

BEFORE THE STATE ENGINEER OF OREGON

LAKE COUNTY

IN THE MATTER OF THE DETERMINATION
OF THE RELATIVE RIGHTS TO THE USE
OF THE WATERS OF CRANE CREEK AND
KELLY CREEK AND THEIR TRIBUTARIES,
TRIBUTARIES OF GOOSE LAKE. - - - - -)

FINDINGS
AND
ORDER OF DETERMINATION

Now at this time the above entitled matter coming on for consideration by the State Engineer, and it appearing that all evidence and testimony has been taken in the above entitled proceedings, and the State Engineer having carefully considered all of such evidence and testimony and the engineering data and information gathered in accordance with law, and being now fully advised in the premises, makes and orders to be entered of record in his office the following

FINDINGS AND ORDER OF DETERMINATION

1.

That on the 15th day of February, 1911, there was filed in the office of the Board of Control of the State of Oregon (afterwards State Water Board and now State Engineer) a petition signed by Chas. C. Smith and others requesting the determination of the relative rights of the various claimants to the use of the waters of Kelly Creek, a tributary of Goose Lake; that on the 27th day of August, 1928, there was filed in the office of the State Engineer, a petition signed by Chas. E. Sherlock requesting a determination of the relative rights of the various claimants to the use of the waters of Crane Creek and its tributaries, a tributary of Goose Lake; that on the 12th day of September, 1928, there was filed in the office of the State Engineer a petition signed by G. C. Fitzgerald requesting a determination of the relative rights of the various claimants to the use of the waters of Crane Creek and its tributaries, tributaries of Goose Lake; that the State Engineer after a full investigation and due consideration of said petitions, finding the facts and conditions such as to justify it, fixed a time for the making of the necessary surveys and examinations as would enable him to determine the relative rights of the various claimants to the use of the waters of Crane Creek and Kelly Creek and their tributaries, tributaries of Goose Lake.

2.

That a notice was prepared by the State Engineer setting forth the date when the State Engineer or his assistants, would begin investigation of the flow of said Crane Creek and Kelly Creek and their tributaries and the ditches diverting water therefrom, and said notice was 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 16 and May 23, 1929; said notice was also published in two issues of the Lake County Tribune and Silver Lake Leader, a newspaper published semi-weekly at Lakeview, Lake County, Oregon and of general circulation in said county; said two issues being those of May 14 and May 21, 1929; the date of the last publication of notice in each case being more than ten days prior to the date fixed for the beginning of the measurements of said streams by the State Engineer, as provided by law.

3.

That duly qualified assistants of the State Engineer did proceed to make examinations, surveys and measurements of said streams and their tributaries, and of the ditches and canals or other works diverting water therefrom and surveys of the lands irrigated, and gathered such data and information as were essential to the proper determination of the relative rights of the parties interested; which said 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 four inches to the mile, showing with substantial accuracy the course of said streams and their tributaries, the location of each ditch or canal diverting water therefrom, and the number of acres of land which had been irrigated in each legal subdivision; blue prints of said maps and plats being now on file and a part of the record herein.

4.

That as soon as practicable after the examination and measurements were completed as described in the preceding paragraph, the State Engineer did prepare a notice setting forth a place and time 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 streams and their tributaries, that said notice was 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 April 3 and April 10, 1930 and the last publication of said notice being more than thirty days prior to the first date fixed for the taking of claims by the State Engineer.

5.

That the State Engineer did send by registered mail to each person, firm or corporation claiming a right to the use of any of the waters of said streams, and to each person, firm or corporation owning or being in possession of lands bordering on or having

access to said streams or their tributaries, insofar as said claimants and owners and persons in possession could reasonably be ascertained, a notice similar to such published notice, setting forth the date when the State Engineer or his authorized assistants would receive the statements and proofs of claim of the various claimants to the waters of said streams and their tributaries. That said notice was mailed at least thirty (30) days prior to the date set therein for the receiving of claims in each instance. And the State Engineer did enclose with each of said notices a blank form upon which the claimant or owner could prepare in writing all the particulars necessary for the determination of his rights, under oath.

6.

That the time and place when and where the State Engineer, or his duly authorized assistant, should attend and receive the claims of the various parties was fixed as follows, to-wit:

On Saturday May 17, 1930 in the Circuit Court Room of the County Court House at Lakeview, Oregon.

And for a period of 30 days, beginning with Monday, May 19th and ending with Wednesday, June 18, 1930 in the office of the State Engineer in the Capitol Building, Salem, Oregon.

That thereafter, the State Engineer did extend from time to time, the period so fixed within which to file said statements and proofs of claims, until the 21st day of August, 1930; that within said time claims to the use of the waters of the streams and their tributaries were filed by the following parties, to-wit:

CRANE CREEK

Barnes, J. F.,	Lakeview, Oregon
Cogburn, Mrs. L. J.,	" "
Dicks, S. P. and	" "
A.F.Allen	" "
Duke, James P.	" "
Eccleston, I. S. Estate	" "
Funk, R. K.,	" "
Payne, F. W., & Myrtle	" "
Sherlock, C. E.	" "
Vanderpool, Edna R.,	" "

KELLY CREEK

Covell, Olive F.,	3019 $\frac{1}{2}$ E. St.,
	Sacramento, Calif.
Fisher, F. S.,	Lakeview, Oregon
Funk, D. G.,	New Pine Creek, Ore.
Partin, Roy and Lydia A.	
Smith	New Pine Creek, "
Reed, Josephine	" " " "
Reed, Murle	Lakeview, Oregon
Vauthrin, William	New Pine Creek, Ore.
Vincent, George Dudley	
and Martin Wayne	" " " "
Vincent, James	" " " "

7.

That after the time fixed and as extended by the State Engineer had expired for the filing of claims and before the date set for public inspection, the State Engineer on the 12th day of September accepted for filing the following claims:

CRANE CREEKKELLY CREEK

Fitzgerald, George C.,
Lake County Loan & Savings
Bank

Lakeview, Oregon

" "

Scott, Clarie L.,
Vernon, T. B. Estate
Vernon, W. P.
Nelson, Mary D.,
Hartzog, Susan D.,

Baylor, Montana
Lakeview, Oregon
Lakeview, Oregon
Westside, Oregon
Westside, Oregon

Leehman, Walter H., Mary
Isabella and Mattie
May

Lakeview, Ore

8.

That the following named persons were duly notified of the proceeding by registered mail and by publication of said notice, as shown by Paragraphs 4 and 5 hereof, and by the affidavits of publication and post office registry receipts in Volume I, (pages 6 to 9) of the evidence herein, and each of them, although so notified, have failed, neglected and refused to appear herein and submit proof of a right to the use of the waters of said streams or their 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 rights to the use of the waters of said streams, 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:

Barrington, Wm. J.,
Butler, Wm. E.,
Campbell, B. E.,
Clark, John L.,
Converse, Geo. M.,
Cronenmiller, F. P.,
Fleming, H. A.,
Gallagher, A. M.,
Hillman, Bessie K.,
Lakeview Mills & Timber Co.

Maffit, J. S.,
O'Keeffe, John J.,
Reed, J. A.,
Smith, L. E.,
Sterling, Geo.
Venator, J. D.
Vincent, Lloyd
Vincent, Margea
Wells, Wm. A.,

9.

That after the completion of the taking of such statements and proofs of claims the State Engineer did, on the 25th day of August, 1930, give notice by registered mail to each of the various claimants to the use of the waters of said streams and their tributaries, that at the times and places named in said notice, to-wit:

On Saturday, September 13, 1930 in the Circuit Court
Room of the County Court House at Lakeview, Oregon.

And from Wednesday, September 17th to October 1, 1930
inclusive (Sundays excepted) at the office of the State
Engineer in the Capitol Building, Salem, Oregon,

the testimony and proofs of claim theretofore filed would be open to public inspection. That said notice 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 Lake.

10.

That duly authorized representatives of the State Engineer did attend in accordance with said notice as described in the preceding paragraph, and keep said claims open to public inspection at said times and places. That within the time fixed by law therefor, the following contests were initiated by the filing with the State Engineer of notice of contest in writing;

1. Estate of I. S. Eccleston,
Chas. E. Eccleston, et al,
heirs of I. S. Eccleston,
Deceased

Contestants,

vs.

C. E. Sherlock,

Contestee.

2. C. E. Sherlock,

Contestant,

vs.

I. S. Eccleston Estate,

Contestee.

11.

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 24th day of November, 1930, serve notice of hearing of said contests on each of the parties to said contests, the date fixed for hearing being more than thirty days and less than sixty days from the date the notice of said hearing was served on said parties.

12.

That on September 26, 1930, Murle Reed and Anna Wade filed a petition with the State Engineer for leave to amend the date of priority under their statements and proofs of claims Nos. 21, 22 and 23, as of the year 1870 instead of February 15, 1884. It appearing that material evidence was obtained by claimants not known at the time the original claims were filed, the state engineer entered an order allowing the amended claims and requiring claimants to notify by registered mail all parties claiming a right to the use of the waters of Kelly Creek which might be affected thereby; that said parties be allowed fifteen days within which to contest said claims as amended. On the 6th day of November, 1930, claimants herein did notify by registered mail all parties claiming a right to the use of the waters of Kelly Creek and its tributaries by the amended claims of said claimants as shown by Post Office registry receipts in Volume 1, page 26 of the evidence filed herein; that on November 18, 1930, the State Engineer did, on application of L. F. Conn, enter an order for an extension of time heretofore fixed for contesting the amended statements and proofs of claims, said time being extended to December 8, 1930. Within the time fixed for the acceptance of contests against said amended claims, no contests were filed.

That on the 5th day of November, 1930, F. S. Fisher filed a petition with the State Engineer for leave to amend the date of priority under his statement and proof of claim No. 15 as of the year 1875 instead of the year 1880 and to amend the date of priority under his statement and proof of claim No. 16 as of the year 1878 instead of the year 1883. It appearing that material evidence was obtained by the claimant not known at the time the original claim was filed, the state engineer entered an order allowing the amended claim and requiring claimants to notify by registered mail all parties claiming a right to the use of the waters of Kelly Creek which might be affected thereby; that said parties be allowed fifteen days within which to contest said claim as amended. On the 28th day of November, 1930, claimants herein did notify by registered mail all parties claiming a right to the use of the waters of Kelly Creek and its tributaries by the amended claim of said claimants as shown by Post Office registry receipts in Volume 1, Page 52 of the evidence filed herein. Within the time fixed for the acceptance of contests against said amended claims, no contests were filed.

14.

Contest No. 1.

Estate of I. S. Eccleston,
Contestant

vs.

C. E. Sherlock,
Contestee.

Contest No. 2.

C. E. Sherlock,
Contestant,

vs.

Estate of I. S. Eccleston,
Contestee.

These contests were settled by stipulation and the parties will be entitled to their respective rights as claimed but as between them the water shall be distributed according to the following stipulation:

It is hereby stipulated and agreed by and between the above named contestants and contestees, as follows:

"WHEREAS, prior to the construction of the railroad grade across the lands of said parties, the Estate of I. S. Eccleston, deceased, and its predecessors in interest, were able to irrigate their lands much more efficiently and easily than has since been possible:

NOW, THEREFORE, in consideration of the premises, it is stipulated and agreed that the Estate of I. S. Eccleston, deceased, may construct a ditch and maintain the same, heading on the so-called Tenbrook-Eccleston Ditch and running

southerly along the west boundary line of said railroad right of way through the C. E. Sherlock irrigated land in the southwest quarter of the southwest quarter of section 11, tp. 40 S. R. 20 E. W. M. and through Lot 1 of section 14, said township and range into the northeast quarter of the northwest quarter of said section 14, which ditch shall and may be used to convey water for the irrigation both of the C. E. Sherlock land in said southwest quarter of southwest quarter of said section 11 and in said northeast quarter of the northwest quarter of said section 14 (so far as practicable) and the Eccleston Estate's land in Lots 1 and 2 of said section 14.

FURTHER, that the said C. E. Sherlock shall keep said Tenbrook-Eccleston Ditch, where the same passes through his lands, properly cleaned out so that it will freely carry water to the west side of said railroad grade, but shall not be required to excavate, lower or clean out the same to such extent as to interfere with the proper irrigation of said C. E. Sherlock's land now and heretofore irrigated therefrom.

FURTHER, as to the remainder of the irrigated lands of the parties, no change is contemplated in the method of distribution of water for the irrigation thereof now and heretofore employed.

FURTHER, that the above entitled contests may be and are hereby withdrawn.

Lakeview, Oregon, dated this 17th day of December, 1930.

ESTATE OF I. S. ECCLESTON, DECEASED

By Chas. E. Eccleston

Tom S. Farrell, Attorney

C. E. SHERLOCK

By C. E. Sherlock, Jr.,
His Attorney in Fact

Arthur D. Hay, Attorney."

15.

In accordance with the provisions of the following stipulation the waters of Crane Creek shall be divided equally at a point where said Creek forks at the mouth of Crane Creek Canyon, being within the $SW\frac{1}{4}SW\frac{1}{4}$, Section 1, Township 40 South, Range 20 East, W. M.; one half thereof to flow through the North Fork and one half through the South Fork of said Creek:

"It is hereby stipulated and agreed by and between the undersigned users of water and claimants to the use of water of Crane Creek, Lake County, Oregon, that the waters of said creek have been divided at a point where said creek forks at the mouth of Crane Creek Canyon, being within the $SW\frac{1}{4}SW\frac{1}{4}$, Section 1, Township 40 South,

Range 20 East, W. M., so that said waters have been caused to flow in equal quantities through the North and South Forks of said creek.

It is further stipulated and agreed that the waters of said stream have been equally divided as aforesaid so that one-half thereof flows through the North Fork and one-half through the South Fork of said creek, for approximately thirty years last past, and that the State Engineer of Oregon may so find in his Findings and Order of Determination in this proceeding, and that the Water Master, in the distribution of the waters of said stream shall hereafter forever divide the same so that one-half thereof shall flow through said North Fork and one-half through said South Fork.

Dated this 17th day of May, 1930.

C. E. Sherlock
By C. E. Sherlock, Jr.,
His Attorney in fact.

C. E. Sherlock, Jr.

Tyra E. Sherlock,
By C. E. Sherlock, Jr.

W. P. Vernon.

T. B. Vernon Est.,
By W. P. Vernon, Executor.

F. W. Payne.

S. P. Dicks & A. F. Allen,
By S. P. Dicks.

Jennie Cogburn,
By Mildred Rogers.

G. C. Fitzgerald

Edna R. Vanderpool

Clara (Hartzog) Scott
By Chas. A. Nelson

Mary Delphia (Hartzog) Nelson,
By Chas. A. Nelson.

I. S. Eccleston Est.,
By Charles E. Eccleston

Lake County Loan & Savings Bank,
By Mabel E. Hotchkiss Ross,
Vice President.

Lake County Loan & Savings Bank,
By Dick J. Wilcox, Secretary.

Susan D. Hartzog,
By Chas. A. Nelson."

16.

The following stipulation was filed and will govern the distribution of the waters of the South Fork as between the parties thereto; provided, that the quantity of water delivered under the terms thereof shall not exceed the duty of water as fixed in Paragraph 22 of these Findings.

"IT IS HEREBY STIPULATED AND AGREED by and between EDNA ROSE VANDERPOOL, on the one part, and C. E. SHERLOCK, on the other part, both being claimants to the use of the waters of Crane Creek, in Lake County, Oregon, as follows, to-wit:

(1) That the said Edna Rose Vanderpool is the owner of the following described lands, to wit: The north half and the northeast quarter of the southeast quarter of section eleven (11), in township forty (40) south, range twenty (20) east of Willamette Meridian.

(2) That the said C. E. Sherlock is the owner of the following described lands, to wit: The southwest quarter, the west half of the southeast quarter and the southeast quarter of the southeast quarter of section eleven (11), and the northeast quarter, and the east half of the northwest quarter of section fourteen (14), in township forty (40) south, range twenty (20) east of Willamette Meridian.

(3) That prior to April 1, 1869, a predecessor in interest of said Edna Rose Vanderpool in the ownership of her lands above described, commenced the construction of a ditch, now called the Venator Ditch, heading upon the south fork of said Crane Creek near the northwest corner of the northwest quarter of the northwest quarter of section 12, township and range aforesaid, and thereafter diligently prosecuted such construction to completion of said ditch as it now exists upon the land, and thereby diverted of the waters of said south fork an amount sufficient for the irrigation of all of the lands now owned and irrigated by said Edna Rose Vanderpool lying north and west of said south fork. That said ditch was completed and water applied to said use during the year 1869. Reference is made to the map of the survey made by the State Engineer in these proceedings for a description of said irrigated lands.

(4) That prior to April 1, 1869, a predecessor in interest of said Edna Rose Vanderpool, together with a predecessor in interest of said C. E. Sherlock, commenced the construction of a ditch, called the TenBrook-Venator Ditch, heading upon said south fork of said creek in the northeast quarter of the northeast quarter of said section 11, township and range aforesaid, and thereafter diligently prosecuted such construction to completion of said ditch as it now exists upon the land, and thereby diverted of the waters of said south fork an amount sufficient to irrigate the lands now owned and irrigated by said Edna Rose Vanderpool lying south and east of said south fork (save for a small portion irrigated and partially irrigated by means of a ditch mentioned in paragraph (9) hereafter), and partially to irrigate the lands now owned and irrigated by said C. E. Sherlock lying south and east of said south fork. That said ditch was completed and water applied to said uses during the year 1869. Reference is made to the State Engineer's said map for a description of said irrigated lands.

(5) That the appropriations of water so made through said Venator Ditch and through said TenBrook-Venator Ditch are of equal priority in time, and are entitled to a date of priority as of April 1, 1869.

(6) That the waters of said stream so appropriated and diverted through said TenBrook-Venator Ditch were originally divided equally, one-half thereof to the predecessor of said Edna Rose Vanderpool for use on his said lands, and one-half thereof to the predecessor of said C. E. Sherlock for use on his said lands; that such equal division of such waters has been continued until now, and that said Edna Rose Vanderpool and said C. E. Sherlock have equal rights in the use of said TenBrook-Venator Ditch and in the waters diverted through the same.

(7) That in the year 1869, a predecessor in interest of said C. E. Sherlock in the ownership of said Sherlock's lands lying north and west of said south fork of said creek, with the consent of the predecessor in interest of said

Edna Rose Vanderpool who constructed said Venator Ditch mentioned in paragraph (3) hereof, made an appropriation of the waters of said south fork by picking up the same after they had flowed over and irrigated said Vanderpool lands immediately adjoining said Sherlock's lands on the north thereof, and distributed the same over said Sherlock's lands lying north and west of said south fork, and so partially irrigated the same: That the lands last referred to are so located with reference to said Vanderpool lands, that the only economic and efficient method of irrigating same is the method herein described, and that said Sherlock and his predecessors in interest have so irrigated the same ever since the year 1869, with the consent of said Vanderpool and her predecessors in interest.

(8) That in the year 1870 said Sherlock's predecessor was able, owing to the fact that there was more water available than at present, to complete the irrigation of all of the irrigated lands now owned and irrigated by said Sherlock, without further artificial diversion works; That, however, as time went on, conditions changed so that further artificial diversion became necessary, and to meet such changed conditions said Sherlock and his predecessors in interest placed from time to time dams in the channel of said south fork of said creek, and by means of such dams and ditches leading therefrom diverted of the waters of said south fork sufficient water, when intermingled with water diverted through said Venator and TenBrook-Venator Ditches, to complete the irrigation of all of said lands now owned and irrigated by said Sherlock, on both sides of said south fork.

(9) That in the year 1870, a predecessor in interest of said Edna Rose Vanderpool constructed a ditch, heading on said south fork of said creek in the northeast quarter of the northeast quarter of said section 11, and thereby diverted of the waters of said stream sufficient partially to irrigate the lands now owned and irrigated by said Edna Rose Vanderpool in the southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of said section 11, and to furnish water for stockwatering and garden purposes.

(10) That, as to all of the diversions and appropriations above mentioned, said Vanderpool and said Sherlock, and their respective predecessors in interest, have applied the waters so diverted, artificially and naturally, to the irrigation of their said respective lands, continuously in each and every irrigation season from the respective dates of original appropriation hereinbefore mentioned until the present time, and have thereby caused said lands to produce valuable crops of forage grasses, which have been annually harvested for hay and depastured by livestock.

(11) That in the division and apportionment of said waters between the parties hereto and their respective successors in interest, the proper officers shall have authority in case of shortage of water to require such parties and their respective successors in interest to adopt such system of rotation as may be equitable, and shall have the right, if necessary, to take charge of the distribution of such waters,

and enforce such rotation.

(12) That the decree in these proceedings may give effect to the provisions of this stipulation, and that in the distribution of the waters of said stream as between the parties hereto and their respective successors in interest the proper officers shall divide and apportion said waters in accordance with such provisions.

IN WITNESS WHEREOF, the said parties have executed this stipulation this 27th day of June, 1930.

Edna Rose Vanderpool

C. E. SHERLOCK,
By Ned Sherlock,
His Attorney in Fact."

17.

The water users from the North Fork of Crane Creek filed the following stipulation and the waters will be distributed in accordance with the terms thereof, provided that the quantity of water delivered under the terms thereof shall not exceed the duty of water as fixed in Paragraph 22 of these proceedings:

"WHEREAS, in the above entitled proceedings, a Stipulation and Agreement in writing therein, was made, entered into and signed on May 17, 1930, by the users of the waters, and persons claiming a right to the use of the waters, of the above named Crane Creek, which proceeding involves the determination of the relative rights to the use of the waters of said Crane Creek and other streams, a copy of which Stipulation is hereto attached, marked Exhibit A, and

WHEREAS, the undersigned, claimants of rights to the use of the waters of said Crane Creek, have agreed between themselves as to their relative rights to the use of the one-half of the waters of said stream, which, under the terms and provisions of said Stipulation and Agreement so made and entered into on May 17, 1930, shall be caused to flow through the north channel of said stream, and

WHEREAS, it is the intention and desire of the undersigned (who, each, claim a right to the use of such waters for irrigation and other purposes), that their respective relative rights to the use of said one-half of the waters so stipulated and agreed to be caused to forever flow through the north channel of said stream, may be made a matter of permanent record in these proceedings, and be determined and finally settled by a Decree of the Circuit Court of the State of Oregon for the County of Lake,

NOW THEREFORE, IT IS STIPULATED AND AGREED between the undersigned, as follows:

(a) That the date of priority of the appropriations of that portion of the waters of said Crane Creek so to be caused to flow through said north channel thereof, relates back to, and has a date of priority of, 1871, for the irrigated lands of George C. Fitzgerald, for the irrigated lands of Clarie L. Scott, Mary D. Nelson and Susan D.

Hartzog, for the irrigated lands of W. P. Vernon, and for the irrigated lands of the Estate of Thomas Benton Vernon, deceased, all of which lands being situated in the $E\frac{1}{2}$ and the $E\frac{1}{2}$ of the $SW\frac{1}{4}$ of Section 2, Tp. 40 S. R. 20 E. W. M., and that such appropriation of such waters for such purposes is prior in time, and superior in right, to the rights of any of the parties hereto, for any use upon, or the irrigation of, any of the lands owned by any of the parties hereto, other than the above described lands in said Section 2;

(b) That any and all of the one-half of the waters of said stream so to be caused to flow through the said north channel thereof, when not being used or required by any of the undersigned owners of said lands situated in the $E\frac{1}{2}$ and the $E\frac{1}{2}$ of the $SW\frac{1}{4}$ of said Section 2, for the purposes for which the same were appropriated in the year 1871, as aforesaid, shall be permitted to flow through the said north channel of said stream, as the same were wont to flow through said north fork or channel of said Crane Creek, which north fork of said stream is erroneously indicated on the State Engineer's map of his survey of said lands made and filed in these proceedings, as a slough or depression, branching or diverging from said Crane Creek in the $SW\frac{1}{4}$ of the $SW\frac{1}{4}$ of Section 1, Tp. 40 S. R. 21 E. W. M., and extending northwesterly across said Section 2, and into the $SW\frac{1}{4}$ of the $SW\frac{1}{4}$ of Section 35, Tp. 39 S. R. 20 E. W. M.;

(c) That at any and all times when the one-half of the waters so to be caused to flow through said north channel of said stream, as provided in said stipulation dated May 17, 1930, shall not exceed the amount required for irrigation and other purposes by the parties hereto, on their said lands in the $E\frac{1}{2}$ and the $E\frac{1}{2}$ of the $SW\frac{1}{4}$ of said Section 2, such supply of water shall be divided for distribution upon the lands situated in the $E\frac{1}{2}$ and the $E\frac{1}{2}$ of the $SW\frac{1}{4}$ of Said Section 2, in the following proportions, to-wit:

One-third thereof shall be used, when required, upon the $S\frac{1}{2}$ of the $SE\frac{1}{4}$, and the $SE\frac{1}{4}$ of the $SW\frac{1}{4}$, of said Section 2, now belonging to the Estate of Thomas Benton Vernon, deceased;

One-third thereof shall be used, when required, upon the $N\frac{1}{2}$ of the $SE\frac{1}{4}$, and the $NE\frac{1}{4}$ of the $SW\frac{1}{4}$, of said Section 2, now belonging to W. P. Vernon;

One-ninth thereof shall be used, when required, upon the lands now belonging to Clarie L. Scott, Mary D. Nelson, and Susan D. Hartzog, described as follows: Beginning at the southeast corner of the $NE\frac{1}{4}$ of said Section 2, and thence running north, along the east boundary line of said Section 2, $53\text{-}\frac{1}{3}$ rods; thence running west 160 rods, to the west boundary line of the $SW\frac{1}{4}$ of the $NE\frac{1}{4}$ of said Section 2; thence running south $53\text{-}\frac{1}{3}$ rods, to the center of said Section 2, and thence running east 160 rods, to the point of beginning; and

Two-ninths thereof shall be used, when required, upon the lands now owned by George C. Fitzgerald, being the $N\frac{1}{2}$ of the $NE\frac{1}{4}$ of said Section 2, and the north one-third of the $S\frac{1}{2}$ of the $NE\frac{1}{4}$ of said Section 2, particularly described as follows: Beginning at the northeast corner of the $SE\frac{1}{4}$ of the $NE\frac{1}{4}$ of said Section 2, and thence running

south, along the east boundary line of said Section 2, 26-2/3 rods; thence running west 160 rods, to the west boundary line of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 2; thence running north 26-2/3 rods, to the northwest corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 2, and thence running east, along the north boundary line of the S $\frac{1}{2}$ of the NE $\frac{1}{4}$ of said Section 2, 160 rods, to the point of beginning.

Dated at Lakeview, Oregon, this 11th day of September, 1930.

Susan D. Hartzog)
Clarie L. Scott) By Chas. A. Nelson, Agent
Mary D. Nelson)

Estate of Thomas Benton Vernon, Deceased
By W. P. Vernon, One of the Executors of said Estate.

W. P. Vernon

George C. Fitzgerald

Lake County Loan and Savings Bank

By Meredith Anderson, Agent."

18.

A stipulation was filed in order to obviate the necessity for any contest being initiated and prosecuted against F. W. Payne and Myrtle Payne under their Statement and Proof of Claim No. 8 and S. P. Dicks and A. F. Allen under their Statement and Proof of Claim No. 4. In part the stipulation reads as follows:

"AND WHEREAS, disputes and differences of opinion have arisen between the said claimants as to the date of priority claimed by the said S. P. Dicks and the said A. F. Allen, as to the use of the waters of said Crane Creek, under their said Proof No. 4, filed in this proceeding, and also as to the date of priority claimed by the said F. W. Payne and Myrtle Payne, as to the use of the waters of said Crane Creek, under their said Proof No. 8, filed in this proceeding, and as to the manner in which the said F. W. Payne and Myrtle Payne, under their said Proof No. 8, claim their right to the means of utilizing such waters,

NOW, THEREFORE, for the purpose of settling such disputes and differences, and to obviate the necessity for any contest being initiated and prosecuted against the said F. W. Payne and Myrtle Payne by the other parties to this Stipulation, and also for the purpose of settling such disputes and differences, and to obviate the necessity for any contest being initiated and prosecuted against the said S. P. Dicks and the said A. F. Allen by the other parties to this Stipulation,

IT IS STIPULATED AND AGREED by and between all of the parties hereinbefore named that the date of priority of the said F.W. Payne and Myrtle Payne, under their said Proof No. 8, filed in this proceeding, shall be the year 1890, instead of the year 1878, as stated in their said Proof No. 8, and that the date of priority of

the said S. P. Dicks and A. F. Allen, under their said Proof No. 4, filed in this proceeding, shall be the year 1890, instead of the year 1878, as stated in their said Proof No. 4.

IT IS FURTHER STIPULATED AND AGREED by and between all of the parties hereto that the said Estate of Thomas Benton Vernon, and the said Clarie L. Scott, Mary D. Nelson and Susan D. Hartzog, shall forever have the right to perpetually maintain four dams, as hereinafter described, in the borrow pits made in 1911 in the construction by the Nevada-California-Oregon Railway, a corporation, of its road bed upon the right of way acquired by it under the terms and provisions of a certain Deed executed by S. P. Vernon and Effie Vernon, his wife, as grantors, to said corporation, which Deed is dated May 21, 1915, and was recorded June 1, 1915, at Page 204 of Volume 50 of the Records of Deeds for Lake County, Oregon.

One of said dams so to be maintained shall be located in the borrow pit on the east side of said Railroad right of way, immediately north of the private Railroad crossing now constructed, which crossing is approximately 600 feet north from the south boundary line of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 34, Tp. 39 S. R. 20 E. W. M.

Another of said dams so to be maintained shall be located in the borrow pit on the west side of said Railroad right of way, immediately north of the private Railroad crossing now constructed, which crossing is approximately 600 feet north from the south boundary line of the said last described 40-acre tract.

Another of said dams so to be maintained shall be located in the borrow pit on the east side of said Railroad right of way, immediately north of the private Railroad crossing now constructed, which crossing is approximately 200 feet south from the north boundary line of said last described 40 acre tract.

Another of said dams so to be maintained shall be located in the borrow pit on the west side of said Railroad right of way, immediately north of the private Railroad crossing now constructed, which crossing is approximately 200 feet south from the north boundary line of said last described 40-acre tract.

Said two dams so to be maintained in the borrow pit on the east side of said Railroad right of way, shall be such as will cause the waters of said North Fork of said Crane Creek, gathering or flowing into said borrow pit on the east side of said right of way, to flow across said Railroad right of way westerly into the borrow pit on the west side of said Railroad right of way, and said dams so to be maintained in the borrow pit on the west side of said Railroad right of way shall be such as will cause the waters of said North Fork of said Crane Creek, gathering or flowing into the borrow pits on each side of said right of way, to flow westerly over the lands in said last mentioned 40-acre tract

lying to the west of said Railroad right of way, to, upon and over the 80.6 acres of lands belonging to the Estate of Thomas Benton Vernon, in Lots 10 and 11, of said Section 34, and thence southerly to, upon and over the lands belonging to the said C larie L. Scott, Mary D. Nelson and Susan D. Hartzog, described in their Proofs filed herein numbered 31, 32, 33 and 34.

IT IS FURTHER STIPULATED AND AGREED by said parties that this Stipulation shall forthwith be filed with the State Engineer of Oregon, in the above entitled proceeding, and that said State Engineer, in making and filing his Findings of Fact and Order of Determination in this proceeding, shall make such Findings and Order of Determination in conformity with the stipulation and agreements of the parties hereto, as hereinbefore set forth, and that the Decree in this proceeding may give effect to the provisions of this Stipulation, and that in the distribution of the waters of the North Fork of said Crane Creek as to the parties hereto, and their respective successors in interest, the proper officer shall observe, and be guided by, the terms and provisions hereof.

Dated this 1st day of November, 1930.

F. W. Payne

Myrtle Payne

Estate of Thomas Benton Vernon, Deceased,
By W. P. Vernon, Executor.

Lake County Loan & Savings Bank
By Meredith Anderson, Agent.

Clarie L. Scott,
By Chas. A. Nelson, Agent.

Mary D. Nelson,
By Chas. A. Nelson, Agent.

Susan D. Hartzog,
By Chas. A. Nelson, Agent.

S. P. Dicks,

A. F. Allen."

AND WHEREAS, in accordance with the provisions thereof, the rights of claimants will be so tabulated and the water shall be distributed between the parties according to the terms thereof.

19.

A Stipulation was filed in settlement of the date of priority claimed under Statement and Proof of Claim No. 14 in the name of D. G. Funk. In accordance with the provisions thereof the date of priority of the said D. G. Funk under said Statement and Proof of Claim No. 14 shall be the Spring of 1875, and is so tabulated.

(Original of proof of claim of Funk (see page 12) in this book.)

In order to avoid the filing and initiation of contests a stipulation was filed in settlement of the controversies involving the use of the water of Kelly Creek by Josephine Reed, James Vincent, Walter H. Leehmann, Mary Isabella Leehmann and Mattie May Leehmann. In part the stipulation reads as follows and will govern the rights of the parties thereto:

"IT IS STIPULATED AND AGREED By and between Josephine Reed, by A. C. Robnett, her agent, James Vincent, and Walter H. Leehmann, Mary Isabella Leehmann and Mattie May Leehmann, by Walter H. Leehmann in his own behalf and as agent for Mary Isabella Leehmann and Mattie May Leehmann, that as among themselves their respective dates of priority above mentioned shall be disregarded and that as regards their rights for the watering of their livestock and the irrigation of their lands hereinabove described, the parties hereto shall be considered as having the same or equal dates of priority, and as regards the irrigation of their said lands such waters shall be apportioned thereto according to their respective acreage as herein set forth.

AND IT IS FURTHER AGREED AND UNDERSTOOD between the parties hereto that whenever the waters of said stream shall be insufficient in quantity to supply to all of the parties hereto the full amount of water which may be awarded to them in the above entitled proceeding for irrigating their said lands, then, at such times, the waters of said stream shall be so distributed as to furnish an ample supply to each of the parties hereto for the watering of his, her, or their livestock upon his, her, or their said lands, before any of said waters may be devoted or used for any other purpose.

IT IS FURTHER STIPULATED AND AGREED that this instrument shall be forthwith filed with the State Engineer in the above entitled proceedings and that said Engineer, in making and filing his Findings of Fact and Order of Determination in said proceedings, shall make such Findings and Order of Determination in conformity with the Stipulations and Agreements of the parties hereto, as hereinbefore set forth.

Dated at Lakeview, Oregon, this twenty-ninth day of September, 1930.

Josephine Reed
By A. C. Robnett, Her Agent.

James Vincent

Walter H. Leehmann

Mary Isabella Leehmann
By Walter H. Leehmann, Her Agent.

Mattie May Leehmann
By Walter H. Leehmann, Her Agent."

A Stipulation was filed in avoidance of a contest by and between Roy Partin and Lydia A. Smith, Josephine Reed, Walter H. Leehmann, Mary Isabella Leehmann and Mattie May Leehmann and the provisions thereof as to the dates of priority are briefly recognized and will be so tabulated. Insofar as the stipulation would attempt to fix the duty of water and the irrigation season it will be disregarded and the general Findings as provided by Paragraph 22 of these Findings will govern.

DUTY OF WATER

That Crane Creek and Kelly Creek are non-navigable, perennial streams, rising in the mountains South of Lakeview and flowing in a westerly direction into Goose Lake. The lands are arid and irrigation is necessary for the raising of profitable crops.

In the decree determining the relative rights to the use of the waters of the various users from Drews Creek, Antelope Creek, Cottonwood Creek, Thomas Creek, Cogswell Creek and their tributaries, tributaries of Goose Lake, the duty of water was fixed after extensive and careful investigations as to the quantity of water needed. Since these lands are identical in character we believe that the duty of water allowed in this Decree is a reasonable duty for these lands and therefore the same limitations used in said decree will be fixed in these findings.

That in order to successfully irrigate a piece of land it is necessary to have a sufficient head of water. That for lands of the character of those involved in these proceedings $2\frac{1}{2}$ acre feet of water per acre during each season measured at the point of diversion is sufficient. That a flow of one-eightieth of one second foot of water per acre for 100 days will approximately supply such amount. That a head of one-eightieth of a second foot per acre is inadequate for the purpose of irrigating said lands. That in order to irrigate any land it is not necessary to keep a continuous flow of water upon each and every acre of the same. That it is necessary to irrigate each tract of land at more or less regular intervals throughout the growing seasons. That the intermittent use of water upon each acre of land makes it possible for a system of rotation to be used, so that the head of water necessary for the irrigation of such land may be obtained.

That the rights to the use of water from the streams involved herein shall be limited to such amount as may be beneficially used on the lands for which water rights are herein granted, and the water diverted for any lands shall be limited to a continuous flow of one-fortieth of one second foot per acre, and the total quantity diverted shall not exceed three-fourths of one acre foot per acre during any period

of thirty days prior to June 1st, and one-half of one acre foot per acre during any period of 30 days after June 1st, of each year; and shall not exceed $2\frac{1}{2}$ acre feet per acre during any irrigation season, which irrigation season is hereby fixed to be the period beginning March 15th of each year and ending September 15th of each year.

That in determining the proper duty of water for any lands many factors must necessarily be considered, including the nature of the water supply, manner of irrigation, and the kind of crops raised. That the present practice of irrigating the wild hay meadows on said streams by damming the sloughs and causing a large amount of water to spread over the land, while necessary until artificial flood control is provided, is not an economical method of irrigation. That with artificial flood control it will be possible to adopt a more modern and economical method and secure a higher state of cultivation, which will require a less quantity of water per acre than granted herein. Anticipating the possibility of such a development, the right is reserved to the State Engineer to receive and consider further evidence on this point, at such time in the future as the flood waters of said streams are more subject to control by storage or other means, and a more dependable water supply is available and the present wild flooding system has given way to a method of irrigation by ditches and rotation in the use of the water, and if circumstances justify it, to revise the duty of water herein fixed to a duty more in conformity with such changed conditions.

23.

FAILURE OF WATER TO FLOW IN CHANNEL

In case the water flowing in the channel of a stream or ditches sinks or fails to flow down the channel so as to be of benefit to an appropriator having the prior right to its use, the watermaster shall allow the diversion thereof by the next appropriator in order of priority who can make a beneficial use of such water.

24.

STOCK AND DOMESTIC WATER

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.

25.

ROTATION

The watermaster of the district in which Crane Creek and Kelly Creek and their 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 streams. When two or more appropriators agree between themselves as to a system of rotation, the watermaster 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.

26.

APPURTENANCY

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 Crane Creek and Kelly Creek and their 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 rights herein confirmed confer no right of use of the waters of said creeks and their 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 creek on such other lands without lawful permits first obtained from the State Engineer.

27.

PRIORITIES

That except as otherwise determined herein, the order of the rights of the respective appropriators of the waters of Crane Creek and Kelly Creek and their 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

latest right, and those having prior rights are entitled to divert and use the waters of said creeks and their 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 streams 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.

28.

That except as otherwise modified herein, the rights of the various appropriators of water from Crane Creek and Kelly Creek and their 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
Barnes, J. F., Lakeview, Oregon. (Proof No. 1) ¹⁰⁵⁹⁰	Nov. 7, 1898		2	Irrigation	Unnamed Ditch	South Fork Crane Creek	2 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, T. 40 S. R. 20 E. W. M.
Cogburn, Mrs. L. J., Lakeview, Oregon. (Proof No. 2) ¹⁰⁵⁹¹	1885		40	Irrigation	Natural Overflow	Crane Creek	16 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 2, 4 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 20 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3, T. 40 S. R. 20 E. W. M.
(Proof No. 3) ¹⁰⁵⁹²	1892		0.2	Irrigation	Unnamed Ditch	Crane Creek	0.2 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 12, T. 40 S. R. 20 E. W. M.
Dicks, S. P., and A. F. Allen, ¹⁰⁵⁹³ Lakeview, Oregon. (Proof No. 4)	1890		40	Irrigation	Flood waters and Overflow from adjacent lands	Crane Creek	10 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 33, 10 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 20 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 34, T. 39 S. R. 20 E. W. M.
(NOTE: See Findings paragraph 18 page 13.)							
Duke, James P., ¹⁰⁵⁹⁴ Lakeview, Oregon. (Proof No. 5)	Spring, 1889		197.1	Irrigation	Natural Overflow	Crane Creek	14 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ (Lot 8) 34 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ (Lot 7) 20 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 17 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 2.1 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14, 27 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 23 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 20 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 15, T. 40 S. R. 20 E. W. M.
Eccleston, Estate of ¹⁰⁵⁹⁵ I. S., deceased, by Chas. E. Eccleston, Lakeview, Oregon. (Proof No. 6)	1875		61.8	Irrigation, Domestic and Stock	TenBrook and Eccleston Ditch	Crane Creek	20.6 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ (Lot 5) Section 10, 32.6 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ (Lot 1) 6 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ (Lot 2) Section 14, 2.6 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ (Lot 1) Section 15, T. 40 S. R. 20 E. W. M.
(NOTE: See findings paragraph 14, page 6.)							
Fitzgerald, George C., ¹⁰⁵⁹⁶ By L.F. Conn, Agent, Lakeview, Oregon. (Proof No. 41)	1871		66.63	Irrigation and Stock	Ditch A and Unnamed Ditches	North Fork Crane Creek	10.7 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 33.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 9.6 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 13.33 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, T. 40 S. R. 20 E. W. M.
NOTE: The 9.6 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ and 13.33 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ comprise the North one-third of said SE $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$.							
(NOTE: See Findings paragraph 17, page 11.)							

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
Funk, R. K., ¹⁰⁵⁹⁷ Lakeview, Oregon. (Proof No. 7)	1883		59.1	Irrigation, Domestic and Stock	Dams and Natural Overflow	Crane Creek	28.3 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 7.6 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14, 23.2 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 23, T. 40 S. R. 20 E. W. M.
Lake County Loan & Savings Bank, ¹⁰⁵⁹⁸ By Meredith Anderson, Agent, Lakeview, Oregon. (Proof No. 35)	1872		77.4	Irrigation and Stock	Unnamed Ditches	North Fork, Crane Creek	12.7 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 24.3 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.4 acre in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 35, T. 39 S. R. 20 E. W. M.
(Proof No. 36) ¹⁰⁵⁹⁹	1876		188.2	Irrigation and Stock	Unnamed Ditches	North Fork Crane Creek	28.2 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ (Lot 4) Section 34, T. 39 S. R. 20 E. W. M. 40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 2, T. 40 S. R. 20 E. W. M.
(Proof No. 37) ¹⁰⁶⁰⁰	1881		105	Irrigation and Stock	Unnamed Ditches	North Fork Crane Creek	40 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 30.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 34.5 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 3, T. 40 S. R. 20 E. W. M.
Payne, F. W., and ¹⁰⁶⁰¹ Myrtle, Lakeview, Oregon. (Proof No. 8)	1890		75	Irrigation	Natural Overflow	Crane Creek	6 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 20 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 37 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 12 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ (Lot 5) Section 34, T. 39 S. R. 20 E. W. M.
(NOTE: See Findings paragraph 18, page 13)							
Sherlock, C. E., ¹⁰⁶⁰² Lakeview, Oregon. (Proof No. 9) Modified - See case of Court V. 12 p. 278	April 1, 1869		400.7	Irrigation	TenBrook- Venator Ditch and dams in stream channel	South Fork Crane Creek	40 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 17 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 29.6 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 21.5 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 11, 17.5 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 34.9 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 6.2 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 37 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 37 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, T. 40 S. R. 20 E. W. M.
(NOTE: See Findings paragraph 14, page 6 and paragraph 16, page 8.)							

368

CRANE CREEK - 22

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
Scott, Clarie L., ¹⁰⁶⁰³ Baylor, Montana. Mary D. Nelson and Susan D. Hartzog, by Chas. A. Nelson, Agent, West Side, Oregon. (Proof No. 30)	1871		50.67	Irrigation and Stock	Unnamed ditches and Ditch A	North Fork Crane Creek	26.67 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 24.00 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, T. 40 S. R. 20 E. W. M.
	NOTE:	The above described lands comprise the South 2/3rds of said SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$.					
	(NOTE:	See Findings paragraph 17, page 11.)					
(Proof No. 31.) ¹⁰⁶⁰⁴	1879		144.6	Irrigation and Stock	Unnamed Ditches	Crane Creek	40 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 2, 57 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3, 28.2 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 37.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ (Lot 2) 1.9 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ (Lot 1) Section 10, T. 40 S. R. 20 E. W. M.
	(NOTE:	See Findings paragraph 18, page 13.)					
(Proof No. 32) ¹⁰⁶⁰⁵	1882		17.1	Irrigation and Stock	Unnamed Ditches	Crane Creek	1 acre in NE $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 3) 16.1 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 4) Section 3, T. 40 S. R. 20 E. W. M.
	(NOTE:	See Findings paragraph 18, page 13.)					
(Proof No. 33) ¹⁰⁶⁰⁶	1891		32.3	Irrigation and stock	Natural Overflow and Unnamed Ditches	Crane Creek	32.3 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ (Lot 9) Section 10, T. 40 S. R. 20 E. W. M.
	(NOTE:	See Findings paragraph 18, page 13.)					
(Proof No. 34) ¹⁰⁶⁰⁷	1901		216.7	Irrigation and Stock	Natural Overflow & Unnamed Ditches	Crane Creek	33.0 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ (Lot 8) 40 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 11 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ (Lot 7) 13.5 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 6) 40 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 23 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 16.2 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 5) Section 3, T. 40 S. R. 20 E. W. M.
	(NOTE:	See Findings paragraph 18, page 13.)					
⁴⁰³⁸⁸⁺⁴⁴⁹⁷⁵ Vanderpool, Edna R., Lakeview, Oregon. (Proof No. 10) ¹⁰⁶⁰⁸	April 1, 1869		190.3	Irrigation, Domestic & Stock <i>100 ac. Trst. Sp. Dr. Vol. 27 p 25</i>	Venator Ditch	Crane Creek	20.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 34.5 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 26.4 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 28.9 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 11, T. 40 S. R. 20 E. W. M.
	(NOTE:	See Findings paragraph 16, page 8.)					

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
Vanderpool, Edna R., (Continued) (Proof No. 11) 10609	1870		28.7	Irrigation, Domestic and Stock	Venator Ditch No. 2	Crane Creek	10.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 18.7 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 11, T. 40 S. R. 20 E. W. M.
	(NOTE:	See Findings paragraph 16, page 8.)					
(Proof No. 12) 10610	April 1, 1869		31.2	Irrigation, Domestic and Stock	TenBrook- Venator Ditch	Crane Creek	5.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 7.5 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 18.7 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 11, T. 40 S. R. 20 E. W. M.
	(NOTE:	See Findings paragraph 16, page 8.)					
Vernon, T. B. Estate, By W. P. Vernon, Executor, Lakeview, Oregon. (Proof No. 28) 10611	1890		80.6	Irrigation	Natural Overflow	North Fork Crane Creek	40.25 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 10 40.35 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 11 Section 34, T. 39 S. R. 20 E. W. M.
	(NOTE:	See Findings paragraph 18, page 13.)					
(Proof No. 29) 10612	1871		120.0	Irrigation and Stock	Ditch A. and Unnamed Ditches	North Fork Crane Creek	40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, T. 40 S. R. 20 E. W. M.
	(NOTE:	See Findings paragraph 17, page 11.)					
Vernon, W. P., 10613 By L. F. Conn, Agent, Lakeview, Oregon (Proof No. 27)	1871		119.1	Irrigation and Stock	Ditch A. and Unnamed Ditches	North Fork Crane Creek	40 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 39.1 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, T. 40 S. R. 20 E. W. M.
	(NOTE:	See Findings paragraph 17, page 11.)					
				370			
					CRANE CREEK - 24		

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
Covell, Olive F., 3019½ E. Street, Sacramento, Calif. (Proof No. 13)	1902	0.1		Domestic and Stock	Main Channel	Kelly Creek	PLACE OF USE: S½NW¼, N½SW¼, SW¼NE¼, W½SE¼, SE¼SW¼, Section 17, T. 41 S. R. 21 E. W. M.
Fisher, F. S., Lakeview, Oregon. (Proof No. 15-A)	1875		33.9	Irrigation, Domestic & Stock	Colvin and Warner Ditch	Kelly Creek	9.9 acres in SE¼SW¼ 12.0 acres in SW¼SE¼ 12.0 acres in SE¼SE¼, Section 13, T. 41 S. R. 20 E. W. M.
(Proof No. 16-A)	Spring, 1878		3.6	Irrigation, Domestic and Stock	Vincent and Fisher Ditch	Kelly Creek	3.6 acres in SW¼SW¼, Section 18, T. 41 S. R. 21 E. W. M.
Funk, D. G., New Pine Creek, Oregon. (Proof No. 14)	Spring, 1875		13.6	Irrigation, Stock and Domestic	Funk-Partin Ditch	Kelly Creek	13.6 acres in NW¼NW¼, Section 18, T. 41 S. R. 21 E. W. M.
(NOTE: See Findings paragraph 19, page 15.)							
Leehmann, Walter H. and Mary Isabelle Leehmann, Lakeview, Oregon, and Mattie May Leehman, Sacramento, Calif. By Walter H. Leehmann. (Proof No. 38)	1869		207.6	Irrigation and Stock	Colvin-Warner Ditch & Unnamed Ditches	Kelly Creek	36.6 acres in SW¼NE¼ 6 acres in SE¼NE¼ 40 acres in SW¼NW¼ 40 acres in SE¼NW¼ 40 acres in NE¼SW¼ 5 acres in NE¼SE¼ 40 acres in NW¼SE¼, Section 13, T. 41 S. R. 20 E. W. M.
(NOTE: See Findings paragraph 20, page 16.)							
(Proof No. 39)	1871		33	Irrigation and Stock	Overflow and Unnamed Ditches	Kelly Creek	14 acres in NW¼SW¼, Section 13, 19 acres in NE¼SE¼ (Lot 3) Section 14, T. 41 S. R. 20 E. W. M.
(NOTE: See Findings paragraph 20, page 16.)							
(Proof No. 40)	1877		20.3	Irrigation and Stock	Dams & Unnamed Ditches	Kelly Creek	20.3 acres in SE¼NE¼ (Lot 2) Section 14, T. 41 S. R. 20 E. W. M.
(NOTE: See Findings paragraph 20, page 16)							

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
Partin, Roy and Lydia A. Smith, New Pine Creek, Oregon. (Proof No. 17)	Spring, 1899		8	Irrigation, Domestic & Stock	Lower Ditch	Kelly Creek	8.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, T. 41 S. R. 21 E. W. M.
(Proof No. 18)	1880		2	Irrigation, Domestic & Stock	Joe Reed Ditch	Kelly Creek	2.0 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, T. 41 S. R. 21 E. W. M.
(Proof No. 19.)	Spring, 1874		13.6	Irrigation, Domestic & Stock	Funk-Partin Ditch	Kelly Creek	13.6 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, T. 41 S. R. 21 E. W. M.
	(NOTE: See Findings paragraph 21, Page 17.)						
Reed, Josephine, New Pine Creek, Oregon. (Proof No. 20)	1870		135.1	Irrigation, Domestic & Stock	East Ditch, Spring Branch Ditch, West Spring Branch Ditch, Extreme West Spring Branch Ditch, Center Ditch, Middle Field Ditch, South Ditch.	Kelly Creek	39.4 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 15.7 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12, 40 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13, T. 41 S. R. 20 E. W. M.
	(NOTE: See Findings paragraph 20, page 16.)						
Reed, Murle, Lakeview, Oregon. (Proof No. 21-A)	January, 1870		23.6	Irrigation	Main Ditch	North Fork Kelly Creek	5.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 12, 18.6 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 13, T. 41 S. R. 20 E. W. M.
(Proof No. 22-A)	January, 1870		1.0	Irrigation	Garden Ditch	North Fork Kelly Creek	1.0 acre in NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 13, T. 41 S. R. 20 E. W. M.
(Proof No. 23-A)	January, 1870		2.0	Irrigation	Unnamed Ditch	North Fork Kelly Creek	2.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 13, T. 41 S. R. 20 E. W. M.
Vauthrin, William New Pine Creek, Oregon. (Proof No. 24)	April 1, 1899 T-5327 A PoD		1.5	Irrigation	William Vincent Ditch	Kelly Creek	1.5 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, T. 41 S. R. 21 E. W. M.
Vincent, George Dudley and Martin Wayne New Pine Creek, Oregon. (Proof No. 25)	Spring, 1878 T-5657 A PoD 34-26		3.6	Irrigation	Vincent & Fisher Ditch	Kelly Creek	3.6 acres in N $\frac{1}{2}$ SW $\frac{1}{4}$, Section 18, T. 41 S. R. 21 E. W. M.
Superseded by 62738							

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
Vincent, James New Pine Creek, 10625 Oregon. (Proof No. 26)	Spring, 1870		35	Irrigation and Stock	Warner Ditches	Kelly Creek	2.6 acres in SW ¹ / ₄ NW ¹ / ₄ (Lot 2) 20 acres in NW ¹ / ₄ SW ¹ / ₄ (Lot 3) 10 acres in SW ¹ / ₄ SW ¹ / ₄ (Lot 4) Section 12, 2.4 acres in NW ¹ / ₄ NW ¹ / ₄ , Section 13, T. 41 S. R. 20 E. W. M.
	(NOTE:	See Findings paragraph 20, page 16.)					

This adjudication proceeding involves principally those water rights which were initiated prior to February 24, 1909, on which date the Oregon water code became effective, and which prior rights are tabulated in the preceding Paragraph No. 28. 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 Crane Creek or Kelly Creek or their 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.

And the State Engineer of Oregon, being fully advised in the premises, it is hereby CONSIDERED and ORDERED, that the relative rights of the various claimants to the use of the waters of Crane Creek and Kelly Creek and their tributaries, be and the same are hereby determined and settled as set forth in the foregoing Findings and Order of Determination.

Dated this 25th day of May, 1931, at Salem, Oregon.


CHAS. E. STRICKLIN
State Engineer.