by Proofs Nos. 71 and 72 filed herein by Walker-Woodruff Land & Livestock Co.:
- (2) Plaintiff J. A. Parker, 100 acres (20 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 40 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, and 40 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28, T. 36 S. R. 14 E.) covered by Proof No 53 filed herein by Modoc Realty Company:
- (3) Plaintiff Mary H. Dixon, 53.5 acres covered by Proof No. 24 filed herein by Mary H. Dixon:
- (4) Plaintiff W. T. Garrett, 121 acres covered by Proof No. 50 filed herein by F. M. Miller:
- (5) Plaintiffs J. C. and T. M. Edsall, 76.2 acres covered by Proof No. 26 filed herein by J. C. and T. M. Edsall:
- (6) Plaintiff M. A. Edsall, 80.7 acres covered by Proof No. 2 filed herein by Edward Bloomingcamp:
- (7) Defendant James O. Watts, 207.5 acres covered by Proof No. 69 filed herein by J. O. Watts.

The provisions of said decree, however, shall not be construed or enforced so as to give to any of said lands a quantity of water in excess of that fixed herein in Paragraph 57 as the proper duty of water for the lands irrigated.

There was filed in this proceeding (Evidence, Vol. 1. 1, p. 59) a stipulation between W. R. Campbell, party of the first part, and A. S. Conner and Louis Gerber, as parties of the second part, involving their water rights on Deming Creek. It appears that said parties are the only parties claiming any water rights from said stream, and that there are no other lands irrigated therefrom. In accordance with said stipulation the rights of said parties as between themselves are determined as follows:

W. R. Campbell for the 386.8 acres of land under his Proofs 7, 8, 9, 10, 11, 12, 13 and 14, shall have the first right to the waters of Deming Creek, for not to exceed three-fourths miners inches per acre.

W. R. Campbell for the 159.1 acres under his Proofs 15 and 16, shall up to May 15 of each year be entitled to two-thirds of the water remaining in Deming Creek, or of the aggregate quantity to which said 159.1 acres and the 129 acres under Proof 22 of A. S. Conner, are entitled; and A. S. Conner shall be entitled to the remaining one-third. After May 15 of each year W. R. Campbell shall have the first right to said aggregate quantity, up to his full allowance for said 159.1 acres at a rate of not to exceed three-fourths miners inch per acre, and said A. S. Conner shall have second right to any surplus that may remain in the stream, up to his full allowance for the 129 acres under Proof 22, under the duty of water herein fixed in Paragraph 57.

Louis Gerber for the 15 acres under his Proof 29, shall up to May 15 of each year be entitled to the water of Deming Creek after the 386.8 acres above mentioned are supplied, up to his full allowance for said 15 acres under the duty of water herein fixed.

After May 15 of each year said A. S. Conner for said 15 acres shall be entitled to only such water from Deming Creek as naturally overflows said land.

The above provisions shall be enforced only as between the parties to said stipulation, and if there should ever come a time when the rights of any other parties would be adversely affected by such enforcement, then to that extent the rights of said stipulators shall be administered in accordance with their date of priority as tabulated herein. And said stipulation shall not be construed as giving any of said parties a right to divert and use at any time, more water than they otherwise could under the duty of water fixed in Paragraph 57 herein.

On the 23rd day of May, 1928, there was filed in the office of the State Engineer a petition by Pearl Obenchain McNair, for herself, and as guardian for her minor children, Lee Arlet Hixson and Wilbur Gordon Hixson, to intervene in this proceeding. Said petition asserts rights to the waters of North Fork of Sprague River

and Five Mile Creek, for the irrigation of 255.2 acres of land, with priority of 1878, and alleges that failure to file said claim within the time theretofore allowed was due to the fact that said petitioner is of mixed Indian blood, her name being enrolled upon the rolls of the Klamath Indian Reservation, and that she was under a mistaken apprehension that the United States Government would take care of her water rights. With the petition was tendered a claim in regular form, together with the statutory fees. Inasmuch as this claim was filed without notice to other parties to this proceeding whose rights might be adversely affected, it has been accepted subject to the right of such other parties to file exceptions or contests against it, after the proceeding has come before the Circuit Court. If no such exceptions or contests are filed, the rights of such claimants should be allowed as set forth in the tabulation hereinafter contained.

54.

In considering the exceptions of claimants A. S. Conner, W. R. Campbell, and Eva D. Campbell, his wife, L. Gerber, G. W. Morgan, Katie E. Morgan, J. P. McAuliffe and Nora McAuliffe, wherein they except to the findings of the State Engineer for failing and omitting to make affirmative findings regarding the obstruction of "Howard Slough", the Court is of the opinion that the exception is well taken.

It appears that on the 31st day of May, 1924, a suit was commenced in the Circuit Court of the State of Oregon for the County of Klamath, wherein W. R. Campbell, G. W. Morgan and Katie E. Morgan, husband and wife, L. Gerber, A. S. Conner, J. P. McAuliffe, W. W. Finley and Nancy A. Finley, husband and wife, were plaintiffs, and Luke E. Walker, Leonard J. Woodruff, Bertha Bell, James O. Watt, J. A. Parker, Ed Bloomingcamp, T. M. Edsall, Spratt Wells, Mary H. Dixon, J. C. Edsall, F. M. Miller, John Doe, Administrator of the Estate of Phoebe Wells, Bertha Bell, Administratrix of the Estate of James Bell, were defendants, and which said suit was numbered in said Court as Equity No. 1793. It further appears that the parties to said suit or their predecessors in interest are parties to this adjudication proceeding. The prayer set out in the complaint of said suit in substance asks that the defendants be restrained from interfering with the plaintiffs in the irrigation of their lands from the water of the South Fork of Sprague River and called for an adjudication of the respective rights of the parties to the suit. Pursuant thereto on the 11th day of June, 1924, the Court made and entered an Order in said suit, referring the water rights to the State Engineer, ^{of Oregon} for adjudication, and determination, said order being duly entered of record in Volume 12, Page 489 in the Journal of the above entitled Court.

Based upon the foregoing, this Court is of the opinion that said suit

herein referred to and being Equity No. 1793, should be consolidated with the present proceeding now before this Court and being entitled "In the Matter of the Determination of the Relative Rights to the Waters of Sprague River and its Tributaries (outside of the Klamath Indian Reservation) a tributary of Williamson River," being Equity No. 2808, and in accordance therewith has so entered an Order, dated Jan. 20, 1930, and hereafter all papers filed in connection herewith shall bear the title of both suits and/or proceedings, and shall hereafter be filed in the above entitled Court under Equity No. 2808.

The "Howard Slough" in question herein, heads in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ or thereabouts, of Section 6, Township 37 South, Range 15 E. W. M., and flows in a northwesterly direction out of Section 36 on into Section 26, taking a westerly course on across Section 27, where it again takes a northwesterly course flowing on and into Section 22, all of said Section, with the exception of the first mentioned, being within Tp. 36 South, Range 14 E. W. M. Said Slough has all characteristics of being a material water course and water has flowed therein ever since the country was known to the early settler.

The quantity of water which flows in said Slough apparently has never been determined by exact measurement but the preponderance of the testimony of witnesses familiar with the stream, would indicate beyond a doubt that half of the water flowing at the point where the waters of Sprague River flow into Howard Slough, would be half of the total flow in the river at that point. It appears from the evidence that the waters of Sprague River emptied into said Slough at two points. One near the center of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 6, Tp. 37 S. Range 15 E. W. M., and second near the center of the west line of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, Tp. 37 S., Range 15 E. W. M., being approximately 220 yards up stream from the first mentioned channel.

During the year 1921, the first mentioned channel, being near the center of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, Tp. 37 S., Range 15 E. W. M., was closed by a dam. At the head of the second channel, heretofore mentioned, a dam was constructed and a headgate installed for the regulation and control of the waters. In 1924, during which time the Sprague River country experienced a rather dry year, the headgate placed in the dam at the head of the second channel leading from the South Fork of Sprague River into Howard Slough, and located near the center of the west line of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, Tp. 37 S., Range 15 E. W. M., was removed, either by natural or artificial cause, and the opening entirely closed by construction of a dam at this point, and thereby preventing the waters of the South Fork of Sprague River from flowing into said Slough as it always had theretofore, thus denying the water users accustomed to irrigating their lands from this source, the use of the waters.

In order that an equitable distribution of the waters involved herein, may be had, the Court is of the opinion that a dam should be constructed at the head of the second channel, leading from the South Fork of Sprague River and located near the west line of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, Tp. 37 South, Range 15 E. W.M., and a suitable headgate installed in said dam of sufficient size to permit one half of the waters of the South Fork of Sprague River at a point just about the head of said channel to flow at all times on down the Howard Slough, as it always has heretofore, That said dam and headgate shall be constructed under the supervision and direction of the Watermaster, or party designed or selected by the State Engineer of the State of Oregon, the expense of such installation to be met by the Waterusers from the South Fork of Sprague River who use the waters therefrom, flowing down Howard Slough, the cost to be prorated in accordance with the number of acres owned by each individual user from said Slough as the same bears to the total acreage irrigated therefrom, That the Watermaster shall have complete control over the regulation of said headgate and that all parties to these proceedings and their successors in interest shall be forevermore restrained from interfering with said headgate.

55.

That prior to the first day of May, 1929, viz: upon April 29, 1929, claimant A. S. Conner filed herein a motion for leave of Court to file an amendment to his claim No. 21 upon the North Fork of Sprague River, setting up a supplemental water right in the North Fork of Sprague River for irrigation purposes upon 55 acres of land in Sec. 22, and 74 acres of land lying in Sec. 23, all in Tp. 36 S. Range 14 E. W. M., said supplemental water right to have a priority of 1900, and on April 29, 1929, this Court made an order granting said A. S. Conner leave to file herein said amended Claim No. 21 upon his serving upon all claimants in this proceeding a copy of the said Amended Proof of Claim No. 21; that thereafter, to-wit: upon the 30th day of April, 1929, said claimant A. S. Conner filed herein his amendment to Proof of Claim No. 21, on the North Fork of Sprague River for said supplemental irrigation right; that attached to Amendment of Proof of Claim No. 21, when filed, was proof of the service of a copy of said Amended Claim duly certified to by H. M. Manning, attorney for A. S. Conner, upon each of the claimants in this proceeding, by registered mail, upon the 29th and 30th of April, 1929; that attached to said proof of service was the registry receipt of the United States Postoffice at Klamath Falls, Oregon, showing the registration and mailing of said copies of Amended Claim No. 21, excepting as to claimants Spratt Wells, Camilla E Owens and Phebe M. Bailiss, for whom service of said copies was accepted on April 30, 1929, by J. C. Rutenic, their attorney, and excepting Edward Bloomingcamp, W. R. Campbell and Eva D. Campbell, L. Gerber, G. W. Morgan and Katie E. Morgan, J. P. McAuliffe and Nora McAuliffe, upon whose behalf service of a copy of

said Amendment to Claim No. 21 was acknowledged by their attorney H. M. Manning, that each and all claimants were duly and regularly served with a copy of said Amended Claim; that no exceptions or objections to the allowance of said Amendment to said Claim No. 21 has been filed or made herein and that said Supplemental claim is just and should be allowed by this Court, as herein set forth.

That A. S. Conner, claimant herein, is entitled to have out of the North Fork of Sprague River, a supplemental right for irrigation purposes, to supplement the irrigation of his lands irrigated from Deming Creek, which said lands are described in his Proof/^{of} Claim No. 22 of Deming Creek, as described, fixed and determined on page 42 of Findings and Order of Determination of the State Engineer; said supplemental right on the North Fork of Sprague River is hereby given a priority of 1900 upon the North Fork of Sprague River for the quantity of water per acre as is hereinafter fixed as the duty of water; said right in the North Fork of Sprague River to be supplemental to the water right of A. S. Conner, for said lands irrigated from Deming Creek, and to be used as a supplemental water supply to said Deming Creek right, and not otherwise.

56.

That on April 29, 1929, there was filed herein a motion by claimants W. R. Campbell and Eva Campbell, his wife, A. S. Conner and L. Gerber, when W. R. Campbell and Eva Campbell ask leave of Court to file an amendment to their Claims Nos. 7, 8, 9, 10, 11, 12, 13, 14 and 15, upon the waters of Deming Creek and wherein A. S. Conner asks leave of this Court to file an amendment to his Claim No. 22 upon the waters of Deming Creek, and wherein L. Gerber asks leave of this Court to file an amendment to his Claim No. 29 upon the waters of Deming Creek, the purpose of said amendments to their respective claims on Deming Creek being set up and claim a prior right to the waters of Deming Creek against all claimants herein by reason of their adverse use of the waters of Deming Creek for irrigation purposes upon the lands described in their respective claims on said Creek for a period of over ten years; That on the 29th day of April, 1929, this Court made an order giving said claimants leave to file said amended claims, as set forth in said motions, and ordered said claimants to serve upon all claimants in this proceeding, or their attorneys and/or agents, either personally or by registered mail, a copy of said amended claims, said order being entered in Vol. 17, page 352, Journal of this Court.

That thereafter, to-wit upon the 30th day of April, 1929, A. S. Conner filed herein his amendment to his Claim No. 22 to the use of the waters of Deming Creek, and that, upon the same date, W. R. Campbell and Eva Campbell, his wife, filed herein their amendments to their Proof of Claim Nos. 7, 8, 9, 10, 11, 12, 13, 14 and 15,

upon the waters of Deming Creek, and upon the same date L. Gerber filed herein his Amendment to his Claim No. 29 to the use of the waters of Deming Creek; that said use, as set up in said claimants' respective claims on Deming Creek, was for irrigation purposes; that attached to each of said amendments to claims on the waters of Deming Creek, was proof of service upon each and all claimants herein, of a copy of each and all of the foregoing amended claims upon the waters of Deming Creek, duly certified to as such by H. M. Manning, attorney for said claimants, by registered mail, the registry receipts being duly attached thereto, excepting as to claimants A. S. Conner, W. R. Campbell, Eva Campbell, J. P. McAuliffe and Nora McAuliffe, G. W. Morgan and Katie E. Morgan, and L. Gerber, service upon whom was made upon and acknowledged by their attorney, and excepting Spratt Wells, Camilla E. Ownes, Phebe M. Bailiss, service upon whom was made upon and acknowledged by their attorney J. C. Rutenic; that service of said amendments to the foregoing claims on Deming Creek were made upon all claimants in this proceeding upon April 30th, 1929, which said service of said amendment was lawful and regular and that all claimants in this proceeding have received due notice of the foregoing amendments to claims on Deming Creek; that in each of the respective amendments to the said claims of A. S. Conner, W. R. Campbell and Eva Campbell, and L. Gerber, as last above mentioned and numbered, a prior right is claimed in the waters of Deming Creek for irrigation purposes against all claimants herein upon the waters of Deming Creek by reason of the adverse, open and notorious use of the waters of said stream for a period of over ten years during each irrigation season, excepting as between said claimants A. S. Conner, W. R. Campbell and Eva Campbell and L. Gerber, whose rights to the use of the waters of Deming Creek have heretofore been settled by written stipulation on file herein, and as is set forth in paragraph 52, pages 34 and 30 of the Findings and Order of Determination of the State Engineer; that no claimant has objected to the said amendments to the said claims on Deming Creek nor filed any exceptions thereto nor in any wise opposed the same.

That upon the 31st day of May 1929, there was filed herein a stipulation in writing, signed W. R. Campbell, Eva Campbell, A. S. Conner and L. Gerber, said claimants upon Deming Creek, by H. M. Manning, their attorney, and claimants Spratt Wells, Camilla E. Owen and Phebe M. Bailiss, by their attorneys Rutenic & Yaden, wherein it was agreed that claimants A. S. Conner, W. R. Campbell and Eva Campbell and L. Gerber have established a prior right to the waters of Deming Creek for a period of more than ten years by the adverse, open and notorious use of the waters of said Deming Creek under claim of right against all of the claimants in this proceeding, for the uses and purposes and for the quantity of water and upon the lands of the said A. S. Conner, W. R. Campbell and Eva Campbell and L. Gerber, as shown by,

fixed and determined by the Findings and Order of Determination of the State Engineer on file herein; and that said W. R. Campbell, Eva Campbell, A. S. Conner and L. Gerber have, as to all claimants in this proceeding, a just and prior right, by reason of adverse use, out of the waters of Deming Creek, during each irrigation season, to the quantity of water, and for the uses and purposes and upon the lands of A. S. Conner, W. R. Campbell, Eva Campbell and L. Gerber, and fixed, found and determined by said State Engineer in his Findings and Order of Determination; and that the quantity of water out of Deming Creek, allowed to the said A. S. Conner, W. R. Campbell and Eva Campbell and L. Gerber, as fixed by said Findings and Order of Determination, shall be first satisfied out of the waters of said stream during each irrigation season, and shall be diverted and delivered to them at their respective points of diversion upon Deming Creek and that the said rights of claimants A. S. Conner, W.R. Campbell and Eva Campbell and L. Gerber, in and to the waters of Deming Creek shall be first satisfied from the waters of said stream during the irrigating season of each year, before any other claimant in these proceedings shall have any right to the use of the waters of said stream irrespective of the dates of priority upon any stream to which the said Deming Creek may be tributary. That said stipulation shall be and the same is hereby declared to be binding upon the respective parties to the same, to-wit: Spratt Wells, Camilla E. Owen, and Phebe M. Bailiss; A. S. Conner, W. R. Campbell and Eva Campbell, his wife, and L. Gerber.

It is further found by the Court that claimants A. S. Conner, W. R. Campbell and Eva Campbell, his wife, and L. Gerber have acquired and own, by adverse use of the waters of Deming Creek against all claimants of the waters of Sprague River and its tributaries, (above the Klamath Indian Reservation) a prior right to the use of the waters of Deming Creek, for irrigation and stock purposes during each irrigation season upon their respective lands and acreage and for the uses and purposes and for the lands described in the respective claims upon Deming Creek as established and determined by the Findings and Order of Determination of the State Engineer, to-wit: W. R. Campbell, and Eva Campbell, his wife, for the lands described in their Proofs of Claims Nos. 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16, on Deming Creek, as described and set forth on pages 40 and 41 of said Findings and Order of Determination, and A. S. Conner for his lands described in his Proof of Claim on Deming Creek, No. 22 as described and set forth on page 42 of the said Findings and Order of Determination, and L. Gerber for his lands described in his Proof of Claim on Deming Creek No. 29, as described and set forth on Page 44 of said Findings and Order of Determination; that during each irrigation season the lands of said A. S. Conner, W. R. Campbell and Eva Campbell, his wife, and L. Gerber, irrigated from Deming Creek, shall be first entitled out of Deming Creek to the quantity of water per acre

for their said lands, as is herein fixed as the duty of water, and that such rights to the waters of Deming Creek, shall be and are paramount and prior in time to the rights of any other claimant in this proceeding in and to the waters of Sprague River and its tributaries; that the rights of A. S. Conner, W. R. Campbell and Eva Campbell, his wife, and L. Gerber, in and to the waters of Deming Creek, shall be satisfied from the waters of said stream just during the irrigation season of each year before any other claimant in these proceedings shall have any right to the use of the waters of Deming Creek, irrespective of the dates of priority, of any claimant herein, upon any stream to which Deming Creek may be tributary.

57.

Exceptions were taken to Finding No. 54 of the State Engineer, on defining and fixing the duty of water upon Sprague River and its tributaries during each irrigation season, and also fixing the date of the irrigation season as the period from March first to October first of each year. The Court finds these exceptions to be well taken and said Finding No. 54 should be modified and changed to read as follows:

The right to the use of water for irrigation purposes, as herein recognized, shall entitle the owners thereof to the diversion of a quantity of water which may be applied to a beneficial use upon the lands to which such rights are appurtenant; provided that the quantity of water diverted shall not exceed one-fortieth of a cubic foot per second per acre of land irrigated, prior to June 15th, and one-eightieth of a cubic foot per second per acre after June 15th each year; with a total limitation during each irrigation season of three acre feet per acre; all to be measured at the point of diversion or nearest practicable place to the stream or other body of water from which the water is obtained. PROVIDED, that in case of lands receiving water by natural overflow, no user shall without his consent, be charged with and/ or for the use of any water for irrigation purposes during the month of March. That in case of such lands receiving water by natural overflow, no user shall be charged without his consent with more than one-half of an acre foot per acre in April; nor for more than one acre foot per acre in May; nor for more than seven-tenths of an acre foot per acre from June 1st to June 15th. In regulating the quantity of water diverted by an appropriator, the water master shall take into account the quantity of water being received by such appropriator's lands as waste or overflow waters from the lands above. In case the water flowing in the channel of a stream or ditch sinks or fails to flow down to channel so as to be of benefit to an appropriator having the prior right to its use, the water master shall allow the diversion thereof by the next appropriator in order of priority who can make a

beneficial use of such water. The irrigation season on Sprague River and its tributaries is hereby fixed as the period from March 1st to October 1st of each year.

Upon May 13, 1929, there was filed herein a stipulation in writing by claimants Spratt Wells, Phebe M. Bailiss and Camilla E. Owens, signed on their behalf by their attorney Rutenic and Yaden, as first parties, and claimants J. P. McAuliffe, Nora McAuliffe, L. Gerber, A. S. Conner, G. W. Morgan, Katie E. Morgan, W. R. Campbell, signed by their attorneys Manning, McColloch and Driscoll, as second parties, wherein it is agreed by said claimants that the said paragraph 54 of the State Engineer's Findings should be modified as herein set forth.

58.

All parties herein allowed the right to the use of water for irrigation shall be entitled to use such water for stock and domestic purposes; provided, that during the irrigation season such appropriators shall not be entitled to any water for stock or domestic purposes in addition to the quantity which they are entitled to divert for irrigation purposes. Outside of the irrigation season, the rights to the use of water for stock and domestic purposes as herein confirmed, shall entitle the owners thereof to one-tenth of a cubic foot per second for each one thousand head of stock, measured at the place of use; provided, that at no time shall more water be diverted for such purposes than is reasonably necessary for such purposes, and to prevent the ditches and channels used for such purposes from being completely frozen. Rights for stock and domestic purposes shall continue throughout the year and shall have preference over, and shall be superior to, rights for irrigation purposes at all times; provided, that the use of water for stock purposes shall be restricted to the ditches or channels which have customarily been used for such purposes, and that all water users shall so far as practicable provide stock watering holes or ponds into which stock water may be diverted periodically.

59.

The water master of the district in which Sprague River and its tributaries may be situated, may arrange such system or systems of rotation as may be best applicable to the conditions arising from time to time in the distribution of water on such stream. When two or more appropriators agree between themselves as to a system of rotation, the water master shall distribute water to them in accordance with such agreement, provided that in so doing he does not interfere with the rights of other appropriators.

60.

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

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

61.

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

62.

That except as otherwise modified herein, the rights of the various appropriators of water from Sprague River and its tributaries, arranged in a tabulated form, with the dates of relative priority of such appropriations, the number of acres to which such appropriations are applied and are now limited, the use or uses to which said water is applied, the name of the ditch or other means by which the water so appropriated has been diverted, the name of the stream or other source

from which the water has been used, and the description of the lands upon which the water has been used, the tabulated rights of each appropriator being set opposite and following his name and post office address, are as follows, to-wit:

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
9947 Bloomingcamp, Edward Klamath Falls, Ore. (Proof No. 1)	1877		49	Irrigation	Natural flooding & dams	Fish Hole Creek, Trib. of S. Sprague River	30 acres in NW ¹ SE ¹ 1 acre in NE ¹ SE ¹ 18 acres in SE ¹ SE ¹ Section 34, T. 36 S., R. 14 E.W.L.
	(NOTE: See findings in Contest No. 2, Page 9, and Contest No. 38, Page 29.)						
9948 (Proof #2) Cann. Indus. of Ore. Vol. 16 p. 488-490	1900		80.7	Irrigation	Bly Extension	S. Fork Sprague River	10 acres in NE ¹ SE ¹ 30.2 acres in NW ¹ SE ¹ 18.5 acres in SW ¹ SE ¹ 22 acres in SE ¹ SE ¹ Section 34, T. 36 S. R. 14 E.W.M.
	(NOTE: See Paragraph 51, Page 36.)						
9949 Boyd, George S. Bly, Ore. (Proof #3)	1900		694.1	Irrigation, domestic, and stock	Sprague River Irrigating Company	N. Fork Sprague River	40 acres in NE ¹ NE ¹ 40 acres in NW ¹ NE ¹ 40 acres in SE ¹ NE ¹ 40 acres in SW ¹ NW ¹ 40 acres in SE ¹ NW ¹ 38 acres in NE ¹ SW ¹ 40 acres in NW ¹ SW ¹ 39 acres in SW ¹ SW ¹ 26.2 acres in SE ¹ SW ¹ 40 acres in NE ¹ SE ¹ 40 acres in NW ¹ SE ¹ 40 acres in SW ¹ SE ¹ 40 acres in SE ¹ SE ¹ Section 10, 34.7 acres in NE ¹ SW ¹ 40 acres in NW ¹ SW ¹ 35.7 acres in SW ¹ SW ¹ 33.6 acres in SE ¹ SW ¹ 3.8 acres in NW ¹ SE ¹ 30.6 acres in SW ¹ SE ¹ 12.5 acres in SE ¹ SE ¹ Section 14, T. 36 S., R. 14 E.W.M.
(Proof #4)	1901		108.5	Irrigation Domestic and stock	Boyd's Mountain	Boulder Creek, trib. of N. Fork Sprague River	5.3 acres in NE ¹ SW ¹ 40 acres in NE ¹ SE ¹ 36.2 acres in NW ¹ SE ¹ 27 acres in SE ¹ SE ¹ Section 14, T. 36 S., R. 14 E.W.M.
9950 Campbell, W. R. Bly, Ore. (Proof #6)	1876		54.7	Irrigation	Natural flooding, dams & ditches	S. Fork Sprague River	28 acres in SW ¹ NW ¹ 26.7 acres in SE ¹ NW ¹ Section 26, T. 36 S.R. 14 E.W.M.
	July 11, 1879		190.7				40 acres in SW ¹ NE ¹ 32.1 acres in SE ¹ NE ¹ 39.3 acres in NE ¹ SE ¹ 40 acres in SW ¹ SE ¹ 39.3 acres in SE ¹ SE ¹ , Section 26, T. 36 S.R. 14 E.W.M.
	Aug. 28, 1883		40				40 acres in NW ¹ SE ¹ Section 26, T. 36 S. R. 14 E. W.M.
	(NOTE: See findings in Contest No. 8, Page 17).						

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
Campbell, W. R. (Cont'd) 9951 (Proof #15)	1882		117.1	Irrigation	Dams, ditches & natural flooding.	S. Fork Sprague River	40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 37.1 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, T. 36 S. R. 14 E. W.M.
	1888		5.7	Irrigation	Dams, ditches & natural flooding	S. Fork Sprague River	5.7 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 36, T. 36 S. R. 14 E. W.M.
	(NOTE: See findings in Contest #8, page 18)						
9952 (Proof #16)	1882		105.3	Irrigation, and stock	Dams & ditches	Daming Creek, trib. of S. Fork Sprague River	40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 12 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 13.3 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 26, T. 36 S., R. 14 E. W.M.
9953 (Proof #15)	1885		53.8	Irrigation and stock	Unnamed	Deming Creek trib. of S. Fork Sprague River	15.8 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 33 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 5 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 26 T. 36 S., R. 14 E. W.M.
9954 (Proof #9)	1886		57.2	Irrigation, and stock	Unnamed	Deming Creek, trib. of S. Fork Sprague River	8. acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 7.2 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 3 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 2.4 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 31 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 5.6 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 20, T. 36 S. R. 15 E. W.M.
9955 (Proof #10)	1886		100.7	Irrigation, and stock	Unnamed	Deming Creek, trib. of S. Fork Sprague River	13 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 13 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 17, 2.1 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 22 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 31.8 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 18.8 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 20, T. 36 S. R. 15 E. W.M.
9956 (Proof #11)	1889		14.7	Irrigation, and stock	Unnamed	Deming Creek, trib. of S. Fork Sprague River.	7 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 6.7 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 1 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18 T. 36 S. R. 15 E. W.M.
9957 (Proof)#12)	1889		57.5	Irrigation, and stock	Unnamed	Deming Creek trib. of S. Fork Sprague River	22 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 9.3 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 21.2 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 5 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 18, T. 36 S. R. 15 E. W.M.
9958 (Proof #8)	1889		28.6	Irrigation, and stock	Unnamed	Deming Creek trib, of S. Fork Sprague River	5.8 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 22.8 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 18, T. 36 S., R. 15 E. W.M.

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
W. R. Campbell. (cont'd) 9959 (Proof #13)	1892		10.8	Irrigation and stock	Unnamed	Deming Creek, trib. of S. Fork Sprague River	9 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 1.8 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24, T. 36 S., R. 14 E. W.M.
9960 (Proof #14)	1892		5.9	Irrigation, and stock	Unnamed	Deming Creek trib. of S. Fork Sprague River	2 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 2.5 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 1.4 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24, T. 36 S. R. 14 E. W.M.
9961 (Proof #7)	1903		99.4	Irrigation, and stock.	Unnamed	Deming Creek, trib. of S. Fork Sprague River	16 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 9.5 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, 13.1 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 17, 37.9 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 7.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 13.2 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 2.2 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 20, T. 36 S. R. 14 E. W.M.
(NOTE: See Paragraph 52, page 37, and paragraph 56, page 41)							
Casebeer, E. Bly, Ore. 9962 (Proof #17)	1898		24.7	Irrigation and stock	Small ditches and dams	Pole Creek, trib. of Fish Hole Creek	15 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 9.7 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 14, T. 37 S. R. 14 E. W.M.
(Proof #18)	1898		22.5	Irrigation and stock	Ditches & dams	Fish Hole Creek, trib. of Sprague River	9.5 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 13 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 14, T. 37 S. R. 14 E. W.M.
(NOTE: ^{Suppl.} 10 acres in E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 14, under both Proofs, Nos. 17 and 18 supplement each other from the two sources as above described.)							
Gonner, A. S. Bly, Oregon. 9963 (Proof #19)	1876		316	Irrigation	natural flooding dams & ditches	S. Fork Sprague River	20 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 16 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21, T. 36 S., R. 14 E., W.M.
	1879		55				35 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 20 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, T. 36 S. R. 14 E. W.M.
	1876		155.5				18 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 $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.5 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 25 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 22, T. 36 S. R. 14 E. W.M.
(NOTE: See findings in Contest No. 11, Page 19)							

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
Conner, A. S. (Cont'd) 9964 (Proof #22)	1880		129	Irrigation	Natural overflow, ditches	Deming Creek, Trib. of S. Fork Sprague River.	15 acres in SW SE 40 acres in SE SE Section 22, 25 acres in SW SW 15 acres in SE SW 10 acres in NE SE 12 acres in NW SE 12 acres in SW SE Section 23, T. 36 S. R. 14 E. W.M.
(NOTE: The above lands have a supplemental right from N. Fork Sprague River with a date of priority of 1900) See Paragraph 55, Page 40.							
(NOTE: See Paragraph 52, Page 37, and Paragraph 56, Page 41).							
9965 (Proof #20)	1898		114.1	Irrigation	Unnamed	Fritz Creek	9.6 acres in NE SE 1.9 acres in SW NE 12.6 acres in SE NW 31.6 acres in NE SW 38.8 acres in NW SW 18.4 acres in SW SW 1.2 acres in SE SW Section 7, T. 36 S. R. 15 E. W.M.
9966 (Proof #21)	1900		1073.1	Irrigation	N. Fork Sprague River Irrigation	N. Fork Sprague River	9.6 acres in SW SW 15.2 acres in SE SW 4.7 acres in SW SE, Section 15, 40 acres in NW NE 40 acres in NW NE 27.4 acres in S NE 3.5 acres in SW NE 39 acres in NE NE 11.5 acres in NW NE 40 acres in SW NE 40 acres in SE NE 40 acres in NE SW 35 acres in NW SW 5 acres in SW SW 20 acres in SE SW 34 acres in NE SE 40 acres in NW SE 40 acres in SW SE 40 acres in SE SE Section 16, 40 acres in NW NE 20 acres in NW NE 24 acres in SW NE, Section 21, 19.7 acres in NW NE 28 acres in SW NE 14.4 acres in SE NE 40 acres in NE NW 40 acres in NW NW 40 acres in SW NW 40 acres in SE NW 22 acres in NE SW 8 acres in NW SW 40 acres in NE SE 39.5 acres in NW SE, Section 22, 36.2 acres in NE SW 40 acres in NW SW 15 acres in SW SW 15 acres in SE SW 25.4 acres in NW SE 1 acre in SW SE Section 23, T. 36 S. R. 14 E. W.M.
(NOTE: In addition to the above 1,073.1 acres claimant has a supplemental right from N. Fork Sprague River with a date of priority of 1900, for the 129 acres described under Proof #22 from Deming Creek. See Paragraph 55, page 40.)							

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
9967 Dennis, Louis, Ashland, Oregon. (Proof #23)	1905	---	80.9	Irrigation domestic and stock	Pankey & Lundy Ditch	N. Fork Sprague River.	14.7 acres in SW ¹ NE ¹ 17.5 acres in SE ¹ NE ¹ 12.6 acres in NE ¹ NW ¹ 24.6 acres in NW ¹ NW ¹ 11.5 acres in SE ¹ NW ¹ , Section 4, T. 36 S. R. 14 E. W.M.
9968 Dixon, Mary H. Bly, Ore. (Proof #25)	1879		245	Irrigation	Natural overflow, dams & ditches	S. Fork Sprague River	37 acres in NE ¹ NE ¹ 37 acres in NW ¹ NE ¹ 40 acres in SW ¹ NE ¹ 40 acres in SE ¹ NE ¹ 40 acres in NE ¹ SE ¹ 37 acres in NW ¹ SE ¹ 14 acres in SE ¹ SE ¹ , Section 28, T. 36 S. R. 14 E. W.M.
(NOTE: See findings in Contest No. 10, Page 19)							
9969 (Proof #24)	1902		53.5	Irrigation	Bly Extension	S. Fork Sprague River	3 acres in NW ¹ SE ¹ 20.5 acres in SW ¹ SE ¹ 30 acres in SE ¹ SE ¹ , Section 28, T. 36 S. R. 14 E. W.M.
Cancelled sp. or Rec. Vol. 21 P. 9							
(NOTE: see Paragraph 51, Page 36).							
52615 40977 9970 Edsall, J. C. & T. M. Bly, Ore. (Proof #26)	1900		76.2	Irrigation, Domestic & Stock	Bly Extension	S. Fork Sprague River	37.5 acres in NE ¹ NE ¹ 6.5 acres in NW ¹ NE ¹ 15 acres in SW ¹ NE ¹ 17.2 acres in SE ¹ NE ¹ , Section 3, T. 37 S. R. 14 E. W.M.
Cancelled - sp. or Rec. Vol. 25 P. 135							
(NOTE: See Paragraph 51, Page 36)							
9971 Furgeson, Jessie M. Ashland, Ore. (Proof #27)	1905		4.7	Irrigation, domestic & stock	Pankey & Lundy ditch	N. Fork Sprague River	4.7 acres in SE ¹ SE ¹ , Section 4, T. 36 S. R. 14 E. W.M.
Riparian			5.8			Natural overflow	5.8 acres in SE ¹ SE ¹ , Section 4, T. 36 S. R. 14 E. W.M.
9972 Gerber, Louis Lorella, Ore. (Proof #28)	1877		440	Irrigation	Natural overflow dams & ditches	S. Fork Sprague River	25 acres in NE ¹ NE ¹ 40 acres in NW ¹ NE ¹ 40 acres in SW ¹ NE ¹ 40 acres in SE ¹ NE ¹ 40 acres in NE ¹ NW ¹ 40 acres in NW ¹ NW ¹ 40 acres in SW ¹ NW ¹ 40 acres in SE ¹ NW ¹ 10 acres in NE ¹ SW ¹ 40 acres in NW ¹ SW ¹ 40 acres in NE ¹ SE ¹ 25 acres in NW ¹ SE ¹ 20 acres in SE ¹ SE ¹ , Section 27, T. 36 S. R. 14 E. W.M.
(NOTE: See findings in Contest No. 6, Page 15)							
9973 (Proof #30)	1877		147	Irrigation	Natural overflow, dams & ditches	Fish Hole Creek trib. of S. Fork Sprague River	30 acres in NE ¹ SW ¹ 25 acres in SW ¹ SW ¹ 22 acres in SE ¹ SW ¹ 15 acres in NW ¹ SE ¹ 35 acres in SW ¹ SE ¹ 20 acres in SE ¹ SE ¹ , Section 27, T. 36 S. R. 14 E., W.M.
(NOTE: See findings in Contest No. 1, Page 8, and Contest No. 38, Page 29.)							

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
9974 Gerber, Louis, (cont'd) Lorella, Ore. (Proof #29)	1888		15	Irrigation	Natural overflow and ditches	Deming Creek trib. of S. Fork Sprague River	15 acres in NE ¹ / ₄ NE ¹ / ₄ Section 27, T. 36 S., R. 14 E. W.M.
(NOTE: See Paragraph 52, Page 37 and Paragraph 56, Page 41)							
9975 Given, E. T. Bly, Ore. (Proof #31)	1884		81	Irrigation	Natural overflow, dams & ditches	S. Fork Sprague River	1 acres in NW ¹ / ₄ SE ¹ / ₄ 40 acres in SW ¹ / ₄ SE ¹ / ₄ 40 acres in SE ¹ / ₄ SE ¹ / ₄ , Section 17, T. 36 S. R. 14 E. W.M.
9976 (Proof #31-A)	1900		127.9	Irrigation	N. Fork Sprague River	N. Fork Sprague River	7.8 acres in NE ¹ / ₄ NE ¹ / ₄ 3.5 acres in NW ¹ / ₄ NE ¹ / ₄ 20.2 acres in SW ¹ / ₄ NE ¹ / ₄ 27 acres in SE ¹ / ₄ NE ¹ / ₄ 40 acres in NE ¹ / ₄ SE ¹ / ₄ 29.4 acres in NW ¹ / ₄ SE ¹ / ₄ , Section 17, T. 36 S. R. 14 E. W.M.
9977 Griffin, L. L. Bly, Ore. (Proof #34)	1885		37.9	Irrigation	Unnamed	Five Mile Creek	13.9 acres in NE ¹ / ₄ NW ¹ / ₄ 24 acres in NW ¹ / ₄ NW ¹ / ₄ , Section 7, T. 36 S. R. 14 E. W.M.
9978 (Proof #32)	1887		180.2	Irrigation	Natural overflow, Dams & ditches	N. Fork Sprague River	27.8 acres in NW ¹ / ₄ NE ¹ / ₄ 36.3 acres in SW ¹ / ₄ NE ¹ / ₄ 26.1 acres in NE ¹ / ₄ NW ¹ / ₄ 8 acres in SW ¹ / ₄ NW ¹ / ₄ 40 acres in SE ¹ / ₄ NW ¹ / ₄ 20 acres in NE ¹ / ₄ SW ¹ / ₄ 2 acres in NW ¹ / ₄ SW ¹ / ₄ 20 acres in NW ¹ / ₄ SE ¹ / ₄ , Section 7, T. 36 S., R. 14 E., W.M.
9979 (Proof #33)	1897		58.7	Irrigation	Dam & ditches	Five Mile Creek	10 acres in NW ¹ / ₄ NW ¹ / ₄ 30.7 acres in SW ¹ / ₄ NW ¹ / ₄ 18 acres in NW ¹ / ₄ SW ¹ / ₄ , Section 7, T. 36 S., R. 14 E. W.M.
9980 Holbrook, G. L. 617 Alameda St. Klamath Falls, Ore. (Proof #34-A)	1888		28	Irrigation, domestic and stock	Natural overflow	Fish Hole Creek, trib. of S. Fork Sprague River	6 acres in NE ¹ / ₄ SW ¹ / ₄ 8 acres in SE ¹ / ₄ SW ¹ / ₄ 14 acres in NE ¹ / ₄ NE ¹ / ₄ , Section 17, T. 36 S. R. 16 E. W.M.
Howard, O. W. Bly, Ore. (Proof #35)	(NOTE: This claim is covered by Permit No. 4608, certificate no. 3773 - See Paragraph 63, Page 63)						
Knott, Loe -- See Page	57						
9981 Lapham, Gilbert C. Vistillas, Ore. (Proof #36-B)	1886		78.9	Irrigation and stock	Natural overflow	Fish Hole Creek & Reservoirs	20 acres in NE ¹ / ₄ NE ¹ / ₄ 20 acres in NW ¹ / ₄ NE ¹ / ₄ 26.9 acres in SW ¹ / ₄ NE ¹ / ₄ 12 acres in NW ¹ / ₄ SE ¹ / ₄ , Section 51, T. 38 S., R. 16 E. W.M.
(NOTE: See finding in Contest No. 4, Page 10, and Contest No. 38, Page 29.)							

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
Lapham, Gilbert T. (Cont'd) (Proof #39)	1887		18.6	Irrigation	Natural overflow	Fish Hole Creek, & Reservoirs	2.6 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, 16 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, T. 38 S., R. 15 E. W.M.
(Proof #40)	1887		103.8	Irrigation and stock	Ditches, & natural overflow	Fish Hole Creek, & Reservoirs	28.4 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 33.4 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 2. acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, 40 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, T. 39 S. R. 15 E. W.M.
(Proof #41)	1893		122	Irrigation and stock	Ditches, & natural overflow	Fish Hole Creek, & Reservoirs	31.2 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 40 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 12 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, 28.8 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, 10 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1, T. 39 S. R. 15 E. W.M.
(Proof #37)	1895		35.3	Irrigation and stock	Natural overflow	Unnamed stream, trib. of Fish Hole Creek, & Reservoirs	8.8 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 12.7 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 13.8 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, T. 38 S. R. 16 E. W.M.
(Proof #38)	1895		38.2	Irrigation	Natural overflow	Unnamed stream, trib. of Fish Hole Creek, & Big Swamp Reservoir	15.7 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, 0.1 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 30, 11.2 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 11.2 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 31, T. 38 S. R. 16 E. W.M.
(Proof #43)	1895		14.9	Irrigation and stock	Fish Hole Creek & Natural overflow	Fish Hole Creek, & a small trib. thereof, & Reservoir	14.9 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 32, T. 38 S. R. 16 E. W.M.
(Proof #42)	1907 1898		12.5				12.5 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 32, T. 38 S. R. 16 E. W.M.
			39.2	Irrigation and stock	Ditches & natural overflow	Fish Hole Creek, & Reservoirs	4 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 8.8 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 8 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, 11.2 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, 7.2 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1, T. 39 S. R. 15 E. W.M.
(Proof #36-A)	1895	84.6 a.f.	-----	Storage	Lapham Reservoir	Run-off from surrounding hills	Reservoir located in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 5, NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 6, T. 39 S. R. 16 E. W.M.
	1895	350 acre ft.		Storage	Big Swamp Reservoir	Cold Spring Creek & Run-off from adjacent Hills	Reservoir located in Sections 28, 29 T. 38 S. R. 16 E. W.M.

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
Lapham, Gilbert C. (Proof #36-A) (Cont'n)	1898	185 acre ft.		Storage	Deep Lake Reservoir	Run-Off from Adjacent hills	Reservoir located in SE $\frac{1}{4}$ Section 20, SW $\frac{1}{4}$ Section 21, T. 38 S. R. 16 E. W.M.
	1901	90 acre ft.		Storage	Lofton Lake Reservoir	Unnamed spring & Flood Water from adjacent hills	Reservoir located in SW $\frac{1}{4}$ Section 22 T. 38 S. R. 16 E. W.M.
Lowery, Mrs. Anita 9982 Bly, Ore. (Proof #46)	1895		408.3	Irrigation	Natural overflow	Leonard Slough & S.Fork Sprague River	30.3 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 35 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 17, 5 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 25 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18, 40 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 8.3 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 4.7 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 9.5 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 10.5 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 19, T. 36 S. R. 14 E. W.M.
				(NOTE: 40 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ are supplemented by water from N. Fork of Sprague River under Proof No. 45.)			
				(NOTE: See Findings in Contest No. 7, Page 16.)			
(Proof #45)	1900		180 <i>140 Proved 40 Supp</i>	Irrigation	Bill Smith N. Fork Sprague River	N. Fork Sprague River	20 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 18, 40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 19, T. 36 S. R. 14 E. W.M.
				NOTE: 40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ are supplemented by water from Leonard Slough under Proof No. 46.)			
(Proof #44)	1900		377.7	Irrigation	Sprague Irrigation Company (N. Fork)	N. Fork Sprague River	1.8 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 26.7 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 22 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 39.8 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 39.3 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 9 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 5 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 17, 34 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 20.7 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 29.4 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 20 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 35 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 15 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 18, T. 36 S. R. 14 E. W.M.
Lundy, Amos 9983 Bly, Ore (Proof #48)	1897		128	Irrigation, domestic and stock	S. Lundy Ditch	N. Fork Sprague River	20 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 36 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 16 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 8 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 8 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 4, T. 36 S. R. 14 E. W.M.

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
Lundy, Amos (Cont'd) (Proof #47)	1905		59.7	Irrigation, domestic and stock	Pankey & Lundy	N. Fork Sprague River	20 acres in SW ¹ / ₄ NW ¹ / ₄ 27.9 acres in NE ¹ / ₄ SE ¹ / ₄ 11.8 acres in NW ¹ / ₄ SE ¹ / ₄ , Section 4, T. 36 S. R. 14 E. W.M.
9984 McAuliffe, J.P.+Nora Fort Klamath, Ore. (Proof #49)	1878		160	Irrigation	Natural overflow, dams & ditches	S. Fork Sprague River	40 acres in NE ¹ / ₄ SW ¹ / ₄ 40 acres in NW ¹ / ₄ SW ¹ / ₄ 40 acres in SW ¹ / ₄ SW ¹ / ₄ 40 acres in SE ¹ / ₄ SW ¹ / ₄ Section 26, T. 36 S. R. 14 E. W.M.
(NOTE: See finding in Contest No. 13, Page 21)							
9985 McNair, Pearl Obenchain Individually and as guardian of her minor children, Lee Arlet Hixson and Wilbur Gorden Hixson, Beatty, Ore. (Proof #80)	1878		255.2	Irrigation and stock	Ditches & natural overflow	N. Fork Sprague River & Five Mile Creek	20 acres in NE ¹ / ₄ SW ¹ / ₄ 20 acres in NW ¹ / ₄ SW ¹ / ₄ 36.8 acres in SW ¹ / ₄ SW ¹ / ₄ 30 acres in SE ¹ / ₄ SW ¹ / ₄ , Section 7, 30 acres in NW ¹ / ₄ NW ¹ / ₄ 39.2 acres in SW ¹ / ₄ NW ¹ / ₄ 39.4 acres in NW ¹ / ₄ SW ¹ / ₄ 39.8 acres in SW ¹ / ₄ SW ¹ / ₄ , Section 18, T. 36 S. R. 14 E. W.M.
(Note: See Paragraph 53, Page 37)							
9986 Miller, F. M. Lakeview, Ore. (Proof #50)	1879		156	Irrigation, domestic and stock	Natural overflow, dams & ditches	Fish Hole Creek, trib. of S. Fork Sprague River	40 acres in NE ¹ / ₄ NE ¹ / ₄ 40 acres in NW ¹ / ₄ NE ¹ / ₄ 40 acres in SW ¹ / ₄ NE ¹ / ₄ 36 acres in SE ¹ / ₄ NE ¹ / ₄ , Section 34, T. 36 S. R. 14 E. W.M.
	1879		35 ^{Suppl.}	Irrigation	Gearhart Slough	S. Fork Sprague River	30 acres in NE ¹ / ₄ NE ¹ / ₄ 5 acres in SE ¹ / ₄ NE ¹ / ₄ , Section 34, T. 36 S. R. 14 E. W.M.
(NOTE: This right is supplemental supply to the lands irrigated from Fish Hole Creek).							
	1900		121 ^{Suppl.}	Irrigation	Bly Extension Garrett & Parker	S. Fork Sprague River	10 acres in NE ¹ / ₄ NE ¹ / ₄ 40 acres in NW ¹ / ₄ NE ¹ / ₄ 40 acres in SW ¹ / ₄ NE ¹ / ₄ 31 acres in SE ¹ / ₄ NE ¹ / ₄ , Section 34 T. 36 S. R. 14 E. W.M.
(NOTE: This right is also a supplemental supply to the lands irrigated from Fish Hole Creek.)							
(NOTE: See findings in Contest No. 9, Page 18, and Contest No. 38, Page 29; also see Paragraph 51, Page 36)							
9987 Morgan, G.W.&Katie E. Bly, Ore. (Proof #51)	Sept. 8, 1880		160	Irrigation	Natural overflow, dams & ditches	S. Fork Sprague River	40 acres in NW ¹ / ₄ NE ¹ / ₄ 40 acres in SW ¹ / ₄ NE ¹ / ₄ 40 acres in NE ¹ / ₄ NW ¹ / ₄ 40 acres in SE ¹ / ₄ NW ¹ / ₄ , Section 20,
	Nov. 2, 1885		42.8				38.8 acres in NW ¹ / ₄ SE ¹ / ₄ 4 acres in SW ¹ / ₄ SE ¹ / ₄ , Section 20,
	Dec. 14, 1886		40				40 acres in NE ¹ / ₄ SE ¹ / ₄ , Section 20,
	Jan. 5, 1894		54.3				39.3 acres in NW ¹ / ₄ NW ¹ / ₄ 15 acres in SW ¹ / ₄ NW ¹ / ₄ Section 20 All in T. 36 S. R. 14 E. W.
(NOTE: See findings in Contest No. 12, Page 21.)							

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
9988 Modoc Realty Co. Klamath Falls, Ore. (Proof #34)	1881		120	Irrigation, domestic and stock	Walker- Parker Ditch	S. Fork Sprague River	24 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 36 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 20 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, T. 36 S. R. 14 E. W.M.
	(NOTE: See findings in Contest No. 22, Page 25)						
9989 (Proof #52)	1881		20	Irrigation, domestic and stock	Waller	S. Fork Sprague River	16 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 4 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, T. 36 S. R. 14 E. W.M.
	1886		80				40 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 20 T. 36 S. R. 14 E. W.M.
	1888		80				40 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 21, T. 36 S. R. 14 E. W.M.
	(NOTE: See finding in Contest No. 20, Page 25)						
9990 (Proof #53) Council Jay on the 1st. 20 x 197	1900		115	Irrigation, domestic and stock	South Side Co. Ditch	S. Fork Sprague River	20 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 5 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 10 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28, T. 36 S., R. 14 E. W.M.
	(NOTE: See findings in Contest No. 21, Page 25; also Paragraph 51, Page 36)						
9991 Knott, Mae, Bly, Ore. (Proof #36)	1879		166.9	Irrigation Domestic and Stock	Natural flooding ditches & dams	Paradise Creek Badger Creek & Springs rising in Sec. 35, 37-15	9.9 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 39.9 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 8.1 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 2 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 12.8 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 21 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 34.3 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 8.8 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 3.4 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 8.3 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 17.4 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 1 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27, T. 37 S. R. 15 E. W.M.
9992 Obenchain, Frank Bly, Ore. (Proof #55)	1887		202.1	Irrigation & Domestic	Unnamed	Merill Creek, trib. of Sprague River	10 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 16 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 30, 10.7 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 9.1 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 1.5 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 14.3 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 22 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 21.4 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 24.6 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, T. 35 S. R. 14 E. W.M. 24.5 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 8 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 6, T. 36 S. R. 14 E. W.M.

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
Obenchain, Frank (Cont'd) (Proof #58)	1887		57	Irrigation Domestic & Stock	West Side Ditch	Merrill Creek trib. of Sprague River.	9.7 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 20. 8.2 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 6 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 29, 9 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 24.1 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 30, T. 35 S. R. 14 E. W.M.
(Proof #56)	1890		26.6	Irrigation, Domestic and Stock	East Side Ditch	Merrill Creek, trib. of Sprague River	6.5 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 20.1 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30, T. 35 S. R. 14 E. W.M.
(Proof #59)	1890		28.2	Irrigation, domestic and stock	East Side Ditch	Merrill Creek, trib. of Sprague River	9 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 20, 5 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 8.2 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 6 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 29 T. 35 S. R. 14 E. W.M.
(Proof #57)	1894		55.6	Irrigation and domestic	Five Mile	Five Mile Creek	35.7 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 19.9 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 6, T. 36 S., R. 14 E. W.M.
Owen, James H. 9993 Bly, Ore. (Proof #60)	Sept. 1886		58	Irrigation	Unnamed	Fish Hole Creek trib. of S. Fork Sprague River	18.4 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 20, 18.2 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 12.4 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 9 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 29, T. 38 S. R. 16 E. W.M.
	Sept. 1886		17.9	Irrigation		Springs & drainage from hills	11.9 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 20, 2.5 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 3.5 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 29, T. 38 S. R. 16 E. W.M.
				(NOTE: See findings in Contest No. 38, Page 29)			
9994 Owen, James H. & Mary E. Bly, Ore. (Proof #61)	1880		201.6	Irrigation	Unnamed	Round Grove Creek trib. of Sprague River	8 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 1.5 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 14, 8.8 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 2 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 30.2 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, 2 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23, 8 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 7 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 13.5 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 25.5 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 6.1 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 18.5 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 16.1 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 2.5 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 24, 13.4 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 18.6 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 10.7 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 9.2 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 25, T. 37 S. R. 15 E. W.M.

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
Owen, James H & Mary E. 9995 (Cont'd) (Proof #62)	1884		68.1	Irrigation	Natural overflow	Fish Hole Creek, trib. of S. Fork Sprague River	8.2 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 11.8 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 22, 24.1 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 24 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 27,
	1884		10.5			Shone Springs	5 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 22, 5.5 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 27,
	1884		4.3			Lost Valley Creek, & Springs	1.3 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 3 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 27,
	1886		11.5			Lost Valley Creek, & Springs	11.5 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 26,
	1886		27.2			Springs	1.3 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 11.3 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 14.6 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27,
	1888		20.			Fish Hole Creek, trib. of S. Fork Sprague River	3.5 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 11 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26, 5.5 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 27,
	1889		35.6			Fish Hole Creek, trib. of S. Fork Sprague River	3.6 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 15 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 17 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 22, All in T. 38 S. R. 15 E. NW.
	(NOTE:	See findings					in Contest No. 38, Page 29)
Richardson, Isa 9996 Bly, Ore. (Proof #64)	1905		23.2	Irrigation, domestic and stock	Private	Grainey Creek, trib. of Long Cr.	20 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 0.7 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 2.5 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 22, T. 35 S. R. 14 E. W.M.
Richardson, L. A. 9997 Bly, Ore. (Proof #63)	1894		134.8	Irrigation, domestic and stock	Private	Lerrill Creek, trib. of Sprague River	3.2 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 15, 2.2 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 5.6 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 35.7 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 16, 40 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 8 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 0.6 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 8.7 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 21, 1.5 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 29 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 0.5 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 22, T. 35 S. R. 14 E. W.M.

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
9998 Taylor, Estate of James By John A. and Clarence Taylor, Executors, Ashland, Ore. (Proof #65)	1874		287.8	Irrigation, domestic and stock	Ditches a natural overflow	Fish Hole Creek Trib. of S. Fork Sprague River	4.3 acres in NE 1/4 SW 1/4 38.6 acres in SW 1/4 SW 1/4 38.3 acres in SE 1/4 SW 1/4 26.4 acres in SW 1/4 SE 1/4 1.2 acres in SE 1/4 SE 1/4 Section 13, 17 acres in SW 1/4 NE 1/4 22.7 acres in NE 1/4 SE 1/4 22.2 acres in NW 1/4 SE 1/4 29.5 acres in SE 1/4 SE 1/4 Section 14, 12.1 acres in NE 1/4 NE 1/4 37.8 acres in NW 1/4 NE 1/4 3.6 acres in SW 1/4 NE 1/4 19 acres in NE 1/4 NW 1/4 15.1 acres in NW 1/4 NW 1/4, Section 24,
	1874		4.1			Springs & flood waters	4.1 acres in SE 1/4 NW 1/4 Section 24.
	1874		22.2			Flood waters, & drainage	9.2 acres in SE 1/4 SE 1/4 Section 13, 13 acres in NE 1/4 NE 1/4 Section 24,
	1908		5.6			Fish Hole Creek	5.6 acres in SW 1/4 SE 1/4, Section 14,
	1908		3.2			Springs & Flood waters	3.2 acres in NE 1/4 SW 1/4, Section 24,
	1911		1.3			Fish Hole Creek	1.3 acres in SE 1/4 NE 1/4 Section 14, All in T. 37 S. R. 14 E.
	(NOTE: See findings in Contest No. 5, Page 15)						
9999 (Proof #66)	1896		35.9	Irrigation, Domestic & Stock	Pole Creek Ditch	Pole Creek trib. of Sprague River	2 acres in SE 1/4 NW 1/4 17.9 acres in NE 1/4 SW 1/4 4.6 acres in NW 1/4 SW 1/4 10.4 acres in SW 1/4 SW 1/4 1 acre in SE 1/4 SW 1/4, Section 14, T. 37 S. R. 14 E. W.M.
10,000 Walker, Luke Es. Klamath Falls, Ore. (Proof #73)	1881		175	Irrigation, domestic and stock	Walker	S. Fork Sprague River	15 acres in SE 1/4 SE 1/4 Section 20, 40 acres in NE 1/4 SW 1/4 40 acres in NW 1/4 SW 1/4 40 acres in SW 1/4 SW 1/4 40 acres in SE 1/4 SW 1/4 Section 21 T. 36 S. R. 14 E. W.M.
	(NOTE: See findings in Contest No. 23, Page 26)						
10,001 Walker-Woodruff Land & Livestock Company. Klamath Falls, Ore. (Proof #72)	1900		4	Irrigation & Domestic	Bly Extension	S. Fork Sprague River	4 acres in NE 1/4 NW 1/4 Section 2, T. 37 S. R. 14 E. W.M.
Cancelled by Dept. of the Interior 16 488-490							

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
Walker-Woodruff Land & Livestock Co., (Cont'd) 10,002 (Proof #70)	1909		314.4	Irrigation	Walker-Wells	S. Fork Sprague River	39.1 acres in NE ¹ NE ¹ 40 acres in NW ¹ NE ¹ 40 acres in SW ¹ NE ¹ 37.3 acres in SE ¹ NE ¹ 39.7 acres in NE ¹ SE ¹ 40 acres in NW ¹ SE ¹ 39.7 acres in SW ¹ SE ¹ 38.6 acres in SE ¹ SE ¹ Section 35 T. 36 S. R. 14 E. W.L.
(Proof #71) 10,003	1909		250.7	Irrigation	Walker-Wells	S. Fork Sprague River	40 acres in NE ¹ NW ¹ 40 acres in NW ¹ NW ¹ 40 acres in SW ¹ NW ¹ 40 acres in SE ¹ NW ¹ 37 acres in NE ¹ SW ¹ 6 acres in NW ¹ SW ¹ 8 acres in SW ¹ SW ¹ 39.7 acres in SE ¹ SW ¹ Section 35, T. 36 S. R. 14 E. W.L.
Watts, J.O. Bly, Ore. (Proof #68) 10,004 35277	1880		150.6	Irrigation and stock	Ditches & Dams	Fish Hole Creek, trib. of S. Fork Sprague River	5 ^{0.8} acres in NE ¹ NW ¹ 37.8 acres in NW ¹ NW ¹ 31.7 acres in SW ¹ NW ¹ 17 acres in SE ¹ NW ¹ 23 acres in NE ¹ SW ¹ 8.9 acres in NW ¹ SW ¹ 16.8 acres in SW ¹ SW ¹ 10.4 acres in SE ¹ SW ¹ Section 2, T. 37 S. R. 14 E. W.M.
part Cancelled sp. or Rec. Vol. 17 p. 264							
(Proof #69)	1900		207.5	Irrigation and stock	Bly Extension	S. Fork Sprague River	11.5 acres in NE ¹ NE ¹ 14.3 acres in NW ¹ NE ¹ 9.1 acres in NE ¹ NW ¹ 37.8 acres in NW ¹ NW ¹ 31.7 acres in SW ¹ NW ¹ 17 acres in SE ¹ NW ¹ 33 acres in NE ¹ SW ¹ 8.9 acres in NW ¹ SW ¹ 26.8 acres in SW ¹ SW ¹ 17.4 acres in SE ¹ SW ¹ Section 2, T. 37 S. R. 14 E. W.M.
			61.7 Primary 145.6 Suppl.			26.3	
Watts, J. S. Bly, Ore. (Proof #67) 10,005	1900		242.2	Irrigation and stock	N. Fork Ditch	N. Fork Sprague River	11.2 acres in SW ¹ SW ¹ 10.1 acres in SE ¹ SW ¹ 3.8 acres in SW ¹ SE ¹ , Sec. 33.4 acres in NW ¹ NE ¹ 34.7 acres in SW ¹ NE ¹ 14.5 acres in SE ¹ NE ¹ 28.1 acres in NE ¹ NW ¹ 30.4 acres in NW ¹ NW ¹ 38.3 acres in SW ¹ NW ¹ 37.7 acres in SE ¹ NW ¹ Section 14, T. 36 S. R. 14 E. W.M.

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
10,006 Wells, Spratt Trail, Ore. Owen, Camilla E. Ashland, Ore. Bayliss, Phebe M. Ashland, Ore. By J. C. Rutenic, Klamath Falls, Ore. (Proof #75)	March 25, 1883		339	Irrigation and stock	Wells Ditch, & Bly Extension	S. Fork Sprague River	2 acres in NW NE 33.9 acres in SW NE 20.7 acres in SE NE 2.3 acres in NE NW 1.2 acres in NW NW 1.2 acres in SW NW 34.1 acres in SE NW 34.9 acres in NE SW 12 acres in NW SW 26.1 acres in SW SW 39.3 acres in SE SW 38.5 acres in NE SE 40 acres in NW SE 31.9 acres in SW SE 20.9 acres in SE SE Section 6, T. 37 S. R. 15 E. W. M.
(NOTE: See findings in Contest No. 14, Page 22; also see Paragraph 51, Page 36.)							
10,007 (Proof #76)	Feb. 25, 1884		85.5	Irrigation and stock	Walker- Wells	S. Fork Sprague River	28.5 acres in SW SW 40 acres in SE SW 17 acres in SW SE Section 36 T. 36 S. R. 14 E. W. M.
(NOTE: See findings in Contest No. 15, Page 23.)							
10,008 (Proof #77)	Feb. 25, 1884		106.4	Irrigation and stock	Unnamed	S. Fork Sprague River	37.3 acres in SW NW 34.5 acres in NE SW 34.6 acres in NW SW Section 36, T. 36 S. R. 14 E. W. M.
(NOTE: See findings in Contest No. 15, Page 23)							
10,009 Weyerhaeuser Timber Co., Lakeview, Ore. (Proof #78)	1888		16.7	Irrigation and stock	Natural overflow, & ditches	Fish Hole Creek, trib. of S. Fork Sprague River	16.7 acres in SW SE, Section 17, T. 38 S. R. 16 E. W. M.
(Proof #79)	1904		4	Irrigation and stock	Natural overflow, & ditches	Fish Hole Creek, trib. of S. Fork Sprague River	4 acres in NE SE, Section 17, T. 38 S. R. 16 E. W. M.

This adjudication proceeding involves principally those water rights which were initiated prior to Feb. 24, 1909, on which date the Oregon Water Code became effective, and which prior rights are tabulated in the preceding Paragraph No. 62. Rights initiated after that date are evidenced by permits issued by the State Engineer, or by final water right certificate based upon the completion of rights under such permits. Each and every appropriator holding such a permit or certificate for the use of water from Sprague River or its tributaries, shall have such rights thereunder as are provided by law, and such rights shall be perfected in the manner provided by law for the completion thereof.

Based upon the foregoing findings as modified by this Court, it is hereby ORDERED, ADJUDGED and DECREED, that the relative rights of the various claimants to the use of the waters of Sprague River and its Tributaries (outside of the Klamath Indian Reservation), a tributary of Williamson River be, and the same are hereby adjudicated, determined and settled as set forth in the foregoing modified findings and decree.

Dated this 5th day of February, 1930, at Klamath Falls,
Oregon.

W. M. Duncan
Circuit Judge.

STATE OF OREGON)
) ss
County of Marion)

I, C. R. DeLap, County Clerk in and for said County and State, do hereby certify that I have carefully compared the foregoing copy of Modified Findings and Decree with the original as the same appears on file and of record in my office, and the same is a full, true and correct copy of said original and the whole thereof.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal at Klamath Falls, in the County and State aforesaid, this 5th day of February, 1930.

C. R. DeLap, County Clerk,
Clerk Circuit Court,

(SEAL)

By Loyd R. DeLap.
Deputy County Clerk.

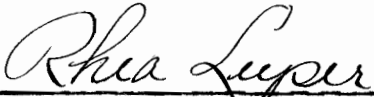
Endorsed: Filed Feb. 5, 1930.

C. R. DeLap, Clerk
By Loyd R. DeLap, Deputy.

STATE OF OREGON)
) ss
County of Marion)

I, RHEA LUPER, State Engineer of the State of Oregon, do hereby certify that the foregoing copy of Modified Findings and Decree in the Matter of the Determination of the Relative Rights to the Use of the Waters of Sprague River and its Tributaries (outside of the Klamath Indian Reservation), a Tributary of Williamson River, is a true and correct copy of such Modified Findings and Decree as received in this office and entered of record herein on February 6th, 1930.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of February, 1930.


RHEA LUPER,
State Engineer.