

BEFORE THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF KLAMATH.

IN THE MATTER OF THE DETERMINATION OF)
THE RELATIVE RIGHTS TO THE USE OF THE)
WATERS OF WOOD RIVER, CRANE CREEK,)
SEVEN-MILE CREEK AND FOUR-MILE CREEK.)
TRIBUTARIES OF AGENCY LAKE.)

D E C R E E

Now on this day this cause coming on for hearing upon the Findings and Order of Determination of the State Engineer to the rights of the waters of Wood River, Crane Creek, Seven-Mile Creek and Four-Mile Creek, tributaries of Agency Lake, filed herein on June 22nd, 1932, and it appearing to the Court that the State Engineer, by inadvertence and error, failed to award the water users from the Melhase Ditch the right to 30 second feet of water from Wood River with date of priority of May, 1914, as provided by that certain stipulation found at page 24, being paragraph 17 of said Findings and Order of Determination, and that said State Engineer failed to tabulate the rights of the individual users from said Ditch, and by error failed to make a reference to Permit No. 8028 in the tabulation of the rights appearing under the name of James T. Dixon, Proof No. 11, page 45 of said Findings and Order of Determination, and the Court's attention having been directed to the aforementioned errors by the State Engineer in open Court with a request that such errors be corrected, and it appearing to the Court that no further objections or exceptions have been filed to the Findings and Order of Determination as filed herein, and the Court having duly considered the matter,

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 findings and order of determination of this Court as herein amended, modified, and changed, as follows:

1.

That paragraph 17 beginning at page 35 of the State Engineer's Findings and Order of Determination be changed to read as follows:

"in May, 1914, and that said stipulation and permit was without prejudice to the priority acquired by diversion and use of said Wood River waters since said date of May 1914, and this claimant asks at this time that said date be awarded as the priority to said Melhase ditch for said right to be given it out of Wood River in lieu of said adjudicated Anna Creek rights in order that the stipulation may become effective whereby said Melhase users have agreed to convey their said Anna Creek adjudicated rights, conditioned as aforesaid.

"Some of the Melhase Ditch users have water rights out of Anna Creek other than through the Melhase Ditch and it is not intended by anything that is said in this claim or Exhibit or in the stipulation between the Melhase users and this claimant and the Fort Klamath Meadows Company and the Meadows Drainage District, referred to above, to affect or pertain in any manner to said rights to Anna Creek water out of the Ditches, other than the Melhase Ditch, but this

claim, Exhibit and Stipulation, when referring to rights in Anna Creek, conditionally agreed to be given up for a right in Wood River when such right is permanently adjudicated to the Melhase users, refers only to the Anna Creek rights adjudicated through the Melhase Ditch by the State Water Board, April 14, 1915, which adjudication was thereafter confirmed by the Circuit Court of the State of Oregon for Klamath County."

"It appearing that the decree entered in the adjudication of the rights to the use of the waters from Anna Creek provided for a change in diversion by the water users through the Melhase Ditch from Anna Creek to Wood River and that such change would benefit the water users on both streams and commit no apparent injury to any of such water users, the above stipulation will be adopted and made a part of these findings and govern the rights of the parties thereto with the following exception and modification:

1. The provisions of Paragraph 8 of the above stipulation with reference to the second paragraph thereof, wherein it would impose upon the parties of the second part to execute a deed conveying to the State of Oregon all of their rights to the use of water from Anna Creek through the Melhase Ditch in trust for those water users having adjudicated rights out of said Anna Creek will be disregarded. The State Engineer, upon entry of final decree by the Circuit court or decree upon mandate if appeals are taken to the Supreme Court affecting the rights of the parties to this stipulation, shall cause to be cancelled on his records of water rights any water right certificate issued to the parties of the second part entitling said parties to the use of water from Anna Creek through the Melhase Ditch and that the rights of said parties to the use of water shall be governed by the Water Right Certificate issued in accordance with these findings. The State Engineer, upon cancelling any such water right certificate, shall notify the County Clerk of Klamath County of such cancellation and upon such notice the County Clerk shall cancel such water right certificate appearing of record in his custody as directed by the State Engineer in such notice. When such cancellation shall be completed the water rights represented by the certificate cancelled will revert to the water users from Anna Creek except those diverting water through the Melhase Ditch, in order of priority, but nothing herein shall be construed whereas to increase the quantity of water such users are entitled to under their respective dates of priority."

2.

The rights of the individual water users from the Melhase Ditch shall be tabulated as follows:

In lieu of the right appearing under the name of James Pelton, Proof No. 52 of the State Engineer's Findings and Order of Determination, the rights of the individual water users from the Melhase Ditch shall be tabulated as follows:

2.

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
Christine B. Beckley <i>440-17th St. Astoria, Ore. 10930</i>	May, 1914	12.87	851	Irrigation, stock and domestic.	Melhase extension and Melhase Ditch.	Wood River	Klamath County, Oregon. 40 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ 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 NW $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 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 $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 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 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33, T. 33 S, R. 7 $\frac{1}{2}$ E.W.M. 40 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 32, T. 33 S. R. 7 $\frac{1}{2}$ E.W.M. 40 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 4 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 7 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 4, T. 34 S. R. 7 $\frac{1}{2}$ E.W.M. (being portions of Lots 1, 2, 3 and 4 of Sec. 4, T. 34 S. R. 7 $\frac{1}{2}$ E.W.M.
S. C. Miller <i>Wood, Ore. 10931</i>	May, 1914	4.85	320	Irrigation, stock and domestic.	Melhase Extension and Melhase Ditch.	Wood River	40 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 40 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 $\frac{1}{4}$ 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 28, T. 33 S. R. 7 $\frac{1}{2}$ E.W.M.
J. P. McAuliffe and Nora McAuliffe <i>Fort Klamath, Ore. 10932</i>	May, 1914	6.69	442	Irrigation, stock and domestic.	Melhase Extension and Melhase Ditch.	Wood River	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 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 28, T. 33 S. R. 7 $\frac{1}{2}$ E.W.M. 40 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ (Being Lots 1 and 7, Sec. 27) 40 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ (Being Lot 2, Sec. 27) 40 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ (Being Lots 3 and 4, Sec. 27) 2 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 27, T. 33 S., R 7 $\frac{1}{2}$ 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
Frank S. Miller <i>700 Klamath Ave. 10933</i>	May, 1914	4.25	280	Irrigation, stock and domestic	Melhase Extension and Melhase Ditch	Wood River	<p>Klamath County, Oregon</p> <p>40 acres in SW$\frac{1}{4}$NE$\frac{1}{4}$ 40 acres in NW$\frac{1}{4}$SE$\frac{1}{4}$ 40 acres in NE$\frac{1}{4}$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. 33 S. R. 7$\frac{1}{2}$ E.W.M.</p> <p>40 acres in SW$\frac{1}{4}$SW$\frac{1}{4}$ 40 acres in NW$\frac{1}{4}$SW$\frac{1}{4}$ Section 22, T. 33 S. R. 7$\frac{1}{2}$ E.W.M.</p>
L. C. Sisemore <i>700 Klamath Ave. 934</i>	May, 1914	1.05	68	Irrigation, stock and domestic	Melhase Extension and Melhase Ditch	Wood River	<p>28 acres in NE$\frac{1}{4}$NE$\frac{1}{4}$ 40 acres in SE$\frac{1}{4}$NE$\frac{1}{4}$ Section 21, T. 33 S. R. 7$\frac{1}{2}$ E.W.M.</p>
L. C. Sisemore	May, 1914	.28	13.3	Irrigation, stock and domestic	Melhase Extension and Melhase Ditch	Wood River	<p>13.3 acres in NW$\frac{1}{4}$NE$\frac{1}{4}$ Section 21, T. 33 S. R. 7$\frac{1}{2}$ E.W.M.</p>

In lieu of the note appearing under the name of James T. Dixon Proof No. 11, page 45, of the State Engineer's Findings and Order of Determination, the same shall be changed to read as follows:

"(NOTE: Rights acquired under State Engineer's Permits Nos. 8029 and 8028.)

(NOTE: See Findings, Paragraph 11, Page 9, Contest No. 1)
Also Findings, Paragraph 13, Page 10, Contest No. 3)
and Findings, Paragraph 14, Contest No. 4.)"

DONE and dated at Klamath Falls, Oregon, this 5th day of October, 1932.

W. M. DUNCAN
JUDGE.

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

I, C. R. DeLap, County Clerk and Ex-officio Clerk of the Circuit Court, do hereby certify that the foregoing copy of DECREE in the Matter of the Determination of the Relative Rights to the Use of the Waters of Wood River, Crane Creek, Seven-Mile Creek and Four-Mile Creek, tributaries of Agency Lake, has been by me compared with the original thereof now of record in my office, and that the same is a full, true and correct transcript therefrom and of the whole of such original, as the same appears of record in my office and in my custody.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this, the 10th day of October, 1932.

C. R. DeLap
County Clerk.
By Loyd K. DeLap
Deputy