

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR LAKE COUNTY

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

DECREE MODIFYING THE FINDINGS OF THE
 STATE ENGINEER AND DECREE AFFIRMING
 SAME AS MODIFIED.

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 streams and their tributaries, and there having been filed with the clerk of this Court on the 27 day of May 1931, 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 15th day of July 1931, as the time at which the determination herein would be heard by this Court, said time being extended upon application of a number of the water users from Crane and Kelly Creeks until the 4th day of August 1931 and a further extension granted until the 1st day of September 1931, and notice of said hearing and of the time fixed therefor having been duly and regularly given to said parties interested, in the manner and within the time required by law, and it appearing that certain objections and exceptions were made to the Findings and Order of Determination of said State Engineer but that prior to the time set for the hearing of said objections and exceptions the controversies raised thereby were settled by stipulation between the parties, it is hereby considered, Ordered, and Decreed, that all things done and had by the said State Engineer in the premises as found and determined, are hereby adopted and approved and made the decree of this Court, as herein amended, modified, and changed, as follows:

I.

Exceptions were filed by D. G. Funk to the findings of the State Engineer appearing at page 15 paragraph 19 of said findings wherein said D. G. Funk was allowed a water right under Proof of Claim No. 14 for the irrigation of 13.6 acres through the Funk - Partin Ditch with priority of 1875.

It was the contention of the exceptor D. G. Funk that the right of Roy Partin and Lydia A. Smith to use of water through the Funk-Partin Ditch under Proof of Claim No. 19 should be of the same priority and right as allowed said exceptor and in settlement of the controversy the following stipulation was entered into between the parties:

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 TRIBUTARIES OF GOOSE LAKE.)
 -----)

D. G. FUNK,)

vs.)

STIPULATION #1

Roy Partin and Lydia A. Smith)

Stipulation by and between Herbert P. Welch, attorney for Roy Partin and Lydia A. Smith, and Chas. H. Combs, attorney for D. G. Funk, that Honorable Orlando M. Corkins, Judge of the above entitled court, may enter herein an order and decree in the above entitled matter modifying the Findings and Order of Determination of the State Engineer of the State of Oregon, by awarding to D. G. Funk an equal right in time and date of priority for the irrigation of 13.6 acres of his land described in Statement and Proof of Claim No. 14 with the 13.6 acres of land claimed by Roy Partin and Lydia A. Smith under Statement and Proof of Claim No. 19 in the above entitled matter.

It being the intention of the parties hereto that the waters conveyed from said Kelly Creek shall be divided equally between the parties to this stipulation, and that they shall have an equal right to the use of said waters for the irrigation of their lands described in said Proof of Claim No. 14 and said Proof of Claim No. 19.

IN WITNESS WHEREOF, we have hereunto executed this stipulation in triplicate this 22nd day of October, 1931.

Herbert P. Welch
 Attorney for Roy Partin and
 Lydia A. Smith

Chas. H. Combs
 Attorney for D. G. Funk

Filed Oct. 23, 1931
 Carl W. Pendleton
 County Clerk,
 By Cora O'Connor, Deputy.

The above stipulation shall govern the rights of the parties thereto and the findings and order of determination of the State Engineer shall be modified in so far as the date of priority allowed Roy Partin and Lydia A. Smith for the irrigation of 13.6 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, T. 41 S., R. 21 E., W. M. under Proof of Claim No. 19 from spring of 1874 to spring of 1875.

II.

The State Engineer by his findings and order of determination awarded Murle Reed under Proof of Claim No. 22-A a water right for the irrigation of 1 acre through the Garden Ditch with priority of January 1870, and Roy Partin and Lydia A. Smith under Proof of Claim No. 18 a water right through the Joe Reed Ditch for the irrigation of 2 acres with priority of 1880. It appears that the "Garden Ditch", and the "Joe Reed Ditch" are one and the same ditch. In avoidance of a controversy between the parties a stipulation was entered into between the above mentioned parties whereby Roy Partin and Lydia A. Smith under Proof of Claim No. 18 should have a water right of equal priority of that of Murle Reed, namely January 1870 for the

irrigation of 2 acres in the NW¹/₄ NW¹/₄ Section 18, T. 41 S., R. 21 E., W. M. The findings and order of the state Engineer shall be modified accordingly.

III.

In settlement of a controversy arising over the award of the State Engineer to C. E. Sherlock under his Proof of Claim No. 9 wherein he was allowed a water right for the irrigation of 400.7 acres from the South Fork of Crane Creek the following stipulation was entered into between said C. E. Sherlock and Edna R. Vanderpool.

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

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

STIPULATION #3

WHEREAS in the Findings and Order of Determination by the State Engineer of Oregon, on file herein, in the tabulation of the relative rights to the use of the Waters of Crane Creek the rights of C. E. Sherlock are given a date of relative priority of April 1, 1869, contrary to the provisions of a stipulation between the said Sherlock and Edna R. Vanderpool in said proceedings; now, therefore, it is stipulated and agreed by and between the said Edna R. Vanderpool and the said C. E. Sherlock that, in its decree herein, this Court shall decree that such tabulation shall be amended and corrected to the effect that the date of relative priority of the said C. E. Sherlock's rights to the use of said waters shall be April 1, 1869 as to the Tenbrook - Venator Ditch, 1869 as to the waters picked up and appropriated by the said Sherlock and his predecessors after the same had flowed over and irrigated the lands of the said Vanderpool immediately adjoining said Sherlock's lands on the north thereof, and 1870 as to all other ditches and diversions, in accordance with the provisions of said stipulation between the said parties on file herein and embodied in Paragraph 16 at page 8 et seq. of said Findings and Order of Determination.

Lakeview, Oregon, dated this 23rd day of June, 1931.

Filed June 23, 1931
Carl W. Pendleton,
Clerk.

J. D. Venator
Attorney for Edna R. Vanderpool

Arthur D. Hay
Attorney for C. E. Sherlock

The above stipulation shall govern the rights of parties and the waters be distributed accordingly during the irrigation season of 1932, but wherein the stipulation fails to designate the particular lands to be irrigated with the water having different priorities the Court will retain jurisdiction over this matter and direct that C. E. Sherlock in cooperation with the State Engineer determine if possible the acreage to be irrigated under each priority and the State Engineer file a description of the same with this Court prior to the irrigation season of 1933.

Dated this 7th day of April, 1932.

ORLANDO M. CORKINS
Circuit Judge.

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

I, Carl W. Pendleton, County Clerk and Clerk of the Circuit Court of the County and State aforesaid, do hereby certify that the foregoing copy of DECREE MODIFYING THE FINDINGS OF THE STATE ENGINEER AND DECREE AFFIRMING SAME AS MODIFIED has been by me compared with the original, and that it is a correct transcript therefrom, and of the whole of such original DECREE MODIFYING THE FINDINGS OF THE STATE ENGINEER AND DECREE AFFIRMING SAME AS MODIFIED, as the same appears of record at my office and in my custody.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 8th day of April, 1932.


Clerk.

By _____
Deputy

STATE OF OREGON)
: ss
County of Marion)

I, CHAS. E. STRICKLIN, State Engineer of the State of Oregon, do hereby certify that the foregoing copy of DECREE of the Circuit Court for Lake County dated April 7, 1932, MODIFYING THE FINDINGS OF THE STATE ENGINEER AND AFFIRMING THE SAME AS MODIFIED, 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, tributary of Goose Lake, was received in the office of the State Engineer and entered of record herein on April 12, 1932.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of April, 1932.

CHAS. E. STRICKLIN,
State Engineer.