

BEFORE THE STATE ENGINEER OF THE STATE OF OREGON

Douglas County

IN THE MATTER OF THE DETERMINATION
OF THE RELATIVE RIGHTS TO THE USE
OF THE WATERS OF ROBERTS CREEK AND
ITS TRIBUTARIES, INCLUDING COOPER
SPRING, A TRIBUTARY OF THE SOUTH
UMPQUA RIVER.

FINDINGS OF FACT
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 have been taken in the above-entitled proceeding, 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 OF FACT AND ORDER OF DETERMINATION

1.

That on the 17th day of January, 1940, there was filed in the office of the State Engineer a certified copy of an order of the Circuit Court of the State of Oregon dated December 19, 1939, in the cause of Roberts Creek Water District, a public corporation, Plaintiff, vs. Alma Hatfield and The Federal Land Bank of Spokane, Defendants, pursuant to the laws of the State of Oregon directing that said cause be transferred to the State Engineer of the State of Oregon for the determination of all rights to the use of the waters of Roberts Creek and its tributaries, including Cooper Spring, in Douglas County, Oregon. That the State Engineer thereupon fixed a time for making the necessary surveys and examinations and the beginning and taking of such testimony as would enable him to determine the rights of the various claimants to the use of the waters from said stream as provided by law.

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 stream and its tributaries, including Cooper Spring, and the ditches diverting water therefrom, and said notice was published in two issues of the Roseburg News-Review, a newspaper published daily at Roseburg, Douglas County, Oregon, and of general circulation in said county; said two issues being January 19 and January 26, 1940, the date of the last publication being more than ten days prior to the date fixed for the measurements of said stream by the State Engineer, as provided by law.

3.

That duly qualified assistants of the State Engineer did proceed, in accordance with the notice described in the preceding paragraph, to make examinations, surveys and measurements of said stream and its 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. And the State Engineer did cause to be prepared a set of maps or plats, showing with substantial accuracy the course of said stream and its 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 stream and its tributaries; that said notice was published in two issues of the Roseburg News-Review, a daily newspaper published at Roseburg, Douglas County, Oregon, and of general circulation in said county; said two issues being those of March 20 and March 27, 1940, 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 stream, and to each person, firm, or corporation owning or being in possession of lands bordering on or having access to said stream or its tributaries, in so far 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 stream and its tributaries. That said notice was mailed at least thirty 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 were fixed as follows, to-wit:

On Tuesday, April 30, 1940, in the Circuit Court Room of the County Court House at Roseburg, Oregon;

And for a period of 10 days, beginning with Wednesday, May 1, and ending with Friday, May 10, 1940, at the office of the State Engineer in the State Office Building, Salem, Oregon.

That within said time claims to the use of the waters of said stream and its tributaries, including Cooper Spring, were filed by the following parties, to-wit:

Berdine, William
Route 1
Roseburg, Oregon

Cooper, P. E.
Route 1
Roseburg, Oregon

French, D. P.
Route 1, Box 104
Roseburg, Oregon

Hamilton, W. S.
500 Cass Street
Roseburg, Oregon

Hatfield, Alma
Route 1
Roseburg, Oregon

Hodgson, J. M.
Hodgson, Verrelle
Route 1, Box G8
Roseburg, Oregon

Kruse, H. E.
Kruse, L. C.
Route 1, Box 103
Roseburg, Oregon

McGhehey, D. C.
Route 1, Box 95
Roseburg, Oregon

McLaughlin, F. B.
Route 1
Monmouth, Oregon

Melton, Anna
Route 1
Roseburg, Oregon

Miller, Loren
Dillard (Douglas County)
Oregon

Rausch, Ray
Rausch, Edna G.
Route 1
Roseburg, Oregon

Roberts Creek Water District
By John E. Pinkerton, President
Route 1
Roseburg, Oregon

Schaeffer, Osmond
Route 1
Roseburg, Oregon

Thomas, George J.
Thomas, Jessie K.
Route 1, Box 102
Roseburg, Oregon

Thomas, Harry
Thomas, Lester
Thomas, William
Crawford, Viola
Olson, Nellie
Route 1, Box 101-A
Roseburg, Oregon

Weber, Leila V.
Weber, Claude L.
Route 1, Box 106
Roseburg, Oregon

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, Page 5, of the evidence herein, and each of them, although so notified, has failed, neglected and refused to appear herein and submit proof of a right to the use of the waters of said stream or its tributaries, if any they have or claim, and that such parties are in default, and that such default is here and now entered against them, and each of them, and said parties are hereby enjoined and inhibited from using or asserting any rights to the use of the waters of said stream, or any tributary thereof, except by, through or under the rights of the persons whose water rights are defined herein or under and by virtue of permits issued by the State Engineer:

Berdine, L. A., Route 1, Roseburg, Oregon
 Carnes, Howard, Route 1, Roseburg, Oregon
 Carnes, John, Route 1, Roseburg, Oregon
 Carnes, Olivia, Route 1, Roseburg, Oregon
 Cawfield, S. F., Route 1, Roseburg, Oregon
 Clough, Jos. O., Route 1, Roseburg, Oregon
 Creason, A., Route 1, Roseburg, Oregon
 Dodson, S. H., Route 1, Roseburg, Oregon
 Douglas National Bank, Roseburg, Oregon
 Dyer, Chas. S., Route 1, Roseburg, Oregon
 Ellenwood, Alvin, Route 1, Roseburg, Oregon
 Ellenwood, Maraquella, Route 1, Roseburg, Oregon
 Ellison, Frank, Route 1, Roseburg, Oregon
 Fischer, Fred, R. F. D. (Edenbower), Roseburg, Oregon
 Green, M. B., c/o Roseburg National Farm Association,
 First National Bank Building, Roseburg, Oregon
 Groves, C. W., 112 Brockway Street, Roseburg, Oregon
 Harrington, Regina, Portland Hotel, Portland, Oregon
 Home Owners Loan Corporation, Roseburg, Oregon
 Kohlhausen, George, 232 S. Jackson Street, Roseburg, Oregon
 Kruse, E. A., Route 1, Roseburg, Oregon
 Kruse, H. D., Route 1, Roseburg, Oregon
 Lander, John B., Route 1, Roseburg, Oregon
 McLaughlin, B. F., Monmouth, Oregon
 McNary, W. H., Route 1, Roseburg, Oregon
 Marks, Herman, Route 1, Roseburg, Oregon
 Miller, S. C., Dillard (Douglas County), Oregon
 Mulkey, Sara E., Route 1, Roseburg, Oregon
 Nash, P. M., Route 1, Roseburg, Oregon
 Oregon Portland Cement Company, 1106 Wilcox Building
 Portland, Oregon
 Pinkerton, J. E., Route 1, Roseburg, Oregon
 Porter, Esther, Route 1, Roseburg, Oregon
 Porter, Joseph, Route 1, Roseburg, Oregon
 Porter, William, Route 1, Roseburg, Oregon
 Preston, R. L., Route 1, Roseburg, Oregon
 Prosch, Adella M., Route 1, Roseburg, Oregon
 Prosch, W. R., Route 1, Roseburg, Oregon
 Rice, A. E. and A. B., c/o Rice Bros.,
 Dillard (Douglas County), Oregon
 Spain, Paul, Route 1, Roseburg, Oregon
 Travelers Insurance Company, 419 S. W. 6th Avenue,
 Portland, Oregon
 Vogt, Homer, Route 1, Roseburg, Oregon
 Ward, E. A., Route 1, Roseburg, Oregon
 Warner, F. A., Roseburg, Oregon
 Weaver, C. C., 1521 - 53rd Avenue, Oakland, California
 Weaver, D. C., Route 1, Roseburg, Oregon
 Whitsett, S. D., Route 1, Roseburg, Oregon
 Wilder & Agee, 234 N. Jackson Street, Roseburg, Oregon

8.

That after the completion of the taking of such statements and proofs of claim the State Engineer did, on the 16th day of May, 1940, give notice by registered mail to each of the various claimants to the use of the waters of said stream and its tributaries, that at the times and places named in said notice, to-wit:

On Monday, May 27, 1940, in the Circuit Court Room of the County Court House at Roseburg, Oregon.

And from Wednesday, May 29, to Monday, June 10, 1940, inclusive, (Saturday afternoons and Sundays and legal holidays excepted) at the office of the State Engineer at 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 Douglas.

9.

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

CONTEST NO. 1

Roberts Creek Water District,
a public corporation,

Contestant

v.

Alma Hatfield,

Contestee

CONTEST NO. 2

Roberts Creek Water District,
a public corporation,

Contestant

v.

D. C. McGhehey, Anna Melton,
William Berdine, D. P. French,
Walter S. Hamilton, J. M. Hodgson
and Verrelle Hodgson, Osmond
Schaeffer, Leila V. Weber and
C. L. Weber,

Contestees

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 27th day of June, 1940, 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. That upon the date as fixed for the hearing of said contests, the taking of testimony was commenced before a duly authorized assistant and continued until each of said contests was fully heard, settled by stipulation, or otherwise disposed of.

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

Roberts Creek is a perennial stream arising at Cooper Spring which is located near the center of the SW $\frac{1}{4}$, Section 23, Township 28 South, Range 5 West, W. M., in Douglas County, Oregon. From this source it flows in a general westerly direction until it reaches approximately the center of the N $\frac{1}{2}$ of Section 24, Township 28 South, Range 6 West, W. M.; thence it flows in a general northerly direction emptying into the South Umpqua River within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, Township 28 South, Range 6 West, W. M.

Many flash or periodic streams and draws unite with Roberts Creek during the rainy season, but during the period from May through September their contribution to the flow of main Roberts Creek is negligible. This leaves Cooper Spring as the principal and at times sole source of any potential year-round flow in the main stream of Roberts Creek.

It would appear from the evidence submitted in this matter and from the testimony taken at the hearing on contests that the flow of Roberts Creek from Cooper Spring has for many years been diverted from its apparent natural bed by means of a ditch running in a northwesterly direction north of and parallel to said natural bed. It further appears that during the period from May through September the full flow of Roberts Creek passes through said ditch and if allowed to continue without further diversion for some consuming use would join with a small creek in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 22, Township 28 South, Range 5 West, W. M., which in turn joins with the main and natural bed of Roberts Creek in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 21, Township 28 South, Range 5 West, W. M. During the remainder of the year, namely, from September to May, which is a period of marked precipitation, the flow of Cooper Spring passes through said apparent natural channel of Roberts Creek which is augmented by a lower spring known as "the spring on the Herkiss place". Said lower spring, however, has but little flow during the comparatively arid months from May through September, and it is doubtful whether it contributes to the flow of lower stretches of the main Roberts Creek during this latter period.

During the aforementioned dry season or from May through September, there is ordinarily no perceptible flow in Roberts Creek below the property of Alma Hatfield. There exists, however, holes or depressions which contain water throughout the year. Testimony taken at the hearing on contests disclosed that these holes maintain a fairly constant water level although they are used for the purpose of watering stock. From this fact, it may be deduced that Roberts Creek does have a summer flow although such flow may be hidden for considerable distances by surface gravel, and for this reason and for the purposes of these findings it will be considered a perennial stream.

13.

At the time of the hearing on contests filed in the above-entitled matter, certain stipulations were entered into between the parties contestant and contestee relative to the title to and ownership of the lands described in the statements and proofs of claim filed by said parties. It was further stipulated that the testimony given in one contest should apply where pertinent to the other.

14.

Contest No. 1

Roberts Creek Water District,
a public corporation,

Contestant

v.

Alma Hatfield,

Contestee

Contestee, Alma Hatfield, filed Statement and Proof of Claim No. 5, wherein she claims a right with a priority of 1856 to the use of all of the waters of Cooper Spring and the unnamed tributary to Roberts Creek formed thereby for domestic and stock purposes and for the irrigation of 17.3 acres located as follows: 0.6 acre in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 8.5 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, and 8.2 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 22, Township 28 South, Range 5 West, W. M. Said location of the lands claimed to be irrigated appears to have been based upon the survey made under the direction of the State Engineer in February, 1940.

Contestee in her proof further states: "Not all of the lands were irrigated each year, but at least 15 or 16 acres of the land shown on the plat as now irrigated and the areas marked 'pasture', 'dry', and 'orchard' were irrigated each year, the water being diverted from one place to another depending on the growing crop, and all of the water from said Cooper Spring and the stream formed thereby was used each year to the limit thereof by irrigation, domestic purposes and livestock." The foregoing statement is substantiated by the witnesses testifying on behalf of the contestee and appears to be reliable as to creditability notwithstanding the

testimony given in support of the contentions of the contestant. It, therefore, appears that the average area in the NW $\frac{1}{4}$ of Section 22, Township 28 South, Range 5 West, W. M., which has been irrigated each year is 15 acres.

In determining the date of priority for irrigation, the direct testimony in support of the contestee's claim does not antedate 1871, at which time it appears a garden was irrigated. Thus the date of priority for the irrigation of the 15 acres heretofore referred to would appear to be 1871.

Testimony was offered concerning contestee's use of water from Cooper Spring for stock and domestic purposes, the former being directly from the ditch and the latter by means of diversion into a well which during the dry season served as a means of filtering and settling such domestic water. The first use of this water for said purposes by contestee's predecessors may reasonably be said to have occurred at the time of the settlement of the land, or at the time of the construction of the ditch which, according to the uncontradicted statement in contestee's proof, was in the year 1856. The date of priority, therefore, for contestee's use for domestic and stock purposes would appear to be 1856.

In determining the quantity of water to which contestee should be entitled for all purposes, her claim to the use of "all of the water of Cooper Spring and unnamed tributary to Roberts Creek formed thereby" is clearly borne out by a preponderance of the testimony given in her behalf. This testimony remains substantially unrefuted by that of the contestant. Testimony was offered, however, by the State Engineer wherein it was shown that the flow of water from Cooper Spring measured on August 20, 1940, was 0.15 cubic foot per second, and one of the contestant's witnesses testified that the flow on June 14, 1940, at the spring was 0.2015 cubic foot per second. Another of contestant's witnesses found the flow of Cooper Spring on July 11 and 13 and August 2, 1938, to be 0.24 cubic foot per second, and on July 14, 1939, 0.14 cubic foot per second. With these measurements as a basis, it is clearly reasonable to conclude that during the dry season of the year the entire flow of Cooper Spring often would be necessary to answer adequately the purposes and uses of the contestee as set out in her claim. In the interest of other users, however, as well as the public interest in general, proper conservation of the waters should be made at all times. A duty of water of 0.0125 cubic foot per second per acre during the irrigation season from May 15 through and including September 15 should be placed, therefore, upon the contestee as the limitation of her right. Thus it appears that contestee should be entitled to "all of the flow of Cooper Spring and the unnamed tributary of Roberts Creek formed thereby" but that at no time should the amount diverted by contestee for all purposes exceed 0.1875 cubic foot per second measured at the point of diversion.

In contestant's Statement of Contest No. 1, it is contended that from the ten years immediately prior to the 24th day of February, 1909, contestee or her predecessors-in-interest in ownership of the NW $\frac{1}{4}$, Section 22, Township 28 South, Range 5 West, W. M., did not put to

beneficial use more than 0.025 second-foot of the waters of Cooper Spring for domestic and stock, nor were there more than two acres of land irrigated in any year thereof. As a second ground of contest, the contestant states that from the first day of January, 1920, up to and until the 29th day of July, 1937, contestee did not put to beneficial use at any time for the purposes of irrigation, domestic use, and stock more than 0.025 second-foot of the waters of Cooper Spring and has never used during said period said water for the irrigation of more than two acres. Upon these two grounds, contestant contends that contestee has lost any rights she may have had to the use of the waters of Cooper Spring over and above said 0.025 second-foot. It appears that the above-stated grounds of the contestant's contest are not adequately substantiated by the testimony given at the hearing on contests and are, therefore, disregarded as a basis for the Findings of Fact and Order of Determination of the State Engineer made herein.

From the foregoing consideration of contestee's claim, the evidence and testimony in support thereof, together with contestant's contest and the evidence and testimony relative thereto, the contestee is allowed the right to the use of all of the waters of Cooper Spring and Roberts Creek formed thereby not exceeding 0.0125 cubic foot per second per acre or a total maximum of 0.1875 cubic foot per second during the irrigation season from May 15 through and including September 15, with a priority of 1871, through Hatfield Ditch, for the irrigation of 15 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 22, Township 28 South, Range 5 West, W. M., in Douglas County, Oregon.

Contestee is also allowed a right to the use of 0.01 cubic foot per second of water from Cooper Spring and Roberts Creek formed thereby, through Hatfield Ditch, for domestic and stock purposes, in the NW $\frac{1}{4}$, Section 22, Township 28 South, Range 5 West, W. M., with a date of priority of 1856. However, during the irrigation season, said domestic and stock right shall be included in said 0.1875 cubic foot per second allowed contestee for irrigation and not in addition thereto.

(Note: For the reasons hereinafter set forth, contestee's rights are deemed superior to all other rights to the use of waters of Roberts Creek and its tributaries, including Cooper Spring, to the extent of 0.1875 cubic foot per second during the irrigation season.)

Contest No. 2

Roberts Creek Water District,
a public corporation,

Contestant

v.

D. C. McGhehey, Anna Melton
William Berdine, D. P. French,
Walter S. Hamilton, J. M. Hodgson
and Verrelle Hodgson, Osmond
Schaeffer, Leila V. Weber and
C. L. Weber,

Contestees

The above-named contestees filed statements and proofs of claim in the above-entitled matter wherein they assert vested rights to the use of the waters of Roberts Creek and its tributaries, including Cooper Spring, for domestic and stock use or stock use under various dates of priority. Several of said contestees, though not all, claim in their proofs a sufficient quantity of water for the watering of a specific number of stock. Other claims are for determinable amounts according to the actual use as shown by the testimony taken at the time of the hearing on contests. In certain instances, the proofs of claim show that the use claimed has continued since some unspecified time prior to a certain date. This, too, has been remedied by the evidence and testimony taken at the time of the hearing on contests. In all instances, contestees may be said to have claimed a right to a determinable quantity of water for a specific beneficial use under a certain date of priority and shall, therefore, be treated in these findings as appropriators under the established doctrine of appropriation for beneficial use as it exists in this state.

D. C. McGHEHEY

Contestee, D. C. McGhehey, filed Statement and Proof of Claim No. 8, wherein he claims a right with a date of priority prior to 1909 to the use of sufficient water directly from Roberts Creek for the watering of 2 head of horses and 2 head of cows, such right to be appurtenant to the following-described lands: "Glengary Fruit Lands, Lot 10 less school, Block 1; Lot 11, Blk 1 Also, Lot 12 less rd, Blk 1; Lot 9 less 50 ft. strip, Blk 2; Lot 10 less 0.61 acre, Block 2; all being situated in Township 28 South of Range 6 West of the Willamette Meridian in Douglas County, Oregon;".

It appears from the evidence and testimony taken at the hearing on contests that the above-described lands have been since the time of their settlement and still are used for the purpose of raising stock and that said stock has been watered during this entire period from Roberts Creek. Therefore, contestee is allowed a right with a date of priority of 1880 to the use of such quantity of water directly from Roberts Creek as is necessary for the watering of 2 head of horses and 2 head of cattle, such right to be appurtenant to the aforesaid lands described in the contestee's statement and proof of claim.

ANNA MELTON

Contestee, Anna Melton, filed Statement and Proof of Claim No. 10, wherein she claims a right with a priority of 1863 to the use of sufficient water directly from Roberts Creek for domestic use and for an unstated number of stock, such right to be appurtenant to the following-described lands: "The West $\frac{1}{2}$ of SE $\frac{1}{4}$ of Section 17, N $\frac{1}{2}$ of N $\frac{1}{2}$ of Section 20 NW $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 21, Also the Donation Claim of Wm Hutson number 42 in Sections 17, 18 and 19, all in Township 28 South, Range 5 West W. M."

It appears from the evidence and testimony taken at the hearing on contests that the above-described lands have been since the time of their settlement and still are used for the purpose of raising stock and that said stock has been watered during this entire period directly from Roberts Creek. It further appears that contestee has kept upon said lands some 40 head of cattle, 200 head of sheep, 2 head of horses, and goats. Therefore, contestee is allowed a right with a date of priority of 1863 to the use of such quantity of water directly from Roberts Creek as is necessary for the watering of 40 head of cattle, 200 head of sheep, 2 head of horses, and goats, such right to be appurtenant to the aforesaid lands described in the contestee's statement and proof of claim. Contestee's claim to the use of the waters of Roberts Creek for domestic purposes is not substantiated by said evidence and testimony taken at the hearing on contests and no right will herein be allowed therefor.

WILLIAM BERDINE

Contestee, William Berdine, filed Statement and Proof of Claim No. 1, wherein he claims a right with a date of priority of 1880 to the use of sufficient water directly from Roberts Creek for the watering of from 10 to 20 head of stock, such right to be appurtenant to the following-described lands: "Lot 8 in Block 2 in Glengary Fruit Lands, excepting therefrom the right of way conveyed to Oswego, Dallas and Roseburg Railroad Company by deed recorded in Vol. 68 page 462 of the Deed Records for Douglas County, Oregon; being situate in Douglas County, State of Oregon."

It appears from the evidence and testimony taken at the hearing on contests that the above-described lands have been since the time of their settlement and still are used for the purpose of raising stock and that said stock has been watered during this entire period directly from Roberts Creek. It further appears that contestee has kept upon said lands an average of 10 head of cattle. Therefore, contestee is allowed a right with a priority of 1880 to the use of such quantity of water directly from Roberts Creek as is necessary for the watering of 10 head of cattle, such right to be appurtenant to the aforesaid lands described in contestee's statement and proof of claim.

D. P. FRENCH

Contestee, D. P. French, filed Statement and Proof of Claim No. 3, wherein he claims a right with a date of priority of "over 50 years ago" to the use of sufficient water directly from Roberts Creek for the watering of 15 head of cattle, 4 head of horses, 1,000 turkeys, and hogs, such right to be appurtenant to the following-described lands: "East half of the North-east quarter; Northeast quarter of Southeast quarter; $N\frac{1}{2}$ $SE\frac{1}{4}$ $SE\frac{1}{4}$, Section 17, Township 28 South of Range 5 West of the Willamette Meridian in Douglas County, Oregon;".

It appears from the evidence and testimony taken at the hearing on contests that the above-described lands have been since 1879, the date of their settlement, and still are used for the purpose of raising stock and that said stock has been watered during this entire period directly from Roberts Creek. Therefore, contestee is allowed a right with a date of priority of 1879 to the use of such quantity of water directly from Roberts Creek as is necessary for the watering of 15 head of cattle, 4 head of horses, 1,000 turkeys, and hogs, such right to be appurtenant to the aforesaid lands described in the contestee's statement and proof of claim.

WALTER S. HAMILTON

Contestee, Walter S. Hamilton, filed Statement and Proof of Claim No. 4, wherein he claims a right with a priority of "50 years ago" to the use of sufficient water directly from Roberts Creek for the watering of an unstated number of stock and for domestic use, such right to be appurtenant to the following-described lands: " $S\frac{1}{2}$ of claim 45 in Secs 11 and 14 T 28 (S.) R. 6 W. (W. M.) Lots 1, 2, 3-4, $SW\frac{1}{4}$ $NW\frac{1}{4}$ Sec 14, T 28 (S.) R. 6 W (W. M.) Claim 44 in Secs 13 and 14 T 28 (S.) R. 6 W. (W. M.)".

By stipulation between all parties to this contest, evidence and testimony were taken by way of deposition on behalf of this contestee after the adjournment of the regular hearing on contests. From said evidence and testimony it appears that contestee has been the owner and/or owner in part of the above-described lands from the year 1888 to the present date and that during this period said lands have been used for the purpose of raising stock which has at all times been watered directly from Roberts Creek. Therefore, contestee is allowed a right with a date of priority of 1888 to the use of such quantity of water directly from Roberts Creek as is necessary for the watering of 350 head of sheep, such right to be appurtenant to the aforesaid lands described in the contestee's statement and proof of claim. Contestee's claim to the right to his use of the waters of Roberts Creek for domestic purposes is not substantiated by said evidence and testimony taken upon special deposition and no right will herein be allowed therefor.

J. M. HODGSON AND VERRELLE HODGSON

Contestees, J. M. Hodgson and Verrelle Hodgson, filed Statement and Proof of Claim No. 6, wherein they claim a right with a date of priority of 1888 to the use of sufficient water directly from Roberts Creek for the watering of 4 head of cows, 2 head of horses, 2 head of hogs, and chickens and for domestic use, such right to be appurtenant to the following-described lands: "Lot 7, Block 2, Glengary Fruit Lands, in (Section 24) Township 28 South of Range 6 West of the Willamette Meridian, Douglas County, Oregon".

It appears from the evidence and testimony taken at the hearing on contests that the above-described lands have been since the time of their settlement and still are used for the purpose of raising stock and that stock has been watered during this entire period directly from Roberts Creek. Therefore, contestees are allowed a right with a date of priority of 1888 to the use of such quantity of water directly from Roberts Creek as is necessary for the watering of 4 head of cows, 2 head of horses, 2 head of hogs, and chickens, such right to be appurtenant to the aforesaid lands described in the contestees' statement and proof of claim. Contestees' claim to the use of the waters of Roberts Creek for domestic purposes is not substantiated by said evidence and testimony taken at the hearing on contests and no right will be allowed herein therefor.

OSMOND SCHAEFFER

Contestee, Osmond Schaeffer, filed Statement and Proof of Claim No. 14, wherein he claims a right with a priority of "30 years *** prior to 1909" to the use of sufficient water directly from Roberts Creek for the watering of an unstated number of stock, such right to be appurtenant to the following-described lands: "Township 28 (South), Range 5 (West, W. M.), Glengary Fruit Lands, Lots 17-18-19-20-21 Block 1; 2 acres of Lot 15, Block 2."

It appears from the evidence and testimony taken at the hearing on contests that the above-described lands have been since the time of their settlement and still are used for the purpose of raising stock and that said stock has been watered during this entire period directly from Roberts Creek. It further appears that contestee has kept upon said lands 100 head of sheep, 3 head of horses, and 10 head of cattle. Therefore, contestee is allowed a right with a priority of 1880 to the use of such quantity of water directly from Roberts Creek as is necessary for the watering of 100 head of sheep, 3 head of horses, and 10 head of cattle, such right to be appurtenant to the aforesaid lands described in contestee's statement and proof of claim.

LEILA V. WEBER AND C. L. WEBER

Contestees, Leila V. Weber and C. L. Weber, filed Statement and Proof of Claim No. 16, wherein they claim a right with a priority of 1866 to the use of sufficient water directly from Roberts Creek for the watering of 25 head of stock and 50 head of sheep, such right to be appurtenant to the following-described lands: "West half of Northeast Quarter and the East Half of the Northwest Quarter of Section 17, Township 28 South, Range 5 West, of Willamette Meridian All in Douglas County, Oregon."

It appears from the evidence and testimony taken at the time of the hearing on contests that the above-described lands have been since 1869, the date of their settlement, and still are used for the purpose of raising stock and that said stock has been watered during this entire period directly from Roberts Creek. Therefore, contestees are allowed a right with a priority of 1869 to the use of such quantity of water directly from Roberts Creek as is necessary for the watering of 25 head of stock (horses or cattle) and 50 head of sheep, such right to be appurtenant to the aforesaid lands described in the contestees' statement and proof of claim.

In contestant's Statement of Contest No. 2, it is contended that the above-named contestees have lost their rights to the use of the waters of Cooper Spring during the dry portion of the year because of non-use. As a second and third ground of contest, it is contended that for ten years prior to the issuance of State Engineer's Permit No. 12655, the waters of said Cooper Spring have been used adversely by one Alma Hatfield and that contestees' rights of action to have or use waters of said Cooper Spring accrued more than ten years before issuance of said Permit No. 12655. Contestant's fourth and last ground is that if contestant be awarded the right to appropriate the waters of Cooper Spring in accordance with its permit there will be by reason of overflow adequate water in Roberts Creek for domestic use and the use of stock by all of the contestees herein and more water during the dry season of the year than has flowed in Roberts Creek through the premises of said contestees and their predecessors-in-interest during the dry season of the ten years immediately preceding the issuance of contestant's Permit No. 12655.

In reviewing the above-outlined grounds of the contestant's contest, it appears that the fourth and last ground may be disposed of as argumentative and not material or relevant to a determination by the State Engineer of the relative rights to the use of the waters of Roberts Creek and its tributaries, including Cooper Spring. The first, second, and third grounds are in effect a plea on behalf of said Alma Hatfield to an adverse use and a claim of abandonment on the part of the contestees herein. While it has been held that such pleas are personal and will, therefore, not be taken in these findings as a basis for the order of

determination, it does suggest a principle upon which said findings and order may be made and which has been borne out by the preponderance of the evidence and the testimony taken in this contest. In short, without regard to contestant's contentions, it does appear that said Alma Hatfield and her predecessors-in-interest have used all of the waters of said Cooper Spring for irrigation, domestic, and stock purposes adversely to all other users on the stream since the year 1871 and that she is, therefore, entitled to a right which is superior to all other rights on said stream. In the public interest, a limitation has been placed upon the amount of water allowed said Alma Hatfield, namely, 0.1875 cubic foot per second for the irrigation of 15 acres and domestic and stock use. Any excess of that amount shall be allowed to return to Roberts Creek and flow down the natural channel thereof for the benefit of the lower users. Said lower users are not deemed to have abandoned such excess flow for it is shown in the testimony taken at the hearing on contests that any excess water not used by Alma Hatfield or her predecessors-in-interest has been used by said lower users and that the extent of the adverse use of said Alma Hatfield and her predecessors-in-interest is to not more than said 0.1875 cubic foot per second of water.

16.

CLAIM OF P. E. COOPER

Claimant, P. E. Cooper, filed Statement and Proof of Claim No. 2, wherein he claims a right with a priority of 1895 to the use of sufficient water from Cooper Spring, a tributary to Roberts Creek, and Roberts Creek for the purpose of watering 100 head of sheep and 10 head of cattle, such right to be appurtenant to the following-described lands: "S $\frac{1}{2}$ of S.W. $\frac{1}{2}$ ($\frac{1}{4}$) Sec. 23, T. 28 (S. R.) 5 W. (W. M.) also W $\frac{1}{2}$ N.W. $\frac{1}{4}$ Sec. 26 T. 28 (S. R.) 5 W. (W. M.)".

No contest has been made to the above claim; therefore, claimant is allowed a right with a priority of 1895 to the use of such quantity of water from Cooper Spring and Roberts Creek as is necessary for the watering of 100 head of sheep and 10 head of cattle, such right to be appurtenant to the aforesaid lands described in claimant's statement and proof of claim.

17.

CLAIM OF H. E. KRUSE AND L. C. KRUSE

Claimants, H. E. Kruse and L. C. Kruse, filed Statement and Proof of Claim No. 7, wherein they claim a right with a priority of "over 50 years ago" to the use of sufficient water directly from an unnamed tributary to Roberts Creek for domestic use and for the purpose of watering from 100 to 350 head of sheep, such right to be appurtenant to the following-described lands: "West half of the Southwest quarter, and the Southeast quarter of Sections 15 and 16 in Township 28, South of Range 5 West of the Willamette Meridian in Douglas County, Oregon;".

No contest has been made to the above claim; therefore, claimants are allowed a right with a priority of 1890 to the use of such quantity of water directly from an unnamed tributary to Roberts Creek as is necessary for domestic use and for the watering of 350 head of sheep, such right to be appurtenant to the aforesaid lands described in claimants' statement and proof of claim.

18.

CLAIM OF FRANK B. McLAUGHLIN

Claimant, Frank B. McLaughlin, filed Statement and Proof of Claim No. 9, wherein he claims a right with a date of priority of 1889 to the use of the undiminished flow of unnamed tributaries of Roberts Creek for domestic purposes and for an unstated number of stock, such right to be appurtenant to the following-described lands: "The southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ and the southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 14, Township 28 South of Range 5 West, Willamette Meridian".

No contest has been made to the above claim, yet it appears that claimant's claim to an "undiminished flow" is not tenable with the doctrine of prior appropriation for beneficial use, under which doctrine the claim appears to be made in view of the fact that a definite date of priority and specific uses are set forth therein. Because of the lack of definiteness in claimant's proof as to the quantity of water claimed, the duty of water hereby is fixed to be 0.01 cubic foot per second for said domestic and stock use. Therefore, claimant is allowed a right with a date of priority of 1889 to the use of 0.01 cubic foot per second of water directly from unnamed tributaries of Roberts Creek, for domestic and stock use, such right to be appurtenant to the aforesaid lands described in claimant's statement and proof of claim.

19.

CLAIM OF LOREN MILLER

Claimant, Loren Miller, filed Statement and Proof of Claim No. 11, wherein he claims a right with a date of priority of 1852 to the use of water directly from Smith Creek, a tributary of Roberts Creek, for domestic purposes and for the watering of an unstated number of stock, such right to be appurtenant to the following-described lands: "Beginning at the Northwest corner of Donation Land Claim No. 43 of Charles W Smith in Sections 11, 12, 13 and 14 Township No. 28 South Range No. 6 West W M, Oregon, thence North $89^{\circ} 55'$ East 89.20 chains, thence North $37^{\circ} 43'$ East 16.36 chains to a point 7.06 chains North of the corner to Sections 6 and 7 in Township 28 South Range 5 West, thence North $37^{\circ} 43'$ East 16.36 chains to a point on the North line of the Donation Land Claim of Watson R Mynatt in Township 28 South Range 5 West (said point being 10 chains East of the Township line), thence North 45° East 28.28 chains to a point 10 chains West of the center of Section 6 in Township 28 South Range 5 West thence East 10 chains, thence North 40 chains more or less to the Township line, thence East along said Township line 60 chains,

thence South 120 chains to the line running East and West through the center of Section 8, thence West along said line 100 chains to the quarter section corner between Sections 7 and 12 in Township 28 South Ranges 5 and 6 West, thence South 5 chains, thence South 89° 55' West 99.20 chains more or less to the West boundary of Donation Land Claim No 43 in Township 28 South Range 6 West, thence North 38.92 chains to the place of beginning containing 1383.73 acres more or less, save and except therefrom all deeded roadways."

No contest has been made to the above claim, yet because of the indefiniteness of the quantity of water claimed it appears expedient to fix the duty of water to be allowed claimants at 0.01 cubic foot per second for domestic and stock purposes. Claimant is, therefore, allowed a right with a date of priority of 1852 to the use of 0.01 cubic foot per second of water directly from Smith Creek, a tributary of Roberts Creek, for domestic and stock use, such right to be appurtenant to the aforesaid lands described in the claimant's statement and proof of claim.

20.

CLAIM OF RAY RAUSCH AND EDNA G. RAUSCH

Claimants, Ray Rausch and Edna G. Rausch, filed Statement and Proof of Claim No. 12, wherein they claim a right with a priority "prior to 1909" to the use of sufficient water directly from an unnamed tributary of Roberts Creek for the watering of 200 head of sheep, such right to be appurtenant to the following-described lands: "Southwest quarter of the Northwest quarter, the Southeast quarter of the Northwest quarter, and the Northwest quarter of the Southwest quarter, Section 27 Township 28 South Range 5 West of the Willamette Meridian in Douglas County, Oregon;".

No contest has been made to the above claim; therefore, claimants are allowed a right with a priority of 1909 to the use of such quantity of water directly from an unnamed tributary of Roberts Creek as is necessary for the watering of 200 head of sheep, such right to be appurtenant to the aforesaid lands described in the claimants' statement and proof of claim.

21.

CLAIM OF ROBERTS CREEK WATER DISTRICT

Claimant, Roberts Creek Water District, a municipal corporation, filed Statement and Proof of Claim No. 13, wherein it claims a right with a date of priority of August 3, 1937, under State Engineer's Permit No. 12655 to the use of the waters of Cooper Spring, a tributary of Roberts Creek, through pipe lines for domestic use in the area included in the Roberts Creek Water District.

There can be no determination of claimant's right in these findings other than classifying it as inchoate and subject to all existing rights as determined herein; therefore, claimant remains in statu quo and no further findings are herein made thereon.

CLAIM OF GEORGE J. THOMAS AND JESSIE K. THOMAS, HARRY THOMAS, LESTER THOMAS, WILLIAM THOMAS, VIOLA CRAWFORD, AND NELLIE OLSON

Claimants, George J. Thomas, Jessie K. Thomas, Harry Thomas, Lester Thomas, William Thomas, Viola Crawford, and Nellie Olson, filed Statement and Proof of Claim No. 15, wherein they claim a right with a priority of "over 50 years ago" to the use of sufficient water directly from Roberts Creek for domestic use and for the watering of 20 head of cattle, 5 head of horses, 6 head of hogs, 7 head of sheep, and 1,600 turkeys, such right to be appurtenant to the following-described lands: "Northwest quarter of Sec. 16, Twp 28 S. Range 5 W W M, less 1.12 acres; also Southwest quarter of Sec. 16, Twp 28 S Range 5 W W M; also South half of the Southeast quarter of the Southeast quarter of Sec. 17, Twp. 28 S. Range 5 W W M in Douglas County, Oregon;".

No contest has been made to the above claim; therefore, claimants are allowed a right with a priority of 1890 to the use of such quantity of water directly from Roberts Creek as is necessary for domestic use and for the watering of 20 head of cattle, 5 head of horses, 6 head of hogs, 7 head of sheep, and 1,600 turkeys, such right to be appurtenant to the aforesaid lands described in claimants' statement and proof of claim.

APPURTENANCY

The rights to the use of water for any purpose hereby confirmed are appurtenant to the lands herein described, and the rights to the use of said Roberts Creek and its tributaries, including said Cooper Spring, by virtue of such rights are limited and confined to the lands described herein to the extent of said lands herein set forth, and the priorities of right herein confirmed confer no right of use of the waters of said creek and its tributaries on any lands other than those specified tracts to which such rights are herein set forth as appurtenant, and each and every person shall be and hereby is prohibited, restrained, and enjoined from diverting and using water from said creek on such other lands without lawful permits first obtained from the State Engineer.

PRIORITIES

Except as otherwise determined herein, the order of the rights of the respective appropriators of the waters of said Roberts Creek and its tributaries, including Cooper Spring, 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 creek and its tributaries when necessary for

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

25.

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 following Paragraph No. 26. Rights initiated after that date are evidenced by permits issued by the State Engineer or by final water right certificates based upon the completion of rights under such permits. Each and every appropriator holding such a permit or certificate for the use of the waters of Roberts Creek and its tributaries, including Cooper Spring, 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.

26.

Except as otherwise modified herein, the rights of the various appropriators of water from Roberts Creek and its tributaries, including Cooper Spring, 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 is 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 or to which the water is appurtenant, 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
14764 Berdine, William Route 1 Roseburg, Oregon Proof 1 (Findings, Paragraph 15, Page 11)	1880	Enough for 10 cattle		Stock	Directly from stream	Roberts Creek	Lot 8, Block 2, Glengary Fruit Lands, Section 24, T. 28 S., R. 6 W., W. M. Douglas County, Oregon
14765 Cooper, P. E. Route 1 Roseburg, Oregon Proof 2 (Findings, Paragraph 16, Page 15)	1895	Enough for 100 sheep, 10 cattle		Stock	Directly from stream	Roberts Creek and Cooper Spring	S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 23; W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 26, T. 28 S., R. 5 W., W. M. Douglas County, Oregon
14766 French, D. P. Route 1, Box 104 Roseburg, Oregon Proof 3 (Findings, Paragraph 15, Page 12)	1879	Enough for 15 cattle, 4 horses, 1,000 turkeys, hogs		Stock	Directly from stream	Roberts Creek	E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 17, T. 28 S., R. 5 W., W. M. Douglas County, Oregon
14767 Hamilton, Walter S. 500 Cass Street Roseburg, Oregon Proof 4 (Findings, Paragraph 15, Page 12)	1888	Enough for 350 sheep		Stock	Directly from stream	Roberts Creek	S $\frac{1}{2}$ D. L. C. #45 Sections 11 & 14; Lots 1, 2, 3, & 4, & SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 14; D. L. C. #44, Sections 13 & 14, T. 28 S., R. 6 W., W. M. Douglas County, Oregon
14768 52536 Hatfield, Alma Route 1 Roseburg, Oregon Proof 5 (Findings, Paragraph 14, Page 7) T-4755 Δ POU 15 $^{\circ}$ -20 $^{\circ}$ T-5430 Δ USE 03 $^{\circ}$ 20 $^{\circ}$ T-5658 Δ USE 57 $^{\circ}$ to 60 $^{\circ}$	1856	0.01		Stock and domestic	Hatfield Ditch	Cooper Spring and Roberts Creek	NW $\frac{1}{4}$ Section 22, T. 28 S., R. 5 W., W. M. Douglas County, Oregon.
	1871	All the waters of Cooper Spring not exceeding 0.1875	15	Irrigation	Hatfield Ditch	Cooper Spring and Roberts Creek	15 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, & SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 22, T. 28 S., R. 5 W., W. M. Douglas County, Oregon
(NOTE: The above-tabulated rights of Alma Hatfield are deemed prior and superior to all other rights to the use of the waters of Roberts Creek and its tributaries, including Cooper Spring, to the extent of 0.1875 c.f.s. during the irrigation season for all uses.)							
14769 Hodgson, J. M. Hodgson, Verrelle Route 1, Box G8 Roseburg, Oregon Proof 6 (Findings, Paragraph 15, Page 13)	1888	Enough for 4 cows, 2 horses, 2 hogs, chickens		Stock	Directly from stream	Roberts Creek	Lot 7, Block 2, Glengary Fruit Lands, Section 24, T. 28 S., R. 6 W., W. M. Douglas County, Oregon

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
4770 Kruse, H. E. Kruse, L. C. Route 1, Box 103 Roseburg, Oregon Proof 7 (Findings, Paragraph 17, Page 15)	1890	Enough for 350 sheep and domestic		Stock and domestic	Directly from streams	Unnamed tributaries of Roberts Creek	W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 15; SE $\frac{1}{4}$ Section 16, T. 28 S., R. 5 W., W. M.
4771 McGhehey, D. C. Route 1, Box 95 Roseburg, Oregon Proof 8 (Findings, Paragraph 15, Page 10)	1880	Enough for 2 horses, 2 cattle		Stock	Directly from stream	Roberts Creek	Lot 10, Block 1, less school; Lot 11, Block 1; Lot 12, Block 1, less road; Lot 9, Block 2, less 50 ft. strip; Lot 10, Block 2, less 0.61 acre, Glengary Fruit Lands, Sections 13 & 24, T. 28 S., R. 6 W., W. M. Douglas County, Oregon
4772 McLaughlin, Frank B. Route 1 Monmouth, Oregon Proof 9 (Findings, Paragraph 18, Page 16)	1889	0.01		Stock and domestic	Directly from stream	Unnamed tributaries of Roberts Creek	SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14, T. 28 S., R. 5 W., W. M. Douglas County, Oregon
4773 Melton, Anna Route 1 Roseburg, Oregon Proof 10 (Findings, Paragraph 15, Page 11)	1863	Enough for 40 cattle, 200 sheep, 2 horses, goats		Stock	Directly from stream	Roberts Creek	W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 17; N $\frac{1}{2}$ N $\frac{1}{2}$ Section 20; NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 21; D. L. C. #42 in Sections 17, 18, & 19, T. 28 S., R. 5 W., W. M. Douglas County, Oregon
4774 Miller, Loren Dillard (Douglas County) Oregon Proof 11 (Findings, Paragraph 19, Page 16)	1852	0.01		Stock and domestic	Directly from stream	Smith Creek, a tributary of Roberts Creek	Beginning at the NW cor. of D. L. C. #43 of Charles W. Smith in Secs. 11, 12, 13, & 14, T. 28 S., R. 6 W., W. M.; thence N 89° 55' E 89.20 chains; thence N 37° 43' E 16.36 chains to a point 7.06 chains N of the cor. to Secs. 6 & 7, T. 28 S., R. 5 W.; thence N 37° 43' E 16.36 chains to a point on the N line of D. L. C. of Watson R. Mymatt in T. 28 S., R. 5 W. (said point being 10 chains E of the township line); thence N 45° E 28.28 chains to a point 10 chains W of the center of Sec. 6, T. 28 S., R. 5 W.; thence E 10 chains; thence N 40 chains more or less to the township line; thence E along said township line 60 chains; thence S 120 chains to the line running E and W through the center of Sec. 8; thence W along said line 100 chains to the quarter section cor. between Secs. 7 and 12, T. 28 S., R. 5 and R. 6 W., W.; thence S 5 chains; thence S 89° 55' W 99.20 chains more or less to the W boundary of D. L. C. #43 in T. 28 S., R. 6 W.; thence N 38.92 chains to the place of beginning containing 1,383.73 acres more or less, save and except therefrom all deeded roadways.

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
4775 Rausch, Ray Rausch, Edna G. Route 1 Roseburg, Oregon Proof 12 (Findings, Paragraph 20, Page 17)	1909	Enough for 200 sheep		Stock	Directly from stream	Unnamed tributary to Roberts Creek	SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 27, T. 28 S., R. 5 W., W. M. Douglas County, Oregon
Roberts Creek Water District John E. Pinkerton President Route 1 Roseburg, Oregon Permit 12655 Proof 13 (Findings, Paragraph 21, Page 17)	August 3, 1937			Municipal domestic water supply	Concrete reservoir and iron pipe line	Cooper Spring and Roberts Creek	Parts of Sections 14 to 21, inclusive, and part of Section 23, T. 28 S., R. 5 W., W. M. Parts of Sections 2, 3, 10, 11, 13, 14, 23, and 24, T. 28 S., R. 6 W., W. M. Douglas County, Oregon
4776 Schaeffer, Osmond Route 1 Roseburg, Oregon Proof 14 (Findings, Paragraph 15, Page 13)	1880	Enough for 100 sheep, 3 horses, 10 cattle		Stock	Directly from stream	Roberts Creek	Lots 17, 18, 19, 20, & 21 Block 1; 2 acres in Lot 15, Block 2, Glengary Fruit Lands, Sections 18 & 19, T. 28 S., R. 5 W., W. M. Douglas County, Oregon
4777 Thomas, George J. Thomas, Jessie K. Route 1, Box 102 Roseburg, Oregon Thomas, Harry Thomas, Lester Thomas, William Crawford, Viola Olson, Nellie Route 1, Box 101-A Roseburg, Oregon Proof 15 (Findings, Paragraph 22, Page 18)	1890	Enough for 20 cattle, 5 horses, 6 hogs, 7 sheep, 1,600 turkeys and domestic		Stock and domestic	Directly from stream	Roberts Creek	NW $\frac{1}{4}$ (less 1.12 acres) & SW $\frac{1}{4}$ Section 16; S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 17, T. 28 S., R. 5 W., W. M. Douglas County, Oregon
4778 Weber, Leila V. Weber, C. L. Route 1, Box 106 Roseburg, Oregon Proof 16 (Findings, Paragraph 15, Page 14)	1869	Enough for 25 horses or cattle, 50 sheep		Stock	Directly from stream	Roberts Creek	W $\frac{1}{2}$ NE $\frac{1}{4}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 17, T. 28 S., R. 5 W., W. M. Douglas County, Oregon

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 Roberts Creek and its tributaries, including Cooper Spring, a tributary of the South Umpqua River, be and the same are hereby determined and settled as set forth in the foregoing Findings of Fact and Order of Determination.

Dated at Salem, Oregon, this 10th day of February, 1941.



CHAS. E. STRICKLIN

State Engineer