

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

IN THE MATTER OF THE DETERMINATION OF)
THE RELATIVE RIGHTS OF THE VARIOUS)
CLAIMANTS TO THE WATERS OF NORTH POWDER)
RIVER AND ITS TRIBUTARIES, A TRIBUTARY)
OF POWDER RIVER, IN BAKER AND UNION)
COUNTIES, OREGON.)
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Now at this time this matter came on to be heard before the court upon the exceptions of the various water users in the above entitled matter to the determination of the Board of Control made and filed herein. C. E. Davis and certain other water users appearing by Crawford & Eaking of counsel; James Hutchinson and certain other water users appearing by C. H. Fim of counsel; Chris. Johnson and certain other water users appearing by Gustave Anderson and C. E. Cochran of counsel; and the Board of Control appearing by James T. Chincock, Superintendent of Water Division No. 1, and George T. Cochran, Superintendent of Water Division No. 2, members of said Board of Control, and the court being now fully advised in the premises; it is therefore

CONSIDERED, ORDERED and DECREED that the said order of determination of the said Board of Control heretofore made and filed herein be and the same is here now set aside, annulled and held for naught; and it is further ordered and decreed that said matter and proceeding be and the same is hereby referred back to the Board of Control and the said Board of Control are hereby directed to have the State Engineer measure and determine the discharge of said stream and its tributaries, and the carrying capacity of the several irrigating ditches diverting water from said stream, and ascertain and determine the amount of land irrigated or susceptible of irrigation from said several ditches, and gather such other facts and data as are essential to a correct understanding of the rights of the parties interested, make a record of the same in his office and furnish a certified copy of such record and compilation and file the same with the Board of Control in this proceeding for the information of the Board in making its determination herein. It is further ordered that the Water Superintendent take such further testimony as may be offered by the various claimants as to the water duty per acre for the proper irrigation of the lands of the said claimants, such evidence as may be offered touching the extent and amount of lands irrigated and cropped to various crops and for pasturage purposes by the various claimants where there is a conflict in acreage claimed and that shown by the maps and plats of the State Engineer filed with the Board; touching the amount of lands summerfallowed by the several claimants, touching the practicability of rotation in irrigation between the several claimants, touching the disputed claims of James Dalton, P. L. Smith, and J. D. McPhee to 400 miner's inches of water during the months of July and August claimed to have been purchased from the North Powder Mercantile & Milling Company of the priority of 1870, and touching the disputed claim or right of the North Powder Mercantile & Milling Company to any water from said stream for milling or other purposes during the months of July and August of each year. That upon the completion of the taking of the testimony as aforesaid by the Division Superintendent, that he give the notice required and keep said testimony open for inspection as required in section 6642 of Lord's Oregon Laws. That as soon as practicable after the compilation of the said data by the State Engineer and the furnishing of the Board with a certified copy of such compilation, and the filing of the evidence so taken by the Division Superintendent, that the Board of Control, based upon the data so compiled, the evidence so taken and the evidence heretofore taken in said cause and filed herein, make and cause to be entered of record in its office, an order determining

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and establishing the several rights to the waters of said stream, and that copies of said order of determination be filed with the county clerks of Baker and Union Counties, and that said original evidence, together with said certified copy of the data so compiled by the State Engineer, together with a certified copy of said determination be filed with the clerk of this court and that the Board fully comply with the provisions of section 6646 of Lord's Oregon Laws touching these matters. It is further ordered that a certified copy of this order and decree be at once mailed by the clerk of this court to the President of the Board of Control at Salem, Oregon.

Done and dated at La Grande, Oregon, this 24th day of April A. D. 1912.

(Signed) J. W. Knowles,

Circuit Judge.

State of Oregon,)
) ss.
 County of Marion.)

I, M. B. Wann, Secretary of the Board of Control of the State of Oregon, do hereby certify that the foregoing copy of ORDER and DECREE of the Circuit Court of the State of Oregon for the County of Union was received in the office of the Board of Control on the 29th day of April, 1912, and entered of record herein on the 30th day of April, 1912.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Board of Control of the State of Oregon this 30th day of April, 1912.



Secretary of the Board of Control of the State of Oregon.