

BEFORE THE STATE ENGINEER OF OREGON

MARION COUNTY

IN THE MATTER OF THE DETERMINATION OF)
THE RELATIVE RIGHTS TO THE USE OF THE)
WATERS OF MILL CREEK AND ITS TRIBUTARIES,)
A TRIBUTARY OF THE WILLAMETTE RIVER.)
-----)

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 have 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 Mill Creek proper rises in the low foothills in Township 8 South, Range 1 East of the Willamette Meridian, in Marion County, Oregon, a few miles north of Mehama and flows in a general northwesterly direction about 25 miles through the towns of Aumsville and Turner to its confluence with the Willamette River within the City of Salem. While the lands adjacent to Mill Creek throughout the most of its length are agricultural lands, but little water is used for irrigation purposes, as during a considerable portion of the irrigation season the flow of water in Mill Creek is very small.

The main tributaries of Mill Creek are Battle Creek and Beaver Creek. Beaver Creek drains an area north of Sublimity and flows in a general westerly direction to its junction with Mill Creek, which is about one mile south of Turner and within the SE $\frac{1}{4}$ of Section 28, Township 8 South, Range 2 West, W. M. Battle Creek drains an area west of Turner and flows in a general easterly course to its confluence with Mill Creek within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 29, Township 8 South, Range 2 West, W. M., approximately 3/4 mile west of Turner.

Approximately 115 square miles are within the area drained by Mill Creek and its tributaries, all of which is within Marion County, Oregon. A considerable portion of this area is agricultural land and lies between 180 feet and 2000 feet above mean sea level.

The runoff of Mill Creek, based upon available records, varies between a maximum of 8,300 cubic feet per second to that of a very small flow. There are places above where the water from the North Santiam River is delivered into Mill Creek where there is no visible surface flow during a considerable portion of the summer. Under existing conditions it has not been possible to secure records to show the natural flow of water in Mill Creek below where the water from North Santiam River is delivered into Mill Creek when Mill Creek is used to carry North Santiam River water. The high water stages ordinarily occur during the months of November to March inclusive. These stages result from the direct runoff of winter rains in the watershed.

Water from the North Santiam River is delivered into Mill Creek at a point within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, Township 8 South, Range 1 West, W. M., by means of a canal constructed in 1857. The water delivered into Mill Creek from the North Santiam River flows down the channel of Mill Creek to within the City of Salem and adjacent thereto where it is used for power, manufacturing and by the State of Oregon for institutional purposes.

2.

That on the 25th day of November, 1938, there was filed in the office of the State Engineer a petition signed by A. S. Fleming, Vice-President of the Oregon Pulp & Paper Company, requesting a determination of the relative rights of the various claimants to the use of the waters of Mill Creek and its tributaries, a tributary of the Willamette River. That the State Engineer, after full investigation and due consideration of said petition, finding the facts and conditions such as to justify it, fixed a time for the beginning of such examinations, investigations and surveys as would enable him to determine the relative rights of the various claimants to the use of the waters of Mill Creek and all of its tributaries.

3.

That a notice was prepared by the State Engineer setting forth the date on or about which the State Engineer or his assistants would begin the investigation of the flow of said stream and its tributaries and of the ditches diverting water therefrom, and said notice was published in two issues of the Oregon Statesman, a newspaper printed and published daily at Salem, Marion County, Oregon, and of general circulation in said county; said notice was also published in two issues of the Capital Journal, a newspaper printed and published daily at Salem, Marion County, Oregon, and of general circulation in said county, said two issues of each newspaper being July 25 and August 1, 1939, the date of the last publication in each case being more than ten days prior to the date fixed for the beginning of the taking of the measurements of said stream and its tributaries by the State Engineer, as provided by law.

4.

That duly qualified assistants of the State Engineer did proceed 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 land irrigated, and gathered such other 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 were made a matter of record in his office. 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 or other works 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.

5.

That as soon as practicable after the examinations 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 Capital Journal, a newspaper printed and published daily at Salem, Marion County, Oregon, and of general circulation in said county, said two issues of said newspaper being those of June 6th and June 13th, 1940, the date of the last publication being at least thirty days prior to the first date fixed for the taking of claims by the State Engineer.

6.

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 or its tributaries 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.

7.

That the times and places when and where the State Engineer, or his duly authorized assistants, should attend and receive the claims of the various parties were fixed as follows:

On Thursday, July 18, 1940, in the City Hall,
at Stayton, Oregon.

On Friday, July 19, 1940, in the Town Hall,
at Aumsville, Oregon.

And for a period of thirty days beginning July 22,
1940, at the office of the State Engineer in the
State Office Building, at Salem, Oregon.

That thereafter, the State Engineer did extend the time so fixed within which to file said statements and proofs of claim until the 28th day of August, 1940; that within said time claims to the use of the waters of said stream and its tributaries were filed, each of which will be hereinafter considered.

8.

That the following persons were duly notified of the proceeding by publication of said notices and by registered mail, as set forth by Paragraphs 5 and 6 hereof, and by the affidavits of publication and post office registry receipts in Volume I of the evidence herein, and having

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, such parties are in default; such default is here and now entered against them and each of them, and such parties are hereby enjoined and inhibited from using or asserting any right to the use of the waters of said stream or any tributary thereof, included in this proceeding, 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:

-A-

Abbott, T. N. and L., Route 4, Box 245,
Salem, Oregon
Abrams, Myrtle D., 1547 Cherokee Street,
Salem, Oregon
Adams, Bert F. and Lottie L., 1985 State
Street, Salem, Oregon
Ahrens, R. F. W. and Pearl M., Route 4,
Box 259, Salem, Oregon
Albus, August, Route 1, Aumsville,
Oregon
Alden, G. H. and D. P., 678 Corby Street,
Woodburn, Oregon

Allen, George E., 390 N. 17th Street, Salem, Oregon
Allen, W. I. and N. M., Route 4, Box 263,
Salem, Oregon
Amundson, David, 710 Ferry Street, Salem, Oregon
Anunsen, Fred S. and Zella S., 920 Leslie Street,
Salem, Oregon
Arpke, Otto L. and Clara, 1935 N. Capitol Street,
Salem, Oregon
Artisan's Life Insurance Company, 208 Artisan's
Building, Portland, Oregon
Aspinwall, Caroline, 1458 Center Street, Salem,
Oregon

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Backstrand, Dr. Jerold S., 333 Wyatt
Court, Salem, Oregon
Bacon, Floyd, Route 4, Salem, Oregon
Baker, Ernest E., 1445 Oak Street,
Salem, Oregon
Baker, M. D., Ocean Lake, Oregon
Baker, P. C., Turner, Oregon
Baker, R. C., Turner, Oregon
Ball, Mrs. F. O., Turner, Oregon
Ball, Lee C., Turner, Oregon
Ball, Gabriel, Turner, Oregon
Barham, Wayne W. and Elizabeth, 815 N.
Cottage Street, Salem, Oregon
Barker, B. and C., Turner, Oregon
Barnes, Grace D., c/o L. S. Barnes, P.O.
Box 630, Beverley Hills, California
Bartch, Frank, Route 1, Turner, Oregon
Bartels, Henry, Route 5, Box 122,
Salem, Oregon
Bartosz, Ed A., Route 1, Turner, Oregon
Basl, Benjamin, Route 1, Box 219,
Stayton, Oregon
Basl, Frank, Route 1, Box 232, Stayton,
Oregon
Basl, John, Stayton, Oregon
Basl, W. L., Route 1, Box 217, Stayton,
Oregon
Bates, A. C., Aumsville, Oregon
Batliner, John, Route 1, Box 70,
Aumsville, Oregon
Baum, Dr. William Wells, Ben Lomond Drive,
Salem, Oregon
Bayer, Fred et al., 355 S. 24th Street,
Salem, Oregon
Beach, Ralph L., Route 1, Turner, Oregon
Beal, F., West Stayton, Oregon
Bear, Charles A., Turner, Oregon
Bear, E. C., Route 1, Turner, Oregon
Beatty, Eva, 1959 N. Church Street,
Salem, Oregon
Bechtel, Delbert, 545 Madison Avenue,
Salem, Oregon
Becke, Karl G. and H. L., c/o Prudential
Live Ins. Co., 821-2nd Ave., Seattle,
Washington
Begun, Frank, Route 5, Box 256, Salem,
Oregon

Beitel, Alois, Route 1, Box 207, Stayton,
Oregon
Belden, Ben, Route 1, Aumsville, Oregon
Bell, George, Stayton, Oregon
Bellinger, G. C. and H. C., Route 4,
Box 337, Salem, Oregon
Benson, Dora Beale, Stayton, Oregon
Benson, George A., and Freeda, 2252 Turner
Road, Salem, Oregon
Benson, Harriet, 1468 Marion Street, Salem, Oregon
Benson, R. W., 355 N. 14th Street, Salem, Oregon
Bentz, J. P. and Mary, Route 1, Box 101,
Sublimity, Oregon
Berlend, E. H., 4845 Williams Avenue,
Portland, Oregon
Bihlmier, William H., 504 N. 15th Street,
Salem, Oregon
Blumberg, Mrs. William, Route 3, Box 49,
Salem, Oregon
Blumenstein, Robert G., 567 Knapp Street,
Salem, Oregon
Boals, Clara, 750 N. Capitol Street, Salem,
Oregon
Boedigheimer, Ralph, Stayton, Oregon
Boise, Minnie B., 795 Sumner Street,
Salem, Oregon
Boje, Elmer and Mildred, Route 4, Box 264,
Salem, Oregon
Bollier, Ethel B., 590 Willow Street, Salem,
Oregon
Bollier, Robert, Route 7, Box 138, Salem, Oregon
Bone, W. W., West Stayton, Oregon
Boone, Claude D., Aumsville, Oregon
Booth, Carl, Route 2, Turner, Oregon
Booth, Florence, Turner, Oregon
Bouchie, Forrest E., Turner, Oregon
Bradley, George R. and Loretta V.,
Aumsville, Oregon
Branch, Bert, Route 1, Stayton, Oregon
Breitenstein, Joseph B., Route 1, Box 8,
Sublimity, Oregon
Brisbine, Harry, Route 1, Box 229,
Aumsville, Oregon
Britzke, William, Turner, Oregon
Broer, Fred E., 905 N. 5th Street, Salem, Oregon
Brown, G. Blaine and Vera, 1498 Center Street,
Salem, Oregon

-B-

Brown, George J. and Johanna, Aumsville, Oregon
Brown, H. S., Aumsville, Oregon
Brown, Selmer and Lucretia, Aumsville, Oregon
Brown, William, 516 Highland Avenue, Redland,
California
Bunnell, James E. and Ruby E., 1997 State
Street, Salem, Oregon

Burger, William H., 1683 Center Street,
Salem, Oregon
Burke, Christine, 725 N. Capitol Street,
Salem, Oregon
Burlington, Mildred C., Forest Grove, Oregon
Burnham, Mrs. Mary, Aumsville, Oregon
Burns, J. D., Condon, Oregon

-C-

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California Packing Co., 285 SO. 12th
St., Salem, Oregon
Camp, Fred, Route 1, Turner, Oregon
Campbell, Newt, Route 1, Aumsville, Oregon
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Salem, Oregon
Carter, H. S., Rt. 4, Box 291,
Salem, Oregon
Catlin, Russell, Estate, 1309 Chameketa
Salem, Oregon
Chamberlain, B. H., West Stayton, Oregon
Chambers, Marie S., 620 N. 14th St.,
Salem, Oregon
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Chandler, Albert L., Rt. 4, Box 230,
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Salem, Oregon
Chapman, Oda L., 722 N. Church St.,
Salem, Oregon
Chase, A. H., 871 N. 17th St.,
Salem, Oregon
Chenoweth, Grace G., 609 N. 16th
St., Salem, Oregon
Clark, Ed, Route 1, Stayton, Oregon
Clark, Flora H., 1561 Chameketa,
Salem, Oregon
Clark, Harry K., 537 Knapp St.,
Salem, Oregon
Clark, M. E., Heirs (E. C., Owens, E. B.,
Dillard), Rt. 1, Box 260, Stayton,
Oregon
Clark, William H., 2290 State Street,
Salem, Oregon
Claxton, George R., Aumsville, Oregon
Claxton, R., Aumsville, Oregon
Claxton, R. S., Aumsville, Oregon
Clement, Lucian G., 345 N. 17th St.,
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Oregon
Cole, Jack, c/o R. Gittings, Oregon Journal,
Portland, Oregon
Coleman, Charles, Route 1, Turner, Oregon
Collins, Harry V., 590 N. 14th St., Salem,
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Colvin, Lillie D., Aumsville, Oregon
Colvin, Robert, Aumsville, Oregon
Colvin, R. R., Rt. 1, Aumsville, Oregon
Commack, R. M., Rt. 4, Box 324, Salem,
Oregon
Commerce Mortgage Co., 225 S W Broadway,
Portland, Oregon
Comstock, Clyde, Route 1, Aumsville, Oregon
Comboy, J. E., Rt. 4, Salem, Oregon
Condit, H. B., West Stayton, Oregon
Condit, Mary C., Turner, Oregon
Condit, S. J., Turner, Oregon
Cone, Chas. E., Estate, c/o Mabel J. Cone,
Ben Lomond Park, Salem, Oregon
Cook, Frank, Oak Ridge, Oregon
Cook, Jay, Oregon State Hospital, Salem, Oregon
Cook, T. H., Helix, Oregon
Cornelia Davis Home, Turner, Oregon
Cornish, Andie et al., c/o Ada Wourms,
Stayton, Oregon
Crabtree, J. K. and Birdie, Rt. 4, Box 176,
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Crabtree, Thomas, 574 D St., Salem, Oregon
Cramer, Nick, Aumsville, Oregon
Crane, Mrs. V. R., West Stayton, Oregon
Crawford, Ada A., 1440 Court St., Salem,
Oregon
Crawford, Albert and Joseph H., c/o Ladd &
Bush Trust Co., Salem, Oregon
Crawford, Henry, 1440 Court Street, Salem,
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Cramer, Kate, Rt. 1, Stayton, Oregon
Crum, Sarah A., Aumsville, Oregon
Gummings, C. M., Turner, Oregon
Curtis, Albert A., Rt. 1, Aumsville, Oregon
Curtis, Grace E., Aumsville, Oregon

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Dake, M. and S., Rt. 2, Turner, Oregon
Dalke, T. and K., Rt. 1, Aumsville
Oregon
Darby, Claude H. and Eleanor L., 205
Richmond, Salem, Oregon
Darley, Charles, Route 1, Aumsville,
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Darley, C. T., West Stayton, Oregon
Daugherty, G. D., c/o Eldon T. Armstrong,
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Davis, Roswell C. and Carrie C., 220 S.
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De Jardin, Antoine, Gervais, Oregon
De Jardin, Gabriel W., Stayton, Oregon
De Jardin, Julien, Rt. 2, Salem, Oregon
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Denham, L. B., Turner, Oregon
Denyer, J. E. and Birdie, Turner, Oregon
Dennell & Correll, West Stayton, Oregon
De Tour, W., Route 5, Salem, Oregon
De Witt, Frank K., 760 E. Street, Salem,
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Ditter, Joe, Rt. 1, Box 32, Aumsville,
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Dozler, Ernest and Clara, Aumsville,
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Dozler, John and Regina, Aumsville,
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Drager, Mrs. Caroline, Rt. 1, Turner,
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Drager, Rue, 998 N. Capitol, Salem,
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Aurora, Oregon
Dunlap, Clifton I., Turner, Oregon

-E-

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Oregon
Eastburn, Anna, Aumsville, Oregon
Eastburn, David F., Aumsville, Oregon
Eastman, Veva K., 247 Wayne Ave.,
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Edwards, Berton E. and Ollie, 1849
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Etzel, J. W. and H., Rt. 1, Stayton, Oregon
Etzel, Peter J. and B. E., Sublimity, Oregon
Evans, Charles, 846 Cascade Drive,
West Salem, Oregon
Everson, Helen R., 1160 N. 18th St., c/o
Mrs. Pearl Noren, Salem, Oregon
Eyerly, Lee U., Rt. 3, Salem, Oregon
Eyre, B. E., 370 N. Summer, Salem, Oregon
Eyre, David, 370 N. Summer, Salem, Oregon
Eyre, D. W., 370 N. Summer, Salem, Oregon

-F-

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Farmer, Clara E., 795 N. Winter St.,
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Farmer, Velma C., 565 N. Cottage,
Salem, Oregon
Farnham, E. J., Rt. 2, Box 2, Turner,
Oregon
Federal Farm Mortgage Co., c/o Federal
Land Bank of Spokane, Spokane, Wash.
Federal Land Bank of Spokane, Spokane,
Wash.
Feller, Albert and Margaret, 1096 S.
Commercial St., Salem, Oregon
Feller, Louise, Rt. 4, Salem, Oregon
Feller, Wilfred, Rt. 4, Salem, Oregon
Findley, Marcus C. and Anna M., 225 N.
20th St., Salem, Oregon
First National Bank of Eugene,
Eugene, Oregon
Fisher, John G. and Rose, 524 N. 15th
St., Salem, Oregon
Fisher, Lawrence R. and Mildred, 534
N. 15th St., Salem, Oregon
Fiske, R. W., 880 N. Winter St.,
Salem, Oregon
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Fleming, Belle N., 767 N. Liberty,
Salem, Oregon
Fletcher, Elsie V., 930 Broadway,
Salem, Oregon
Follis, Glade C., 606 N. 14th St.,
Salem, Oregon
Ford, Bert, 290 W. Leffelle St.,
Salem, Oregon
Forgey, William, Aumsville, Oregon
Forrette, Oliver and Roxie E., Route 1,
Stayton, Oregon
Fortner, Dr. Edgar S. and Lucy L.,
Ewald Ave., Salem, Oregon
Foulkes, E. B., Rt. 3, Box 53, Salem,
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Fox, Alfred, Rt. 1, Box 99, Sublimity,
Oregon
Fox, Henry P., Rt. 1, Box 99, Sublimity,
Oregon
Frank, Margaret, Rt. 1, Box 34,
Sublimity, Oregon
Funston, Andrew S., Rt. 5, Box 595,
Portland, Oregon
Fuson, E. G. and Opal, Aumsville,
Oregon
Fuson, Gaius E., Aumsville, Oregon
Fuson, Luta A. and R. M. Fuson,
Aumsville, Oregon

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Gabriel Powder & Supply Co., 610 N.
Capitol St., Salem, Oregon
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Salem, Oregon
Galloway, T. H. and A. B., Rt. 4,
Salem, Oregon
Garbe, A. M., Aumsville, Oregon
Garbe, Fred, Aumsville, Oregon
Garbe, G. H. and R. E., Aumsville,
Oregon

Garner, Ora E., 569 Statesman St., Salem,
Oregon
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Oregon
Gath, Mrs. Christie, Turner, Oregon
Gath, H. G. and Christine Gath et al,
Turner, Oregon
Gearhart, Guy B., Aumsville, Oregon
Germond, Archie, Rt. 5, Box 68, Salem,
Oregon

Gescher, Ben, Stayton, Oregon
 Gibson, Carl, Route 1, Aumsville, Oregon
 Gilbert, Fred, Rt. 1, Aumsville, Oregon
 Gilbert, H. G., Turner, Oregon
 Gilbert, Howard, Route 1, Turner, Oregon
 Gilbert, Paul C., Turner, Oregon
 Gilbert, Tinkham, 750 S. High St., Salem, Oregon
 Gillings, Wm. H. and E. M., 1605 S. High St., Salem, Oregon
 Gilson, G., 575 N. 15th St., Salem, Oregon
 Gilson, W. B., 575 N. 15th St., Salem, Oregon
 Girardin, L. S., Turner, Oregon
 Gittings, L. C. and O. K., c/o R. Gittings Oregon Journal, Portland, Oregon
 Given, E. G., P. O. Box 52, Ft. Stelacoom, Wash.

Given, George E., Turner, Oregon
 Given, O. F. and E. L., Turner, Oregon
 Goffin, C. E., Aumsville, Oregon
 Goffin, E. and M. E., Rt. 1, Box 68, Aumsville, Oregon
 Goodwin, George, Rt. 1, Turner, Oregon
 Gookins, Oscar N. and Leona, Rt. 6, Box 1, Salem, Oregon
 Gordon, L., Rt. 1, Aumsville, Oregon
 Grabenhorst, G. H., 1655 Fir St., Salem, Oregon
 Graffen, Adolph, 1306 W. Pine St., Alhambra, Calif.
 Greenwood, W. F. and F. M., Springfield, Oregon
 Guler, Peter, Rt. 1, Aumsville, Oregon
 Gustafson, H. P., 1490 N. 18th St., Salem, Oregon
 Guthrie, C. S. and Dixie E., Rt. 1, Box 156, Mt. Angel, Oregon

Haas, Mrs. N. J., 1000 Chemeketa st., Salem, Oregon
 Haberly, Wm. J., Rt. 3, Silverton, Oregon
 Hadley, W. J., Turner, Oregon
 Hafner, John, Rt. 1, Box 20, Sublimity Oregon
 Hager, H. J., c/o John G. Etzel, Salem, Oregon, (Hawkins & Roberts)
 Hallin, Augusta, 1896 Court St., Salem, Oregon
 Hallin, Gwenolyn, 1880 Court St., Salem, Oregon
 Ham, A. B. and Ora, Aumsville, Oregon
 Hamilton, J. L. and Nellie, Rt. 1, Turner, Oregon
 Hancock, O. W., Rt. 4, Salem, Oregon
 Hankel, E. C., Route 1, Turner, Oregon
 Hanson, George E. and Adele, c/o First National Bank, Salem, Oregon
 Harland, Roy and Beneitta M., 2175 Ferry St., Salem, Oregon
 Harns, John, Route 1, Aumsville, Oregon
 Harper, E. H., Route 1, Aumsville, Oregon
 Harper, Edgar H. and Agnes B., Route 1, Turner, Oregon
 Harris, Gladys and H. H., 2455 Trade St., Salem, Oregon
 Harris, Henry and Harlan, 2455 Trade St., Salem, Oregon
 Harrison, Edmund J., Turner, Oregon
 Hartman, F. T., Sublimity, Oregon
 Hassler, Alois and Anna, Rt. 1, Box 202 Stayton, Oregon
 Hawkins & Roberts, Salem, Oregon
 Hawk, Pearl, Rt. 1, Turner, Oregon
 Haynie, C. C., c/o Blanche Brown, 352 Summer St., Salem, Oregon
 Haynes, Paul, Rt. 1, Aumsville, Oregon
 Hayward, George, Route 1, Aumsville, Oregon
 Healy, Louise B., c/o Paul B. Sims, Rt. 1, Box 116, Aumsville, Oregon
 Heater, Adolph, Sublimity, Oregon
 Heckart, George T. and B. R. Rt. 4, Box 335, Salem, Oregon
 Hein, Charles, Aumsville, Oregon
 Heltzel, Clara L., 470 N. Summer St., Salem, Oregon
 Heltzel Estate Inc., 470 N. Summer St., Salem, Oregon
 Heist, Lula and Laura, 1814 S E 27th Ave., Portland, Oregon
 Hennies, L. E. and L. K., Rt. 1, Turner, Oregon
 Hendricks, Gus, Sublimity, Oregon

Herrick, Winnifred, 230 Richmond St., Salem, Oregon
 Herrling, Benj. F., c/o Chas. Amanda Apple, Albany, Oregon
 Heuberger, Anna, Rt. 1, Box 208, Stayton, Oregon
 Heuberger, Nicholas, Rt. 1, Box 110, Sublimity, Oregon
 Hayden, Gust and Bertha, 915 Saginaw St., Salem, Oregon
 Hibler, Grace E., 795 N. Church St., Salem, Oregon
 Highberger, Nicholas, Rt. 1, Box 110 Stayton, Oregon
 Hill, M. A., Rt. 1, Turner, Oregon
 Hill, Max O., and Nancy, 1949 State St., Salem, Oregon
 Hill, Nancy E., 309 N. 19th St., Salem, Oregon
 Hillery, Doris B., 915 Maple, Albany, Oregon
 Hillery, Lloyd, c/o Doris B. Hillery, 915 Maple, Albany, Oregon
 Hillpot, Jane, 1556 Chemeketa, Salem, Oregon.
 Hiron, George W., 2417 Trade St., Salem, Oregon
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 Hofenbradl, Will, West Stayton, Oregon
 Hoffart, Jake, Timber, Oregon
 Holder, Clarence W. and Laura W., Rt. 4, Box 175, Salem, Oregon
 Hornschuch, R., Route 7, Box 373, Salem, Oregon
 Hottinger, Charles & Son, Stayton, Oregon
 Howard, Allen, Rt. 2, Turner, Oregon
 Howe, Dora, 940 N. Commercial, Salem, Oregon
 Howe, M. E., c/o Chester L. Howe, Newport Oregon
 Hoyser, Emily, Rt. 3, Box 203, Salem, Oregon
 Hrubetz, Martha, 685 N. Liberty, Salem, Oregon
 Hull, O. C., Turner, Oregon
 Humphreys, Pearl, Rt. 1, Box 157, Aumsville, Oregon
 Hunt, G., Rt. 5, Salem, Oregon
 Hunt, Mrs. J. T., Sublimity, Oregon
 Hunter, Ethel F., 575 D Street, Salem, Oregon
 Huntington, Hollis W. and Marjore K., 790 N. Winter St., Salem, Oregon
 Hurd, Granvel F. and Caroline L., 1315 Marion St., Salem, Oregon

-J-

Janz, Albert F., 897 N. Church,
Salem, Oregon
Jensen, O. F., Rt. 2, Turner, Oregon
Jenson, Oscar, Route 1, Turner,
Oregon
Johnson, Mrs. Anna, c/o G. O. Hankins,
939 E. 20th St., Eugene, Oregon
Johnson, F. O., Rt. 7, Box 443,
Salem, Oregon
Johnson, Grace M., 1661 Chemaketa,
Salem, Oregon

Johnson, Helen, c/o Jesse Follis, 547
Knapp St., Salem, Oregon
Johnston, Alta, Scio, Oregon
Jones, H. R., Rt. 4, Salem, Oregon
Jory, Ed A. and Grace E., 425 Hoyt St.,
Salem, Oregon
Jory, G. W., Rt. 4, Box 206, Salem, Oregon
Judd, Frank E., Rt. 4, Salem, Oregon
Judd, P. G. and Edith, c/o Mary Lucille Cook,
1609 NE 21st Ave., Portland, Oregon
Justin, Z. B., 370 N. Summer, Salem, Oregon

-K-

Kaiser, Clyde M., 1920 Chemaketa,
Salem, Oregon
Kane, William R. and Edith, 805 N.
Church St., Salem, Oregon
Keen, L., Turner, Oregon
Keen, Thomas, Rt. 1, Box 22B,
Aumsville, Oregon
Keene, E. E., 1572 State St.,
Salem, Oregon
Keene, L. G., 1572 State St.,
Salem, Oregon

Keith, Ernest, Aumsville, Oregon
Keyes, Walter, 755 Ferry St., Salem,
Oregon
Kirkwood, L., Route 1, Aumsville, Oregon
Klender, Henry and Bertha, 689 N.
Capitol, Salem, Oregon
Knapp, Lucille M., 1252 Chemaketa,
Salem, Oregon
Koeneke, J., 1620 Center St., Salem, Oregon
Koenig, Louis, 384 N. Summer St., Salem,
Oregon

-L-

Lacey, Owen, Rt. 1, Turner, Oregon
Ladd and Bush Trust Co., Salem, Oregon
Lafky, E. H., West Stayton, Oregon
Lais, Evelyn T., 612 McClaine St.,
Silverton, Oregon
Lambrecht, C. J. and Delmer, Rt. 1,
Box 66, Aumsville, Oregon
Lang, Theodore, c/o Ernie Pohl, 290 N.
18th St., Salem, Oregon
La Raut, Narcisse, 755 N. Church St.,
Salem, Oregon
Larmer, D. A. and Mary, 951 Larmer St.,
Salem, Oregon
Larsen, Andrew J., Rt. 1, Stayton, Oregon
Lee, Charles R. and Margaret, Stayton,
Oregon
Lee, L. L., Ethel, Mack and Bessie,
Route 5, Salem, Oregon

Le Grice, Annie, Rt. 5, Box 67, Salem,
Oregon
Lewis, Claude J., c/o C. C. Austin, Rt. 5,
Box 145, Salem, Oregon
Levermann, A. G., Aumsville, Oregon
Libby, H. W., Rt. 1, Jefferson, Oregon
Lindsay, H. H. and F. W., Rt. 5, Box 271,
Salem, Oregon
Ling, Fred, 402 S. 17th St., Salem,
Oregon
Ling, Fred, Route 5, Salem, Oregon
Little, C. E., Rt. 1, Turner, Oregon
Little, T. and A., Rt. 1, Turner, Oregon
Lloyd, Sydney, 1779 Chemaketa, Salem,
Oregon
Lochanour, Roy M. and Mary, 1478 Center
st., Salem, Oregon
Losh, Charles C., Rt. 4, Salem, Oregon

-M-

McClellan, T. Y., Rt. 1, Aumsville, Oregon
McCracken, Samuel P. and Olive K., 830
N. Commercial St., Salem, Oregon
McGilchrist, B. L., 2494 Front St.,
North, Salem, Oregon
McKim, Charles, Route 1, Aumsville, Oregon
McKinney, Anne E., c/o Conyn C. Tracy,
Rt. 1, Turner, Oregon
McKinney, E. A. Estate, c/o C. C. Tracy,
Rt. 1, Turner, Oregon
McKinney, John, 2368 State St., Salem,
Oregon
McKinney, Myro, Turner, Oregon
McKinney, William W. and Carlotta McKinney,
2333 State St., Salem, Oregon
McNeal, H. W., c/o Albert Jensen
Turner, Oregon
Maccauley, Robert and Goldie G., 155 W.
Washington, Salem, Oregon
Magee, Rupert C., 1696 N. Capitol,
Salem, Oregon
Marion County, Salem, Oregon

Martin, Charley, Aumsville, Oregon
Maurer, George W., Rt. 4, Salem, Oregon
Meier, W. J., Rt. 5, Box 45, Salem, Oregon
Merrifield, John W., Rt. 1, Sublimity
Oregon
Metzger, Ruth E., 2577 Simpson St.,
Salem, Oregon
Mickelson, Ludwig and Grace, 1610 S.
Commercial St., Salem, Oregon
Miles, B. Clarkson and Anna B. 993
Court St., Salem, Oregon
Miles, Myrtle H., 950 N. 15th St., Salem,
Oregon
Miller, A. G. et al, Swisshome, Oregon
Miller, A. J., Rt. 1, Turner, Oregon
Miller, Celine, Rt. 1, Box 195, Stayton,
Oregon
Miller, Fred, Turner, Oregon
Miller, M. T., Turner, Oregon
Miller, Nellie D., Rt. 2, Turner, Oregon
Miller, Mrs. Olo, 2328 State St., Salem,
Oregon

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Killer, Walter, Rt. 1, Turner, Oregon
Miller, W. W., Turner, Oregon
Minton, A. B., Aumsville, Oregon
Minton, Henry, Aumsville, Oregon
Moore, Ed, Rt. 4, Salem, Oregon
Morely, Roy and Gertrude, Silverton, Oregon
Mooris, Martha, Turner, Oregon
Morrison, Ralph C., 247 Wayne Ave.,
Oakland, Calif.
Mott, W. S., Estate of, c/o W. B. Mott,
415 Guardian Bldg., Salem, Oregon

Mundt, Alfred and Marie, 588 Knapp St.,
Salem, Oregon
Mulkey, Mrs. Mary, R. F. D. #4, Salem,
Oregon
Myers, Alvie O., Rt. 1, Box 89, Stayton,
Oregon
Myers, P. H., Route 1, Turner, Oregon
Mything, Mrs. Nellie F., 701 N. Capitol,
Salem, Oregon
Mything, Estate of Roger E., 701 N.
Capitol, Salem, Oregon

-N-

Nance, G. A., Aumsville, Oregon
Nanneman, Chas. Rt. 5, Box 66,
Salem, Oregon
Nedham, O. D., Rt. 4, Box 291,
Salem, Oregon
Needles, Alonzo and Katie, Turner,
Oregon
Neeland, Mrs. Jessie, 1142 Oak St.,
Salem, Oregon
Neibert, Conrad P., Stayton, Oregon
Neitling, Theresia, Rt. 1, Box 252,
Stayton, Oregon
Nelson, Sherman and Marie, 1811
Chemeketa, Salem, Oregon

Neuenschwander, G., Rt. 2, Turner, Oregon
New, W. R., Route 1, Aumsville, Oregon
Newman, Gus, Rt. 1, Aumsville, Oregon
New York Life Insurance Co., U. S. Nat'l
Bank Bldg., Salem, Oregon
Ney, William H., 1327 Marion St.,
Salem, Oregon
Nichol, W. G., Aumsville, Oregon
Niles, Ida L., 1472 Center St., Salem,
Oregon
Ninke, Dutch, West Stayton, Oregon
Noble, Herbert, Rt. 4, Box 219, Salem, Oregon
Northrup, F. W., Rt. 4, Box 181, Salem,
Oregon

-O-

Ogle, J. D., Rt. 1, Box 18, Aumsville,
Oregon
Ogle, J. M. and Lula, Aumsville, Oregon
Ogle, S. J. and Dora, Rt. 1, Aumsville,
Oregon
Ohmart, Lee and Willa J., 591 Knapp St.,
Salem, Oregon
Oregon Gravel Co. Inc., Richard D. Slater,
Mgr., 1405 N. Front St., Salem, Oregon

Oregon State Fish Commission, Oregon Bldg.,
Portland, Oregon
Oregon State Board of Forestry, Salem, Oregon
Oregon State Game Commission, Oregon
Building, Portland, Oregon
Oregon State Highway Commission, Salem, Oregon
Oregon State Land Board, Salem, Oregon
Orr, Sarah E., c/o Agnes Bartlett, Stockton,
Calif.

-P-

Pade, Bernard, 640 N. 15th St., Salem,
Oregon
Page, Wilmer C. and Florence H., 1623
Chemeketa Street, Salem, Oregon
Park, Charles A. and Mary, 1589
Chemeketa Street, Salem, Oregon
Paulus Bros. Packing Co., High and
Trade Streets, Salem, Oregon
Paulus, R. C., c/o Paulus Bros.,
Salem, Oregon
Pearce, Dorothy and Allen, 267 N.
Winter Street, Salem, Oregon
Peggrest and Ruttgers, Aumsville, Oregon
Pense, George, Route 4, Box 371,
Salem, Oregon
Perrin, G. A., Turner, Oregon
Perry, J. Clarence and Lottie L., 835 N.
Summer Street, Salem, Oregon
Perry, Kenneth C., 829 N. Summer
Street, Salem, Oregon
Peterson, J. C., Route 1, Box 8-D,
Aumsville, Oregon
Peterson, Oscar, c/o R. C. Morton
Route 1, Box 511, Salem, Oregon
Peterson, Peter, Turner, Oregon
Peterson, V. C., Aumsville, Oregon
Peterson, Victor, Aumsville, Oregon
Peyree, Bert W., Route 1, Stayton, Oregon
Phelan, C. C., Route 1, Box 24,
Aumsville, Oregon

Phillips, Al, Route 1, Stayton, Oregon
Phillips, Lennard, Route 1, Stayton,
Oregon
Pieser, T. T., Stayton, Oregon
Pohle, Warren F., 872 Belmont Street,
Salem, Oregon
Pontious, G. Vernon and A. May, 2189 Ferry
Street, Salem, Oregon
Pooler, J. A., 1527 Chemeketa Street,
Salem, Oregon
Poorman, F. Winfred and Veva B., 790 N.
Summer Street, Salem, Oregon
Porter Estate, c/o Reba L. Sims, Turner,
Oregon
Porter, Roy, Aumsville, Oregon
Portland General Electric Company, Salem,
Oregon
Powers, Ed., Route 5, Box 100, Salem,
Oregon
Prime, E. W., c/o G. E. Prime, Neotsu,
Oregon
Proctor, Daryl F., c/o H. E. Eakin, First
National Bank, Cottage Grove, Oregon
Prudential Life Ins. Co., c/o Hawkins
& Roberts, Salem, Oregon
Prunk, J. H., Aumsville, Oregon
Purbrick, Thomas, 900 N. Commercial
Street, Salem, Oregon
Pugh, Dave, 740 S. Commercial Street,
Salem, Oregon

Rabens, Albert, Route 1, Sublimity, Oregon
 Rak, George and P., Route 5, Box 84,
 Salem, Oregon
 Rak, W. L., Route 5, Box 153, Salem, Oregon
 Ramp, B. F., Brooks, Oregon
 Ramp, W. H. and G. A., Brooks, Oregon
 Ramsey, Eva, Route 6, Box 267, Salem,
 Oregon
 Rauscher, William, Sublimity, Oregon
 Ray, V., 2716 El Roble Drive, Los Angeles,
 California
 Read, Harry B., 343 Court Street, Salem,
 Oregon
 Read, H. B., 390 N. 17th Street, Salem,
 Oregon
 Reeder, Hazel M. and Lucille H., 1416
 N.W. 24th Avenue, Portland, Oregon
 Reeds Incorporated, Reedsport, Oregon
 Regier, John, Turner, Oregon
 Remington, James A., 2433 Trade Street,
 Salem, Oregon
 Renner, Nick, Jr., Route 4, Salem, Oregon
 Reynolds, H., Joseph C., and H. K., Turner
 Oregon
 Riches, L. W., Turner, Oregon
 Riches, Nellie, Turner, Oregon
 Riches, S. A., Turner, Oregon
 Riches, Stanley A. and Ruby, Route 1,
 Turner, Oregon
 Richol, Harry, Route 1, Aumsville, Oregon

Richter, Jacob, Gervais, Oregon
 Richter, William and Hettie, Route 4,
 Box 259, Salem, Oregon
 Riesterer, A. H., Aumsville, Oregon
 Rike, Ed., 4433 S. E. 53rd Avenue,
 Portland, Oregon
 Ringwald, C. H. and Pearl, 2278 S.
 Cottage Street, Salem, Oregon
 Rishel, Harry, Route 1, Aumsville, Oregon
 Ritsinger, Nicholas, 114 Van Ness Avenue,
 Ashland, Oregon
 Roberts, L. D., Turner, Oregon
 Roberts, Thomas A. and Mabel A., 494
 N. Winter Street, Salem, Oregon
 Robertson, Axel E., 144 S. 19th Street,
 Salem, Oregon
 Robertson, F. C., Route 2, Salem, Oregon
 Robins, Percy C., Route 4, Box 15,
 Turner, Oregon
 Rodgers, Cecil P., Route 5, Box 46,
 Salem, Oregon
 Rosenberg, J. S., 220 Federal Bldg.,
 Lansing, Michigan
 Rossiter, Charles, Route 1, Box 222,
 Stayton, Oregon
 Royse, W. O., Route 1, Aumsville, Oregon
 Rueck, W. I., Aumsville, Oregon
 Ruetters, Herman J. and Francis A.,
 Aumsville, Oregon
 Ruggles, Mrs. M. C., Route 1, Aumsville, Oregon

Salem City Airport, Salem, Oregon
 Salisbury, M., Rt. 1, Turner, Oregon
 Samuel, D. & R., 2905 South La Brea,
 Los Angeles, Calif.
 Savage, Anna, Rt. 3, Silverton, Oregon
 Schaefer, Robert, Turner, Oregon
 Schellberg, Herman and Dora B., 1725
 Fir St., Salem, Oregon
 Schifferer, Frieda, Rt. 1, Turner, Oregon
 Schifferer, Wm. C., Rt. 1, Turner, Oregon
 Schlicker, Gus and Muriel, Rt. 6, Box 57,
 Salem, Oregon
 Schmid, Victoria, Rt. 1, Box 179,
 Aumsville, Oregon
 Schmidt, Alfred and F. W., c/o Elma S.
 Rowe, 580 N. 12th St., Salem, Oregon
 Schmidt, H. H. and Frank K., Sublimity,
 Oregon
 Schmitt, J., Rt. 1, Box 104, Sublimity,
 Oregon
 Schott, E. P. and M. H., Sublimity,
 Oregon
 Schulte, Joseph, Sublimity, Oregon
 Scott, John H., 1189 Court St., Salem,
 Oregon
 Seagrove, R. W. and L. B., Rt. 5, Salem,
 Oregon
 Selig, Nathan and Reatha, 595 N. 14th St.,
 Salem, Oregon
 Shafer, Will, Route 1, Aumsville, Oregon
 Shand, George W., Rt. 4, Salem, Oregon
 Shaw, W. E., Hotel Navarra, 417 Stockton
 St., San Francisco, Calif.
 Sheets, B. P., Turner, Oregon
 Sheets, J. W., Rt. 5, Box 97, Salem, Oregon
 Sherman, Joe, Aumsville, Oregon
 Sherman, John, Aumsville, Oregon
 Siegmund, Henry A., Rt. 1, Box 249,
 Stayton, Oregon
 Siewert, Albert A. and Nancy E., 388 N.
 Winter St., Salem, Oregon
 Simeral, Elsie, Turner, Oregon

Simmons, R. H. and B. M., 136 S. Commercial
 Salem, Oregon
 Simpson, T. H., Rt. 1, Box 22, Aumsville,
 Oregon
 Slater, Carrie Jane, 744 N. Capitol, Salem,
 Oregon
 Slater, D. P., 744 N. Capitol, Salem, Oregon
 Small, Mrs. I. M., Turner, Oregon
 Smith, Bertha L., 3913 N E Royal, Portland,
 Oregon
 Smith, Ervin, 710 N. Summer, Salem, Oregon
 Smith, Esther, Estate, c/o H. H. Smith,
 Rt. 4, Salem, Oregon
 Smith, G. H. and R. E., Rt. 2, Box 299,
 Salem, Oregon
 Smith, Henry, Rt. 1, Aumsville, Oregon
 Smith, Jacob A. and C. E., Rt. 5, Box 73,
 Salem, Oregon
 Smith, Jesse E. and Effie, 557 Knapp St.,
 Salem, Oregon
 Smith, Lawrence, Route 1, Aumsville, Oregon
 Smith, Walter M., 1485 Center St., Salem,
 Oregon
 Snider, O. E., West Stayton, Oregon
 Snider, Orville, Turner, Oregon
 Snoddy, Henry, Route 1, Aumsville, Oregon
 Snyder, G. L., Aumsville, Oregon
 Snyder, R. A. & Blanche I., Rt. 3, Box
 792, Salem, Oregon
 Spencer, F. H. & F. W., 287 N. 13th St.,
 Salem, Oregon
 Spenner, Joseph, Frank C. & Dorothy, Rt. 1,
 Box 236, Stayton, Oregon
 Spoon, R. F. & May, Rt. 1, Turner, Oregon
 Stahl, Oscar, West Stayton, Oregon
 Staiger, Frank, Rt. 1, Box 95, Sublimity,
 Oregon
 Staley, Mrs. Nellie M., 715 N. Capitol,
 Salem, Oregon
 Stanton, Willard S. & Ocie, Turner, Oregon
 Stasney, John, Route 1, Turner, Oregon
 Stege, Olive L., Ocean Lake, Oregon

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Steincamp, Tony, Aumsville, Oregon
Steiner, Fred and Augusta, Turner, Oregon
Steingrube, A. C., Rt. 1, Turner, Oregon
Steingrube, A. C., Estate, c/o Mrs. Florence
Steingrube, 2361 State Street, Salem, Or.
Stewart, Harry L., Rt. 1, Aumsville,
Oregon
Stiff, Rose F., 796 N. Winter St.,
Salem, Oregon

Stitt, Caroline A., Rt. 1, Box 12,
Aumsville, Oregon
Stockwell, H. K. and Alta, 135 East
Washington St., Salem, Oregon
Strayer, A. L. and Mary E., Rt. 4,
Box 262, Salem, Oregon
Stuckart, Hubert, Aumsville, Oregon
Susbauer, Jas., Sublimity, Oregon
Sutton, Lee, Aumsville, Oregon

-T-

Tallman, Maude, 2320 State St., Salem,
Oregon
Tanzer, Frances R., 425 N. 17th St.,
Salem, Oregon
Tanzer, Mike, 930 N. Commercial St.,
Salem, Oregon
Tate, G., Rt. 1, Box 96, Sublimity,
Oregon
Tate, Ralph, Stayton, Oregon
Tate, William, Rt. 1, Box 23, Sublimity,
Oregon
Tate, W. H., Rt. 1, Box 57, Sublimity,
Oregon
Tate, Mrs. W. H., Sublimity, Oregon
Taylor, Althea P., 2096 State St.,
Salem, Oregon
Taylor, C. E., Rt. 1, Stayton, Oregon
Taylor, C. H., Rt. 2, Turner, Oregon
Taylor, F. C., 916 Columbia St.,
Vancouver, Wash.
Taylor, Paul H., Rt. 4, Box 343,
Salem, Oregon
Taylor, Ted, Aumsville, Oregon
Teter, Grant and Cora, Rt. 4, Box 255,
Salem, Oregon.

Thayer, R. F. and Nellie, 1307 Commercial
St., Salem, Oregon
Thomas, Marvin, Rt. 5, Box 99, Salem, Oregon
Thomas, Pearl F. and Zena, 553 Statesman St.,
Salem, Oregon
Thomason, G. A. and B. M., 2338 State St.,
Salem, Oregon
Thomason, G. A., Turner, Oregon
Timm, B. P., P. O. Box 685, Milwaukie, Oregon
Towle, Ernest, Rt. 1, Box 30, Aumsville,
Oregon
Tracy Estate, c/o Ball Bros., Turner,
Oregon
Traveler's Insurance Co., c/o Commerce Mortgage
Co., 225 S.W. Broadway, Portland, Oregon
Tripp and Murphy, c/o Tripp and Tripp,
Albany, Oregon
Trotter, Clyde J. and Jennie, 264 S. 25th
Street, Salem, Oregon
Tschauner, F. J. and Susie, 1897 S. 25th
Street, Salem, Oregon
Tucker, Chester and Martha, Route 4, Box 271,
Salem, Oregon
Turner Memorial Home, Turner,
Oregon

-U-

Union Security Company, 402 State Street,
Salem, Oregon

-V-

Vanburkirk, H., Route 5, Salem, Oregon
Van Dyke, F., Independence, Oregon
Van Handel, L. A., Sublimity, Oregon
Van Handel, William, Route 1, Box 97,
Sublimity, Oregon
Van Nuy, R. W. and E. A., West Stayton,
Oregon
Van Nuys, E. L., 1506 N. W. Irving
Street, Portland, Oregon
Vass, Amos and J. H., 1653 S. Commercial
Street, Salem, Oregon

Vaughn, F. H., c/o Mary L. Vaughn, Aumsville, Oregon
Vaughn, Mary L., Route 1, Aumsville, Oregon
Verberg, C. P., Turner, Oregon
Verdieck, Margaret, 260 Marion Street,
Salem, Oregon
Vestag, Jim, Route 1, Turner, Oregon
Voget, O., Aumsville, Oregon
Von Behrer, H. C., 635 S. 12th Street,
Salem, Oregon
Von Eschen, Marie, 1853 Court Street,
Salem, Oregon

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Walker, Leonard, West Stayton, Oregon
Wallace, Dora P., 1705 Chemeketa Street,
Salem, Oregon
Wallace, Edward, Aumsville, Oregon
Warren, R. C. and Lillian, Route 1,
Stayton, Oregon
Ware, M., Stayton, Oregon
Warthen, H. A., Aumsville, Oregon
Way, W. E., Route 4, Salem, Oregon
Weaver, Guy L., Springston, Idaho
Webb, Fay, Turner, Oregon

Webb, H. O., Route 1, Turner, Oregon
Webb, T. L. and Marcel W., Turner, Oregon
Webber, Lester W. and Valeria G., 557
Statesman Street, Salem, Oregon
Webber, Ray and Esther, 1520 Center
Street, Salem, Oregon
Weber, Rudolph, Route 1, Box 4,
Sublimity, Oregon
Wechter, William, 1585 Center Street,
Salem, Oregon
Weddle, W. F., Route 2, Jefferson, Oregon

Weissenfels, Tony, Route 1, Box 10 B,
Aumsville, Oregon
Weitman, H. F., Aumsville, Oregon
Wells, Ada Swank, 310 W. Alhambra Road,
Alhambra, California
Wells, Mrs. W. G., 310 W. Alhambra Road,
Alhambra, California
Welter, G. E., Sublimity, Oregon
Wendland, F. W., Route 5, Box 252,
Salem, Oregon
Wenzel, Dora E., 570 N. 14th Street,
Salem, Oregon
Western Paper Converting Co., 901 N.
Front Street, Salem, Oregon
Whalen, C. F. and Florence, Route 4,
Box 332, Salem, Oregon
White, Harold, Route 1, Aumsville, Oregon
Whittig, Mrs. Grace H., 194 S. Cottage
Street, Salem, Oregon
Wilkinson, John H., Route 1, Turner, Oregon
Wilkinson, Nora A., 2290 N. Church Street,
Salem, Oregon
Williams, Amos, Route 1, Box 230,
Stayton, Oregon
Williams, B. J., Stayton, Oregon
Williams, Guy, Route 4, Salem, Oregon
Williams, J. P., Stayton, Oregon

Wilson, H. H., c/o A. V. Jameson, 1446
Armacost, West Los Angeles, California
Wilson, J. B., Springfield, Oregon
Wilson, J. B. and R. A., 1244 Ferry Street,
Albany, Oregon
Wilson, John B. and Victoria, Route 1,
Aumsville, Oregon
Winslow, Walter C. and Lottie D., 775
N. Church Street, Salem, Oregon
Winslow, W. K. and A. A., Aumsville,
Oregon
Wipper, Mrs. Alice, Turner, Oregon
Wipper, K. B., Turner, Oregon
Wirtanen, Charles W., Route 1, Turner,
Oregon
Wisbard, Lester, 1511 N. Winter Street,
Salem, Oregon
Witzel, Royal, Route 1, Turner, Oregon
Witzel, Roy O., Route 1, Turner, Oregon
Wolf, Alois, Aumsville, Oregon
Wolf, Neal, Route 1, Box 22 A.,
Aumsville, Oregon
Wolfe, F. J., Route 1, Sublimity, Oregon
Wonderlick, Anna M., 2382 State Street,
Salem, Oregon
Wood, Georgia K., 1445 Center Street,
Salem, Oregon

9.

That after the completion of the taking of such statements and proofs of claim, the State Engineer did, on the 5th day of September, 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 Wednesday, September 18, 1940, in the City Hall,
at Stayton, Oregon,

And from Thursday, September 19, to Monday, September
30, 1940, inclusive, (Saturday afternoons and Sundays
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 proceedings would be heard by the Circuit Court of the State of Oregon, to-wit: The County of Marion.

10.

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 notices of contest in writing:

CONTEST No. 1

Oregon Pulp & Paper Company,
The Thomas Kay Woolen Mills
Company, and City of Salem,
Oregon,

v.

State of Oregon,

Contestants,

Contestee.

CONTEST No. 2

Oregon Pulp & Paper Company,
The Thomas Kay Woolen Mills
Company, and City of Salem,
Oregon,

v.

Mary V. Baker,

Contestants,

Contestee.

CONTEST No. 3

Oregon Pulp & Paper Company,
The Thomas Kay Woolen Mills
Company, and City of Salem,
Oregon,

v.

W. J. Denham,

Contestants,

Contestee.

CONTEST No. 4

Oregon Pulp & Paper Company,
The Thomas Kay Woolen Mills
Company, and City of Salem,
Oregon,

v.

Donker Brothers,

Contestants,

Contestees.

CONTEST No. 5

Oregon Pulp & Paper Company,
The Thomas Kay Woolen Mills
Company, and City of Salem,
Oregon,

v.

C. F. Hein,

Contestants,

Contestee.

CONTEST No. 6

Oregon Pulp & Paper Company,
The Thomas Kay Woolen Mills
Company, and City of Salem,
Oregon,

v.

Theodore Highberger,

Contestants,

Contestee.

CONTEST No. 7

Oregon Pulp & Paper Company,
The Thomas Kay Woolen Mills
Company, and City of Salem,
Oregon,

Contestants,

v.

C. F. Hein,

Contestee.

CONTEST No. 8

Theodore Highberger,

Contestant,

v.

Charles Hein,

Contestee.

CONTEST No. 9

Theodore Highberger,

Contestant,

v.

Charles Martin,

Contestee.

CONTEST No. 10

Fred Hottinger,

Contestant,

v.

William H. Myers,

Contestee.

CONTEST No. 11

Fred Hottinger,

Contestant,

v.

John Hostetler,

Contestee.

CONTEST No. 12

Fred Hottinger,

Contestant,

v.

Goldie Van Handle,

Contestee.

CONTEST No. 13

Fred Hottinger,

Contestant,

v.

Ezra Hilton,

Contestee.

CONTEST No. 14

Fred Hottinger,

Contestant,

v.

Henry Miller,

Contestee.

CONTEST No. 15

State of Oregon, by the
Oregon State Board of Control,

Contestant,

v.

Frank N. Waters,

Contestee.

CONTEST No. 16

State of Oregon, by the
Oregon State Board of Control,

Contestant,

v.

Willamette Valley Water Company,
an Oregon Corporation,

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 28th day of October, 1940 serve by registered mail, notice of hearing of said contests on each of the parties to said contests, the date fixed for the 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 and at the place as fixed for said hearing, to-wit: Thursday, November 28, 1940, at the hour of 10:00 o'clock A. M., in Room 321 of the Oregon State Capitol Building at Salem, Marion County, Oregon, the taking of testimony was commenced before a duly authorized assistant of the State Engineer and continued until each of said contests was fully heard, settled by stipulation, or otherwise disposed of.

12.

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.

13.

CONTEST NO. 1

Oregon Pulp & Paper Company, The
Thomas Kay Woolen Mills Company,
and City of Salem, Oregon

Contestants,

v.

State of Oregon

Contestee.

Contestee, State of Oregon, by the Oregon State Board of Control, filed herein Statements and Proofs of Claim Nos. 61, 62, 63, 64, 65, 66, 67 and 68, asserting rights to the use of the waters of Mill Creek and its tributaries.

In Statement and Proof of Claim No. 61 a right is asserted to the use of 0.02 cubic foot per second of water from Mill creek and its tributaries with a date of priority of October 12, 1846, for domestic and stock use and other institutional purposes at the State Tuberculosis Hospital and the Penitentiary Annex and grounds adjacent thereto. From said statement and proof of claim it appears that this claim is based upon the use of water from Mill Creek for domestic and stock purposes by Wm. H. Rector and his wife, Ann, and their successors in interest, beginning with the date of the first settlement on Donation Land Claim No. 45, in Township 8 South, Range 2 West, W. M. That after the State acquired this property the water was diverted by means of a pumping plant and conveyed through pipe lines to the buildings and grounds of the Tuberculosis Hospital and the Penitentiary Annex where it has been and now is being used for domestic, stock, and other institutional purposes.

In Statement and Proof of Claim No. 62 a right is asserted to the use of 0.02 cubic foot per second of the waters of Mill Creek and its tributaries with a date of priority of October 15, 1846, for domestic and stock use and other institutional purposes. It appears from said statement and proof of claim that the basis of this claim was the use of water from Mill Creek for domestic and stock purposes on Donation Land Claim No. 78 in Township 7 South, Range 3 West, W. M., by Webley Houchurst and his successors in interest beginning with the date of first settlement, and that water was taken directly from Mill Creek by Samuel Parker, who settled upon Donation Land Claim No. 77 in Township 7 South, Range 3 West, W. M., and his successors in interest until purchased by the State of Oregon. That upon the acquisition of these lands by the State of Oregon, water was diverted and carried through the Penitentiary Canal to a pumping plant located within the Penitentiary grounds where the water was and is delivered through pipe lines to the buildings and grounds located in and adjacent to the City of Salem, where it has been used for stock and domestic uses, and other institutional purposes.

In Statement and Proof of Claim No. 63, a right is asserted to the use of 0.02 cubic foot per second of water from Mill Creek with a date of priority of September 1, 1849, for stock, domestic, and other institutional uses. The basis of this claim as asserted in said statement and proof of claim is a right initiated by John Herren and his wife Doshia, at the time of settlement on Donation Land Claim No. 60, including lands in Sections 17, 18, 19, 20 and 30, Township 8 South, Range 2 West, W. M., on September 1, 1849. That they and their successors in interest used the water of Mill Creek for stock and domestic purposes up to the time of purchase by the State of Oregon. That the State, having acquired that part of D. L. C. No. 60 through which Mill Creek flows, diverted the water by means of a pumping plant which delivered the water through a pipe line and branches to buildings and grounds of the Tuberculosis

Hospital and the Penitentiary Annex where it was and now is being used for stock, domestic and other institutional purposes.

In Statement and Proof of Claim No. 64, a right is asserted to the use of 0.02 cubic foot per second of water from Mill Creek and its tributaries, with a date of priority of November 30, 1849, for use in connection with the operation, maintenance, etc. of all State institutions, buildings and grounds in Salem and vicinity thereof. It appears from said statement and proof of claim that this claim is based upon a right which it is asserted was initiated by Samuel Parker at the time of settlement upon D. L. C. No. 77, in Township 7 South, Range 3 West, W. M., for stock and domestic uses, by direct diversion from Mill Creek up to the time the State acquired a part of this land. That when the State of Oregon acquired this land it diverted and carried the water through the Penitentiary Canal to a pumping plant located in the Penitentiary grounds, where the water was and is delivered through pipe lines to the various institutions, buildings and grounds in Salem and vicinity thereof.

In Statement and Proof of Claim No. 65 a right is asserted to the use of water from Mill Creek and its tributaries with a date of priority of December 2, 1850. It appears from said statement and proof of claim that the claim is based upon a right initiated for stock and domestic purposes by Daniel Clark and his wife, Berthiah B., at the time of settlement upon D. L. C. No. 59 in Section 18, Township 8 South, Range 2 West, W. M. That after the State acquired this property, it continued the use of the water by diverting from Mill Creek by means of a pump, the water being conveyed through a pipe line to the buildings and grounds of the Tuberculosis Hospital and the Penitentiary Annex for stock and domestic uses and other institutional purposes.

In Statement and Proof of Claim No. 66, a right is asserted to the use of 230 cubic feet per second of water from Mill Creek for power purposes at a plant located upon the Penitentiary grounds, and the daily equivalent of 2.5 cubic feet per second of water, or 1,615,680 gallons as required in 24 hours, from Mill Creek for domestic, stock and other institutional purposes and the upkeep of grounds connected with State institutions in and around Salem, Oregon. It appears that this claim is based upon a contract between the Willamette Woolen Manufacturing Company dated about February 19, 1903, and upon the appropriation, diversion, and application of water to a beneficial use.

In Statement and Proof of Claim No. 67 a right is asserted to the use of 0.60 cubic foot per second of water from Mill Creek and its tributaries for the irrigation of 43.5 acres of land located within Sections 7, 18, and 19, Township 8 South, Range 2 West, W. M., and the daily equivalent of 0.9 cubic foot per second or 581,645 gallons as required in 24 hours, for domestic, stock, and other purposes as needed in the operation and maintenance of the present Tuberculosis Hospital and Penitentiary Annex and grounds, with a date of priority of 1891. It also is claimed that this right is superior to all other rights

to the use of the waters of Mill Creek whether they were prior or subsequent in time to that of the claimant.

In Statement and Proof of Claim No. 68, a right is asserted to the use of 1.00 cubic foot per second of water from Baker Springs, a tributary of Mill Creek, the sources of which are near the southwest corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 17, Township 8 South, Range 2 West, W. M., with a date of priority of May 26, 1852, for domestic, stock and all purposes necessary in the operation and maintenance of the present Tuberculosis Hospital and the Penitentiary Annex and grounds connected with said institutions. It appears that the claim is based upon the use of water by William H. Baker at the time of settlement upon Donation Land Claim No. 65 in Township 8 South, Range 2 West, W. M., and the diversion and beneficial use by the State of Oregon upon the acquisition of the lands upon which these springs are located.

To said statements and proofs of claim, Oregon Pulp & Paper Company, The Thomas Kay Woolen Mills Company, and City of Salem, Oregon, filed herein Statement of Contest No. 1. The principal grounds upon which said contest is based are summarized as follows:

1. That the quantity of water the State of Oregon is entitled to divert is definitely fixed by deed and contract.

2. That the quantity of water which the State of Oregon is entitled to divert and use from Mill Creek, including the waters from the North Santiam River flowing therein, for irrigation, institutional purposes, or for any other purpose than running machinery and for mechanical purposes, is limited to 1,200,000 gallons in 24 hours.

3. That the right to the use of the waters of Mill Creek, including the waters of the North Santiam River flowing therein, for any other purpose than running machinery and for mechanical purposes except 1,200,000 gallons in 24 hours has been expressly denied by the Supreme Court of the State of Oregon by mandate, judgment and decree rendered on and about November 11, 1902 and contract on the 19th day of February, 1903.

Statement and Proof of Claim No. 66.

The State of Oregon, in March 1865, purchased from M. L. Savage a tract containing 147 acres of land east of Salem abutting Mill Creek. Said tract contained a portion of Donation Land Claims 77 and 79 in Township 7 South, Range 3 West, W. M. In the deed of conveyance the State acquired certain rights of way for the purposes of conducting water from Mill Creek to the land conveyed by the deed. About the same date as of the purchase of said 147-acre tract, the State of Oregon entered into a contract with the Willamette Woolen Manufacturing Company relating to the use of water for power on Mill Creek and for the use of all of the water which can be pumped through a pipe not exceeding two inches in diameter for other uses than for running machinery and for mechanical purposes.

The purpose in acquiring the lands from Savage was to provide a site for a State Penitentiary and a State Insane Asylum. The Penitentiary was located in Portland until 1866 when the convicts were removed to the new site and housed in temporary quarters until permanent buildings were completed. In 1883 the first building constructed at the State Insane Asylum was sufficiently completed so that in October it was occupied by patients.

It appears from the evidence that early in 1874 the canal known as the Penitentiary Power Canal was completed and water conveyed through it for use in the development of power at a power plant located within the Penitentiary grounds and for the irrigation of lands upon which vegetables were grown for institutional needs.

The Penitentiary Power Canal diverts from Mill Creek on the right (north) bank near the south line of D. L. C. No. 78, Township 7 South, Range 3 West, W. M., and extends in a general northwesterly direction for a distance of about 5500 feet to the power plant located within the walls of the State Penitentiary and thence in a general southwesterly direction for a distance of about 900 feet to where it joins what appears to have been the original channel of Mill Creek. At the point of diversion of the Penitentiary Power Canal from Mill Creek there are two concrete overflow weirs which are used to divert the water into the Penitentiary Power Canal. The water flowing in Mill Creek at this point which is not diverted into the Penitentiary Power Canal flows down the natural channel of Mill Creek for a distance of about 1800 feet to the head of what is known as the Shelton Ditch where there are two headgates; one on Mill Creek and the other on the head of the Shelton Ditch, by which the flow into the Shelton Ditch and Mill Creek is regulated and controlled.

The maximum safe carrying capacity of the Penitentiary Power Canal appears to be 230 cubic feet per second. The power plant at the State Penitentiary which is operated by the water carried through the Penitentiary Power Canal consists of a 140 KW generator at 100 per cent power factor and a 56-inch Sampson Water Turbin. The factory rating of the turbin when new and in first class condition, under an 11-foot head, is 231 brake horsepower with a full gate opening, and the quantity of water required to operate under an 11-foot head is 228 cubic feet per second.

From the records of the flow of water in Mill Creek at the Penitentiary Annex and of the quantity diverted from the North Santiam River, it appears that during a considerable period of the time between December 1 and April 30 inclusive, the natural flow of water in Mill Creek is sufficient to supply the quantity of water necessary to operate the Penitentiary Power Plant and supply other needs of the State institutions.

The evidence does not show the date when water from Mill Creek was first used at the State Penitentiary and State Insane Asylum. The quotations from the biennial reports of the superintendents of the Penitentiary and the Insane Asylum introduced in this proceeding show that water was pumped from Mill Creek to supply the Penitentiary in 1872 and that up to 1882 the only source of supply for these two State institutions was Mill Creek. That in

1886 the water supply for the Asylum was secured through a pipe line carrying water from a pumping plant at the Penitentiary. That in 1888 a pump, which had a capacity of over 900,000 gallons per day, was in operation delivering water to the Insane Asylum and that in 1897 this pump was replaced by a new pump of 1,000,000 gallons daily capacity, which was operated by water power. The water for irrigation and other needs at the State Fair Grounds was delivered through a pipe line from the pumping plant at the Penitentiary from about 1884 to 1914.

As the needs at the Penitentiary, the Asylum and the Capitol grounds increased, additional facilities were installed to deliver the water, and supplying water to the State Fair Grounds was discontinued. By 1940 there were installed and in operation two pumping plants diverting water from the Penitentiary Power Canal. One of the plants is located adjacent to said canal, below the power plant and within the Penitentiary walls. Two pumps are installed in this plant, one of which has a capacity of 1,000 gallons per minute and the other a capacity of 500 gallons per minute. The water from these pumps is delivered through pipe lines to the places of use at the buildings and grounds of the Penitentiary, the buildings and grounds of the State Hospital and the Capitol group of buildings and grounds. The second pumping plant is located on the State Hospital grounds but diverts water from the Penitentiary Canal above the power plant and outside of the Penitentiary walls. This plant, which has a capacity of 1,000 gallons per minute, is operated as a standby unit serving only the State Hospital and grounds.

After careful consideration of all evidence it appears: That at the time of the purchase of the 147 acres of land from M. L. Savage by the State of Oregon to provide a site for a State Penitentiary and State Insane Asylum it was contemplated that the natural flow of water in Mill Creek would be used for water power and for the operation and maintenance of such institutions and grounds connected therewith and for other State buildings and grounds located in Salem and vicinity. That to insure a dependable supply during the low water flow of Mill Creek a supplemental supply was secured from the Willamette Woolen Manufacturing Company, predecessor in interest of the contestants, the source of which was North Santiam River. That the State of Oregon began the use of water from Mill Creek for institutional purposes in 1866 when the prison was moved to the present site. That the natural flow of water in Mill Creek has been used continuously since that time, the facilities being enlarged to deliver the quantity necessary to meet the increase in needs. That at times the only water flowing in Mill Creek is the natural flow, and that the rights of the Contestee, State of Oregon, and of the contestants to the use of the natural flow of water in Mill Creek have not been previously determined by our courts.

Therefore, Contestee is allowed a right to the use of 230 cubic feet per second of water from the natural flow of Mill Creek through the Penitentiary Power Canal, for the development of 313.64 theoretical horsepower at the power plant located at the State Penitentiary, with a date of priority of 1865, provided, however, that the use of the

combined flow of the natural waters of Mill Creek and the water introduced into Mill Creek from the North Santiam River shall not exceed 230 cubic feet per second. With the exception of the quantity allowed hereinafter for domestic, stock, irrigation, institutional uses and for the upkeep of grounds connected with State institutions in and around Salem, Oregon, including the State Capitol group of buildings and grounds, the water shall be returned to Mill Creek so as to be available for use by other rights below as allowed in this proceeding.

Contestee is allowed a right to the use of 1,615,562 gallons of water as required, per 24 hours from the natural flow of Mill Creek, with a priority of 1865, for domestic, stock and all purposes needed for the operation and maintenance of the State Penitentiary, the State Hospital and the State Capitol group of buildings and grounds connected with these buildings in and adjoining Salem, Oregon, provided, however, that water to the extent of 1,200,000 gallons per day from the North Santiam River, available for pumping from the Penitentiary Power Canal, shall be included in said 1,615,562 gallons per day and not in addition thereto, and provided, further, that the maximum diversion of said 1,615,562 gallons of water shall be limited by the rated capacity of the pumping equipment in use in 1940 and therefore shall not exceed 2500 gallons per minute. A description of the place of use is more particularly set forth in the tabulation herein. Said 1,615,562 gallons of water per 24 hours whether diverted above or below the power plant, shall be taken from the 230 cubic feet per second of water diverted through the Penitentiary Power Canal for power use, and is prior and superior to the rights herein allowed the contestants to the use of the natural flow of water in Mill Creek.

Statements and Proofs of Claim Nos. 62 and 64.

The rights asserted by the Contestee in Statements and Proofs of Claim Nos. 62 and 64 are based upon appropriation, diversion and use. It appears that there is no evidence showing that the water of Mill Creek was diverted and used by the predecessors in interest of the Contestee, therefore the rights asserted under said statements and proofs of claim are denied.

Statements and Proofs of Claim Nos. 61, 63 and 65.

The Contestee, in Statements and Proofs of Claim Nos. 61, 63 and 65 has asserted rights to the use of the natural flow of water in Mill Creek initiated by appropriation, diversion and use for stock, domestic and institutional purposes at the Penitentiary Annex and the State Tuberculosis Hospital.

The rights asserted by the contestee under Statements and Proofs of Claim Nos. 61 and 63 with dates of priority of 1846, and Statement and Proof of Claim No. 65 with date of priority of 1850, are based upon appropriation, diversion and use by the contestee's predecessors in interest. There is no evidence supporting said claims, therefore the rights asserted in said claims are hereby denied.

It appears that the land upon which the Penitentiary Annex is now located, was purchased by the State of Oregon in 1890 and work was started upon the construction of buildings for use as a State Reform School for Boys; that the formal announcement of the opening of the school was made on November 5, 1891; that the Oregon State Reform School, which was later called the Oregon State Training School, was located at this site until moved in 1928; that in March, 1929, the buildings and grounds were transferred to the custody of the Oregon State Penitentiary and are now known as the Penitentiary Annex.

At first the only source of water for institutional uses was from Mill Creek and water from this source was used from the beginning. In 1898 there was in use a 50,000-gallon pump operated by water power, which was used until a new pump house was constructed in 1912 and a pump installed.

The State Tuberculosis Hospital was located at the site previously occupied by the State School for the Deaf and water for institutional purposes was secured from springs until the needs were such that the supply from these sources was insufficient. To secure additional water, the system supplying the State Boys' Reform School appears to have been extended in 1917 and water from Mill Creek was diverted and used up to and including 1940. In 1940 water from said Creek was diverted by means of two pumps installed in the same pump house located adjacent to Mill Creek within Section 18, Township 8 South, Range 2 West, W. L., and used for stock, domestic and other purposes needed in the operation and maintenance of the Penitentiary Annex and the State Tuberculosis Hospital and grounds connected with said institutions. One of these pumps was a two-stage centrifugal pump direct connected to an electric motor, with a rated capacity of 500 gallons per minute under a 250-foot head. The other was a direct-connected electrical motor-driven centrifugal pump with a rated capacity of 200 gallons per minute under a 225-foot head. It appears that the actual combined capacity of these two pumps was 304 gallons per minute. Water from the pumps was conveyed in a pipe line for a distance of about 75 feet at which point two lines with branches therefrom convey the water to the places of use. There was a reservoir with a capacity of 190,000 gallons which was used to store water pumped from Mill Creek. In Statement and Proof of Claim No. 67, the contestee asserted a right to the use of the waters of Mill Creek for farm irrigation of 43.5 acres. It appears that the land located west of Mill Creek for which a right to the use of the waters of Mill Creek for irrigation is claimed, was not placed under cultivation and irrigation until about 1932. It appears that some land lying east of Mill Creek was irrigated by means of a ditch and later by water pumped from Mill Creek. The evidence is not clear as to the area but it appears to have been about 7.0 acres.

The contestee is allowed a right to the use of 304 gallons per minute of water from the natural flow of Mill Creek with a date of priority of 1891, for domestic, stock, and all purposes needed in the operation and maintenance of the State Tuberculosis Hospital,

State Penitentiary Annex, and the grounds connected with these institutions.

Said contestee is allowed a right to the use of water from the natural flow of Mill Creek for the irrigation of 7.0 acres of land as described in the tabulation herein with a date of priority of 1891, subject to the provisions of Paragraph 115 herein.

Said right to the use of the natural flow of Mill Creek in the amount of 304 gallons per minute, and water for the irrigation of 7.0 acres of land is prior and superior to the rights of the contestants allowed herein to the use of the natural flow of water in Mill Creek.

Statement and Proof of Claim No. 68.

In Statement and Proof of Claim No. 68, a right is asserted to the use of water from Baker Springs for domestic, stock and all purposes needed in the operation and maintenance of the State Tuberculosis Hospital, the State Penitentiary Annex, and the grounds connected with these institutions.

From the evidence it appears that in August, 1906, the State of Oregon purchased one acre of land located in Section 17, Township 8 South, Range 2 West, W. M., and more particularly described in the tabulation herein, together with certain rights to the use of the water from springs known as Baker Springs, which rise upon said one-acre tract, and immediately began the construction of works to convey the water from these springs for use at the State Tuberculosis Hospital and Oregon State Reform School, which works were completed and the water used in 1906.

The water from said Baker Springs is conveyed in a pipe line of four inches in diameter and the water from this source has been used continuously since the completion of the works in 1906.

Said contestee hereby is allowed a right to the use of not to exceed one cubic foot per second of water from Baker Springs, the location of which is more particularly described in the tabulation herein, with a date of priority of 1906 for domestic, stock, and all purposes needed in the operation and maintenance of the State Tuberculosis Hospital and the State Penitentiary Annex and the grounds connected with these institutions, the places of use being more particularly described in the tabulation herein. Said right to the use of the water from Baker Springs is to be considered prior and superior to all other rights to the use of the water from said springs.

CONTEST NO. 2

Oregon Pulp and Paper Company, The
Thomas Kay Woolen Mills Company,
and City of Salem, Oregon,

Contestants,

v.

Mary V. Baker,

Contestee.

Contestee, Mary V. Baker, filed herein Statement and Proof of Claim No. 6, wherein she asserts a right to the use of 0.19 cubic foot per second of the waters of Mill Creek and Beaver Creek, a tributary of Mill Creek, with a priority of June 16, 1924 for the irrigation of 15.0 acres of land located in Sections 26 and 27, Township 8 South, Range 2 West, W. M., and more particularly described in said statement and proof of claim. Said right is evidenced by certificate of water right recorded in State Record of Water Right Certificates, Volume 7, Page 7529, in the name of Chas. F. Taylor.

To said statement and proof of claim Contestants, Oregon Pulp and Paper Company, The Thomas Kay Woolen Mills Company, and the City of Salem, Oregon, filed herein Statement of Contest No. 2, wherein it is alleged: (1) That Mill Creek for the most part of the irrigation season has no natural flow past the premises of Contestee. That whenever there is any natural flow in Mill Creek during the irrigation season it is trivial in amount and Contestants are entitled to the same and that said water right certificate of said Contestee is a meaningless thing and a cloud upon the title of Contestants and should be cancelled. (2) That the Territorial Legislature of Oregon in the year 1856 granted to Contestants' predecessor in interest, The Willamette Woolen Manufacturing Company, the exclusive right to the water it takes from the North Santiam River for power and manufacturing purposes. That said Territorial Legislature granted to Contestants' said predecessor the privilege of carrying said water through the channel of Mill Creek, and said Contestants and their predecessors in interest have carried Santiam River water through the channel of Mill Creek since the year 1857. That Contestee uses said Santiam River water for irrigation under the pretense of irrigating with the waters of Mill Creek to the injury of Contestants. That it should be determined herein that Contestee has no right to take any water from the channel of Mill Creek for irrigation.

From the evidence it appears that water from Mill Creek and Beaver Creek has been used by the contestee and her predecessors in interest to irrigate a maximum of 15.0 acres by pumping. Said Certificate of water right describes the lands to which the water right is appurtenant by forty-acre tracts. It appears that part of the 15.0 acres irrigated is located within the southeast corner of that portion of Reuben Lewis D. L. C. No. 44 in Section 27, and the southwest corner of that portion of said D. L. C. in Section 26, Township 8 South, Range 2 West, W. M., and part within Lot 4, Section 26, and Lot 1, Section 27, Township 8 South, Range 2 West, W. M.

In accordance with the provisions of said certificate of water right and of Paragraph 115 herein, contestee hereby is allowed a right to the use of 0.19 cubic foot per second of water from the natural flow of Mill Creek and Beaver Creek for the irrigation of 15.0 acres of land with a date of priority of June 16, 1924. Said right is appurtenant to the south one-half of the following described tract:

Beginning on the South line of the D. L. C. of Reuben Lewis and wife, Notification No. 419, Claim No. 44, at a point 17.71 chains E. of SW corner of said D. L. C.; thence N. 40.54 chains to the S. line of the land deeded to John E. Lewis by Reuben Lewis Nov. 4, 1874; thence East 31.93 chains; thence South 51.11 chains; thence West 31.93 chains; thence North 9.57 chains to the place of beginning and containing 160 acres, more or less, situated in T. 8 S., R. 2 West, W. M., in Marion County, Oregon. Save and except from the above described tract all roads and roadways.

Said certificate of water right, as to the description of the place of use, is modified to conform with the description as set forth in this finding.

15.

CONTEST NO. 3

Oregon Pulp and Paper Company, The
Thomas Kay Woolen Mills Company,
and City of Salem, Oregon

Contestants,

v.

W. J. Denham,

Contestee.

Contestee, W. J. Denham, filed herein Statement and Proof of Claim No. 24, wherein he asserts a right to the use of 0.29 cubic foot per second of water from Mill Creek for the irrigation of 23.0 acres of land within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 27, Township 8 South, Range 2 West, W. M., with a date of priority of June 7, 1924, the water to be diverted by means of a pump and water wheel.

To said statement and proof of claim, Contestants, Oregon Pulp and Paper Company, The Thomas Kay Woolen Mills Company, and the City of Salem, Oregon, filed herein Statement of Contest No. 3, wherein it is alleged: (1) That Contestants deny each and every statement set forth in Contestee's claim, except as stated in this Contest. (2) That Mill Creek for the most part of the irrigation season has no natural flow past the premises of Contestee. That whenever there is any natural flow of Mill Creek during the irrigation season it is trivial in amount and Contestants are entitled to the same and that said water right certificate of said Contestee is a meaningless thing leading only to misunderstanding and the same should be cancelled. (3) That the Territorial Legislature of Oregon in the year 1856 granted to Contestants' predecessor in interest, The Willamette Woolen Manufacturing Company, the exclusive right to the water it takes from the North Santiam River for power and manufacturing purposes. That said Territorial Legislature granted to Contestants' said predecessor the privilege of carrying said water through the channel of Mill Creek, and said

Contestants and their predecessors in interest have carried Santiam River water through the channel of Mill Creek since the year 1857. That Contestee used said Santiam River water for irrigation under pretense of irrigating with the waters of Mill Creek to the injury of Contestants. That said facts justify a special finding to the effect that Contestee has no right to take any water from the channel of Mill Creek or said race for irrigation.

It appears that the Contestee first began the use of water from Mill Creek for irrigation purposes in 1922 and on June 7, 1924 made application to the State Engineer for a permit. Said application was approved by the State Engineer on July 16, 1924 and on January 19, 1928 final proof was made and a certificate of water right issued on March 19, 1928, for which a corrected certificate of water right was issued on April 28, 1928. Said certificate of water right is recorded in Volume 7, at page 7567, State Record of Water Right Certificates. It further appears that said correction certificate does not correctly describe the lands upon which the water has been used.

The survey and maps prepared by the State Engineer showing the lands irrigated with water diverted from Mill Creek show the total area irrigated by the Contestee to be 11.9 acres. It appears from the evidence that the area irrigated by the Contestee prior to 1930 varied between 5.0 and 15.0 acres.

The Contestee, W. J. Denham, in accordance with said certificate of water right as modified herein and subject to the provisions of Paragraph 115 herein, hereby is allowed a right to the use of 0.188 cubic foot per second of water from the natural flow of Mill Creek for the irrigation of 15.0 acres of land as described in the tabulation herein with a date of priority of June 7, 1924, said water to be diverted by means of pumping and water wheel.

It is further provided that the certificate of water right recorded in Volume 7, Page 7567, State Record of Water Right Certificates, is modified, as to the area of land irrigated, description of lands to which the water is appurtenant, and the quantity of water, to conform to this finding.

16.

CONTEST NO. 4

Oregon Pulp and Paper Company, The
Thomas Key Woolen Mills Company,
and City of Salem, Oregon,

Contestants,

v.

Donker Brothers,

Contestees.

The Contestees, Donker Brothers, by Nanne Donker and Gerben Donker, filed herein Statement and Proof of Claim No. 27 wherein they assert a right to the use of 0.25 cubic foot per second of water from Mill Creek and Porter Creek, a tributary of Mill Creek, with a date of priority of July 12, 1922, for the irrigation of 10.0 acres within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, and 10.0 acres within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, Township 8 South, Range 2 West, W. M., which right is evidenced by Certificate of Water Right recorded in State Record of Water Right Certificates, Volume 5, Page 4839.

To said statement and proof of claim, Contestants, Oregon Pulp and Paper Company, The Thomas Kay Woolen Mills Company, and City of Salem, Oregon, filed herein Statement of Contest No. 4 wherein it is alleged that: (1) That Contestants deny each and every statement set forth in Contestees' proof of claim, except as stated in this Contest. (2) That said Mill Creek and Porter Creek for the most part of the irrigation season have no natural flow past the premises of the Contestees. That whenever there is any natural flow of said Creeks during the irrigation season it is trivial in amount and Contestants are entitled to the same and that said water right certificate of said Contestees is a meaningless thing and a cloud upon the title of Contestants and should be cancelled. (3) That the Territorial Legislature of Oregon in the year 1856 granted to Contestants' predecessor in interest, The Willamette Woolen Manufacturing Company, the exclusive right to the water it takes from the North Santiam River for power and manufacturing purposes. That said Territorial Legislature granted to Contestants' said predecessor the privilege of carrying said water through the channel of Mill Creek, and said Contestants and their predecessors in interest have carried Santiam River water through the channel of Mill Creek since the year 1857. That Contestees use said Santiam River water for irrigation under pretense of irrigating with the waters of Mill Creek to the injury of the Contestants. That said acts and conduct upon the part of said Contestees justify a special finding herein to the effect that said Contestees have no right to take any water from the channel of Mill Creek or from Porter Creek.

It appears from the evidence that the 10.0 acres described in the certificate of water right recorded in State Record of Water Right certificates, Volume 5, at Page 4839, as within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, Township 8 South, Range 2 West, W. M., are irrigated with water diverted by means of a pump from Porter Creek, a tributary of Mill Creek, and that the 10.0 acres described in said statement and proof of claim as within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, Township 8 South, Range 2 West, W. M., are irrigated with water diverted from Mill Creek by pumping.

It appears that beneficial use has been made of the waters claimed by the Contestees in Statement and Proof of Claim No. 27. Therefore, in accordance with the provisions of Paragraph 115 herein, and in accordance with the provisions of said certificate of water right as modified herein, Contestees hereby are allowed a right to the use of 0.125 cubic foot per second of the natural flow of the waters of Mill Creek for the irrigation of 10.0 acres of land within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, Township 8 South, Range 2 West, W. M., and 0.125 cubic foot per second of water from Porter Creek for the irrigation of 10.0 acres of land within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, Township 8 South, Range 2 West, W. M., with a date of priority of July 12, 1922.

CONTEST NO. 5

Oregon Pulp and Paper Company, The
Thomas Kay Woolen Mills Company,
and City of Salem, Oregon,

Contestants,

v.

C. F. Hein,

Contestee.

CONTEST NO. 7

Oregon Pulp and Paper Company, The
Thomas Kay Woolen Mills Company,
and City of Salem, Oregon,

Contestants,

v.

C. F. Hein,

Contestee.

CONTEST NO. 8

Theodore Highberger,

Contestant,

v.

C. F. Hein,

Contestee.

Contestee, C. F. Hein, filed herein Statement and Proof of Claim No. 37 wherein he asserts a right to the use of the waters of Mill Race and Mill Creek for the irrigation of 10.0 acres described as follows: 1.3 acres within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, 1.6 acres within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, Township 8 South, Range 2 West, W. M.; 5.4 acres within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, and 1.7 acres within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 8 South, Range 2 West, W. M., through an unnamed ditch, with a date of priority of August 13, 1917. It appears that said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 3, Page 2051, in the name of T. L. Mull, to whom the contestee is successor. In said certificate of water right the lands to which the water is appurtenant are described as 3.0 acres within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and 7.0 acres within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, Township 8 South, Range 2 West, W. M. In said statement and proof of claim it is requested that a new certificate of water right be issued describing the lands as claimed herein.

The Contestee, C. F. Hein, also filed herein Statement and Proof of Claim No. 38 wherein he asserts a right to the use of the waters of Mill Creek diverted from the mill race for stock and irrigation of 6.3 acres of land, 2.2 acres being located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 4.1 acres within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 8 South, Range 2 West, W. M., and more particularly described in said statement and proof of claim, with a date of priority of about 1901. At the time of hearing on contests, Contestee, by his counsel, amended Statements of Proofs of Claim Nos. 37 and 38, increasing the area irrigated to 20.0 acres, 10.0 acres of which is based upon Certificate of Water Right recorded in State Record of Water Right certificates, Volume 3, Page 2051, and 10.0 acres as against the

Salem Power Owners by adverse use, without prejudice to any additional accumulative claim or claim for prior earlier date which may be made.

To said Statement and Proof of Claim No. 37, the Contestants, Oregon Pulp and Paper Company, The Thomas Kay Woolen Mills Company, and City of Salem, Oregon, filed herein Statement of Contest No. 5. The principal grounds upon which Contestants Oregon Pulp and Paper Company et al. base their contest are: (1) That under Contestee's application for Permit No. 3465, and water right Certificate No. 2051, he sought to procure the right to divert water from Mill Creek for irrigation, while in his proof of claim herein, he seeks to have his water right certificate modified so as to also give him the right to divert water from the "Mill Race", without any right so to do. (2) That Contestee has no valid access to Mill Creek, but is wrongfully diverting water from Highberger's race, through which the said Highberger has a right to run water for power purposes only. (3) That Mill Creek for the most part of the irrigation season has no natural flow past the premises of Contestee. That whenever there is any natural flow of Mill Creek during the irrigation season it is trivial in amount and Contestants are entitled to the same and that said water rights certificate of said Contestee is a meaningless thing, leading only to misunderstanding and the same should be cancelled. (4) That the Territorial Legislature of Oregon in the year 1856 granted to Contestants' predecessor in interest, The Willamette Woolen Manufacturing Company the exclusive right to the water it takes from the North Santiam River for power and manufacturing purposes. That said Territorial Legislature granted to Contestants' said predecessor the privilege of carrying said water through the channel of Mill Creek, and said Contestants and their predecessors in interest have carried Santiam River water through the Channel of Mill Creek since the year 1857. That Contestee uses said Santiam River water for irrigation under the pretense of irrigating with the waters of Mill Creek to the injury of Contestants. That said facts justify a special finding to the effect that Contestee has no right to take any water from the channel of Mill Creek or said race for irrigation.

To said Statement and Proof of Claim No. 38, the Contestants, Oregon Pulp & Paper Company, The Thomas Kay Woolen Mills Company, and City of Salem, Oregon, filed herein Statement of Contest No. 7. The principal grounds upon which this contest is based are: (1) That Contestants deny each and every statement set forth in Contestee's claim, except as stated in this contest. (2) That Mill Creek for the most part of the irrigation season has no natural flow past the premises of the Contestee. That whenever there is any natural flow of Mill Creek during the irrigation season it is trivial in amount and Contestants are entitled to the same. (3) That the Territorial Legislature of Oregon in the year 1856 granted to Contestants' predecessor in interest, The Willamette Woolen Manufacturing Company, the exclusive right to the water it takes from the North Santiam River for power and manufacturing purposes. That said Territorial Legislature granted to Contestants' said predecessor the privilege of carrying said water through the channel of Mill Creek, and said Contestants and their predecessors in interest have carried Santiam River water through the channel of Mill

Creek since the year 1857. That Contestants own the land at their intake and regulate their flow of Santiam River water with headgates and are obliged to build new dams in the North Santiam River each year in order to divert water through said intake and past the premises of Contestee. That Contestee used said Santiam River water for irrigation under the pretense of irrigating with the waters of Mill Creek to the injury of Contestants. That said facts justify a special finding to the effect that Contestee has no right to take any water from the channel of Mill Creek or said race for irrigation or stock.

To said Statement and Proof of Claim No. 38, Contestant, Theodore Highberger, filed herein Statement of Contest No. 8. The principal grounds upon which Contestant bases his contest are: (1) That said Contestee is claiming that he has the right to take water from Contestant's Mill Race for the purpose of irrigating certain lands of the contestee; (2) That said contestant contests the rights claimed by contestee for the following reasons, namely: that the taking of water from said Mill Race by the contestee will result in the decrease of the flow of water in said Mill Race in direct proportion to the amount so taken out by contestee, and this will tend to diminish the amount of water and the amount of head of contestant in his use of the waters of said Mill Creek for the purpose of generating power.

It appears that the right which is evidenced by the certificate of water right recorded in State Record of Water Right Certificates, Volume 3, Page 2051, was initiated by an application filed in the office of the State Engineer on August 13, 1917 and approved by the State Engineer on August 24, 1917. That the point of diversion described in said application, as approved, was from the south (left) bank of Mill Creek and within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, Township 8 South, Range 1 West, W. M.

It appears that the ditch described in the original application was constructed and was used for conveying water for irrigation purposes up to and including the year 1938. That in 1939 and 1940 the land was irrigated with water carried through a ditch diverted from the canal through which the contestant, Theodore Highberger, has asserted a right in Statement and Proof of Claim No. 40. That the contestee did not comply with the law in respect to changing the point of diversion and did not secure permission from the owner to use the water from contestant's, Theodore Highberger's, ditch.

Statement and Proof of Claim No. 37.

In accordance with the aforesaid certificate of water right as modified herein as to the description of the place of use and of the provisions of Paragraph 115 herein, Contestee, C. F. Hein, hereby is allowed a right to the use of 0.13 cubic foot per second of water from the natural flow of Mill Creek, through contestee's ditch used prior to 1939, for the irrigation of 10.00 acres of land as described in the tabulation herein, with a priority of August 13, 1917. Said certificate of water right hereby is modified in respect to the place of use to conform with this finding.

Statement and Proof of Claim No. 38.

The evidence does not show that Contestee used water for irrigation purposes prior to 1917 and the claim by adverse use as relating to any right in addition to that for the irrigation of 10.0 acres as allowed under Statement and Proof of Claim No. 37 is not supported by the evidence. Therefore, the right asserted by the Contestee in Statement and Proof of Claim No. 38, as amended, for irrigation hereby is denied. Contestee hereby is allowed a right to the use of 0.01 cubic foot per second of water flowing in Mill Creek for stock purposes with a date of priority of 1901. Said stock right is limited to stock drinking directly from Mill Creek as it flows through claimant's land as described in the tabulation herein.

18.

CONTEST NO. 6

Oregon Pulp and Paper Company, The
Thomas Kay Woolen Mills Company,
and City of Salem, Oregon

Contestants,

v.

Theodore Highberger,

Contestee.

Contestee, Theodore Highberger, filed herein Statement and Proof of Claim No. 40 wherein he asserted a right to 135.0 cubic feet per second of the waters of Mill Creek as its flow is augmented by waters diverted from the North Santiam River for the development of 169 theoretical horsepower under a head of 11.0 feet, with a date of priority of 1859.

To said claim the Oregon Pulp and Paper Company, The Thomas Kay Woolen Mills Company, and City of Salem, Oregon, filed herein Statement of Contest No. 6.

The principal grounds upon which Contestants base their contest are: (1) That Contestee's right to waters of said Santiam River, does not rest upon diversion, appropriation and use, but rests upon Contestee's chain of title as disclosed by the deed records of Marion County, Oregon; (2) That Contestants deny each and every statement set forth in Contestee's proof of claim except as stated in this Contest; (3) That Contestee is entitled to 135 second feet of the water of Mill Creek and the North Santiam River for power purposes.

It appears that the water for which a right is asserted in said Claim No. 40 is diverted from the north side of Mill Creek at a point about 100 feet west of where said stream crosses the west line of Lot 1, Section 31, Township 8 South, Range 1 West, W. M. The water from the aforesaid point of diversion is carried for a distance of about 3/4 mile in Contestee's ditch for the development of power operating a flour mill known as the Aumsville Flour Mill, the location of which is set out in the tabulation herein. The water after passing through the turbines is returned through a ditch about 300 feet in length to Mill Creek and is available for use below. The water which is inducted into Mill Creek from

North Santiam River is also used to supplement the natural flow of Mill Creek, when needed.

The Contestee, Theodore Highberger, hereby is allowed a right to divert 135.0 cubic feet per second of water from the natural flow of Mill Creek through Contestee's ditch for the development of 169 theoretical horsepower, under an 11-foot head, with a priority of 1859. The water, after passing through the turbines, is to be returned directly to Mill Creek so as to be available for use by others. The quantity of water diverted from the natural flow of Mill Creek together with that inducted into Mill Creek from North Santiam River shall not exceed 135 cubic feet per second. The place of use is described in the tabulation herein.

19.

CONTEST NO. 9

Theodore Highberger,

Contestant,

v.

Charles Martin,

Contestee.

Theodore Highberger filed herein Statement of Contest No. 9, wherein the following is asserted: (1) That said contestant claims an interest in and to the waters of said stream, as follows, to-wit: the right to use the same to the extent of 135 second-feet for the purpose of generating power, and that said power is generated by contestant's Mill Race, which intersects Mill Creek at a point above the Highberger Mills, and through said intersecting Mill Race, the water is carried to and near said Highberger Mills and is there used for the purpose of developing such power; (2) That said Contestee is claiming that he has the right to take water from Contestant's Mill Race for the purpose of irrigating certain lands of the Contestee.

It appears that the Contestee, Charles Martin, did not assert a right to the use of the natural flow of water in Mill Creek. Therefore, Statement of Contest No. 9 does not present an issue which comes within the jurisdiction of the State Engineer in this proceeding.

20.

CONTEST NO. 10

Fred Hottinger,

Contestant,

v.

William H. Myers,

Contestee.

Contestee, William H. Myers, filed herein Statement and Proof of Claim No. 57 wherein he asserts a right to the use of 0.10 cubic foot per second of water from Mill Creek for stock purposes, with a date of priority of 1876.

To said claim Fred Hottinger filed herein Statement of Contest No. 10. The issue raised in said contest is summarized as follows: That the quantity of water claimed

is excessive in that the right thereto has not been established by an original use fixed prior to the year 1909 and by a continuous use since the origination thereof as appurtenant to the real premises claimed as the place of use; and that the date of relative priority of said claim is incorrect.

In settlement of said Contest No. 10 there was filed, prior to the time of the hearing, a stipulation entered into between the Contestant and the Contestee which reads as follows:

"It is hereby stipulated by and between the above named contestant and contestee that contestee is entitled to sufficient water under his Proof Number 57 filed in these proceedings for the watering of six head of livestock with a priority date of the year 1876. Said quantity to be fixed and determined by the State Engineer.

"It is further stipulated that the above contest may be dismissed."

It appears that the claim of the Contestee is based upon stock drinking directly from Mill Creek from watering holes made by the stock upon the Contestee's lands.

The Contestee, William H. Myers, is allowed a right to the use of the waters of Mill Creek for use in watering six head of livestock with a date of priority of 1876. Said right is limited to the watering of stock directly from Mill Creek as it flows through the claimant's lands as described in the tabulation herein. The quantity of water to which said Contestee is entitled is in accordance with the provisions of Paragraph 115 hereof.

21.

CONTEST NO. 11

Fred Hottinger,

Contestant,

v.

John Hostetler,

Contestee.

Contestee, John Hostetler, filed herein Statement and Proof of Claim No. 43 wherein he asserts a right to the use of 0.1 cubic foot per second of water from Mill Creek, for stock purposes, with a date of priority of 1876.

To said claim Fred Hottinger filed herein Statement of Contest No. 11. The basis of this contest as set forth in said statement is as follows: That the quantity of water claimed is excessive in that the right thereto has not been established by an original use fixed prior to the year 1909 and by a continuous use since the origination thereof as appurtenant to the real premises claimed as the place of use; and that the date of relative priority of said claim is incorrect.

In settlement of said Contest No. 11 there was filed, prior to the time of the hearing, a stipulation entered into between the Contestant and the Contestee which reads as follows:

"It is hereby stipulated by and between the above named contestant and contestee that contestee is entitled to sufficient water under his Proof Number 43 filed in these proceedings for the watering of eight head of cows and two head of horses with a priority date of the year 1876. Said quantity to be fixed and determined by the State Engineer.

"It is further stipulated that the above contest may be dismissed."

It appears that the claim to the use of the waters of Mill Creek is based upon stock drinking directly from the stream in watering holes made by the stock, upon Contestee's lands.

Contestee, John Hostetler, is allowed a right to the use of the waters flowing in Mill Creek for the watering of eight head of cows and two head of horses, with a priority of 1876. Said right is limited to stock drinking from Mill Creek as it flows through the property of the Contestee as described in the tabulation herein. The quantity of water to which said Contestee is entitled is in accordance with the provisions of Paragraph 115 herein.

22.

CONTEST NO. 12

Fred Hottinger,

Contestant,

v.

Goldie Van Handle,

Contestee.

Contestee, Goldie Van Handle, filed herein Statement and Proof of Claim No. 98 asserting a right to the use of 0.1 cubic foot per second of water from Mill Creek, for stock purposes, with a date of priority of 1876.

To said claim Fred Hottinger filed herein Statement of Contest No. 12. The basis of this contest as set forth in said statement is as follows: That the quantity of water claimed is excessive in that the right thereto has not been established by an original use fixed prior to the year 1909 and by a continuous use since the origination thereof as appurtenant to the real premises claimed as the place of use; and that the date of relative priority of said claim is incorrect.

In settlement of said Contest No. 12 there was filed, prior to the time of the hearing, a stipulation entered into between Contestant and Contestee which reads as follows:

"It is hereby stipulated by and between the above named contestant and contestee that contestee is entitled to sufficient water under her Proof Number 98 filed in these proceedings for the watering of eight head of cows and four head of horses with a priority date of the year 1876. Said quantity to be fixed and determined by the State Engineer.

"It is further stipulated that the above contest may be dismissed."

It appears from said statement and proof of claim that stock drink directly from Mill Creek, at watering holes made by the stock upon Contestee's lands.

The Contestee, Goldie Van Handle, is allowed a right to the use of the water of Mill Creek for the watering of eight head of cows and four head of horses, with a date of priority of 1876. Said right is limited to stock drinking directly from Mill Creek as it flows through the lands of the Contestee which are described in the tabulation herein. The quantity of water to which said Contestee is entitled is in accordance with the provisions of Paragraph 115 herein.

23.

CONTEST NO. 13

Fred Hottinger,

Contestant,

v.

Ezra Hilton,

Contestee.

Contestee, Ezra Hilton, filed herein Statement and Proof of Claim No. 41 wherein he asserts a right to the use of 0.1 cubic foot per second of the waters of Mill Creek by stock drinking directly from the stream, with a date of priority of 1876.

To said claim Fred Hottinger filed herein Statement of Contest No. 13.

The basis of said contest is as follows: That the quantity of water claimed is excessive in that the right thereto has not been established by an original use fixed prior to the year 1909 and by a continuous use since the origination thereof as appurtenant to the real premises claimed as the place of use; and that the date of relative priority of said claim is incorrect.

In settlement of said Contest No. 13 there was filed, prior to the time of the hearing, a stipulation entered into between the Contestant and Contestee which reads as follows:

"It is hereby stipulated by and between the above named contestant and contestee that contestee is entitled to sufficient water under his Proof Number 41 filed in these proceedings for the watering of five head of hogs, two head of horses and five head of cows with a priority date of the year of 1876. Said quantity to be fixed and determined by the State Engineer.

"It is further stipulated that the above contest may be dismissed."

It appears that said claim is based upon stock drinking directly from stock-made watering holes in the channel of Mill Creek upon Contestee's lands.

Contestee is allowed a right to the use of water in Mill Creek for the watering of five head of hogs, two head of horses and five head of cows, with a date of priority of 1876. Said right is limited to stock drinking directly from Mill Creek as it flows through the lands of the Contestee as described in the tabulation herein. The quantity of water to which said Contestee is entitled is in accordance with the provisions of Paragraph 115 herein.

CONTEST NO. 14

Fred Hottinger,

Contestant,

v.

Henry Miller,

Contestee.

Contestee, Henry Miller, filed herein Statement and Proof of Claim No. 55 wherein he asserts a right to the use of 0.2 cubic foot per second of the waters of Mill Creek for watering stock, with a date of priority of 1866.

To said claim Fred Hottinger filed herein Statement of Contest No. 14.

The grounds upon which Contestant, Fred Hottinger, bases his contest are: That the quantity of water claimed is excessive in that the right thereto has not been established by an original use fixed prior to the year 1909 and by a continuous use since the origination thereof as appurtenant to the real premises claimed as the place of use; and that the date of relative priority of said claim is incorrect.

In settlement of said Contest No. 14 there was filed, prior to the time of the hearing, a stipulation entered into between the Contestant and Contestee which reads as follows:

"It is hereby stipulated by and between the above named contestant and contestee that contestee is entitled to sufficient water under his Proof Number 55 filed in these proceedings for the watering of thirty head of cows and one hundred head of sheep and hogs with a priority date of the year of 1866. Said quantity to be fixed and determined by the State Engineer.

"It is further stipulated that the above contest may be dismissed."

It appears from said statement and proof of claim that stock drink directly from Mill Creek as it flows through the lands of the Contestee.

The Contestee, Henry Miller, hereby is allowed a right to the use of the waters of Mill creek for 30 head of cows and 100 head of sheep and hogs, with a date of priority of 1866. Said right is limited to stock drinking directly from Mill Creek as it flows through the lands of the Contestee, as described in the tabulation herein. The quantity of water to which said Contestee is entitled is in accordance with the provisions of Paragraph 115 herein.

CONTEST NO. 15

State of Oregon, by the
Oregon State Board of Control,

Contestant,

v.

Frank N. Waters,

Contestee.

Contestee, Frank N. Waters, filed herein Statement and Proof of Claim No. 99 wherein he asserts a right to the use of 172 cubic feet per second of water from the natural flow of Mill Creek with a date of priority of 1857, for cooling purposes and the development of 117 theoretical horsepower under a 6-foot head, the place of use being within the City of Salem and more particularly described in said claim.

To said claim the State of Oregon, by the Oregon State Board of Control, filed herein Statement of Contest No. 15.

The grounds upon which Contestant bases its contest, as set forth in said statement of contest, are as follows: (1) That neither the Contestee nor his predecessors has applied any of the waters of Mill Creek to a beneficial use other than the right to the use of which was purchased from others. (2) That Contestee has heretofore neither appropriated nor claimed the right to the use of the water of Mill Creek. (3) That Contestant has heretofore, for a period of approximately 50 years, applied 4.1 second feet of the waters of Mill Creek to domestic, stock, irrigation, and institutional purposes without objection from or adverse claim of Contestee.

It appears that in September, 1888, Ben P. Taylor, predecessor in interest of the Contestee, acquired the property upon which the power plant of the Contestee is now located and constructed an undershot water wheel with a water capacity of between 50 and 60 cubic feet per second which developed power for the operation of a machine shop. It appears that this water wheel was used up to 1915 when the existing concrete dam was constructed, and the undershot wheel replaced with a 36-inch vertical type S Morgan Smith turbin with a rated capacity of 44.8 horsepower. Subsequent to 1915 a second unit of the same type and capacity as that of the first was installed.

The power plant and works of the Contestee consist of a concrete dam which raises the water about 6.0 feet and two 36-inch vertical type S Morgan Smith turbins, each with a rated capacity of 44.8 horsepower under a 6.0-foot head, with a water capacity of 4880 cubic feet per minute, or 81.33 cubic feet per second. The power is used for operating compressors used in connection with the ice and cold storage plant of Contestee and for the generation of electrical energy. The electrical equipment consists of one 1.25 KW exciter and one 30 KW generator.

It appears that a maximum of approximately 560 gallons of water per minute is required for condensing and cooling purposes in the operation of the cold storage and ice

plant, which water is returned to Mill Creek and is available for use below.

It appears that the Contestee, by contract with the Oregon Pulp and Paper Company, secures some water inducted into Mill Creek from North Santiam River, which is used to supplement the natural flow of Mill Creek. That during the summer months the total quantity of water available has not been sufficient to operate the two power units and when this condition occurs, additional power is developed by means of a Diesel power plant.

The Contestee, Frank N. Waters, hereby is allowed a right to the use of 162.66 cubic feet per second of water from the natural flow of Mill Creek for use in the development of 110.9 theoretical horsepower under a 6.0-foot head, of which 60.0 cubic feet per second has a priority of 1888 and 102.66 cubic feet per second has a priority of 1915. Said Contestee is allowed an additional right of 1.25 cubic feet per second of water for use in connection with condensing and cooling operations in the ice and cold storage plant of Contestee, with a date of priority of 1915. The place of use of said water is described in the tabulation herein.

Said rights are subsequent and inferior to the rights allowed herein to the contestant for irrigation and for the operation and maintenance of the State Hospital, State Penitentiary, State Tuberculosis Hospital, State Penitentiary Annex, State Capitol buildings and buildings and grounds connected with these institutions and is also subsequent and inferior to the rights of the Oregon Pulp and Paper Company, The Thomas Key Woolen Mills Company, and the City of Salem, Oregon, as allowed herein.

There are a number of claims filed herein asserting rights to the natural flow of the waters of Mill Creek and its tributaries for irrigation, domestic and stock purposes and said water has in many instances been used for a period of 10 years or more, therefore the rights allowed Contestee Frank N. Waters are subject to the rights allowed herein with priorities of July 25, 1929 or earlier.

26.

CONTEST NO. 16

State of Oregon, by the
Oregon State Board of Control,

Contestant,

v.

Willamette Valley Water Company,

Contestee.

Contestee, Willamette Valley Water Company, filed herein Statement and Proof of Claim No. 99A wherein it asserts a right to the use of seepage and waste water under an application made to the State Engineer.

To said claim the State of Oregon, by the Oregon State Board of Control, filed herein Contest No. 16.

It appears that the application upon which the Contestee bases its claim has never

been approved by the State Engineer due to the Contestee's failure to submit satisfactory maps and data from which the State Engineer could determine the source of the water to be appropriated.

This proceeding is for the determination of the relative rights to the use of the waters of Mill Creek and its tributaries. It has been held by the Attorney General of Oregon (Page 554 Biennial Report and Opinions of the Attorney General of Oregon, 1928-1930) that a water right does not come into existence until the application has been approved, and the applicant has, subject to such approval, taken at least some steps to apply the water to the beneficial use as authorized by the State Engineer.

The right asserted by the Contestee is not a water right which can be determined in this proceeding.

27.

ESTATE OF J. D. ALEXANDER, by Charlotte Alexander, Executrix, Rt. 2, Box 222, Salem, Oregon.

Claimant filed herein Statement and Proof of Claim No. 1, asserting a right to the use of 0.02 cubic foot per second of water from an unnamed spring in Lot 8, Sunnyside Fruit Farms No. 6, Section 27, Township 8 South, Range 3 West, W. M., a tributary of Norris Creek, sometimes called Taylor Creek, for the irrigation of 1.5 acres in the SW $\frac{1}{4}$, Section 27, Township 8 South, Range 3 West, W. M., and more particularly described in said claim. A date of priority of October 2, 1929, is claimed. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 9, Page 10045.

It appears that the water is diverted by means of a pump driven by an electric motor. The water is delivered to the place of use in a pipe line 450 feet in length and of 1-inch in diameter.

It further appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of said certificate of water right and the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.02 cubic foot per second of water from an unnamed spring, which rises within Lot 8, Sunnyside Fruit Farms No. 6, Section 27, Township 8 South, Range 3 West, W. M., with a date of priority of October 2, 1929, for the irrigation of 1.5 acres within Lots 8 and 10, Sunnyside Fruit Farms No. 6, Section 27, Township 8 South, Range 3 West, W. M.

Claimant also filed herein Statement and Proof of Claim No. 2, wherein a right is asserted to the use of 0.01 cubic foot per second of water from an unnamed spring in Lot 8, Sunnyside Fruit Farms No. 6, Section 27, Township 8 South, Range 3 West, W. M., for stock and domestic use and for the irrigation of a lawn and garden, being the same spring for which a right is asserted for irrigation under Statement and Proof of Claim No. 1. A date of priority of 1863 is claimed for stock use and a date of priority of 1891 for domestic use.

It appears that the water from said unnamed spring is diverted by means of the same pumping plant and pipe line as is used for the diversion of the water under said Statement and Proof of Claim No. 1.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.005 cubic foot per second of water from an unnamed spring in Lot 8, Sunnyside Fruit Farms No. 6, Section 27, Township 8 South, Range 3 West, W. M., for stock purposes with a date of priority of 1863. Claimant is also allowed a right to the use of 0.005 cubic foot per second of water from said spring for domestic purposes including the irrigation of a lawn and garden not exceeding 1/2 acre in area, with a date of priority of 1891, the place of use being in Lots 8 and 10, Sunnyside Fruit Farms No. 6, Section 27, Township 8 South, Range 3 West, W. M.

28.

MAX L. ALFORD, ROUTE 4, BOX 244, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 3 wherein he asserts a right to the use of 0.06 cubic foot per second of water from a spring, which rises in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, Township 8 South, Range 3 West, W. M., for the irrigation of 2.1 acres within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, and 1.4 acres within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 8 South, Range 3 West, W. M., and for domestic purposes, with a date of priority of August 21, 1937.

It appears that said right was initiated under Application No. 17053, Permit No. 13016. For finding applicable thereto, see Paragraph 117 herein.

29.

CHARLES AND LENA AMORT, ROUTE 1, BOX 26, ADAMSVILLE, OREGON.

Claimants filed herein Statement and Proof of Claim No. 4, wherein they assert a right to the use of 0.63 cubic foot per second of water from Beaver Creek, diverted through unnamed ditches, for stock and domestic use and for the irrigation of 49.80 acres of land within Section 29, Township 8 South, Range 1 West, W. M., and more particularly described in said claim, with a date of priority of January 30, 1926. It appears that said right is based upon a certificate of water right recorded in State Record of Water Right Certificates, Volume 7, Page 7101. Said certificate of water right is for the use of 0.63 cubic foot per second of water from Beaver Creek for the irrigation of 21 acres in the NW $\frac{1}{4}$ N $\frac{1}{4}$, 6.0 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 19.8 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, and 3.0 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 29, Township 8 South, Range 1 West, W. M., and does not include water for stock and domestic purposes.

Claimants also filed herein Statement and Proof of Claim No. 5 wherein they assert a right to the use of 1.3 cubic feet per second of water from Beaver Creek for the irrigation of 19.0 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 20.0 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 38.0 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 29, and 30.0 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 30, all in Township 8 South, Range 1 West, W. M.

and for stock and domestic purposes, with a date of priority of March 23, 1926. Said right is based upon a certificate of water right recorded in State Record of Water Right Certificates, Volume 7, Page 7103. Said certificate of water right is for the appropriation of 1.3 cubic feet per second of water from Beaver Creek for the irrigation of 107 acres of land as above described and does not include a right to the use of water for domestic and stock purposes.

The original maps prepared under the direction of the State Engineer in these proceedings showing the location of streams and canals and the location and area of the lands irrigated, show 30.7 acres as irrigated within Lot 3, and 12.4 acres as irrigated within Lot 2, Section 29, Township 8 South, Range 1 West, W. M. A resurvey made on February 23, 1943, by an engineer from the office of State Engineer, shows the area irrigated to be as follows: 1.6 acres in Lot 1; 23.2 acres in Lot 2; 32.2 acres in Lot 3; 24.0 acres in Lot 4, and 2.0 acres in Lot 5, of said Section 29.

It appears that the total area of land which claimant has irrigated under rights asserted in Statements and Proofs of Claim Nos. 4 and 5 herein is about 83.0 acres. It further appears that the description of the lands as set forth in the aforesaid certificates of water right is in error as to the description of the lands irrigated.

It appears that beneficial use of the waters of Beaver Creek has been made by claimants for the irrigation of 83.0 acres and that no contest has been filed herein to said statements and proofs of claim. Therefore, in accordance with the provisions of the aforesaid certificates of water right as modified herein and of the provisions of Paragraph 115 herein, claimants hereby are allowed a right to the use of 1.04 cubic feet per second of water from Beaver Creek, to be diverted by means of ditches and dams, for the irrigation of 1.6 acres in Lot 1, 23.2 acres in Lot 2, 32.2 acres in Lot 3, 24.0 acres in Lot 4, and 2.0 acres in Lot 5, Section 29, Township 8 South, Range 1 West, W. M. The date of priority of 0.63 cubic foot per second of said 1.04 cubic feet per second of water for the irrigation of 49.8 acres of said 83.0 acres is January 30, 1926, and the date of priority of 0.41 cubic foot per second of said 1.04 cubic feet per second of water for the irrigation of 33.2 acres of said 83.0 acres is March 23, 1926.

30.

S. R. BARRY, ROUTE 1, ADAMSVILLE, OREGON.

Claimant filed herein Statement and Proof of Claim No. 7 wherein he asserts a right to the use of 0.36 cubic foot per second of water from Simpson Creek, a tributary of Beaver Creek, for the irrigation of 28.5 acres of land.

Said claim is based upon two rights which are as follows: A right to the use of 0.18 cubic foot per second of water from said stream for the irrigation of 10.0 acres within

the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 19, and 4.5 acres within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 30, Township 8 South, Range 1 West, W. M., with a date of priority of February 9, 1922, evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 6, Page 5486, and a right for the use of 0.18 cubic foot per second from said stream for the irrigation of 5.0 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 19, and 9.0 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 30, Township 8 South, Range 1 West, W. M., with a date of priority of July 12, 1924, evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 7, Page 6705.

The lands irrigated by the claimant are located in Government lots and donation land claims, and said certificates of water right which describe the lands by forty-acre tracts, are in error.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with said certificates of water right as amended herein with respect to the description of the place of use, and of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.18 cubic foot per second of water from Simpson Creek, tributary of Beaver Creek, for the irrigation of 14.5 acres with a date of priority of February 9, 1922; and 0.18 cubic foot per second of water from said Simpson Creek for the irrigation of 14.0 acres with a date of priority of July 12, 1924. The water is to be diverted by means of ditches. The place of use is described in the tabulation herein. Said certificates of water right hereby are amended as to the description of the place of use to conform with this finding.

31.

FLOYD E. BATES, ROUTE 4, BOX 179, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 8 wherein he asserts a right initiated under Application No. 17411, Permit No. 13108, to the use of 0.35 cubic foot per second of water from Battle Creek, a tributary of Mill Creek, for the irrigation of 27.2 acres of land in Sections 20, 21, 28 and 29, Township 8 South, Range 3 West, W. M.

Subsequent to the filing of said claim, a certificate of water right was issued confirming a right to the use of 0.28 cubic foot per second of water from Battle Creek for the irrigation of 12.3 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 21, 5.7 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 20, 3.0 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 29, and 1.0 acre in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, Township 8 South, Range 3 West, W. M., with a date of priority of July 8, 1938.

It appears that beneficial use has been made of the quantity of water evidenced by Certificate of Water Right recorded in State Record of Water Right Certificates, Volume 12, Page 14425, for the irrigation of 22 acres of land as described therein, and that no contest has been filed to said statement and proof of claim. Therefore, in accordance with the provisions of said certificate of water right and of Paragraph 115 herein, claimant

hereby is allowed a right to the use of 0.28 cubic foot per second of water from Battle Creek, diverted by means of a pump for the irrigation of 22.0 acres of land as described in said certificate of water right and in the tabulation herein, with a date of priority of July 8, 1938.

32.

H. J. BEAN, 755 N. CAPITOL ST., AND P. L. FRAZIER, 745 N. CAPITOL ST., SALEM, OREGON.

H. J. Bean, now deceased, and P. L. Frazier, filed herein Statement and Proof of Claim No. 9 asserting a right to the use of the waters of Mill Creek for irrigation purposes diverted through 182 feet of 1½" pipe by means of a 1½" centrifugal pump operated by a 2-horsepower electric motor with a date of priority of June 7, 1938. Said claim is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 11, Page 12219.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of said certificate of water right and the provisions of Paragraph 115 herein, claimants hereby are allowed a right to the use of 0.01 cubic foot per second of water from Mill Creek, diverted by means of pumping, for the irrigation of 0.5 acre of land as described in the tabulation herein, with a date of priority of June 7, 1938.

33.

W. J. BEARD, 571 N. 15TH ST., SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 10 wherein he asserts a right to the use of 0.01 cubic foot per second of water from Mill Creek for the irrigation of approximately 0.125 acre in Lot 4, Block 4, Reeds Addition to the City of Salem, Oregon, with a date of priority of May 23, 1934. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 10, Page 11043.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of said certificate of water right, and of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.01 cubic foot per second of water from Mill Creek to be diverted by pumping for the irrigation of 0.125 acre within Lot 4, Block 4, Reeds Addition to the City of Salem, Oregon, with a date of priority of May 23, 1934.

34.

E. O. BECKLEY, ROUTE 1, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 11, wherein he asserts a right to the use of 0.02 cubic foot per second of water from a spring, a tributary of

Battle Creek, for domestic use including the irrigation of a garden, and for a swimming pool, with a date of priority of July 24, 1926. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificate, Volume 10, Page 10535.

It appears that the spring to which claimant has asserted a right rises about 400 feet south and 600 feet west of the northeast corner of Section 27, Township 8 South, Range 3 West, W. M., and that beneficial use has been made of said water. Therefore, subject to the provisions of said certificate of water right, claimant hereby is allowed a right to the use of 0.02 cubic foot per second of water from said spring for domestic purposes including the irrigation of a garden not exceeding one-half acre in area, and for use in maintaining a swimming pool, with a date of priority of July 24, 1926. The place of use is within Lots 1 and 2, Sunnyside Fruit Farms No. 7, in Section 27, Township 8 South, Range 3 West, W. M.

35.

PAUL H. BERNDT, ROUTE 4, BOX 62-A, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 12 wherein he asserts a right to the use of 0.05 cubic foot per second of water from a spring, tributary to Battle Creek, and 0.13 cubic foot per second from Battle Creek for irrigation and domestic purposes, initiated under Application No. 15251, Permit No. 11154. For findings applicable thereto, see Paragraph 117 herein.

36.

I. J. BOEDIGHEIMER, ROUTE 1, STAYTON, OREGON.

Claimant filed herein Statement and Proof of Claim No. 13, wherein he asserts a right to the use of 0.02 cubic foot per second of water from Mill Creek for the watering of 15 head of cattle and horses, 50 head of hogs and 15 head of goats and sheep, with a date of priority of 1892.

It appears that said claim is based upon stock drinking directly from the stream as it flows through the lands of the claimant.

Subject to the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of water flowing in Mill Creek for the watering of a maximum of 15 head of cattle and horses, 50 head of hogs, and 15 head of goats and sheep, with a priority of 1892. said right is limited to stock drinking from the stream as it flows through the lands of the claimant as described in the tabulation herein.

G. F. BOOTH, TURNER, OREGON.

Claimant filed herein Statement and Proof of Claim No. 14 wherein he asserts a right to the use of 0.12 cubic foot per second of water from springs which rise within the South Half of Section 12, Township 9 South, Range 3 West, W. M., for irrigation and domestic purposes, with a date of priority of April 8, 1913. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 3, Page 2316.

In said claim the claimant states that the description of the lands irrigated is in error in said certificate of water right and requests that in this finding the description be corrected to conform with that as set forth in said claim.

A careful examination of the lands of the claimant was made on March 20, 1943, by a representative of the State Engineer, from which it appears: That the spring to which the claimant has asserted a right to the use of in said claim, is one of several which rise within a small area near the center of the SE $\frac{1}{4}$ of Section 12, Township 9 South, Range 3 West, W. M., and form the headwaters of a tributary of Norton Creek. That at the spring where it rises is a box and leading therefrom is a pipe line which conveys the water for a distance of about 1,000 feet to the claimant's residence located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 12, Township 9 South, Range 3 West, W. M., where it is used for domestic purposes including the irrigation of a small domestic garden. That the diameter of the pipe line for about 50 feet from the spring is 1 $\frac{1}{2}$ inches and from this point to the place of use, 3/4 inch. That the total fall is about 130 feet and the capacity of the pipe line about 7.0 gallons per minute. It also appears that there is no evidence of water from said spring being used by claimant for irrigation except for irrigation of a garden adjacent to claimant's residence.

It appears that beneficial use of the waters of said spring has been made in an amount not exceeding 7.0 gallons per minute for stock and domestic use and for the irrigation of a domestic garden, and that no contest has been filed herein to statement and proof of claim. Therefore, claimant hereby is allowed a right to the use of 7.0 gallons per minute of water from a spring rising near the center of SE $\frac{1}{4}$, Section 12, Township 9 South, Range 3 West, W. M., conveyed through a pipe line, for stock and domestic use, and for the irrigation of a garden, with a date of priority of April 8, 1913. The place of use is within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 12, Township 9 South, Range 3 West, W. M.

Said certificate of water right hereby is held to be modified to conform with this finding.

H. S. BOOTH, TURNER, OREGON.

Claimant filed herein Statement and Proof of Claim No. 15 wherein he asserts a right to the use of 0.02 cubic foot per second of water from a spring in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, Township 9 South, Range 2 West, W. M., and an unnamed tributary to Norton Creek, tributary to Mill Creek, for stock use and domestic purposes including the irrigation of a half-acre garden, with a priority of 1872.

It appears that beneficial use has been made of said water and that no contest has been filed herein to said statement and proof of claim. Therefore, subject to the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.02 cubic foot per second of water from a spring, which rises within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, Township 9 South, Range 2 West, W. M., and from an unnamed stream, tributary to Norton Creek, tributary to Mill Creek, for stock and domestic uses including the irrigation of a garden not exceeding 1/2 acre in area, with a priority of 1872. The place of use is within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, Township 9 South, Range 2 West, W. M.

CLYDE J. AND LYDIA BOYCE, TURNER, OREGON.

Claimants filed herein Statement and Proof of Claim No. 16 wherein they assert a right to the use of 0.50 cubic foot per second of water from Battle Creek for domestic purposes including the irrigation of a garden, and for a frog pond, with a date of priority of October 13, 1931. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 10, Page 10877.

From an inspection of the premises made under the direction of the State Engineer, it appears that water for domestic use and for the irrigation of a domestic garden is secured from a spring rising upon the claimants' lands. That while there is evidence of six ponds which may have been used at one time for impounding water, from their present condition it is evident that they have not been used within the last five years. Also there is no evidence of irrigation or means of diverting water from Battle Creek for irrigation, or for domestic purposes.

While no contest has been filed herein to said statement and proof of claim, from the condition of said ponds it appears that the right to the use of water from Battle Creek for maintaining frog ponds has been lost by failure to use the same within the five-year period as provided by Section 116-437, O. C. L. A. Therefore, claimants' right as asserted in Statement and Proof of Claim No. 16 herein, hereby is denied.

ELVA BOYD AND LUKE DILLARD, GUARDIAN FOR NORMAN BIRCHER, ROUTE 2, Box 668, KELSO, WASHINGTON.

Claimants filed herein Statement and Proof of Claim No. 17 wherein they assert a right to the use of 0.02 cubic foot per second of water from Mill Creek for stock and domestic

purposes, with a date of priority of 1854. Said claim is based upon stock drinking from Mill Creek as it flows through the lands of claimants, there being no artificial diversions for either stock or domestic use.

No contest has been filed herein to said statement and proof of claim. Claimants hereby are allowed a right to the use of not to exceed 0.02 cubic foot per second of water from Mill Creek for watering stock and for domestic use, with a date of priority of 1854. Said stock right is limited to stock drinking directly from said stream on the land of the claimants, and said domestic right is limited to dipping water from said stream on the lands of the claimants as described in the tabulation herein.

41.

GUY T. BUTLER, SUBLIMITY, OREGON.

Claimant filed herein Statement and Proof of Claim No. 18 wherein he asserts a right to the use of the waters of Beaver Creek for the watering of 10 head of cattle, and for a supplemental supply for domestic use, including the irrigation of a garden, with a date of priority of December 4, 1863.

It appears from said claim that stock drink directly from Beaver Creek as it flows through the lands of the claimant, and that water is diverted from Beaver Creek as a supplemental supply for domestic purposes including the irrigation of a garden.

No contest has been filed herein to said statement and proof of claim. Therefore, subject to the provisions of Paragraph 115 herein, claimant hereby is allowed a right to water flowing in Beaver Creek for the watering of 10 head of cattle or an equivalent number of other stock, and a right to divert not to exceed 0.005 cubic foot per second of water as a supplemental domestic supply and for the irrigation of a garden, not to exceed 1/2 acre in area, with a date of priority of December 4, 1863. Said stock right is limited to the stock drinking directly from Beaver Creek as it flows through claimant's lands as described in the tabulation herein.

42.

RALPH E. CARTWRIGHT, ROUTE 3, BOX 780, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 19 wherein he asserts a right to the entire flow of water from unnamed springs in the S $\frac{1}{2}$, Section 19, Township 8 South, Range 3 West, W. M., for domestic and stock use, and the irrigation of a garden, with a date of priority of June 18, 1864.

From said claim and the adjudication survey maps prepared under the direction of the State Engineer, it appears that the springs for which a right is asserted rise upon the lands of the claimant and the water is collected in a ditch and sump from which the stock drink; also stock drink directly from the springs. Claimant hereby is allowed a right to the use of 0.02 cubic foot per second of water from springs rising in the southwest

one-fourth of claimant's land as described in the tabulation herein, for stock and domestic use, and the irrigation of a garden not exceeding one-half acre in area, with a date of priority of June 18, 1864. The place of use is within the southwest one-fourth of claimant's land as described in the tabulation herein.

43.

LEO N. CHILDS AND ELLA CHILDS, SALEM, OREGON.

Claimants filed herein Statement and Proof of Claim of Claim No. 20 wherein they assert a right to have a continuous flow of 25 cubic feet per second of water from Mill Creek flow through a channel which was originally constructed and operated as a power canal on claimants' property.

It appears that about the year 1888 a canal was constructed across the property now owned by the claimants through which water was diverted from Mill Creek for power purposes. That the water flowing in said canal is no longer used in the development of power but for a long period of time has continued to flow unregulated through said canal or channel. That the water flowing through said canal or channel is valuable to the property of the claimants for recreational and other similar non-consuming purposes.

Claimants hereby are allowed the right to maintain a flow of not less than 25.0 cubic feet per second of water flowing in Mill Creek through said ditch or channel crossing the properties of the claimants as described in the tabulation herein. Said water is to be returned to Mill Creek as in the past so as to be available for others below. Said right hereby is held to be subsequent and inferior to all other rights to the use of the natural flow of Mill Creek and its tributaries as allowed herein.

44.

HARVEY J. CLEMENTS, 360 NORTH 14TH STREET, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 21 wherein he asserts a right to the use of the waters of Mill Creek for irrigation, domestic and manufacturing purposes, with a date of priority of October 7, 1865.

From an examination of the lands described in said claim, it appears that the only possible beneficial use of the waters of Mill creek that can be made for the purposes asserted in said claim is in the irrigation of a lawn and garden, in the development of which claimant evidently has expended a large amount of time and money.

It appears that no contest has been filed herein to said statement and proof of claim. Therefore, subject to the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.02 cubic foot per second of water from the natural flow of Mill Creek, by pumping, for the irrigation of the lands included in the tract described in the tabulation herein, with a date of priority of October 7, 1865.

C. E. COLVIN, TURNER, OREGON.

Claimant filed herein Statement and Proof of Claim No. 22 wherein he asserts a right to the use of 0.20 cubic foot per second of water from Porter Creek, a tributary of Mill Creek, for the irrigation of 16 acres of land in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 26, Township 8 South, Range 2 West, W. M., with a date of priority of June 8, 1922. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 6, Page 5142.

It appears that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of said Certificate of Water Right and the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.20 cubic foot per second of water from Porter Creek for the irrigation of 16.0 acres within Section 26, Township 8 South, Range 2 West, W. M., more particularly described in the tabulation herein, with a date of priority of June 8, 1922. Said water is to be diverted by means of an unnamed ditch on lands of the claimant.

CHRIS AND HILDA CREMER, BY CHRIS CREMER, STAYTON, OREGON.

Claimants filed herein Statement and Proof of Claim No. 23 wherein they assert a right to the use of 2.0 gallons of water per minute from each of two springs and an unnamed stream, tributary of Mill Creek, for stock purposes, with a date of priority of 1904. A description of the two springs as set forth in said claim is as follows:

Spring in the north part of the following described tract: Beginning at a point in the center of the county road 9.74 chains east of the southwest corner of the Charles Benson D. L. C. in Sec. 1, T. 9 S., R. 1 W., W. M., in Marion County, Oregon; running thence west along the center of the county road 9.74 chains to the southwest corner of said D. L. C.; thence south 83° West 3.52 chains; thence south 46.25 chains to the center of the county road; thence north 36 $\frac{1}{2}$ ° east 12.90 chains; thence north 45 minutes east 45.54 chains to the place of beginning and containing 60 acres more or less, and spring in south part of said tract, a tributary to an unnamed tributary of Mill Creek and said unnamed tributary of Mill Creek.

The claim is based upon stock drinking directly from the foregoing springs and the unnamed stream upon claimants' lands.

It appears that the waters have been used for the watering of stock in the manner as stated in the claim and that no contest has been filed herein to said statement and proof of claim. Therefore, claimants hereby are allowed a right to the use of 2.0 gallons of water per minute from each of said springs, and 2.0 gallons of water per minute from said unnamed stream, tributary of Mill Creek, for stock purposes, with a date of priority of 1904. Said right is limited to stock drinking directly from the two springs and from the unnamed stream upon claimants' lands which are described in the tabulation herein.

ED AND EMMA DOERFLER, ROUTE 1, AUMSVILLE, OREGON.

Claimants filed herein Statement and Proof of Claim No. 25 wherein they assert a right to the use of 0.05 cubic foot per second of water from four unnamed tributaries of Mill Creek, and a spring, for stock purposes, with a date of priority of 1865.

It appears that said claim is based upon the stock drinking directly from water flowing in the natural channel of the four unnamed streams, and from the unnamed spring upon claimants' land.

It appears that said water has been used for the watering of stock in the manner as stated and that no contest has been filed herein to said statement and proof of claim. Therefore, claimants hereby are allowed a right to the use of 0.004 cubic foot per second of water from each of the four unnamed streams and from the unnamed spring which rises on claimants' lands, for watering stock, with a date of priority of 1865.

This right is limited to the stock drinking directly from said four unnamed streams and the unnamed spring upon claimants' lands as described in the tabulation herein.

DONKER BROTHERS, BY NANNE AND GERBEN DONKER, AUMSVILLE, OREGON.

Claimants filed herein Statement and Proof of Claim No. 26 wherein they assert a right to the use of 10.0 cubic feet per second of water from Mill Creek for the development of 11.38 theoretical horsepower under a 6.5-foot head, with a date of priority of May 21, 1923. It appears that said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 7, Page 7491, which certificate was issued on January 24, 1928. On December 7, 1933, Donker Brothers informed the State Engineer by letter that the quantity of water used did not exceed 10.0 cubic feet per second, and the statement required to be filed with the State Engineer under the provisions of Section 119-302, O. C. L. A., states the quantity of water used was 10.0 cubic feet per second, the head or fall was 6.5 feet, and the theoretical horsepower was 7.38.

It appears that claimants are using 10.0 cubic feet per second of water from Mill Creek for the development of 7.38 theoretical horsepower under a 6.5-foot head, and that no contest has been filed herein to said statement and proof of claim. Therefore, subject to the conditions of said certificate of water right, as modified herein as to the quantity of water, claimants hereby are allowed a right to the use of 10.0 cubic feet per second of water from Mill Creek diverted through claimants' ditch for the development of 7.38 theoretical horsepower under a head of 6.5 feet, with a date of priority of May 21, 1923.

The water, after passing through the turbin, shall be returned to Mill Creek

so as to be available for use below. The place of use is within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, Township 8 South, Range 2 West, W. M.

49.

ALFRED A. AND INEZ A. DUMBECK, ROUTE 2, TURNER, OREGON.

Claimants filed herein Statement and Proof of Claim No. 28 wherein they assert a right to the use of the waters of Morris Creek, tributary of Mill Creek, initiated under Application No. 17582, Permit No. 13279. For Findings applicable thereto, see Paragraph 117 herein.

50.

LLOYD A. DUNCAN, 2891 WEST PICO ST., LOS ANGELES, CALIFORNIA.

Claimant filed herein Statement and Proof of Claim No. 29 wherein he asserts a right to the use of 10.0 cubic feet per second of water from Mill Creek for stock and domestic purposes and the irrigation of a garden, with a date of priority of prior to 1870.

From the maps prepared under the direction of the State Engineer in this proceeding showing the location of streams, ditches and lands irrigated, which maps appear to have been accepted by claimant, no lands of the claimant are shown as irrigated, and no canal, ditches or pumping plant have been constructed by which water from Mill Creek could have been diverted. Therefore, the only way water flowing in Mill Creek could have been used for stock purposes was by stock drinking directly from the stream, and the only way water could have been used for domestic and irrigation was by carrying or hauling the same in containers.

No contest has been filed herein to said statement and proof of claim. Claimant hereby is allowed a right to the use of not to exceed 0.02 cubic foot per second of water from Mill Creek for watering stock, and domestic use including the irrigation of a garden not exceeding 1/2 acre, with a date of priority of 1870.

Said right is limited to stock drinking directly from Mill Creek on claimant's lands and to the taking of water from Mill Creek for domestic and irrigation purposes by dipping from said stream. The place of use is described in the tabulation herein.

51.

ARTHUR EDWARDS, ROUTE 2, TURNER, OREGON.

Claimant filed herein Statement and Proof of Claim No. 30 wherein he asserts a right to the use of sufficient water flowing in Battle Creek and an unnamed stream, tributary of Battle Creek, for watering 75 head of stock, with a date of priority of 1867.

It appears that said claim is based upon livestock drinking directly from the

water flowing in said streams.

No contest has been filed herein to said statement and proof of claim. Claimant hereby is allowed a right to water flowing in Battle Creek and an unnamed stream, tributary of Battle Creek, for watering 75 head of stock, with a date of priority of 1867. Said right is subject to the provisions of Paragraph 115 herein and is limited to stock drinking directly from said streams upon the claimant's lands described in the tabulation herein.

52.

FREDERICK H. ELEY, 590 NORTH 15TH STREET, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 31 wherein he asserts a right to the use of water from Mill Creek for the irrigation of Lots 1, 2, 3, 4, 5, and the S $\frac{1}{2}$ of Lot 6, Block 5, of Reed's Addition to the City of Salem, Oregon, and a small tract of land abutting Mill Creek and more particularly described in said claim, with a date of priority of 1857.

It appears from said claim that the water is diverted by means of ditches from the dam on Mill Creek owned by the City Ice Works and by pumping from Mill Creek below said dam.

It appears that the dam referred to by claimant in said claim was not constructed until about 1888. It also appears that no contest has been filed herein to said statement and proof of claim. Subject to the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.02 cubic foot per second of water from the natural flow of Mill Creek for the irrigation of the lands of the claimant as described in the tabulation herein, with a date of priority of 1888, the water to be diverted by means of ditches or by pumping from Mill Creek.

53.

WM. H. FUSON, ADAMSVILLE, OREGON.

Claimant filed herein Statement and Proof of Claim No. 32 wherein he asserts a right to the use of water from Mill Creek for watering 12 head of cattle, with a date of priority of 1897.

It appears that said right is based upon stock drinking directly from Mill Creek as it flows through the lands of the claimant.

It appears that no contest has been filed herein to said statement and proof of claim. Claimant, subject to the provisions of Paragraph 115 herein, hereby is allowed a right to the use of water flowing in Mill Creek for the watering of 12 head of stock, with a date of priority of 1897. Said right is limited to stock drinking directly from Mill Creek as it flows through claimant's lands described in the tabulation herein.

F. A. GARBE, ROUTE 1, AUMSVILLE, OREGON.

Claimant filed herein Statement and Proof of Claim No. 33 wherein he asserts a right to the use of 0.41 cubic foot per second of water from Beaver Creek for the irrigation of 25.0 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, and 8.0 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 30, Township 8 South, Range 1 West, W. M., with a date of priority of August 15, 1925, said right being evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 9, Page 9189.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with said certificate of water right which is modified herein as to the description of the place of use, and in accordance with the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.41 cubic foot per second of water from Beaver Creek diverted through a private ditch for the irrigation of 33.0 acres of land in Section 30, Township 8 South, Range 1 West, W. M., more particularly described in the tabulation herein, with a date of priority of August 15, 1925.

55.

WILLIAM A. GRAY, ROUTE 5, BOX 158, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 34 wherein he asserts a right to the use of water from an unnamed tributary of Beaver Creek, for stock and domestic purposes including the irrigation of 1/2-acre of garden, with a date of priority of 1866.

It appears that the right for stock purposes is based upon the stock drinking directly from the stream and the water for domestic use and the irrigation of a garden is by diversion through unnamed ditches and flume.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.025 cubic foot per second of water for stock purposes and for domestic use including the irrigation of a garden not exceeding 1/2-acre, through an unnamed ditch and flume with a date of priority of 1866, the place of use being described in the tabulation herein. Said right to the use of water for stock is limited to stock drinking directly from the stream on claimant's lands as described in the tabulation herein.

56.

GLENN O. HANKINS, ROUTE 4, BOX 289, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 35 wherein he asserts a right to the use of water from an unnamed spring in Lot 30, Sunnyside Fruit Farm No. 10,

Section 29, Township 8 South, Range 3 West, W. M., a tributary of an unnamed stream a tributary of Battle Creek, for domestic purposes including the irrigation of a small garden and lawn, with a date of priority of 1896. A right is also asserted in said claim to the use of water from said unnamed stream and unnamed springs for watering stock, with a date of priority of 1896.

Water from the unnamed spring is diverted by means of a pump driven by a 1/4-horsepower electric motor. The water from the pump is carried in a 2-inch diameter pipe for a distance of about 300 feet to the residence. The difference in elevation of the water surface at the spring and the place of use is about 35 feet. A 1/4-horsepower motor operating under a 35-foot head will deliver about 0.06 cubic foot per second of water.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 16,160 gallons of water in 24 hours, to be diverted at a maximum rate of 0.06 cubic foot per second of water from an unnamed spring, the source of which is within Lot 30, Sunnyside Fruit Farm No. 10, Section 29, Township 8 South, Range 3 west, W. M., for domestic use and for the irrigation of a garden and lawn not exceeding 1.0 acre, with a date of priority of 1896.

Claimant also is allowed a right to the use of 0.01 cubic foot per second of water for watering stock from springs and an unnamed stream flowing through claimant's property, with a date of priority of 1896. Said stock right is limited to stock drinking directly from said springs and stream. The place of use of said right is set forth in the tabulation herein.

57.

HUGH V. HARRIS, ROUTE 4, BOX 281, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 36 wherein he asserts a right to the use of 0.01 cubic foot per second of water of Battle Creek for stock purposes, with a date of priority of 1875.

It appears that said right is based upon stock drinking directly from Battle Creek where it flows through claimant's land.

No contest having been filed herein to said statement and proof of claim, claimant hereby is allowed a right to the use of 0.01 cubic foot per second of water flowing in Battle Creek for stock purposes, with a date of priority of 1875. Said right is limited to stock drinking directly from said stream as it flows through claimant's lands described in the tabulation herein.

LOUIS AND EVA HENDRICKS, BY LOUIS HENDRICKS, ADMSVILLE, OREGON.

Claimants filed herein Statement and Proof of Claim No. 39 wherein they assert a right to the use of water from a spring in NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 4, Township 9 South, Range 1 West, W. M., diverted through a flume for stock and domestic purposes including the irrigation of a garden, with a date of priority of 1850. A right is also asserted in said claim to the use of water from Mill Creek and said unnamed spring and an unnamed stream, for watering 15 head of cattle, 75 head of goats, 25 head of sheep and 6 head of horses, with a date of priority of 1850.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, subject to the provisions of Paragraph 115 herein, claimants hereby are allowed a right to the use of 0.02 cubic foot per second of water from an unnamed spring, which rises within the tract described in the tabulation herein as Tract No. 1, conveyed through a flume, for stock use, and domestic use including the irrigation of a garden not exceeding 1/2 acre, with a date of priority of 1850. The place of use is described in the tabulation herein.

A right is allowed, subject to the provisions of Paragraph 115 herein to water 75 head of goats, 25 head of sheep, 15 head of cattle and 6 head of horses from Mill Creek and an unnamed stream with a date of priority of 1850. Said stock right is limited to the stock drinking directly from said streams as they flow through claimants' lands described in the tabulation herein.

TERMINAL ICE AND COLD STORAGE COMPANY, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 91 wherein it asserts a right to the use of 1.34 cubic feet per second of water from Mill Creek for manufacturing purposes, with a date of priority of August 13, 1937. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 11, Page 12198.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of said certificate of water right, claimant hereby is allowed a right to the use of 1.34 cubic feet per second of water from Mill Creek diverted by means of pumping, for manufacturing purposes, with a date of priority of August 13, 1937, the place of use being the West Half of Block B, Mill Addition to the City of Salem, Oregon.

MERLE F. AND BERTHA M. HOLMAN, ROUTE 6, BOX 60, SALEM, OREGON.

Claimants filed herein Statement and Proof of Claim No. 42 wherein they assert a right to the use of water from an unnamed stream, tributary of Mill Creek for the irrigation of 7.5 acres diverted by means of unnamed ditches, with a date of priority of 1908.

Attached to said claim is an agreement or stipulation signed by the claimant Merle F. Holman, and Otto Hoven, who filed herein Statement and Proof of claim No. 45, which reads as follows:

"This stipulation entered into this 19th day of August, 1940, between Merle F. Holman, Route 6, Salem, Oregon, party of the first part and Otto Hoven, Route 6, Salem, Oregon, party of the second part

WITNESSETH:

Whereas since 1908 water from an unnamed stream tributary to Mill Creek has been used for the irrigation of 15 acres in the following described lands:

Beginning at the westerly N. W. corner of D. L. C. of Thomas Stanley and wife in T. 8 S., R. 2 W. W. M., and running thence N. 84° 45' West 38.74 chains; thence N. 66° 30' east 43.3 chains to the middle of the county road; thence S. 62° 15' E. 1.38 chains to an iron stake; thence South 35° 15' east 13.46 chs. along the middle of said road to the north boundary of the Thomas Stanley D. L. C.; thence S. 47° 30' W. 13.17 chains to the place of beginning, containing 50 acres of land in Marion County, Oregon,

the property of the party of the first part; and

Beginning on the South line of the Donation Land Claim of Benjamin Munhers and wife 28.96 chains South 80° 25' West from the Southeast corner of said claim, said point being a stone in the County Road leading from Salem to the Asylum Farm in Township 8 South, Range 2 West of the Willamette Meridian, Marion County, Oregon; thence North 10° 45' East 0.44 chains to an iron pipe in the middle of the County Road; thence South 62° 15' East 12.00 chains to an iron pipe; thence South 66° 30' West 43.30 chains to the South line of Joseph Bartosz; thence North 84° 45' West 2.54 chains to the middle of Mill Creek; thence down the middle of the main channel of Mill Creek to the South line of the Donation Land Claim of Benjamin Munhers; thence North 79° 20' East 37 chains to the place of beginning, containing Fifty (50) acres of land, more or less in Marion County, State of Oregon,

the party of the second part; and

WHEREAS a Statement and Proof of Claim has been submitted by each of the parties hereto in the matter of the Determination of the relative rights to the waters of Mill Creek and its tributaries, each party claiming the right to the use of water from an unnamed stream a tributary to Mill Creek for the irrigation of 7½ acres on his respective property as described above; and

WHEREAS there is not sufficient water during certain periods of the year in said unnamed stream to irrigate 15 acres and a greater use can be made of said water by rotating its use between the parties hereto,

Therefore we the undersigned parties stipulate: that beginning June 1st of each year hereafter the party of the first part and his successors and assigns shall have the right to use the water allowed each of the above described tracts in the Mill Creek adjudication for each alternate week until the end of the irrigation season, and beginning with the second week in June of each year hereafter, the party of the second part and his successors and assigns shall have the right to use the water allowed each of the foregoing tracts for each alternate week until the end of the irrigation season.

(Signed) MERLE F. HOLMAN
Party of the First Part

WITNESSES:
Chas. E. Stricklin
Max F. Rogers

(Signed) OTTO HOVEN
Party of the Second Part."

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of Paragraph 115 herein, and the provisions of the agreement or stipulation between claimants and Otto Hoven, a copy of which is set forth herein, claimants hereby are allowed a right to the use of water from an unnamed tributary which flows through claimants' lands for the irrigation of 7.5 acres, with a date of priority of 1908, the water to be diverted by means of small ditches. The place of use is on the lands of claimants described in the tabulation herein.

61.

FRED HOTTINGER, STAYTON, OREGON.

Claimant filed herein Statement and Proof of Claim No. 44 wherein he asserts a right to the use of water from Mill Creek, initiated under Application No. 14518, Permit No. 10520. For findings applicable thereto, see Paragraph 117 herein.

62.

OTTO HOVEN, ROUTE 6, BOX 59, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 45 wherein he asserts a right to the use of water from an unnamed stream, tributary of Mill Creek for the irrigation of 7.5 acres, conveyed through unnamed ditches, with a date of priority of 1908.

Attached to said claim is an agreement or stipulation signed by the claimant and Merle F. Holman, a copy of which is set forth in Paragraph 60 herein and by reference is made a part of this finding.

It appears that beneficial use has been made of said water and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of Paragraph 115 herein, and the provisions of the stipulation or agreement between claimant and Merle F. Holman, referred to herein, claimant hereby is allowed a right to the use of water from an unnamed stream flowing through claimant's lands for the irrigation of 7.5 acres with a date of priority of 1908, the water to be diverted by means of unnamed ditches and the place of use to be upon the lands described in the tabulation herein.

L. L. HOWARD, ROUTE 2, TURNER, OREGON.

Claimant filed herein Statement and Proof of Claim No. 46 wherein he asserts a right initiated under Application No. 16989, Permit No. 12737, to the use of 0.63 cubic foot per second of water from an unnamed creek, tributary of McKinney Creek, and McKinney Creek, for the irrigation of 50 acres of land.

Said application and permit described the source of water as Battle Creek and Norton Creek, tributary of McKinney Creek, and the lands to be irrigated as 30 acres within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, and 20.0 acres within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, Township 8 South, Range 2 West, W. M.

In said claim the land to be irrigated is described as follows: 16.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31; 9.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 15.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, and 10.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32, Township 8 South, Range 2 West, W. M., and the sources of supply McKinney Creek and an unnamed stream, tributary of McKinney Creek. It appears that the unnamed stream is the same stream designated as Norton Creek in the application and permit above-referred to, which stream is Morris Creek, Norton Creek being a tributary of the latter stream.

In said claim, claimant has requested the approval of the change in description as set forth in the application and permit to that set forth in said statement and proof of claim, and to the change in the source of water supply from Battle Creek to McKinney Creek.

It appears from a map filed with the State Engineer in connection with the completion of the appropriation of water under said permit, it was the intention to irrigate 16.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, 9.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 10.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, and 15.0 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32, Township 8 South, Range 2 West, W. M., and the inclusion in the Statement and Proof of Claim of the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32, said township and range, was an error.

To approve the change in source of supply so as to retain the same date of priority as that of the original filing from Battle Creek, it is believed, would not be in accordance with the 1909 Water Code. It does appear that the proposed change can be approved if given a date of priority as of September 30, 1940, which was the date of the closing of public inspection of claims filed in this proceeding. Any rights initiated subsequent to said date would have notice of the request in change of point of diversion and source of supply.

It appears that no contest has been filed herein to said statement and proof of claim. Therefore, claimant's request for a change in the description from that described in said permit to 16.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, 9.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 10.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, and 15.0 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32, Township 8 South, Range 2 West, W. M.,

hereby is approved and claimant's request in changing the point of diversion from Battle Creek to McKinney Creek also is approved with a date of priority of September 30, 1940. said right, subject to the conditions set forth herein, shall be perfected in the manner provided by law for the completion of rights initiated by making application to the State Engineer for a permit.

64.

LEO H. JOHNSON, 170 NORTH FRONT STREET, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 47 wherein he asserts a right to the use of 1.1 cubic feet per second of water from an unnamed stream, tributary of Battle Creek, for fish ponds and power purposes with a date of priority of July 21, 1930. Said right is evidenced by a certificate of water right recorded in State Record of Water Certificates, Volume 10, Page 11360.

The power plant consists of a 6.0-foot overshot water wheel which drives a 10-ampere 32-volt generator.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of said certificate of water right as modified herein as to the description of the place of use, claimant hereby is allowed a right to the use of 1.1 cubic feet per second of water from an unnamed stream, tributary of Battle Creek, for maintaining a fish pond and for the development of power, with a date of priority of July 21, 1930. The place of use is within Lot 3, Section 36, Township 8 South, Range 3 West, W. M.

Claimant Leo H. Johnson also filed herein Statement and Proof of Claim No. 48 wherein he asserts a right to the use of 0.0125 cubic foot per second of water from Taylor Creek, tributary of Battle Creek, tributary of Mill Creek, for the irrigation of 1.0 acre within Lot 3, Section 36, Township 8 South, Range 3 West, W. M., with a date of priority of August 6, 1940. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 12, Page 14311.

It appears that the water for the irrigation of claimant's lands is diverted from Taylor Creek by means of a pump which is operated by the overshot water wheel described in the finding herein in Statement and Proof of Claim No. 47. The water from the pump is delivered to the place of use through a 3/4 inch pipe line under a static head of about 30 feet.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of said certificate of water right and of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.0125 cubic foot per second of water from Taylor

Creek for the irrigation of 1.0 acre of land in Lot 3, Section 36, Township 8 South, Range 3 West, W. M., with a date of priority of August 6, 1940.

65.

ROBERT E. LADD, ROUTE 4, BOX 171, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 49 wherein he asserts a right to the use of water from Battle Creek for the irrigation of 1.2 acres of land within Lot 12, Battle Creek Fruit Farms No. 1, Section 21, Township 8 South, Range 3 West, W. M., diverted by means of a pipe line and buckets, with a date of priority of 1896.

No contest has been filed herein to said statement and Proof of Claim. Subject to the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of water from Battle Creek for the irrigation of 1.2 acres, conveyed by means of a pipe line and carrying in buckets, with a date of priority of 1896. The place of use is described in the tabulation herein.

66.

L. SYLVESTER LAMBERT AND ELLEN G. LAMBERT, BY ELLEN G. LAMBERT, STAYTON, OREGON.

Claimants filed herein Statement and Proof of Claim No. 50 wherein they assert a right to the use of 0.01 cubic foot per second of water flowing in Mill Creek for the watering of 30 head of cattle, 3 head of horses and 150 head of sheep with a date of priority of 1850. Said right is based upon stock drinking directly from Mill Creek as it flows through claimants' lands.

No contest has been filed herein to said statement and proof of claim. Subject to the provisions of Paragraph 115 herein, claimants hereby are allowed a right to the use of water flowing in Mill Creek for the watering of 30 head of cattle, 3 head of horses and 150 head of sheep, with a date of priority of 1850. Said right is limited to stock drinking directly from Mill Creek as it flows through claimants' land as described in the tabulation herein.

67.

ELMER B., CLIFFORD A., AND VIVIAN C. LEWIS, BY CLIFFORD A. LEWIS, AGENT, 1550 STATE STREET, SALEM, OREGON.

Claimants, through their agent, Clifford A. Lewis, filed herein Statement and Proof of Claim No. 51, wherein a right is asserted to the use of 0.01 cubic foot per second of water from Beaver Creek, tributary of Mill Creek, for stock purposes, with a date of priority of 1846. Said right is based upon stock drinking directly from Beaver Creek as it flows through claimants' lands.

No contest has been filed herein to said statement and proof of claim. Claimants

hereby are allowed a right to the use of 0.01 cubic foot per second of water from Beaver Creek for stock purposes with a date of priority of 1846. Said right is limited to stock drinking directly from Beaver Creek as it flows through claimants' lands as described in the tabulation herein.

68.

H. C. LEWIS, ROUTE 1, EUGENE, OREGON.

Claimant filed herein Statement and Proof of Claim No. 52 wherein he asserts a right to the use of water from Beaver Creek and Spring Branch, tributary of Mill Creek, for the irrigation of 6.0 acres of land in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 26, Township 8 South, Range 2 West, W. M., with a date of priority of about 1882, and a right to sufficient water flowing in said streams for the watering of 50 head of cattle, 150 head of sheep and 3 head of horses, with a date of priority of 1866.

The maps made under direction of the State Engineer in this proceeding showing the location of streams, ditches, and the area and location of the lands irrigated, do not show any land irrigated as described in this statement and proof of claim. The claimant, in said statement and proof of claim, states that water for irrigation purposes has not been used for several years.

A careful examination of the lands of the claimant was made under the direction of the State Engineer on February 23, 1943, from which it appears that there is a narrow strip of land bordering the south side of Beaver Creek containing about 6.0 acres which had the appearance of having been cultivated several years ago and that there was evidence in places of what was assumed to have been a ditch bordering said 6.0 acre tract.

The claimant's right to the use of water from Beaver Creek for the irrigation of 6.0 acres hereby is denied. Claimant hereby is allowed a right to the use of 0.01 cubic foot per second of water flowing in Beaver Creek and an unnamed spring branch for stock purposes with a date of priority of 1866. Said stock right is limited to stock drinking directly from Beaver Creek and said unnamed spring branch as said streams flow through the claimant's lands as described in the tabulation herein.

69.

ROY W. McINTIRE, ROUTE 4, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 53 wherein he asserts a right to the use of 0.01 cubic foot per second of water from each of two unnamed springs, which rise in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, Township 8 South, Range 3 West, W. M., and referred to in said claim as East Spring and West Spring, for domestic purposes including the irrigation of 1/2-acre of garden, and for stock purposes, with a date of priority of 1850.

It appears that water is diverted from the West Spring by means of ditches and

that stock drink directly from the East Spring.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Claimant hereby is allowed a right to the use of 0.01 cubic foot per second of water from an unnamed spring, which rises in the west portion of the claimant's land as described in the tabulation herein, for domestic use including the irrigation of a garden not exceeding 1/2-acre, and for stock purposes, with a date of priority of 1850, the water to be diverted by means of ditches. A right is also allowed claimant to the use of 0.01 cubic foot per second of water from an unnamed spring, which rises in the east portion of claimant's land as described in the tabulation herein, for stock purposes, with a date of priority of 1850. The place of use is upon claimant's land as described in the tabulation herein.

70.

MRS. J. W. MCKINNEY, 2368 STATE STREET, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 54 wherein she asserts a right to the use of 1.01 cubic foot per second of water from Delaney Ditch and an unnamed tributary of Battle Creek, tributary of Mill Creek, for the irrigation of 81.0 acres of land, and for stock and domestic purposes, with a date of priority of February 9, 1925. Said right for the irrigation of 81.0 acres is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 7, Page 7506, in the name of J. W. McKinney, to which right claimant is successor. In said certificate of water right the sources are described as Delaney Ditch and an unnamed stream, tributary of Battle Creek. Said Delaney Ditch is also known as McKinney Creek and said unnamed stream is known as Norton Creek.

It appears that beneficial use of said water has been made and that no contest has been filed herein to the statement and proof of claim. Therefore, subject to the provisions of said certificate of water right and of Paragraph 115 herein, claimant hereby is allowed a right to the use of 1.01 cubic feet per second of water from Delaney Ditch or McKinney Creek, and Norton creek for the irrigation of 81.0 acres, with a date of priority of February 9, 1925. The place of use is described in the tabulation herein.

71.

MRS. LUPELLA MULKEY, 765 E STREET, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 56 wherein she asserts a right to the use of 10 gallons per minute of water from an unnamed tributary fed by the springs from which the State of Oregon diverts water for use at the Penitentiary Annex and springs to the north on the E. B. Foulks property, all within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 17, Township 8 South, Range 2 West, W. L., for stock and domestic purposes, with a date of priority of 1866. Said right appears to be based upon stock drinking directly from said

unnamed stream on claimant's land and carrying water from said stream for domestic use.

It appears that after the expiration of the time for filing contests in this proceeding an amendment to said statement and proof of claim was filed with the State Engineer wherein the date of priority was changed from 1866 to 1856.

No contest has been filed herein to said statement and proof of claim as originally filed. Claimant hereby is allowed a right to the use of 0.01 cubic foot per second of water from an unnamed stream for stock and domestic purposes with a date of priority of 1866. Said right is subject to the right of the State of Oregon, allowed herein, to the use of water from the spring for which a right was asserted in Statement and Proof of Claim No. 68, and is further limited to stock drinking directly from the stream on claimant's lands as described in the tabulation herein.

72.

MIKE NIETLING, ROUTE 1, SCIO, OREGON.

Claimant filed herein Statement and Proof of Claim No. 58 wherein he asserts a right to the use of 0.1 cubic foot per second of water from an unnamed spring and an unnamed stream, tributary of Beaver Creek, for stock purposes, with a date of priority of 1870.

It appears that said right is based upon stock drinking directly at the spring and unnamed stream upon claimant's lands.

No contest has been filed herein to said statement and proof of claim. Claimant hereby is allowed a right to the use of 0.01 cubic foot per second of water from an unnamed spring and an unnamed stream on claimant's land for stock purposes, with a date of priority of 1870. Said right is limited to the stock drinking directly from said unnamed spring and unnamed stream upon claimant's lands as described in the tabulation herein.

73.

J. T. AND ROSA B. NORRIS, TURNER, OREGON.

Claimants filed herein Statement and Proof of Claim No. 59 wherein they assert a right to the use of 0.035 cubic foot per second of water from an unnamed spring rising in the $S\frac{1}{2}$ SE $\frac{1}{4}$, Section 12, Township 9 South, Range 3 W., W. M., for stock and domestic purposes including the irrigation of a garden not exceeding 1/2-acre, with a date of priority of 1893.

Said spring does not rise upon land owned by the claimants but they have acquired a perpetual right from the owner of the land upon which the spring rises, to divert and use as much water as will pass through a one-inch nozzle to be taken from a two-inch pipe. The water has been carried from the spring to the place of use in a pipe line of two inches in diameter with a one-inch nozzle. The difference in elevation between the water surface at the intake of the pipe line and that of the place of use is about 5.0 feet, and the capacity of the pipe line with the one-inch nozzle is approximately 2.6 gallons per minute.

It appearing that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim, therefore, in accordance with the conditions in the deed under which the claimant secured access to the water, claimants hereby are allowed a right to the use of 2.6 gallons of water per minute from an unnamed spring within the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 12, Township 9 South, Range 3 West, W. M., for stock and domestic purposes, including the irrigation of a garden not exceeding 1/2 acre in area, with a date of priority of 1893. The place of use is within the tract as described in the tabulation herein.

74.

OREGON PULP & PAPER COMPANY, BY A. M. CRONIN, JR., SECRETARY:
THE THOMAS KAY WOOLEN MILLS COMPANY, BY E. W. KAY, VICE-PRESIDENT, AND
CITY OF SALEM, OREGON, BY A. WARREN JONES, RECORDER, AND EX-OFFICIO CLERK OF
SALEM WATER COMMISSION, SALEM, OREGON.

Claimants filed herein Statement and Proof of Claim No. 60 wherein they assert a right to the use of 344 cubic feet per second of water from Mill Creek for the development of power and for manufacturing purposes, with a date of priority of 1857.

It appears that in the year 1857, the Willamette Woolen Manufacturing Company dug a canal, known as the Salem Canal, from the North Santiam River to Mill Creek, a distance of about six miles. Mill Creek was improved and water brought from the North Santiam River through said Salem Canal and the channel of Mill Creek to Salem where, with the natural flow of Mill Creek, it was used in the operation of a newly-constructed woolen mill located on what is now North Liberty Street in the City of Salem, Oregon. The same year W. Waldo constructed a mill on the present Front Street in the City of Salem, Oregon, near the confluence of Mill Creek and the Willamette River, and a chair factory was placed in operation on Mill Creek near the then Asylum Avenue, where the City Ice Works is now located. Both of said establishments used water from Mill Creek and water inducted into Mill Creek from North Santiam River for power and other manufacturing purposes.

Of the foregoing power sites on Mill creek the last-mentioned Asylum Avenue power site, sometimes known as the "North Power", is the only one where water now is being used.

In the year 1864, the Willamette Woolen Manufacturing Company constructed a race from Waller Dam on Mill Creek near 19th Street, Salem, Oregon, to the Willamette River. Waters of the North Santiam River and Mill Creek were turned into this canal in the fall of 1864 and this canal has been used continuously since that time to convey water for the generation of power and for other manufacturing purposes.

The Thomas Kay Woolen Mill Company's mill is located on this race about 1950 feet below the Waller Dam and water is used for the development of power under a 12-foot head, and for other manufacturing purposes. The power is developed by means of one vertical-type Leffel water wheel and one vertical-type Sampson water wheel. The combined water capacity of the two turbines, according to the manufacturer's rating, is about 315.0 cubic feet per second.

The water, after passing through the turbines of the power plant at the Thomas Kay Woolen Mill is carried in a canal for a distance of about 250 feet where a portion is spilled into Pringle Creek and the balance conveyed for a distance of about 4,000 feet to a hydroelectric plant owned by the City of Salem, Oregon, and is now operated under lease, by the Portland General Electric Company. This plant consists of a 56-inch vertical Type B Leffel turbine which is direct-connected to a 2300-volt, 39.2 Amp. 156.3 K. V. A. generator. The rated water capacity of the turbine under a 12.0 foot head, is 228.0 cubic feet per second.

The water, after passing through the turbine of the City of Salem hydroelectric power plant, is picked up in a canal and conveyed for a distance of about 1100 feet to the Oregon Pulp & Paper Company's mill where the water again is used for the development of power and other manufacturing purposes. The water turbine in said power plant consists of a vertical Type S Morgan Smith water wheel with a water capacity of 177 cubic feet per second. The power head is approximately 20.0 feet.

The canal or canals above referred to from the point of diversion at the Waller Dam near 19th Street in the city of Salem, Oregon, to the Oregon Pulp and Paper Company's mill, is commonly referred to as the "South Power".

It appears that the maximum safe carrying capacity of the race from the Waller Dam to the Thomas Kay Woolen Mill is approximately 180 cubic feet per second, and the maximum safe carrying capacity of the race from the spillway located a short distance below the Thomas Kay Woolen Mill to the Oregon Pulp and Paper Company mill is about 153 cubic feet per second.

The equipment now installed in the City Ice Works plant for which a right is asserted in Statement and Proof of Claim No. 99 herein, is described in Paragraph 25 hereof.

It appears that the quantity of water which the claimants are entitled to use under Statement and Proof of Claim No. 60 is limited to the capacity of the canal diverting from Mill Creek at the Waller Dam, near 19th Street in the city of Salem, Oregon and the water capacity of the turbines at the Ice Plant, the combined capacity of which is 342.6 cubic feet per second.

It appears that beneficial use of 342.6 cubic feet per second of water from Mill Creek has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, subject to the rights of the State of Oregon for use of water in connection with the operation and maintenance of the State Hospital, the State Penitentiary, State Tuberculosis Hospital, State Penitentiary Annex, and grounds adjacent to said institutions, and for operation and maintenance of the grounds adjacent to the State Capitol Buildings, and for the irrigation of 7.0 acres of land at the State Penitentiary Annex as allowed herein, claimants hereby are allowed a right to the use of 342.6 cubic feet per second of water from the natural flow of Mill Creek for the development of power and for

other manufacturing purposes at divers sites bordering and adjacent to the aforesaid "South Power" running in a general westerly direction from 19th Street in the City of Salem, Oregon, to the Willamette River, and at sites bordering on or adjacent to the aforesaid "North Power" on Mill Creek, running northwesterly from said 19th Street to the Willamette River, all within the City of Salem, Oregon, with a date of priority of 1857. It is further provided that the total quantity of water diverted from the natural flow of Mill Creek together with that inducted into Mill Creek from North Santiam River shall not exceed said 342.6 cubic feet per second.

It appears that the waters of the natural flow of Mill Creek and its tributaries have been used by land owners adjacent to said stream for which rights have been asserted in this proceeding, for a long period of years, for the irrigation of relatively small tracts and for domestic and stock purposes. It further appears that it has been the practice of the Oregon Pulp & Paper Company, The Thomas Kay Woolen Mills Company, and the City of Salem, Oregon, during the summer months to depend upon North Santiam River for their full supply. It is believed to be to the best interests of all that those claimants who filed claims and were allowed rights to the use of the natural flow of the waters of Mill Creek or its tributaries with a date of priority earlier than 10 years prior to the first publication of the notice of this proceeding, provided for in Section 116-802, O. C. L. A., be permitted to continue to use said water as in the past. Therefore, the right to the use of 342.6 cubic feet per second of water from the natural flow of Mill Creek allowed herein to the Oregon Pulp & Paper Company, The Thomas Kay Woolen Mills Company, and City of Salem, Oregon, for which a right was asserted in Statement and Proof of Claim No. 60 herein, hereby is held to be subsequent and inferior to all rights allowed herein to the use of the natural flow of water in Mill Creek or its tributaries for irrigation, domestic and stock purposes with dates of priority of July 25, 1929 or earlier.

75.

MRS. GEORGE P. PEMBERTON, OLIN C. HADLEY AND CLIFFORD E. HADLEY,
BY IVAN L. HADLEY, AGENT, ALBANY, OREGON.

Claimants, through their agent, Ivan L. Hadley, filed herein Statement and Proof of Claim No. 69 wherein a right is asserted to the use of 0.25 cubic foot per second of water from an unnamed spring in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12, Township 9 South, Range 3 West, W. M., for domestic supply, with a date of priority of June 17, 1913. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 3, Page 1963.

It appears that water from the spring is conveyed from the spring to the place of use in a pipe line which has a diameter of one inch from the intake to a point 550 feet below. The balance of the pipe line has a diameter of 3/4-inch. The capacity of the pipe line appears

to be 6.2 gallons per minute. It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of said certificate of water right, as modified herein as to the quantity of water, claimants hereby are allowed a right to the use of 6.2 gallons of water per minute for domestic purposes from an unnamed spring in the SW $\frac{1}{2}$ NE $\frac{1}{4}$, Section 12, Township 9 South, Range 3 West, W. M., with a date of priority of June 17, 1913. The place of use is within the SW $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1, Township 9 South, Range 3 West, W. M.

76.

MRS. GEORGE P. PELBERTON, TURNER, OREGON, BY IVAN L. HADLEY, AGENT, ALBANY, OREGON.

Claimant, by her agent, Ivan L. Hadley, filed herein Statement and Proof of Claim No. 70 wherein she asserts a right to the use of approximately two gallons of water per minute from an unnamed spring in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12, Township 9 South, Range 3 West, W. M., tributary to an unnamed stream, all tributary of Mill Creek, for domestic use with a date of priority of 1880.

The water is conveyed from said spring to the place of use in a pipe line approximately 800 feet in length and with a total fall of 50 feet. The diameter of the upper 400 feet of the pipe line appears to be 3/4-inch and that of the remaining 400 feet 1/2 inch.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, claimant hereby is allowed a right to the use of 2.0 gallons of water per minute from an unnamed spring, which rises within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12, Township 9 South, Range 3 West, W. M., for domestic purposes with a date of priority of 1880, the place of use being within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12, Township 9 South, Range 3 West, W. M.

77.

WINNIE PEITYJOHN, TRUSTEE FOR CHRISTINE DALZELL SIMONS, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 71 wherein a right is asserted to the use of 0.1 cubic foot per second of water from an unnamed tributary flowing through Lots 28, 29, 34 and 44, Henshaw Fruit Farms, in Section 18, Township 8 South, Range 2 West, W. M., for domestic use, including stock purposes, with a date of priority of 1859.

From said claim and the survey made under the direction of the State Engineer, it does not appear that there ever has been any water diverted from said unnamed stream for use upon the land described in said claim. Therefore, the only possible manner in which beneficial use of said water could have been made was by stock drinking directly from the stream and the carrying of water in containers for domestic purposes.

No contest has been filed herein to said statement and proof of claim. Claimant hereby is allowed a right to the use of not to exceed 0.01 cubic foot per second of water from an unnamed stream flowing through Lots 28, 29, 34 and 44, Henshaw Fruit Farms, Section 18, Township 8 South, Range 2 West, W. M., for stock and domestic purposes with a date of priority of 1859. Said right is limited to stock drinking directly from the stream and the carrying of water in a container for household use on claimant's lands which are described in the tabulation herein.

78.

ADELA S. AND GEORGE IVAN PUTNAM, BY GEORGE IVAN PUTNAM, ROUTE 1, BOX 164, ADMSVILLE, OREGON.

Claimants filed herein Statement and Proof of Claim No. 72 wherein a right is asserted to the use of water from unnamed streams and springs on claimants' lands for watering 25 head of stock, with a date of priority of 1875.

It appears that said claim is based upon stock drinking directly from the streams and springs on claimants' lands.

No contest has been filed herein to said statement and proof of claim. Subject to the provisions of Paragraph 115 herein, a right is hereby allowed claimants to water 25 head of stock from unnamed streams and springs on claimants' lands which are described in the tabulation herein, with a date of priority of 1875. Said right is limited to stock drinking directly from said streams and springs on claimants' lands.

79.

L. H. RAMAGE, 810 NORTH LIBERTY STREET, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 73 wherein he asserts a right to the use of water from Mill Creek and waste water carried through Mill Creek, for manufacturing purposes, with a date of priority of September 2, 1939. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 12, Page 13803.

No contest has been filed herein to said statement and proof of claim. Subject to the provisions of said certificate of water right, claimant hereby is allowed a right to the use of 0.08 cubic foot per second of water from Mill Creek diverted by pumping for manufacturing purposes, with a date of priority of September 2, 1939. The place of use is described in the tabulation herein.

80.

B. M. RANDALL AND RUTH R. RANDALL, 1100 NORTH FRONT STREET, WOODBURN, OREGON.

Claimants filed herein Statement and Proof of Claim No. 74, wherein they assert a right to the use of 125.0 cubic feet per second of water from Mill Creek, with a date of

priority of 1871, for the development of 127.8 theoretical horsepower under a 9.0-foot head.

It appears that the claimants divert the water claimed in said Statement and Proof of Claim No. 74 from Mill Creek in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 29, Township 8 South, Range 2 West, W. M., and convey the same in a canal to a power plant located in the Town of Turner, Marion County, Oregon. After the water passes through the turbine, it is returned to Mill Creek and is available for use below. When the natural flow of water in Mill Creek is insufficient to supply the 125.0 cubic feet per second, the water inducted into Mill Creek from the North Santiam River is used as a supplemental supply.

It further appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, claimants hereby are allowed a right to the use of 125.0 cubic feet per second of water from the natural flow of Mill Creek for the development of 127.8 theoretical horsepower under a 9.0-foot head, with a date of priority of 1871. The place of use is described in the tabulation herein. Said right to the use of water from Mill Creek together with the quantity diverted from North Santiam River hereby is fixed at not to exceed 125.0 cubic feet per second, measured at the point of diversion from Mill Creek.

81.

AMELIA C. READ, 242 NORTH 6TH STREET, CORVALLIS, OREGON.

Claimant filed herein Statement and Proof of Claim No. 75 wherein she asserts a right to the use of water from Taylor Creek for watering stock. The only statement relating to the date of priority claimed is that set forth in a letter dated August 17, 1940, and received in the office of the State Engineer on August 19, 1940, which reads in part as follows:

** "In going over the abstract I find, my father (Clark Rodgers) on May 14th 1857 received a deed to the land situated in Section 35 as described in the attached description. On Jan. 27, 1866, he received a deed to the land in Section 36 as described.

"Without question there has been stock on this land from the above dates up to and including the present time, and the stock has no access to water other than Taylor Creek." **

It appears that said claim is based upon stock drinking directly from Taylor Creek where it flows through claimant's lands.

No contest has been filed herein to said statement and proof of claim. Claimant hereby is allowed a right to the use of 0.01 cubic foot per second of the waters of Taylor Creek for use in watering stock, with a date of priority of 1857. Said right is limited to stock drinking directly from Taylor Creek on claimant's land as described in the tabulation herein.

REID MURDOCH COMPANY, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 76 wherein it asserts a right to the use of 1.0 cubic foot per second of water from Mill Creek conveyed through a pipe line, for manufacturing purposes, with a date of priority of February 27, 1931. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 10, Page 11520.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of said certificate of water right, claimant hereby is allowed a right to the use of 1.0 cubic foot per second of water from Mill Creek, conveyed through a pipe line to the place of use, for manufacturing purposes, with a date of priority of February 27, 1931. The place of use is set forth in the tabulation herein.

ROSENBERG BROTHERS, BY J. H. ROSENBERG, TILLAMOOK, OREGON.

Claimants filed herein Statement and Proof of Claim No. 77 wherein they assert a right to the use of the waters of an unnamed spring on claimants' property, within Lot 4 (NW $\frac{1}{4}$ NW $\frac{1}{4}$) Section 5, Township 9 South, Range 1 West, W. M., for domestic and stock use, with a date of priority of 1908.

From the records it does not appear that the water from said spring has been diverted therefrom. Therefore, the only way beneficial use of said water which could have been made is by stock drinking directly from said spring or water flowing therefrom and by carrying water in containers for household purposes.

No contest has been filed herein to said statement and proof of claim. Claimants hereby are allowed a right to the use of 0.02 cubic foot per second of water from a spring which rises within Lot 4, Section 5, Township 9 South, Range 1 West, W. M., for stock and domestic use, with a date of priority of 1908. Said right is limited to stock drinking directly from said spring and the carrying of water in containers for household uses. The place of use is set forth in the tabulation herein.

JOHN W. SCHIFFERER, TURNER, OREGON.

Claimant filed herein Statement and Proof of Claim No. 78 wherein he asserts a right to the use of water from unnamed springs within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12, Township 9 South, Range 3 West, W. M., for stock and domestic purposes, including the irrigation of a garden, with a date of priority of 1866.

It appears from said claim that two small concrete reservoirs have been constructed providing some storage. One of these reservoirs is located at the spring and the second

about mid-way between the spring and residence. That a pipe line carries the water from the reservoir at the spring to the second reservoir and from this reservoir to the residence in a pipe line that varies from one inch to 1/2 inch in diameter.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, claimant hereby is allowed a right to the use of 0.02 cubic foot per second of water from unnamed springs which rise in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12, Township 9 South, Range 3 West, W. M., for stock and domestic use, and for the irrigation of a garden not exceeding an area of 1/2-acre, with a date of priority of 1866.

Claimant also is allowed the right to store water in said reservoirs so as to secure a large head of water, providing the total quantity used in one day of 24 hours does not exceed 12,926 gallons. The place of use of said right is as set forth in the tabulation herein.

85.

SCHOOL DISTRICT NO. 24 - MARION COUNTY, OREGON, 434 N. HIGH STREET, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 79 wherein a right is asserted to the use of water from Mill Creek for supplying a swimming pool, and for irrigation purposes, initiated under Application No. 16303, Permit No. 12118.

For finding applicable thereto see Paragraph 117 herein.

86.

J. VINTON AND FRANCES M. SCOTT, 744 NORTH CAPITOL STREET, SALEM, OREGON.

Claimants filed herein Statement and Proof of Claim No. 80 wherein they assert a right to the use of 0.01 cubic foot per second of water from Mill Creek for the irrigation of 2/3-acre of land in Lot 5, Block 3, Parrish Grove Addition to the City of Salem, Oregon, with a date of priority of December 5, 1932. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 9, Page 10137.

It appears that beneficial use has been made of said water and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with said certificate of water right and in accordance with the provisions of Paragraph 115 herein, claimants hereby are allowed a right to the use of 0.01 cubic foot per second of water from Mill Creek, to be diverted by pumping, for the irrigation of 2/3 of an acre of land in Lot 5, Block 3, Parrish Grove Addition to the City of Salem, Oregon, with a date of priority of December 5, 1932.

87.

CATHERINE SHAND, ROUTE 4, BOX 147, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 81 wherein she asserts a

right to the use of 0.18 cubic foot per second of water from Battle Creek and Jory Creek for the irrigation of 8.0 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 2.5 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, and 3.5 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 22, Township 8 South, Range 3 West, W. M., with a date of priority of July 20, 1922. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 7, Page 7482.

The maps prepared under direction of the State Engineer in these proceedings showing the location of streams and ditches, and the location and area of the lands irrigated, show the total area irrigated to be 7.6 acres. An examination made under the direction of the State Engineer on March 3, 1943, found the irrigated area to be 12.0 acres, of which 7.6 acres are irrigated from Battle Creek and 4.4 acres from Jory Creek.

It appears that beneficial use has been made of the waters of Battle Creek and Jory Creek for the irrigation of 12.0 acres and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of said certificate of water right as modified herein with respect to the quantity of water and area of land irrigated, and in accordance with the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.15 cubic foot per second of water from Battle Creek and Jory Creek for the irrigation of 8.4 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 3.6 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 22, Township 8 South, Range 3 West, W. M., with a date of priority of July 20, 1922. Said certificate of water right hereby is held to be modified so as to conform with this finding.

88.

LOUESA M. SMALL, TURNER, OREGON.

Claimant filed herein Statement and Proof of Claim No. 82 wherein she asserts a right to the use of 125 gallons per minute of water from Mill Race for the irrigation of Lots 1, 2, 3, and 4, in Block 8, City of Turner, Marion County, Oregon, except the westerly 36 $\frac{1}{2}$ feet of said lots, with a date of priority of January 14, 1874.

It appears from the records that water for the irrigation of claimant's land is secured from a canal which diverts from the left, or west, side of Mill creek in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 29, Township 8 South, Range 2 West, W. M., and conveys water for the development of power for which a right is asserted in Statement and Proof of Claim No. 74.

It appears that water from Mill Creek has been used beneficially by said claimant and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of water from Mill Creek for the irrigation of Lots 1, 2, 3, and 4, in Block 8, City of Turner, Marion County, Oregon, except the westerly 36 $\frac{1}{2}$ feet of said four lots, with a date of priority of January 14, 1874.

JOHN A. SMITH AND CHARLES E. SMITH, ROUTE 5, BOX 155, SALEM, OREGON.

Claimants filed herein Statement and Proof of Claim No. 83 wherein they assert a right to the use of 0.01 cubic foot per second of water from an unnamed spring, tributary to Beaver Creek, and water flowing therefrom, for stock purposes, with a date of priority of 1864. It appears that said right is based upon stock drinking directly from water flowing from said spring on claimants' land.

It further appears that no contest has been filed herein to said statement and proof of claim.

Claimants hereby are allowed a right for stock purposes to the use of 0.01 cubic foot per second of water from an unnamed spring, the source of which is upon claimants' land as described in the tabulation herein, and water flowing therefrom, with a date of priority of 1864. Said right is limited to stock drinking directly from said unnamed spring and stream on claimants' land described in the tabulation herein.

Claimants also filed herein Statement and Proof of claim No. 84, wherein they assert a right to the use of 0.01 cubic foot per second of water flowing in Mill Creek for watering stock, with a date of priority of 1864. It appears that said right is based upon stock, which are pastured upon claimants' land drinking directly from Mill Creek as it flows through said property.

No contest has been filed herein to said statement and proof of claim. Claimants hereby are allowed a right to the use of 0.01 cubic foot per second of water flowing in Mill Creek through claimants' lands described in the tabulation herein, for watering stock, with a date of priority of 1864. Said right is limited to stock drinking directly from Mill Creek as it flows through claimants' land.

MARY M. STAPLES, c/o E. L. CRAWFORD, LADD & BUSH BANK BLDG., SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 85 wherein she asserts a right to the use of 0.1 cubic foot per second of water from an unnamed tributary of Mill Creek for the irrigation of 1.0 acre of land within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 8, Township 9 South, Range 2 West, W. M., for domestic use, and for supplying water for a prune dryer, with a date of priority of April 8, 1914. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 5, Page 4804, in the name of Geo. M. and Mary M. Staples.

The water is conveyed from the stream to the place of use in a pipe line, the capacity of which is 10.7 gallons per minute.

Beneficial use of said water has been made to the extent of 10.7 gallon per minute and no contest has been filed herein to said statement and proof of claim. Therefore,

subject to the provisions of said certificate of water right, as modified herein as to the quantity of water, and the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 10.7 gallons of water per minute from an unnamed stream, tributary of Norton Creek, tributary of Mill Creek, for the irrigation of 1.0 acre of land and for the operation of a prune dryer, with a date of priority of April 8, 1914. The place of use, determined by projection of subdivision lines, is within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 8, Township 9 South, Range 2 West, W. M. Said certificate of water right hereby is held to be modified so as to conform with this finding.

91.

PHILLIP STEFFES, SUBLIMITY, OREGON.

Claimant filed herein Statement and Proof of Claim No. 86 wherein he asserts a right to the use of 0.10 cubic foot per second of water from Salem Ditch for watering stock, with a date of priority of 1870. It appears that said claim is based upon stock drinking directly from Mill Creek as it flows through claimant's land, and that the water for which a right is claimed is in fact Mill Creek water.

No contest has been filed herein to said statement and proof of claim. Claimant hereby is allowed a right to the use of 0.01 cubic foot per second of water from the natural flow of Mill Creek for stock purposes, with a date of priority of 1870. Said right is limited to stock drinking directly from Mill Creek as it flows through the claimant's land as described in the tabulation herein.

92.

THOMAS W. AND EDITH E. STRINGHAM, ROUTE 2, TURNER, OREGON.

Claimants filed herein Statement and Proof of Claim No. 87 wherein they assert a right to the use of water from Battle Creek and springs tributary thereto for domestic use including the irrigation of a garden, with a date of priority of 1908, and for stock purposes with a date of priority of May, 1856.

It appears that water for domestic purposes including the irrigation of a garden is secured from a spring, which rises near the west line of claimants' property, and is conveyed in a pipe line of 1 $\frac{1}{2}$ inches diameter for a distance of about 1,000 feet to the claimants' residence and barn where it is used for domestic purposes including the irrigation of a garden, and for watering stock.

It further appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of Paragraph 115 herein, claimants hereby are allowed a right to the use of 0.02 cubic foot per second of water from a spring rising near the west line of claimants' land, and conveyed through a pipe line, for stock and domestic purposes including the irrigation of a garden not exceeding 1/2-acre in area, with a date of priority of 1908. Said

right is appurtenant to the tract of land as described in the tabulation herein. Claimants also are allowed a right to the use of 0.01 cubic foot per second of water in Battle Creek for stock purposes with a date of priority of May, 1856. Said right is limited to stock drinking directly from Battle Creek as it flows through the claimants' land as described in the tabulation herein.

93.

F. E. STUDNICKA AND SYLVIA STUDNICKA, ROUTE 1, STAYTON, OREGON.

Claimants filed herein Statement and Proof of Claim No. 88 wherein they assert a right to the use of 0.01 cubic foot per second of water from Mill Creek for stock water with a date of priority of 1880. It appears that said right is based upon stock drinking directly from Mill Creek as it flows through claimants' land.

No contest has been filed herein to said statement and proof of claim. Claimants hereby are allowed a right to the use of 0.01 cubic foot per second of water flowing in Mill Creek for watering stock, with a date of priority of 1880. Said right is limited to stock drinking directly from Mill Creek as it flows through claimants' lands which are described in the tabulation herein.

94.

ALBERT SUTTON, 980 NORTH COTTAGE STREET, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 89 wherein he asserts a right to the use of 30 or 40 gallons per minute, intermittently, from Porter Creek, tributary of Mill Creek, for the irrigation of 1.7 acres of land, and for stock purposes, with a date of priority of 1904.

The water for irrigation is diverted by means of a pumping plant, and stock drink directly from Porter Creek as it flows through claimant's lands. It appears that beneficial use of the waters of Porter Creek has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, subject to the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 40 gallons per minute of water from Porter Creek diverted by means of pumping for the irrigation of 1.7 acres within the tract as described in the tabulation herein, with a date of priority of 1904, provided that the total quantity diverted during any 30-day period shall not exceed 0.75 of one acre foot per acre for each acre irrigated and shall not exceed $2\frac{1}{2}$ acre-feet per acre during any irrigation season. A right is also allowed claimant to the use of not to exceed 0.01 cubic foot per second of water in Porter Creek for watering stock with a date of priority of 1904. Said stock right is limited to stock drinking directly from Porter Creek on claimant's land as described in the tabulation herein.

ELIZABETH SWANK ESTATE, BY J. C. BRINKMAN, ADMR., AUMSVILLE, OREGON.

J. C. Brinkman, Administrator of the estate of Elizabeth Swank, deceased, filed herein Statement and Proof of Claim No. 90 wherein he asserts a right to the use of water from an unnamed spring branch for stock purposes, with a date of priority of 1857.

It appears that said right is based upon stock drinking directly from said stream on claimant's lands.

No contest has been filed herein to said statement and proof of claim. Claimant hereby is allowed a right to the use of not to exceed 0.01 cubic foot per second of water in an unnamed spring branch flowing through claimant's lands described in the tabulation herein, for watering stock, with a date of priority of 1857. Said right is limited to stock drinking from the stream upon claimant's aforesaid lands.

G. H. TOELLE, ROUTE 1, BOX 270, STAYTON, OREGON.

Claimant filed herein Statement and Proof of Claim No. 92 wherein he asserts a right to the use of water from Mill Creek, Cremer Branch, and spring in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, Township 9 South, Range 1 West, W. M., for stock use, with a date of priority of 1857.

It appears that the right as asserted is based upon stock drinking directly from said streams and spring on claimant's land described in the tabulation herein.

No contest has been filed herein to said statement and proof of claim. Claimant hereby is allowed a right for watering stock to the use of not to exceed 0.01 cubic foot per second of water from Mill Creek, Cremer Branch, and spring rising within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, Township 9 South, Range 1 West, W. M., with a date of priority of 1857. Said right is limited to stock drinking directly from said streams and spring upon claimant's land as described in the tabulation herein.

JOSEPH L. TOEPPER, ROUTE 1, STAYTON, OREGON.

Claimant filed herein Statement and Proof of Claim No. 93 wherein he asserts a right to the use of 8.0 cubic feet per second of water from Mill Creek for the development of approximately 3.0 theoretical horsepower, with a date of priority of 1900, and 0.10 cubic foot per second of water from Mill Creek for watering stock directly from said stream as it flows through claimant's land, with a date of priority of 1869.

Claimant has installed and is operating a small hydroelectric power plant consisting of a Pelton water wheel operating under a head of 32 feet, which drives a 1.0 KW. generator. The water after passing through the turbine is returned to Mill Creek and is available for use below.

The quantity of water required for the development of 3.0 theoretical horsepower under a 32-foot head is 0.825 cubic foot per second.

It appears that beneficial use of 0.825 cubic foot per second of water from Mill Creek has been made for the development of 3.0 theoretical horsepower. Therefore, claimant hereby is allowed a right to the use of 0.825 cubic foot per second of water from Mill Creek for the development of 3.0 theoretical horsepower under a 32-foot head, with a date of priority of 1900. Said water is to be returned to Mill Creek so it will be available for use below. The place of use is within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, Township 8 South, Range 1 East, W. M. Claimant is also allowed a right to the use of not to exceed 0.01 cubic foot per second of water flowing in Mill Creek for watering stock, with a date of priority of 1869. Said stock right is limited to stock drinking directly from Mill Creek upon claimant's land described in the tabulation herein.

Claimant also filed herein Statement and Proof of Claim No. 94 wherein he asserts a right to the use of 0.20 cubic foot per second of water from 3 unnamed springs for domestic and stock use, and for the irrigation of 1.0 acre in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, T. 8 South, Range 1 East, W. M., with a date of priority of 1869.

It appears that said claim is for the use of water from three springs, rising upon claimant's land, within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, Township 8 South, Range 1 East, W. M., which are tributary of Mill Creek. Concrete boxes have been constructed over two of the springs, the waters of which are pumped by hand and used for domestic purposes. The water of the third spring is conveyed by gravity through a 2-inch pipe line for the irrigation of a garden of about 1.0 acre in area within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 33.

From a survey of the lands of the claimant made under the direction of the State Engineer, it appears that the place of use of the water for domestic and for irrigation is within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, Township 8 South, Range 1 East, W. M., and that the description as set forth in the claim is in error.

It further appears that the waters of the three springs have been beneficially used and that no contest has been filed herein to the statement and proof of claim. Therefore, subject to the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.02 cubic foot per second of water from three springs, which rise within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, Township 8 South, Range 1 East, W. M., for stock and domestic use including the irrigation of a domestic garden not exceeding 1.0 acre, with a date of priority of 1869. The place of use is within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, Township 8 South, Range 1 East, W. M.

98.

JAMES E. TOWLE, AUMSVILLE, OREGON.

Claimant filed herein Statement and Proof of Claim No. 95 wherein he asserts a right to the use of the waters of Simpson Creek, tributary of Beaver Creek, for the

irrigation of 14.0 acres of land in Section 19, Township 8 South, Range 1 West, W. M., with a date of priority of 1904.

It appears that diversion of water from Simpson Creek is made by means of five small dams which raise the water in the stream to an elevation sufficient to cause it to flow through an underground tile system, subirrigating about 10 acres of land.

The original maps made under the direction of the State Engineer in this proceeding showing the location of the streams, ditches, area and location of land irrigated gives the area irrigated as 6.9 acres. A later survey of the lands made under the direction of the State Engineer on February 24, 1943, found the irrigated area to be approximately 10.0 acres.

It appears that beneficial use of said water has been made for the irrigation of 10.0 acres of land and that no contest has been filed herein to the statement and proof of claim. Therefore, subject to the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of water from Simpson Creek for the irrigation of 10.0 acres of land in Lot 1, Waldo Hills Fruit Farms No. 1, Section 19, Township 8 South, Range 1 West, W. M., with a date of priority of 1904.

99.

UNION CENTRAL LIFE INSURANCE COMPANY, 4TH AND VINE STREETS, CINCINNATI, OHIO.

Claimant filed herein Statement and Proof of Claim No. 96 wherein it asserts a right to the use of water from an unnamed spring, collected in a trough at the spring, for domestic and stock purposes, with a date of priority of October 3, 1860.

The spring rises within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 16, Township 8 South, Range 2 West, W. M., and the water is conveyed a short distance to a trough for stock use.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, claimant hereby is allowed a right to the use of 0.01 cubic foot per second of water from an unnamed spring rising within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 16, Township 8 South, Range 2 West, W. M., for stock and domestic purposes on land owned by claimant within said forty-acre tract, with a date of priority of October 3, 1860.

Said claimant also filed herein Statement and Proof of Claim No. 97 wherein it asserts a right to the use of water from an unnamed spring and stream for domestic and stock purposes, with a date of priority of January 18, 1859. Said claim appears to be based upon stock drinking directly from said spring and stream on claimant's lands, no artificial diversion of said water having been made.

The unnamed spring rises within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 20, Township 8 South, Range 3 West, W. M. The spring where it rises is encased with a 30-inch concrete pipe from which water for domestic use is secured by dipping. The overflow is tributary to an unnamed stream.

It appears that beneficial use of said water has been made and that no contest against said claim has been filed herein. Therefore, claimant hereby is allowed a right to the use of 0.01 cubic foot per second of water from an unnamed spring, which rises within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 20, Township 8 South, Range 3 West, W. M., for domestic purposes within said tract, and 0.01 cubic foot per second of water flowing from said unnamed spring and an unnamed stream, tributary to Battle Creek, for stock purposes. Said stock right is limited to stock drinking directly from said unnamed stream and water flowing from said unnamed spring as they flow through or upon claimant's lands described in the tabulation herein. The date of priority of said right is January 18, 1859.

100.

BLANCHE AND J. CARL WILLIAMS, TURNER, OREGON.

Claimants filed herein Statement and Proof of Claim No. 100 wherein they assert a right to the use of 0.7 cubic foot per second of water from a spring for domestic purposes, and a right from said spring, Battle Creek and McKinney Creek for the irrigation of 23.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 29, 4.0 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 30, 3.0 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 31, and 22.0 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 32, Township 8 South, Range 2 West, W. M., with a date of priority of January 7, 1925. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 10, Page 11286.

In said claim it is stated that there is not sufficient water for the irrigation of all of the 52.0 acres, but by rotating the crops all of said land has been irrigated. It appears that in 1941 the method of irrigating the lands had been changed by substituting a sprinkling system for the flooding system, and that by the sprinkling system it has been possible to irrigate all of the 52.0 acres in 1941 and 1942. It also appears that the capacity of the pumping plant which supplies water to the sprinkling system is 130 gallons per minute, or about 0.29 cubic foot per second.

It appears that beneficial use of said water in an amount of about 0.30 cubic foot per second has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, in accordance with said certificate of water right as amended herein, and in accordance with the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.30 cubic foot per second of water from Battle Creek and McKinney Creek by pumping for the irrigation of 17.2 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 29; 0.7 acre in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 30; 4.0 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$; 0.5 acre in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 31; 26.0 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, and 2.4 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 32; all in Township 8 South, Range 2 West, W. M., with a date of priority of January 7, 1925.

Claimant is also allowed a right, as evidenced by said certificate of water right, to the use of not to exceed 0.02 cubic foot per second of water from a spring, which rises within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 30, Township 8 South, Range 2 West, W. M., for

domestic purposes including the irrigation of a garden not exceeding 1.2 acres, with a date of priority of January 7, 1925. The place of use is within said forty-acre tract.

Said certificate of water right hereby is held to be modified to conform with these findings.

101.

JESSIE WILES WILLIAMS, ROUTE 2, BOX 758, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 101 wherein she asserts a right to the use of water from a spring in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 21, Township 8 South, Range 3 West, W. M., and from Jory Creek, for stock and domestic purposes including the irrigation of a garden of 0.6 acre in area, with a date of priority of 1873.

Water from said spring is conveyed to the place of use in a pipe line with a capacity of approximately 7.5 gallons per minute. Water from Jory Creek is diverted by means of a small ditch, for the irrigation of 0.6 acre of land and water for stock purposes is diverted into a trough.

It further appears that beneficial use of the waters has been made and that no contest has been filed herein to the statement and proof of claim. Therefore, subject to the provisions of Paragraph 115 herein, claimant hereby is allowed a right to the use of 0.02 cubic foot per second of water from a spring which rises within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 21, Township 8 South, Range 3 West, W. M., and from Jory Creek for stock and domestic purposes including the irrigation of a garden not exceeding 0.6 acre, with a date of priority of 1873. The place of use is described in the tabulation herein.

102.

P. A. WILLIAMS, BYRON WILLIAMS, W. M. WILLIAMS, ELLA WILLIAMS AND LOIS E. WILLIAMS,
BY LOIS E. WILLIAMS, ROSELAND HOTEL, PORTLAND, OREGON.

Claimants filed herein Statement and Proof of Claim No. 102 wherein they assert a right to the use of water for stock purposes from the North and South Branches of Mill Creek, within Sections 32 and 33, Township 8 South, Range 1 East, W. M., and springs in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 32, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33, Township 8 South, Range 1 East, W. M., with a date of priority of 1883.

It appears that said claim is based upon stock drinking directly from the creeks and springs. No contest having been filed herein to the statement and proof of claim, claimant hereby is allowed a right to the use of 0.01 cubic foot per second of water from said springs and the North and South Branches of Mill Creek for watering stock, with a date of priority of 1883. The right is limited to stock drinking directly from the springs and streams upon claimants' lands described in the tabulation herein.

WALLACE S. WHARTON, ROUTE 2, TURNER, OREGON.

Claimant filed herein Statement and Proof of Claim No. 103 wherein he asserts a right to the use of water from an unnamed tributary of Battle Creek for stock purposes, with a date of priority of 1871. Said right appears to be based upon stock drinking directly from said unnamed stream as it flows through claimant's land.

No contest having been filed herein to this statement and proof of claim, the claimant hereby is allowed a right to the use of 0.01 cubic foot per second of water flowing in an unnamed stream through claimant's land, for watering stock, with a date of priority of 1871. Said right is limited to stock drinking directly from said stream on claimant's land described in the tabulation herein.

Claimant also filed herein Statement and Proof of Claim No. 104 asserting a right to the use of water from an unnamed spring within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, Township 8 South, Range 3 West, W. M., for stock and domestic purposes and for the irrigation of 17.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 5 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, and 8.0 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, Township 8 South, Range 3 West, W. M. The basis of this claim as stated in said statement and proof of claim is as follows:

"This is a claim to the right to the use of water from a spring rising upon lands owned by the claimant in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, Township 8 South, Range 3 West, W. M. The water of this spring does not in any manner flow off the lands of the claimant or into the above-named stream or any of its tributaries but sinks upon my lands a short distance below the source of the spring. The spring is located within the watershed of the above stream.

"The claimant contemplated the use of the water of this spring and has developed its flow. In order to protect the right to any additional water which might be developed, an application was filed with the State Engineer on March 14, 1940, upon which application Permit No. 14249 was issued on July 30, 1940. A copy of such application is attached hereto."***

It appears that the source of said spring is upon the claimant's land and that prior to 1940 the water flowing therefrom did not flow off the claimant's land. That in 1940, contemplating the development of this spring, claimant filed with the State Engineer an application for a permit, which was approved and permit issued. Claimant did a considerable amount of work at said spring which augmented the flow of water therefrom. He installed a 250-gallon-per-minute pump, a 15,000-gallon tank to store the water, 1800 lineal feet of 1-inch steel pipe, and a sprinkler system for the irrigation of his land, and has used the water for domestic, stock and irrigation purposes.

It appears that beneficial use of said water has been made, that claimant is the owner of the water and that no contest has been filed herein to said statement and proof claim. Therefore, claimant hereby is allowed the exclusive right to the use of the water from said unnamed spring, the source of which is within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, Township 8 South, Range 3 West, W. M., together with the increase resulting from said development, for domestic and stock use and for the irrigation of 30 acres of land as described in the tabulation herein.

LAURA I. WOOD, 211 SOUTH 18TH STREET, SALEM, OREGON.

Claimant filed herein Statement and Proof of Claim No. 105 wherein she asserts a right to the waters of Taylor Creek and springs, and an unnamed creek and springs for domestic and stock purposes, with a date of priority of 1856.

It appears that no diversions of said waters have ever been made and therefore the only way in which said water could have been used was by stock drinking directly from said streams and springs and by carrying water for domestic use.

No contest having been filed herein to said statement and proof of claim, claimant hereby is allowed a right to the use of 0.01 cubic foot per second of the waters of Taylor Creek and springs, upon that portion of claimant's land within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, Township 8 South, Range 3 West, W. M., for stock and domestic purposes, and 0.01 cubic foot per second of water flowing in an unnamed stream and from unnamed springs on claimant's lands in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 35, described in the tabulation herein, with a date of priority of 1856. Said right is limited to stock drinking directly from said streams and springs, and the carrying of water for domestic purposes on claimant's land as described in the tabulation herein.

FANNIE K. WALN, ROUTE 4, BOX 140, SALEM, OREGON.

On March 1, 1940, Fannie K. Waln, residing at Route 4, Box 140, Salem, Oregon, filed a petition to intervene in these proceedings, and with this petition she filed herein Statement and Proof of Claim No. 106. By Order of the State Engineer, dated March 5, 1941, said petition was allowed and Statement and Proof of Claim No. 106 was duly received, whereupon notice of the filing of said statement and proof of claim was sent by registered mail on March 10, 1941 to all persons claimant to the use of the waters of Mill Creek and its tributaries in these proceedings whose rights might be affected thereby. It appears that no contest has been filed herein thereto.

In Statement and Proof of Claim No. 106, claimant asserts a right to the use of approximately 250 gallons of water per day from an unnamed spring which rises within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 15, Township 8 South, Range 3 West, W. M., for stock and domestic purposes, with a date of priority of 1859.

It appears that water from the unnamed spring is secured by means of a pipe line, a small pumping plant of 5 gallons per minute capacity, and a small reservoir used to store water.

Claimant hereby is allowed a right to the use of 250 gallons of water per day from said unnamed spring for stock and domestic use, with a date of priority of 1859. The place of use is within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 15, Township 8 South, Range 3 West, W. M.

MRS. J. G. (CLARA C.) CALLISON, 625 N. 15TH STREET, SALEM, OREGON.

Pursuant to an order of the State Engineer dated February 11, 1941, allowing intervention in these proceedings by persons holding certificates of water right to the use of the waters of Mill Creek and its tributaries, claimant, Mrs. J. G. (Clara C.) Callison, filed herein Statement and Proof of Claim No. 107 wherein she asserts a right to the use of 0.01 cubic foot per second of water from Mill Creek diverted by pumping, for the irrigation of 1/4-acre of land within the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 23, Township 7 South, Range 3 West, W. M., with a date of priority of May 14, 1929. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 8, Page 8667.

Notice of the filing of said statement and proof of claim was sent by registered mail on March 10, 1941 to all persons claimant to the use of the waters of Mill Creek and its tributaries in these proceedings whose rights might be affected thereby.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, subject to the provisions of said certificate of water right, claimant hereby is allowed a right to the use of 0.01 cubic foot per second of water from Mill Creek by pumping, for the irrigation of 1/4-acre of land described in the tabulation herein, with a date of priority of May 14, 1929.

107.

CHAS. F. HEIN, ADMSVILLE, OREGON.

Pursuant to an order of the State Engineer dated February 11, 1941, allowing intervention in these proceedings by persons holding certificates of water right to the use of the waters of Mill Creek and its tributaries, claimant, Chas. F. Hein, filed herein Statement and Proof of Claim No. 108 wherein he asserts a right to the use of 0.04 cubic foot per second of water from Beaver Creek for the irrigation of 3.0 acres of land within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 25, Township 8 South, Range 2 West, W. M., with a date of priority of February 17, 1926. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 7, Page 7673, in the name of Leo N. Childs, to whom the claimant is successor.

Said 3.0 acres is within the Henry Smith D. L. C. No. 38, in said Section 25, and if this section were divided into forty-acre tracts, the 3.0 acres would be within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ thereof.

Notice of the filing of said statement and proof of claim was sent by registered mail on March 10, 1941, to all persons claimant to the use of the waters of Mill Creek and its tributaries in these proceedings whose rights might be affected thereby.

No contest has been filed herein to the statement and proof of claim. Claimant, subject to the provisions of said certificate of water right, and the provisions of Paragraph 115 herein, hereby is allowed a right to the use of 0.04 cubic foot per second of water from Beaver Creek by diversion for the irrigation of 3.0 acres within the aforesaid forty-acre tract, with a date of priority of February 17, 1926.

108.

C. R. LEACH, ROUTE 2, BOX 93-A, TURNER, OREGON.

Pursuant to an order of the State Engineer dated February 11, 1941, allowing intervention in these proceedings by persons holding certificates of water right to the use of the waters of Mill Creek and its tributaries, claimant, C. R. Leach, filed herein Statement and Proof of Claim No. 109 wherein he asserts a right to the use of 0.01 cubic foot per second of water from an unnamed spring, tributary of Cook Creek, tributary of Mill Creek, for domestic purposes, with a date of priority of March 16, 1927. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 8, Page 8230, in the name of Frank Cook, to which claimant is successor.

It appears that said spring rises 8.23 chains south and 3.48 chains east of the southwest corner of Section 8, Township 9 South, Range 2 West, W. M. A 4 ft. x 4 ft. x 3 ft. concrete box covers this spring from which the water is conveyed in a one-inch steel pipe a distance of about 1500 feet to the claimant's residence and buildings, the fall being about 25 feet.

Notice of the filing of the statement and proof of claim was sent by registered mail on March 10, 1941 to all persons claimant to the waters of Mill Creek and its tributaries in these proceedings whose rights might be affected thereby.

It appears that beneficial use of said water has been made and that no contest has been filed herein to said statement and proof of claim. Therefore, subject to the provisions of said certificate of water right, claimant hereby is allowed a right to the use of 0.01 cubic foot per second of water from the aforesaid unnamed spring through a pipe line for domestic use, with a date of priority of March 16, 1927. The place of use is described in the tabulation herein.

109.

J. R. LINN, SALEM, OREGON.

Pursuant to an order of the State Engineer dated February 11, 1941, allowing intervention in these proceedings by persons holding certificates of water right to the use of the waters of Mill Creek and its tributaries, claimant, J. R. Linn, filed herein Statement and Proof of Claim No. 110 wherein he asserts a right to the use of 0.1 cubic foot per second of water from Jory Creek and an unnamed spring for domestic use including the irrigation of a garden and for the operation of a hydraulic ram, with a date of priority of

March 19, 1926. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 7, Page 7076, in the name of J. R. and Farris Linn, confirming a right to the use of 0.1 cubic foot per second of water from an unnamed spring and Jory Creek for domestic purposes including garden irrigation, and the operation of a ram.

Notice of the filing of said statement and proof of claim was sent by registered mail on March 10, 1941, to all persons claimant to the use of the waters of Mill Creek and its tributaries in these proceedings whose rights might be affected thereby.

Said spring rises a short distance south of Jory Creek within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, Township 8 South, Range 3 West, W. M. The water from the spring is delivered by means of a pump driven by a 1/4-horsepower electric motor and a pipe line to the place of use which is at an elevation of about 40 feet above. The pipe line consists of 400 lineal feet of standard wrought iron pipe of 3/4-inch diameter. The quantity of water delivered to the place of use is approximately 7.5 gallons per minute. The water from this spring is used for domestic purposes including the irrigation of the lawn adjacent to claimant's residence.

Claimant has two diversions from Jory Creek, one of which consists of a 4-inch concrete pipe through which water is diverted to maintain a swimming pool. The second diversion is through about 300 lineal feet of steel pipe of 1-1/4-inches in diameter for the irrigation of about 1/2 acre of land.

It appears that water from the unnamed spring in an amount of 7.5 gallons per minute has been used for domestic and irrigation purposes and that water from Jory Creek has been used for the irrigation of 0.5 acre of land. No contest has been filed herein to said statement and proof of claim. Therefore, in accordance with the provisions of said certificate of water right as modified herein and with the provisions of Paragraph 115 hereof, claimant hereby is allowed a right to the use of 7.5 gallons of water per minute by pumping from an unnamed spring for domestic use and for the irrigation of not to exceed 0.2 acre, and 0.02 cubic foot per second of water from Jory Creek through a pipe line for the irrigation of not to exceed 1/2-acre of land. The date of priority of said right is March 19, 1926, and the place of use is within Lots 54 to 64 inclusive, Sunnyside Fruit Farms No. 3, in Section 21, Township 8 South, Range 3 West, W. M.

Said certificate of water right hereby is held to be modified to conform with this finding.

110.

MRS. ROBERT SCHAEFER, ROUTE 1, TURNER, OREGON.

Pursuant to an order of the State Engineer dated February 11, 1941, allowing intervention in these proceedings by persons holding certificates of water right to the

use of the waters of Mill Creek and its tributaries, claimant, Mrs. Robert Schaefer, filed herein Statement and Proof of Claim No. 111 wherein she asserts a right to the use of 0.15 cubic foot per second of water from an unnamed spring, which rises in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 29, Township 8 South, Range 2 West, W. M., for the irrigation of 12.0 acres within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 29, Township 8 South, Range 2 West, W. M., with a date of priority of August 9, 1924. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 6, Page 5803.

Notice of the filing of said statement and proof of claim was sent by registered mail on March 10, 1941, to all persons claimant to the use of the waters of Mill Creek and its tributaries in these proceedings whose rights might be affected thereby. No contest was filed herein to said statement and proof of claim.

From an examination of the premises it appears that the spring for which a right is asserted in said claim, rises within the county road adjacent to claimant's lands and the water flows upon claimant's lands where it is impounded in a small reservoir from which it is diverted by pumping for irrigation purposes, and that water from said spring does not flow off claimant's property. It further appears that beneficial use of said water has been made.

Therefore, in accordance with the provisions of said certificate of water right claimant hereby is allowed a right to the use of 0.15 cubic foot per second of water from said unnamed spring for the irrigation of 12.0 acres of land as described in the tabulation herein, with a date of priority of August 9, 1924.

Said certificate of water right, in respect to the place of use, hereby is modified to conform with this finding.

111.

CITY OF TURNER, MARION COUNTY, OREGON, BY CHAS. STANDLEY, JR., RECORDER, TURNER, OREGON

Pursuant to an order of the State Engineer dated February 11, 1941, allowing intervention in these proceedings by persons holding certificates of water right to the use of the waters of Mill Creek and its tributaries, claimant, City of Turner, Marion County, Oregon, filed herein Statement and Proof of Claim No. 112 wherein a right is asserted to the use of 1.0 cubic foot per second of water from a spring, tributary of Battle Creek, for municipal use, with a date of priority of February 2, 1914. Said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 2, Page 1180.

Subsequent to the filing of said claim, this right was purchased by F. A. Mitchell, Route 2, Turner, Oregon, and application was made to the State Engineer pursuant to Section 116-606, O. C. L. A., for a change in use and place of use from municipal to that of

irrigation for 12.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, 6.0 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 30, and 12.0 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 20.0 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, all in Township 8 South, Range 2 West, W. L., and for stock and domestic purposes, which application was approved by the State Engineer by Order entered on September 2, 1941 and recorded in State Engineer's Special Order Record, Volume 4, Page 112.

The spring for which a right is asserted in said statement and proof of claim, rises in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 30, Township 8 South, Range 2 West, W. L., and the water is diverted into a pipe line through which it is carried to the place of use. The waters of said spring are diverted into the pipe line at a point located South 76° 08' East 795 feet from the northwest corner of the SW $\frac{1}{4}$ of said Section 30.

Notice of the filing of said statement and proof of claim was sent by registered mail on March 10, 1941, to all persons claimant to the use of the waters of Mill Creek and its tributaries in these proceedings whose rights might be affected thereby.

It appears that beneficial use of the waters of said spring has been made by the City of Turner and that no contest has been filed herein to said statement and proof of claim. Therefore, F. A. Mitchell, successor in interest to the City of Turner, Oregon, hereby is allowed such right as may be perfected in accordance with the terms and conditions of said State Engineer's order approving the change in use and place of use, and in accordance with the provisions of Paragraph 115 herein, with a date of priority of February 2, 1914.

112.

F. A. MITCHELL, ROUTE 2, TURNER, OREGON.

Pursuant to an order of the State Engineer dated February 11, 1941, allowing intervention in these proceedings by persons holding certificates of water right to the use of the waters of Mill Creek and its tributaries, claimant, F. A. Mitchell, filed herein Statement and Proof of Claim No. 112-A. For Finding, see Paragraph 111 herein.

113.

FANNIE K. WALN, ROUTE 4, BOX 140, SALEM, OREGON.

Pursuant to an order of the State Engineer dated February 11, 1941, allowing intervention in these proceedings by persons holding certificates of water right to the use of the waters of Mill Creek and its tributaries, claimant, Fannie K. Waln, filed herein Statement and Proof of Claim No. 113 wherein she asserts a right to the use of 0.1 cubic foot per second of water from Spring Branch, a tributary of Battle Creek, for domestic and stock use, with a date of priority of February 17, 1912. It appears that said right is evidenced by a certificate of water right recorded in State Record of Water Right Certificates, Volume 2, page 1446.

The water is diverted from said stream near the west line of Lot 4, Sunnyside Fruit Farms No. 8, Section 22, Township 8 South, Range 3 West, W. M., into a 4-inch wood-stave pipe line which, in 1940, was in a poor state of repair, the carrying capacity being only about 1.0 gallon per minute. The pipe line terminates within Lot 1, of said Sunnyside Farms No. 8.

Notice of the filing of said statement and proof of claim was sent by registered mail on March 10, 1941, to all persons claimant to the use of the waters of Mill Creek and its tributaries in these proceedings whose rights might be affected thereby and no contest has been filed herein to said claim.

Claimant, in accordance with the provisions of said certificate of water right, as modified herein as to the quantity of water, hereby is allowed a right to the use of 0.02 cubic foot per second of water from said spring branch for stock and domestic purposes with a date of priority of February 17, 1912. The place of use is in the N $\frac{1}{2}$ of Lots 1, 2, 3 and 4, Sunnyside Fruit Farms No. 8, in Section 22, Township 8 South, Range 3 West, W. M.

Said certificate of water right hereby is held to be modified to conform with this finding.

114.

UNITS OF MEASUREMENT OF WATER.

The units of measurement of water may be divided into two classes: First, those expressing a definite volume of water and generally used to state quantities of water at rest; second, those expressing a rate of flow or head. The units of volume of water are the gallon, the cubic foot, the acre-inch, and the acre-foot. The gallon and the cubic foot may be used for comparatively small volumes of water; the acre-foot is commonly used for measuring irrigation water. The acre-foot represents a volume of water equivalent to a depth of one foot on an area of one acre and is equivalent to 43,560 cubic feet. The units of rate of flow of water or head commonly used are the cubic foot per second and the miner's inch. The cubic foot per second, commonly abbreviated to second-foot, is a rate of flow which produces a cubic foot of water each second. It may be defined as a volume of one cubic foot of water moving at a rate of one lineal foot per second. For example, a flume twelve inches wide carrying a depth of water of twelve inches and placed on such a grade as to give a mean velocity to the water of one lineal foot per second produces a flow of one cubic foot per second. In any case, the cross-sectional area in square feet multiplied by the velocity in feet per second will equal the discharge in cubic feet per second.

The miner's inch in Oregon is 1/40th of a cubic foot per second, or one cubic foot per second is equal to 40 miner's inches (Gardner v. Wright, 49 Or. 609, 91 Pac. 286).

The cubic foot per second and miner's inch indicate only a rate of flow, and to specify a fixed volume of water it is necessary to state the time or duration of flow. For instance, a continuous flow of one cubic foot per second will give in one 24-hour day as many cubic feet as there are seconds in that time or 86,400 cubic feet, which is equivalent to 646,317 gallons or 1.983 acre-feet.

In the determination herein of the rights to the use of water from Mill Creek and its tributaries, the quantity of water is given in acre-feet per acre and the head or rate of diversion from the source is given in cubic feet per second. In a large number of the findings herein, the rate of diversion from the source is fixed in hundredths and tenths of a cubic foot per second. The following table shows the rate of flow in cubic feet per second compared with other units of measurement:

<u>Cubic Feet Per Second</u>	<u>Gallons Per Minute</u>	<u>Gallons Per 24 Hours</u>	<u>Acre-Feet Per 24 Hours</u>
0.01	4.49	6,463	0.0198
0.02	8.98	12,926	0.0397
0.03	13.46	19,390	0.0595
0.04	17.95	25,853	0.0793
0.06	26.93	38,779	0.119
0.08	35.90	51,705	0.159
0.10	44.88	64,632	0.198
0.125	56.10	80,790	0.248
0.200	89.76	129,263	0.397
0.30	134.64	193,895	0.595
0.40	179.52	258,527	0.793
0.60	269.28	387,790	1.19
0.80	359.04	517,052	1.587
1.00	448.83	646,317	1.983

115.

DUTY OF WATER, HEAD OF WATER FOR IRRIGATION USE.

In the determination of the duty of water or quantity of water essential for the irrigation of the lands with water diverted from Mill Creek and its tributaries, it is necessary to take into consideration the climatic conditions, the location and altitude of the land, the kind of crop grown, the soil types, the time of irrigation, and the necessary manner of irrigation.

In the determination of the head or rate of flow of water entering the head of the ditch or canal, flume or pipe-line, in addition to the above, the area irrigated and the character of the conduit in which the water is conveyed must also be considered.

Taking into consideration all of these conditions, together with all available data as to the irrigation of lands in the Willamette Valley, the duty of water, except where particularly defined in specific findings herein, hereby is fixed at not to exceed 2½ acre-feet per acre during any irrigation season, measured at the point of diversion from the stream or other source of supply.

The rate of flow or head of water to be diverted, where not particularly stated in specific findings herein or definitely fixed in a permit or certificate of water right, hereby is fixed at not to exceed 1/80th of a cubic foot per second for each acre irrigated where the

total area allowed any claimant herein exceeds 10 acres, and where the total area irrigated by any claimant herein is 10 acres or less the duty is as shown in the following table:

1 acre or less	0.025 c.f.s.
2 acres	0.04 c.f.s.
3 acres	0.06 c.f.s.
4 acres	0.07 c.f.s.
5 acres	0.08 c.f.s.
6 acres	0.09 c.f.s.
7 acres	0.10 c.f.s.
8 acres	0.11 c.f.s.
9 acres	0.12 c.f.s.
10 acres	0.125 c.f.s.

Where the area irrigated exceeds one acre and contains a fraction of an acre, the quantity shall be computed by interpolation.

It is further provided that the basis for determining the quantity of water which a claimant whose right is herein determined shall be entitled to divert at any time shall be the acreage actually prepared for irrigation and to which water may be beneficially applied in the production of crops.

DOMESTIC USE.

Where a claimant in these proceedings asserted a right to the use of water for domestic purposes and the same was allowed as domestic use or for domestic purposes, it is to be understood that the claimant has a right to the use of water for household purposes, the irrigation of a lawn, and water for such animals as are required for proper sustenance of the family, and where a right was allowed herein for domestic use and a definite quantity of water was not allowed in the specific finding herein, the claimant is allowed not to exceed 0.01 cubic foot per second.

STOCK USE BY DIVERSION.

Where a claimant asserted a right to the use of water for stock use or stock purposes by diversion and it was allowed herein, it is to be understood that the claimant has a right to the use of water for such animals as are essential for the proper sustenance of the family and also water for stock when the claimant is engaged in the raising of livestock or when the claimant takes in livestock for pasturage. Where a definite quantity is not set forth in the specific finding herein, the claimant is allowed a right to divert for this use not to exceed 0.01 cubic foot per second; provided, that where a right was allowed herein for irrigation purposes through the same ditch or pipe line no additional water shall be diverted for stock use while water is being diverted for irrigation purposes.

DOMESTIC AND STOCK USE.

Where a claimant asserted a right to the use of water for both domestic and stock purposes and it was allowed herein, it is understood that domestic use includes only water for household use and for the irrigation of a lawn, and where a definite quantity is not set

forth in the specific finding herein the claimant is allowed not to exceed 0.015 cubic foot per second for both domestic and stock purposes.

STOCK-WATER USE WHERE NO ARTIFICIAL DIVERSION IS MADE.

In this proceeding many claims have been filed wherein rights are asserted for the use of water from Mill Creek and its tributaries for stock purposes by stock drinking directly from the stream as it flows through claimant's lands or from springs rising upon claimant's lands. When such rights are allowed herein and the quantity of water allowed to such claimant is not definitely fixed in the specific findings herein which relate to said claimant's rights, the amount of water allowed for such stock use shall not exceed 0.01 cu. ft. per second. In those claims wherein a right was asserted to sufficient water for a definite number of stock, or when in the settlement of contests it was stipulated that a claimant had a right for a definite number of stock, and said rights were herein allowed, the maximum quantity of water to which each of said claimants is entitled shall be determined by multiplying the amount of water hereinafter allowed for each head of stock by the number of head of such stock for which a right was allowed herein.

Amount of water in gallons per 24 hours for different kinds of live stock.

Horses	- - - - -	12 gal.
Cows	- - - - -	15 gal.
Hogs	- - - - -	3 gal.
Sheep and Goats	- - - - -	1½ gal.

RIGHT FOR THE DEVELOPMENT OF POWER.

The owner of a water right for the development of power, which right is determined in these proceedings, may increase the head above that set forth in these findings without losing priority as determined herein, provided that such increase of head will not result in damage to the property or the rights of others. Where the increase in head is to be obtained by a change in point of diversion, place of use or both, the provisions of Section 116-606, O. C. L. A., shall be complied with.

DUTY OF WATER FOR RIGHTS EVIDENCED BY CERTIFICATES OF WATER RIGHT AND BY PERMITS.

Claimants who have asserted rights to the use of water evidenced by certificates of water right, as allowed herein, or based upon a permit which right has not been perfected, are limited to the diversion of the quantity of water at the rate set forth in the respective certificates and permits; provided, that the total quantity for irrigation use, unless otherwise provided in the certificate of water right or permit, is limited to 2½ acre-feet per acre during any irrigation season measured at the point of diversion from the stream or other source of supply.

The quantity of water which any claimant herein is entitled to divert for any use, which right is vested, is limited to the present capacity of the ditch, canal, or conduit used to convey the water.

HEAD-GATES AND MEASURING DEVICES.

The owner or owners of any ditch, canal, or conduit, whether the rights are determined in this proceeding or subsequently initiated and perfected, shall maintain to the satisfaction of the water master a substantial head-gate at the point where the water is diverted from the stream or other source of supply, which shall be of such construction that it can be locked and kept closed by the water master; and when required by the water master, such owners shall construct and maintain suitable measuring devices at such points along such ditch, canal, or conduit as may be necessary for the purpose of assisting the water master to determine the amount of water that is to be diverted into said ditch, canal, or conduit from the stream or spring or taken from these by various users. If any such owner or owners shall refuse or neglect to construct and put in such head-gate or measuring devices after ten days' notice, the water master may close such canal, ditch, or conduit and the same shall not be opened or any water diverted from the source of supply under the penalties prescribed by law for the opening of head-gates lawfully closed until the requirements of the water master as to such head-gate or measuring devices have been complied with.

117.

RIGHTS UNDER PERMITS OF STATE ENGINEER.

Subject to the terms and conditions and modifications herein, each and every appropriator of the waters of Mill Creek and its tributaries who has initiated a right to the use of said waters by making application to the State Engineer for a permit, where the right had not been confirmed by the issuance of a certificate of water right prior to January 1, 1940, or where in the specific findings herein no reference is made to a certificate of water right, whether a claim was filed in this proceedings or not, shall have such rights thereunder as provided by law, and such rights shall be perfected in the manner provided by law for the completion thereof.

RIGHTS UNDER LICENSES OF HYDROELECTRIC COMMISSION OF OREGON.

The rights to the use of the waters of Mill Creek or its tributaries of each and every appropriator initiated by the filing of an application for a license with the Hydroelectric Commission of Oregon, whether a claim has been filed in these proceedings or not, shall be in accordance with the terms and conditions of the licenses as issued by said commission.

In the distribution of the waters of Mill Creek and its tributaries, the water master shall have the same control over rights asserted in this proceeding which are based upon permits issued by the State Engineer or licenses issued by the Hydroelectric Commission of Oregon which have not been perfected and over all subsequent rights, as though these rights were definitely defined in this finding.

ROTATION.

To get a sufficient rate of flow or head of water, the water master may arrange such system or systems of rotation as may be best applicable: (1) By giving a greater amount of water to a water user for a proportionately less time; provided, that the giving of such greater amount does not infringe upon any of the rights affirmed by this proceeding or any rights subsequently initiated; (2) where two or more water users agree as between themselves as to the manner of said rotation in the use of water and such agreement is in writing and filed by such water users with the water master, and such rotation system shall not interfere with the prior rights of any water user not included in the rotation plan, the water master shall distribute the water according to such agreement.

To get a sufficient head of water where there is no agreement providing for a system of rotation, the water master may arrange such water users in groups or systems of rotation; first, giving the water user who is first in priority in such group a quantity of water equal to the combined appropriations of all water users in said group or system for a length of time bearing the same ratio to the whole time required to make the complete rotation of the whole group of water users as the said appropriation of said water user bears to the combined appropriations of said group, and next, serving another water user with a like quantity for his proportionate time, and so on until all the water users of the said group or system are served; then the distribution of water shall be repeated in the same manner throughout the irrigation season; provided, that no system of rotation shall be established by the water master without the consent of the water users, except by order of the Circuit Court after an opportunity to be heard; provided, always, that such arrangement of groups or systems of rotation shall not interfere with prior rights of any water user not a member of such group or system.

The total quantity of water, measured at the point of diversion from the stream or other source of supply, where rotation is practiced shall not exceed $2\frac{1}{2}$ acre-feet per acre during any irrigation season.

119.

SEEPAGE AND WASTE WATER.

Any seepage or waste water from canals or irrigated lands which reaches and flows into the channel of Mill Creek or any of its tributaries is hereby declared to become a part of the natural flow of the stream.

120.

IRRIGATION SEASON.

The irrigation season hereby is fixed as beginning on May 1 and ending September 30 of each year.

121.

DOMESTIC USE, DOMESTIC AND STOCK USE, STOCK USE.

The right to divert and use the waters of Mill Creek and its tributaries as allowed herein for domestic, domestic and stock, or stock purposes shall continue throughout the year.

122.

PLACE OF MEASUREMENT.

The place of measuring the water to which any appropriator of the waters of Mill Creek and its tributaries is entitled hereby is fixed to be the point of diversion from the stream or other source of supply.

123.

RIGHTS APPURTENANT TO LAND.

The rights to the use of water for irrigation purposes as hereby confirmed are appurtenant to the lands herein described, and the rights to the use of the waters of Mill Creek and its tributaries by virtue of such rights are limited and confined to 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 stream 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, association, or corporation shall be and hereby is prohibited, restrained, and enjoined from diverting and using water from said stream or its tributaries on such other lands without lawful permit first obtained from the State Engineer or having complied with the provisions of Section 116-606, O. C. L. A.

The rights to the use of water for other useful and beneficial purposes as hereby confirmed are appurtenant to the lands herein described, and the priorities of rights herein confirmed confer no right of use of the waters of said stream and its tributaries on any lands other than those specified tracts to which such rights are set forth herein as appurtenant, and each and every person, association, or corporation shall be and hereby is prohibited, restrained, and enjoined from diverting and using water from said stream or its tributaries on such other lands without lawful permits or licenses first obtained from the State Engineer or Hydroelectric Commission of Oregon or having first complied with the provisions of Section 116-606, O.C.L.A.

124.

DIVERSIONS GOVERNED BY PRIORITIES AND BENEFICIAL USE.

Except as otherwise determined herein, the order of the rights of the respective claimants of the waters of Mill Creek and its tributaries, and in which order they are entitled to divert and use 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 priority, and those having prior rights are entitled to divert and use the waters of said stream 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 allowed a right of use at all times against those having subsequent rights, without let or hindrance, and whenever the water is not required by the claimant having a prior right to its use for the purposes 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, according to the order of priority of their rights; and at all times the waters diverted 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 into the head of the ditch, canal or conduit of the claimant having a valid right to divert the water than such claimant can beneficially use for the purposes to which the water is to be put.

125.

FAILURE OF WATER TO FLOW IN CHANNEL.

When water flowing in the channel of a stream sinks or does not flow down the channel in sufficient quantity to be of benefit to an appropriator having the prior right to its use, the water master shall allow the diversion thereof by the next appropriator in order of priority who can make beneficial use of such water. When an appropriator having a prior right to the use of water from a stream demands that water be turned down the stream for his use, and the said water does not reach the premises of said appropriator in quantities sufficient to be of beneficial use to said appropriator within 3 days after being so turned down the stream by the water master, the water master shall allow the diversion thereof by the next appropriator in order of priority who can make beneficial use of such water.

126.

To summarize and supplement the specific findings herein, the rights of the claimants to the use of the waters of Mill Creek and its tributaries, as determined herein, are arranged in tabulated form with the dates of relative priority of such appropriations, the number of acres to which such appropriations are applied, 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 water has been used, the tabulated rights of each appropriator being set opposite and following his name and post office address, 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
Alexander, J. D., Estate of, By Charlotte Alexander, Executrix, Route 4, Box 222 Salem, Oregon Proof #1 (See Findings, Paragraph 27)	Oct. 2 1929	0.02	1.5	Irrigation	Pump and pipe line	Unnamed Spring in Lot 8, Sunnyside Fruit Farms No. 6, Sec. 27, T. 8 S., R. 3 W.W.M.	1.5 acres within Lots 8 and 10, Sunnyside Fruit Farms No. 6 Section 27, T. 8 S., R. 3 W., W.M.
¹⁸⁰² Proof #2 (See Findings, Paragraph 27)	1863	0.005		Stock	Pump and pipe line	Unnamed Spring in Lot 8, Sunnyside Fruit Farms No. 6, Sec. 27, T. 8 S., R. 3 W.W.M.	Place of use: Within Lots 8 and 10, Sunnyside Fruit Farms No. 6 Section 27, T. 8 S., R. 3 W., W.M.
	1891	0.005		Domestic, including irrigation of lawn & garden not exceeding 1/2 acre			
Alford, Max L., Route 4, Box 244 Salem, Oregon Proof #3 (See Findings, Paragraph 28)				Application #17053 Permit #13016			
Amort, Charles and Lena, Route 1, Box 26 Aumsville, Oregon Proof #4 (See Findings, Paragraph 29)	Jan. 30, 1926	0.63	49.8	Irrigation	Dams and ditches	Beaver Creek	1.6 acres in Lot 1, 23.2 acres in Lot 2, 32.2 acres in Lot 3, 24.0 acres in Lot 4, 2.0 acres in Lot 5, Section 29, T. 8 S., R. 1 W., W.M.
Proof #5 (See Findings, Paragraph 29)	Mar. 23, 1926	0.41	33.2	Irrigation	Dams and ditches	Beaver Creek	
Baker, Mary V. Route 1 Turner, Oregon Proof #6 (See Findings, Paragraph 14)	June 16, 1924	0.19	15.0	Irrigation	Pump	Mill Creek and Beaver Creek	15.0 acres within the South one-half of the following described tract:
Beginning on the South line of the D. L. C. of Reuben Lewis and wife Not. No. 419, Claim No. 44, at a point 17.71 chains east of the SW corner of said D. L. C.; thence north 40.54 chains; thence east 31.93 chains; thence south 51.11 chains; thence west 31.93 chains; thence north 9.57 chains to the place of beginning. Situated in T. 8 S., R. 2 W., W. M., in Marion County, Oregon							
Barry S. R. Route 1 Aumsville, Oregon Proof #7 (See Findings, Paragraph 30)	Feb. 9, 1922	0.18	14.5	Irrigation	Unnamed ditches	Simpson Creek, trib. to Beaver Creek	28.5 acres within Lots 3 and 4 Waldo Hills Fruit Farm #1, being within Sections 19 & 30, Township 8 South, Range 1 West, W. M.
	July 12, 1924	0.18	14.0	Irrigation	Unnamed ditches		

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
Bates, Floyd E. Route 4, Box 179 Salem, Oregon Proof #8 (See Findings, Paragraph 31)	July 8, 1938	0.28	22.0	Irrigation	Pump	Battle Creek	12.3 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 21, 5.7 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 20, 3.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 29, 1.0 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, T. 8 S., R. 3 W., W.M.
Bean, H. J. 755 N. Capitol St. Salem, Oregon, and P. L. Frazier, 745 N. Capitol St. Salem, Oregon Proof #9 (See Findings, Paragraph 32)	June 7, 1938	0.01	0.5	Irrigation	Pump and pipe line	Mill Creek	0.5 acre within the following de- scribed tract: Beginning at a point on the West line of Capitol Street 167 feet South of the South line of Parrish Street in the City of Salem, Oregon, thence westerly parallel with the south line of Parrish St., 150 feet; thence southerly parallel with the west line of Capitol Street, 45.0 feet; thence westerly parallel with the south line of Parrish Street, 100.0 feet more or less to the center of Mill Creek; thence southerly along the center of Mill Creek, 93 feet; thence easterly parallel with the south line of Parrish Street, 250.0 feet more or less to the west line of Capitol Street; thence northerly along the west line of Capitol Street 138.0 feet to the point of beginning.
Beard, W. J. 571 N. 15th Street Salem, Oregon Proof #10 (See Findings Paragraph 33)	May 23, 1934	0.01	0.125	Irrigation	Pump	Mill Creek	0.125 acre in Lot 4, Block 4, Reeds Addition to the City of Salem, Oregon.
Beckley, E. O. Route 1 Salem, Oregon Proof #11 (See Findings, Paragraph 34)	July 24, 1926	0.02	0.5	Domestic including irrigation of 1/2 acre garden, and for swimming pool	Unnamed ditch and pump	Unnamed Spring, trib. to Battle Creek	0.5 acre within Lots 1 and 2, Sunnyside Fruit Farms No. 7, Section 27, T. 8 S., R. 3 W., W.M.
Berndt, Paul H. Route 4, Box 62-A Salem, Oregon Proof #12 (See Findings, Paragraph 35)				Application #15251 Permit #11154			
Boedighelmer, I. J. Route 1 Stayton, Oregon Proof #13 (See Findings, Paragraph 36)	1892	See Paragraph No. 36		Stock	No diver- sions	Mill Creek	Place of Use; The N $\frac{1}{2}$ of SW $\frac{1}{4}$, Section 2, T. 9 S., R. 1 W., 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
33499 Booth, G. F. Turner, Oregon Proof #14 (See Findings, Paragraph 37)	April 8, 1913	7.0 gallons per minute		Domestic including garden irrigation, and stock use	Pipe line	Spring rising near the center of SE $\frac{1}{4}$ of Sec. 12, T. 9 S., R. 3 W., W. M.	Within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 12, T. 9 S., R. 3 W., W.M.
14804 Booth, H. S. Turner, Oregon Proof #15 (See Findings, Paragraph 38)	1872	0.02	0.5	Domestic including irrigation of not to exceed 1/2-acre garden, and stock use	Pipe line	Spring rising within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec.18, T.9 S., R.2 W.W.M. and an unnamed stream, trib.to Norton Creek	0.5 acre, domestic and stock use within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, T. 9 S., R.2 W., W.M.
Boyce, Clyde and Lydia Turner, Oregon Proof #16 (See Findings, Paragraph 39)				Claim denied.			
14805 Boyd, Elva; and Luke Dillard, Guardian for Norman Bircher, Route 2, Box 668 Kelso, Washington Proof #17 (See Findings, Paragraph 40)	1854	0.02		Domestic and Stock	No diver- sions. Domestic use by dipping.	Mill Creek	Within the following described tract in Section 31, T. 8 S., R.1 E., W.M.
				Beginning at a point in Section 31, T. 8 S., R. 1 E., W. M., in Marion County, Oregon, this beginning point is in the north line of the Charles Benson D.L.C., 33.25 chains easterly from the NW corner of said claim; thence N. 89° 15' East along the north line of said claim 15.50 chains; thence S. 0° 4' East 47.39 chains; thence West 6.59 chains; thence North 7.39 chains; thence S. 89° 56' West 8.91 chains; thence N. 0° 4' W. 40.0 chains to the point of beginning, containing 66.87 acres of land, more or less.			
14806 Butler, Guy T. Sublimity, Oregon Proof #18 (See Findings, Paragraph 41)	Dec. 4 1863	0.005	0.5	Supplemen- tal domestic incl. irri- gation of not to ex- ceed 1/2- acre garden	Flume wheel	Beaver Creek	0.5 acre, domestic and stock use within the following de- scribed tract:
	Dec. 4, 1863	See Findings Paragraph 41		Stock	No diver- sions	Beaver Creek	
				Beginning at the northeast corner of the Donation Land Claim of Philip Glover in Township 8 South, Range 1 W., W.M., in Marion County, Oregon, and running thence westerly 27.61 chains to an angle corner on the north line of said claim; thence south 14.59 chains; thence S. 89° 50' East 27.61 chains to the east boundary line of said claim; thence north 14.52 chains to the place of beginning, containing 40.15 acres of land more or less.			

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
Callison, Clara C. 625 N. 15th St., Salem, Oregon Proof #107 (See Findings, Paragraph 106)	May 14, 1929	0.01	0.25	Irrigation	Pumping	Mill Creek	0.25 acre within the following described tract: Beginning at a point N. 19° 30' E. 1063.1 feet and S. 70° 30' E. 186.2 feet from the intersection of Center Street and 14th Street in Salem, Marion County, Oregon, thence N. 19° 30' E. 168 feet; thence S. 70° 30' E. 159.1 feet to the west boundary line of 15th Street; thence S. 19° 30' W. 285.0 feet to the center of Mill Creek; thence westerly and southerly along the center of Mill Creek to a point S. 19° 30' W. from the place of beginning; thence N. 19° 30' E. 175.0 feet to the place of beginning.
14807 Cartwright, Ralph E. Route 3, Box 780 Salem, Oregon Proof #19 (See Findings, Paragraph 42)	June 18 1864	0.02	0.5	Domestic including irrigation of garden not exceeding 1/2-acre, and stock use	Ditch and sump	Springs rising in the south-west one-fourth of claimant's lands	0.5 acre, domestic and stock use within the south-west one-fourth of the following described lands: Commencing at the southeast corner of Section 19, T. 8 S., R. 3 W., W. M.; running thence north 40 chains to the quarter-section corner of said Section 19; thence west along the line dividing the southeast quarter and the northeast quarter of said Section 19, 22.50 chains; thence S. 44½° West 33.69 chains; thence S. 25° 45' East 10.69 chains; thence east 9.03 chains; thence S. 73° 15' East 3.13 chains; thence S. 60° 30' East 4.11 chains; thence S. 51° 45' East 5.84 chains to a point on the south boundary line of said Section 19; thence East to the place of beginning.
Childs, Leo N. and Elma, Salem, Oregon Proof #20 (See Findings, Paragraph 43)		25.0		Recreational purposes	Canal	Mill Creek	Within the following described tracts: The SE¼ NW¼, Section 29, T. 8 S., R. 2 W., W.M. ALSO: Beginning at a point 33 feet west of the southeast corner of the forty acres of land above described and running thence in a southeasterly direction to a point on the east line of the Southwest Quarter of said Section 29, 120 feet south of said southeast corner of said forty acres of land above described; thence south along the east line of said Southwest Quarter of Section 29, to the south bank of Mill Creek; thence west along the south bank of Mill Creek, 33 feet; thence north parallel with the east line of said Southwest Quarter of Section 29, to a point 120 feet south of the north line of said Southwest Quarter of Section 29; thence northwesterly to a point on the north line of said Southwest Quarter of Section 29, 133 feet west of the northeast corner of said Southwest Quarter of Section 29; thence east to the place of beginning, containing one-half of an acre, more or less, situated in Section 29, Township 8 South, Range 2 West, W. M.
14808 Clements, Harvey J. 360 North 14th St. Salem, Oregon Proof #21 (See Findings, Paragraph 44)	Oct. 7, 1865	0.02		Irrigation of lawn and garden	Pumping	Mill Creek	Within the following described tract: Beginning at a point on the north line of Chemeketa Street, which is 145 feet easterly from a point where the center line of 14th Street in the City of Salem, Marion County, Oregon, intersects the north line of Chemeketa Street, as the same is extended in an easterly direction; thence easterly 110.8 feet along the north line of Chemeketa Street to an iron pipe; thence north 20° 15' East 135.5 feet to a point; thence south 67° 30' East 132 feet to an iron bolt; thence north 30° west 445.45 feet; thence north 70° 20' west 50 feet to a city monument at the intersection of 14th and Center Streets; thence southerly along the center line of 14th Street 345.1 feet to a point; thence easterly parallel with the north line of Chemeketa Street 145 feet to a point; thence southerly parallel with the center of 14th Street 75 feet to the place of beginning. EXCEPT so much of said land as is included in Chemeketa Street, 14th Street, and Center Street.

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
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4409
 Colvin, C. E.
 Turner, Oregon
 Proof #22
 (See Findings,
 Paragraph 45)

June 8 1922 0.20 16 Irrigation Unnamed ditch Porter Creek 16.0 acres in Section 26, T. 8 S., R. 2 W., W.M., being within the following described tract:

Beginning at a point 53 rods west of the SE corner of Sec. 26, T. 8 S., R. 2 W., W.M., Marion County, Oregon, running thence west 45 rods; thence north 160 rods; thence east 45 rods; thence south 160 rods to the place of beginning, containing 45.0 acres, more or less.

4409
 Cremer, Chris and
 Hilda,
 Stayton, Oregon
 Proof #23
 (See Findings,
 Paragraph 46)

1904 2.0 gallons per minute from each of two springs, and 2.0 g.p.m. from an unnamed stream, trib. to Mill Cr.

Stock No diver-sions Two springs, and an unnamed stream, trib. to Mill Creek

Within the following described tract:

Beginning at a point in the center of the county road 9.74 chains east of the southwest corner of the Charles Benson D.L.C. in Sec. 1, T. 9 S., R. 1 W., W.M., in Marion County, Oregon; running thence west along the center of the county road 9.74 chains to the southwest corner of said D.L.C.; thence south 83° west 3.52 chains; thence south 46.25 chains to the center of the county road; thence north 86½° east 12.90 chains; thence north 45° east 45.54 chains to the place of beginning and containing 60 acres more or less.

Denham, W. J.
 Turner, Oregon
 Proof #24
 (See Findings,
 Paragraph 15)

June 7, 1924 0.188 15.0 Irrigation Water wheel and pump Mill Creek 15.0 acres within the following described tracts:

Beginning at the southeast corner of John Blanton D.L.C. No. 61 within Section 27, T. 8 S., R. 2 W., W. M., running thence N. 43 rods two inches; thence west 93 rods; thence south 43 rods two inches; thence east 93 rods to point of beginning, containing 25.0 acres, more or less; ALSO that part of Lot 4, Section 27, T. 8 S., R. 2 W., W. M., lying south and west of Mill Creek, being in the southwest corner of said Lot 4 and containing 1/8-acre more or less.

4410
 Doerfler, Ed and
 Emma,
 Route 1
 Aumsville, Oregon
 Proof #25
 (See Findings,
 Paragraph 47)

1865 0.02 being 0.004 from each of 4 unnamed streams and an unnamed spring

Stock No di-versions Four unnamed streams, trib. to Mill Cr., and an unnamed spring

In Sections 16 and 21, T. 8 S., R. 1 W., W.M., being within the following described tract:

Beginning at a point 23.19 chains west and 13.45 chains south of the southeast corner of Section 16, T. 8 S., R. 1 W., W. M., running thence as follows: West along the south boundary of Moses J. Smith T. L. C. No. 54 and Napoleon B. Wisdom D. L. C. No. 70, 50.0 chains, north 9.5 chains, west 3.86 chains, north 36.20 chains, east 22.0 chains; thence south 0° 42' west 21.3 chains, east 32.0 chains, south 25.0 chains to the place of beginning.

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
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Donker Brothers By Name and Gerben Donker, Aumsville, Oregon Proof #26 (See Findings, Paragraph 48)	May 21, 1923	10.0		Power (7.38 Theo. H.P.)	Donker Brothers' Ditch	Mill Creek	Place of Use: Within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, T. 8 S., R. 2 West, W.M.
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Donker Brothers, By Name Donker and Gerben Donker, Aumsville, Oregon Proof #27 (See Findings, Paragraph 16)	July 12, 1922	0.125	10.0	Irrigation	Pump	Mill Creek	10.0 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25, T. 8 S., R. 2 W., W.M.
	July 12, 1922	0.125	10.0	Irrigation	Pump	Porter Creek	10.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, T. 8 S., R. 2 W., W.M.

Dumbeck, Alfred A.,
and Inez A.,
Route 2
Turner, Oregon
Proof #28
(See Findings,
Paragraph 49)

Application No. 17582,
Permit No. 13279

14811 Duncan, Lloyd A. 2891 West Pico Street Los Angeles, Calif. Proof #29 (See Findings, Paragraph 50)	1870	0.02	0.5	Domestic including irrigation of not to exceed 1/2-acre garden, and stock use	No di- versions (Domestic and gar- den irri- gation by dipping)	Mill Creek	0.5 acre, domestic and stock in that part of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ AND SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 33, T. 8 S., R. 2 W., W.M. within the following described tract:
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Beginning at a point on the West line of Section 33, T. 8 S., R. 2 W., W. M., in Marion County, Oregon, said point being 1485.5 feet north from the southwest corner of Section 33, and running from said beginning point East 40 chains, to the east line of the Donation Land Claim of William S. Wilmot; thence north, on the east line of said claim 37.5 chains to the northeast corner of said claim; thence west on the north line of said claim 27.8 chains; thence south 17.5 chains; thence west 12.2 chains to the west line of the William S. Wilmot Donation Land Claim; thence south, on the west line of said claim 20.0 chains, more or less to the point of beginning.

14812 Edwards, Arthur Route 2 Turner, Oregon Proof #30 (See Findings, Paragraph 51)	1867	See para- graph 51		Stock	No di- versions	Battle Creek and an unnamed tribu- tary of Battle Creek	Within the following described tract:
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Beginning at a point on the legal subdivision line running east and west through the center of Section 30, 19.90 chains N. 89° 50' West from the $\frac{1}{4}$ -section corner between Sections 29 and 30 in T. 8 S., R. 2 W., W. M., Marion County, Oregon, and running thence N. 89° 50' W. 20.08 chains to the center of Section 30; thence south 23.25 chains along the legal subdivision line running North and South through the center of Section 30 to a point; thence S. 17° E. 59.34 chains to a point on the legal subdivision line running East and West through the center of Section 31; thence S. 89° 48' E. 8.63 chains along said subdivision line to a point; thence N. 11° 50' E. 12.43 chains to a point; thence N. 78° 58' E. 9.527 chains to a point; thence N. 1° 09' E. 32.00 chains to a point; thence N. 46° 25' W. 13.33 chains to a point; thence N. 36° 14' W. 7.513 chains to a point; thence N. 3° 08' W. 4.374 chains to the middle of the County Road; thence S. 67° 15' W. 4.462 chains along the middle of the County Road to a point; thence N. 16.14 chains to the place of beginning.

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
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14813
 Eley, Frederick H.
 590 North 15th St.
 Salem, Oregon
 Proof #31
 (See Findings,
 Paragraph 52)

1888 0.02 Irrigation Unnamed ditches or by pumping Mill Creek Lots 1, 2, 3, 4, and 5, Block 5, and Lot 6 except the westerly 120 ft. thereof,
 Block 5, of Reed's Addition to the City of Salem, Oregon;
 ALSO:

Beginning on the West line of the Donation Land Claim of Alvin F. Waller and wife, being Claim No. 46 in Township 7 South, Range 3 West, W. M., in Marion County, Oregon, at a point where the center line of Mill Creek intersects said west line, being the most westerly southwest corner of Lot 23, High School Addition to the City of Salem, Marion County, Oregon; and running thence South 19° 30' West along the west line of such claim to the point where said west line again intersects the center line of Mill Creek; thence in a northerly direction following the center line of Mill Creek to the place of beginning.

14814
 Fuson, Wm. H.
 Aumsville,
 Oregon
 Proof #32
 (See Findings,
 Paragraph 53)

1897 See Paragraph 53 Stock No di-versions Mill Creek Within the following described tract:
 40 acres off from the north side of the following described premises:

Being a part of the D. L. C. of Henry Foster and wife, Not. No. 52, Cert. No. 1088, Claim No. 45, in Sec. 4, T. 9 S., R. 1 W., W. M., in Marion County, Oregon. Beginning at a point 7.75 chains S. 25° 30' East of the SE corner of the Allen J. Davis D. L. C. 47, Section 5, T. 9 S., R. 1 W., W. M., thence S. 25° 30' East 21.53 chains; thence east 26.10 chains; thence north 19.88 chains; thence west 35.15 chains to the point of beginning.

Garbe, F. A.
 Route 1
 Aumsville, Oregon
 Proof #33
 (See Findings,
 Paragraph 54)

Aug. 15, 1925 0.41 33.0 Irrigation Unnamed private ditch Beaver Creek 33.0 acres in Section 30, T. 8 S., R. 1 W., W.M. being within the following described tract:

Beginning at a point on the west line of the O. P. Taylor D. L. C. No. 45, in Township 8 South, Range 1 West, W. M., 53.59 chains north from the most westerly southwest corner of said Claim, and running thence N. 0° 57' West 6.715 chains; thence S. 89° 46' East 41.31 chains; thence S. 1° 15' East 7.50 chains; thence N. 89° 46' West 7.81 chains; thence S. 1° 15' East 10.78 chains; thence N. 89° 46' West 9.93 chains; thence N. 1° 15' West 11.56 chains; thence west to the point of beginning.

14815
 Gray, William A.
 Route 5, Box 158
 Salem, Oregon
 Proof #34
 (See Findings,
 Paragraph 55)

1866 0.025 0.5 Domestic including irrigation of not to exceed 0.5 acre garden, and stock use Unnamed ditches and flume Unnamed trib. of Beaver Creek 0.5 acre, domestic and stock use within that portion of the following described tract lying within Section 23, T. 8 S., R.2 W., W. M. and being a portion of Lot 22, Waldo Hills Fruit Farms #3, Marion County, Oregon:

Beginning at the NE corner of said Lot 22, thence south along the east line thereof 30.89 chains to a stone in the Salem and Aumsville County road; thence N. 59° 45' west 16.82 chains along said County road; thence north 22.42 chains to the north line of said Lot 22; thence east along said north line 14.53 chains to the place of beginning, and containing 38.71 acres.

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
14816 Hankins, Glenn O. Route 4, Box 289 Salem, Oregon Proof #35 (See Findings, Paragraph 56)	1896	16,160 gallons in 24 hours diverted at maxi- mum rate of 0.06 cubic foot per second	1.0	Domestic including irrigation of garden and lawn not ex- ceeding 1 acre	Pump and pipe line	Unnamed spring in Lot 30, Sunny- side Fruit Farm No. 10, Sec. 29, T. 8 S., R. 3 W., W. M.	1.0 acre and domestic use within Lots 29 and 30 and the East one-half of Lot 41, Sunnyside Fruit Farms #10, Section 29, T. 8 S., R. 3 W., W.M.
	1896	0.01		Stock	No di- versions	Unnamed springs and stream on claim- ant's lands	Place of use: Same as described above.
14817 Harris, Hugh V. Route 4, Box 281 Salem, Oregon Proof #36 (See Findings, Paragraph 57)	1875	0.01		Stock	No di- versions	Battle Creek	Within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23, T. 8 S., R. 3 W., W.M.
Hein, C. F. Aumsville, Oregon Proof #37 (See Findings, Paragraph 17)	Aug. 13, 1917	0.13	10.0	Irrigation	Unnamed ditch	Mill Creek	Within the following described tract: Beginning at the Southwest corner of what is known as Mill property in the Town of Aumsville, being also thirty feet West and 9.40 chains South 10° 30' West from the Northwest corner of Block No. 10 in said town of Aumsville; thence South 88° 30' East along the South line of said Mill property 14.39 chains to the South- east corner thereof; thence South 67° 45' East 17.08 chains to the middle of the S. P. R. R. track; thence South 0° 30' West along the middle of said track 9.07 chains; thence North 89° 15' West parallel with the division line through the McHaley D.L.C. 32.67 chains to the middle of the Ale and Aumsville County road; thence North 9° East along the middle of said road 15.63 chains; thence South 88° 30' East 34 links to the place of beginning, containing 43.63 acres of land situated in the Donation Land Claim of John McHaley and wife in T. 8 S., R. 1 and 2 West of the Willamette Meridian in Marion County, Oregon.
14818 Proof #38 (See Findings, Paragraph 17)	1901	0.01		Stock	No di- versions	Mill Creek	Same as described above under Proof #37.
Proof #108 (See Findings, Paragraph 107)	Feb. 17, 1926	0.04	3.0	Irrigation		Beaver Creek	3.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 25, T. 8 S., R. 2 W., W.M. being within the fol- lowing described tract: Beginning at a point on the east line of the Henry Smith D.L.C. No. 38, in T. 8 S., R. 2 W., W. M., said point being 19.76 chains north of the SE corner of said D.L.C., thence west 6.85 chains to the center of the S. P. Company railroad tracks; thence N. 10° 15' W. 11.37 chains along the center of said railroad tracks to the north bank of Beaver Creek; thence easterly along the north bank of Beaver Creek to the east line of Henry Smith D.L.C. No. 38, thence south 13.10 chains to the point of beginning, containing 9.75 acres, more or less.

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
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819
 Handricks, Louis and Eva, Aumsville, Oregon Proof #39 (See Findings, Paragraph 58)

1850	0.02	0.5	Domestic including irrigation of a garden not exceeding 0.5 acre, and stock	Flume	Spring in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 4, T. 9 S., R. 1 W., W. M.	Within the following described tract:
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Tract #1:

Beginning at the most easterly corner of the Henry Foster and wife D. L. C. No. 45 in T. 9 S., R 1 W. of the Willamette Meridian, Marion County, Oregon; thence west 14.14 chains to the remotest corner in the north line of the Foster claim; thence north 8 chains to the most northerly NE corner of the claim No. 45; thence west 27.89 chains along the north line of the Foster claim No. 45 to a 20-acre tract deeded off of the west side of the east half of the Henry Foster and wife claim; thence south 0° 15' E. 14.33 chains along the east line of said 20 acre tract; thence east 21.99 chains; thence S. 0° 45' east 1.63 chains; thence north 89° 45' east 20 chains to the east line of Claim No. 45; thence north 0° 45' W. 7.87 chains to the place of beginning, containing 52 acres of land.

1850	See Paragraph 58	Stock	No di-versions	Mill Creek	Place of use: Same as described above.
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1850	See Paragraph 58	Stock	No di-versions	Unnamed stream	Within the following described tract:
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Beginning at a point 8.00 chains N. 0° 30' W. and 21.51 chains west from the most southerly SE corner of the Donation Land Claim of Gabriel Brown and wife in T.9 S., R. 1 W., W. M., Marion County, Oregon; thence N. 0° 30' West 46.50 chains parallel with the east line of said claim; thence west 10.92½ chains; thence S. 0° 30' E. 46.50 chains parallel with the east line of said claim; thence East 10.96½ chains to the place of beginning, and containing 51 acres of land, more or less. SAVE AND EXCEPT ten (10) acres of land off the south end of above described tract which was sold to Joseph L. Schulte, leaving in above tract forty-one (41) acres of land, more or less.

820
 Highberger, Theodore Aumsville, Oregon Proof #40 (See Findings, Paragraph 18)

1859	135.0	For development of 169 theoretical horse-power	Slow Creek or Mill Race ditch	Mill Creek	Place of use: Within the following described tract:
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Power Claim #127

Commencing at a point thirty feet West of the Northwest corner of Lot 4, in Block 10, in the Town of Aumsville, Marion County, Oregon; running thence south parallel with the west boundary line of said Lot 4, 620 feet; thence east at right angles to said line 950 feet; thence north parallel to said westerly line 620 feet; thence west 950 feet to the place of beginning, containing 14 acres, more or less. SAVE AND EXCEPT Lot No. 4 in Block 12 and that certain parcel of land 50 feet by 100 feet in the northeast corner of said fourteen acre tract heretofore sold by Shern Swank by deed dated October 8, 1915, recorded October 23, 1915 in Book 137 at Page 333 Record of Deeds for Marion County, Oregon.

821
 Hilton, Ezra Route 1 Stayton, Oregon Proof #41 (See Findings, Paragraph 23)

1876	See Paragraph 23	Stock	No di-versions	Mill Creek	Place of use: Within the following described tract:
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Beginning on the South boundary on Sec. 3, T. 9 S., R. 1 W., W. M., in Marion County, Oregon, at a point 15.75 chains west of the quarter section corner in the south boundary of said section and from thence running North, parallel with the East boundary of the West half of said section, 34.22 chains to an iron pipe set at a point 45.06 chains South of the North boundary of said section; thence West, parallel with the North boundary of said section, 7.875 chains to an iron pipe; thence South, parallel with the East boundary of the West half of said section, 34.21 chains to the South boundary of said section; thence East 7.875 chains to the place of beginning.

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
4822 Holman, Merle F. and Bertha M. Route 6, Box 60 Salem, Oregon Proof #42 (See Findings, Paragraph 60)	1908		7.5	Irrigation	Small ditches	Unnamed stream trib.to Mill Creek	7.5 acres in Sec. 6, T. 8 S., R. 2 W., W.M., being within the following described tract: Beginning at the most westerly NW corner of the D. L. C. of Thomas Stanley and wife, in T. 8 S., R. 2 W., W. M., and running thence N. 84° 45' West 38.74 chains; thence N. 66° 30' East 43.30 chains to the middle of the county road; thence S. 62° 15' East 1.38 chains to an iron stake; thence South 35° 15' East 13.46 chains along the middle of said road to the north boundary of the Thomas Stanley D. L. C.; thence S. 47° 30' W. 13.17 chains to the place of beginning.
4823 Hostetler, John Stayton, Oregon Proof #43 (See Findings, Paragraph 21)	1876	See Paragraph 21		Stock	No di-versions	Mill Creek	Place of use: Within the following described tract: Beginning on the South boundary of Sec. 3, T. 9 S., R. 1 W., W. M., at a point 23.625 chains West of the quarter section corner in the South boundary of said Section, and from thence running North, parallel with the East boundary of the West half of said section, 34.21 chains to an iron pipe set at a point 45.06 chains South of the North boundary of said section; thence West, parallel with the North boundary of said section, 9.905 chains to the East boundary of the Donation Land Claim of Henry Foster and wife in said Township and Range; thence South, along the East boundary of said Donation Land Claim, 34.19 chains to the southeast corner of said Claim; thence East 10.005 chains to the place of beginning and containing 34.03 acres.
Hottinger, Fred Stayton, Oregon Proof #44 (See Findings, Paragraph 61)					Application No. 14518, Permit No. 10520.		
4824 Hoven, Otto Route 6, Box 59 Salem, Oregon Proof #45 (See Findings, Paragraph 62)	1908		7.5	Irrigation	Unnamed ditches	Unnamed stream, trib.to Mill Creek	7.5 acres in Sec. 6, T. 8 S., R. 2 W., W.M., being within the following described tract: Beginning on the south line of the Donation Land Claim of Benjamin Munkers and wife 23.96 chains South 80° 25' West from the southeast corner of said claim, said point being a stone in the County road leading from Salem to the Asylum Farm in Township 8 South, Range 2 West of the Willamette Meridian, Marion County, Oregon; thence North 10° 45' East 0.44 chains to an iron pipe in the middle of the County road; thence South 62° 15' East 12.0 chains to an iron pipe; thence South 66° 30' West 43.30 chains to the South line of Joseph Bartoez; thence North 84° 45' West 2.54 chains to the middle of Mill Creek; thence down the middle of the main channel of Mill Creek to the South line of the Donation Land Claim of Benjamin Munkers; thence North 79° 20' East 37 chains to the place of beginning, containing Fifty (50) acres of land, more or less, in Marion County, Oregon.
Howard, L. L. Route 2 Turner, Oregon Proof #46 (See Findings, Paragraph 63)					Application No. 16989, Permit No. 12737.		

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
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Johnson, Leo H.
170 N. Front St.
Salem, Oregon
Proof #47
(See Findings,
Paragraph 64)

July 21, 1930 1.1 Power and Fish Pond Dam and Water Wheel Unnamed Stream trib.to Battle Creek Within Lot 3, Section 36, T. 8 S., R. 3 W., W.M.

Proof #48
(See Findings,
Paragraph 64)

Aug. 6, 1940 0.0125 1.0 Irrigation Pump and pipe line Taylor Creek 1.0 acre in Lot 3, Section 36 T. 8 S., R. 3 W., W.M.

Key, The Thomas Woolen Mill Company.
Proof #60
(See Findings,
Paragraph 74)

See "Oregon Pulp & Paper Company" Paragraph 74)

4825
Ladd, Robert E.
Route 4, Box 171
Salem, Oregon
Proof #49
(See Findings,
Paragraph 65)

1896 1.2 Irrigation Pipe line and buckets Battle Creek 1.2 acres in Lot 12, Battle Creek Fruit Farm No. 1, Section 21, T. 8 S., R. 3 W., W.M. being within the following described tracts:

Beginning at a point 21.5 rods northerly along the County road from the SE corner of Lot 12, Battle Creek Fruit Farms #1 in Marion County, Oregon; thence west along the south side of tract of land (below) 12.5 rods; thence south 33 feet; thence S. 45° east about 81 feet to the center of Battle Creek; thence down the center of the creek to (S & R) County road; thence north along road to point of beginning, containing about 1/5 acre. ALSO:

Beginning on the east line of Lot 12 as shown on recorded plat of Battle Creek Fruit Farm #1, etc., at a point 21.5 rods north along the County road from the SE corner of Lot 12, thence west 12.5 rods; thence north 20 rods; thence east to County road; thence southerly along County road 20 rods to point of beginning, containing 1 acre.

4826
Lambert, L. Sylvester and Ellen G.
Stayton, Oregon
Proof #50
(See Findings,
Paragraph 66)

1850 See Paragraph 66 Stock No di-versions Mill Creek In Sections 3 and 4, T. 9 S., R. 1 W., W.M., within the following described tract:

Beginning at the SE corner of Henry Foster D. L. C. No. 45 in T. 9 S., R. 1 W., W. M., thence S. 89° 45' West 20.0 chains; thence N. 0° 45' W. 56.50 chains; thence N. 89° 45' E. 20.0 chains to the east line of the Foster Claim; thence S. 0° 45' E. 56.50 chains to the place of beginning.

Leach, C. R.
Route 2, Box 93-A
Turner, Oregon
Proof #109
(See Findings,
Paragraph 108)

Mar. 16, 1927 0.01 Domestic Pipe line Unnamed spring trib.to Cook Creek Within the following described tract in Section 17, T. 9 S., R. 2 W., W.M.:

Beginning at the SW corner of the D. L. C. of Isaac Cook and wife in T. 9 S., R. 2 W., W. M., in Marion County, Oregon; thence running N. 0° 5' E. 3.94 chains along the west boundary line of said D. L. C. to a point 36.14 chains S. 0° 5' West of the NW corner of said D. L. C.; thence N. 50° 55' E. 54.10 chains; thence S. 39° E. 15.18 chains to the south boundary line of said D. L. C.; thence in a southwesterly direction along the south boundary line of Isaac Cook D. L. C. No. 39 to the point of beginning.

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
<p>827</p> <p>Lewis, Elmer B. Aurora, Oregon Lewis, Vivian C., and Lewis, Clifford A., By Clifford A. Lewis, Agent 1550 State St. Salem, Oregon Proof #51 (See Findings, Paragraph 67)</p>	1846	0.01		Stock	No Diver- sions	Beaver Creek	Within Section 27, T. 8 S., R. 2 W., W.M., being within the fol- lowing described tract:
<p>Beginning at the SW corner of the D. I. C. of Ruben Lewis and Polly A. Lewis, his wife, Notification No. 419, Claim No. 44, thence N. 2° 53' East following the west line of said claim 40.59 chains; thence east 15.67 chains; thence south 50.11 chains; thence west 12.87 chains; thence north 9.57 chains; thence west 4.84 chains to the place of beginning.</p>							
<p>828</p> <p>Lewis, H. C. Route 1 Eugene, Oregon Proof #52 (See Findings Paragraph 68)</p>	1866	0.01		Stock	No diver- sions	Beaver Creek and an unnamed spring branch	In Section 26, T. 8 S., R.2 W., W.M., being within the N $\frac{1}{2}$ of the following de- scribed tract:
<p>Beginning at the Northeast corner of Section 26, T. 8 S., R. 2 W., W. M., and running thence west along the section line 21.605 chains; thence S. 19' E. 40.20 chains to the south line of the NE$\frac{1}{4}$ of said Section 26; thence east along said subdivision line to the East Quarter-corner of said Section 26; thence North along section line to the point of beginning.</p>							
<p>Linn, J. R. Salem, Oregon Proof #110 (See Findings, Paragraph 109)</p>	Mar. 19, 1926	7.5 gallons per minute	0.2	Domestic including irrigation of not to exceed 0.2 acre	Pump and pipe line	Unnamed spring	Within Lots 54 to 64 incl., Sunnyside Fruit Farms #3, Section 21, T. 8 S., R. 3 W., W.M.
	Mar. 19, 1926	0.02	0.5	Irrigation	Pipe line	Jory Creek	Within Lots 54 to 64 incl., Sunnyside Fruit Farms #3, Section 21, T. 8 S., R. 3 W., W.M.
<p>Martin, Charles Aumsville, Oregon</p>				See Findings, Paragraph No. 19.			
<p>829</p> <p>McIntire, Roy W. Route 4 Salem, Oregon Proof #53 (See Findings, Paragraph 69)</p>	1850	0.01	0.5	Domestic including irrigation of not to exceed 1/2-acre garden, and stock	Small ditches	West Spring	Within Section 35, and Section 36, T. 8 S., R. 3 W., W.M., being within the fol- lowing described tract:
<p>Beginning 10.37 chains S. 89° 24' E. from the SW corner of Sec. 36, T. 8 S., R. 3 W., W. M., in Marion County, Oregon; thence N. 25' W. 27.18 chains; thence N. 89° 24' W. 22.18 chains to the center of the Pacific Highway; thence N. 27° 47' E. along the center of said highway 3.57 chains; thence S. 89° 24' E. 30.20 chains; thence S. 56' E. 10.33 chains; thence S. 7' E. 20.0 chains; thence N. 89° 24' W. 9.67 chains to the point of beginning in Sections 35 and 36 in T. 8 S., R. 3 W., Marion County, Oregon.</p>							
	1850	0.01		Stock	No diver- sions	East Spring	Place of use: Same as described above.

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
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McKinney, Mrs. J. W.
2368 State St.
Salem, Oregon
Proof #54
(See Findings,
Paragraph 70)

Feb. 9, 1925 1.01 81.0 Irrigation Unnamed ditches Delaney Ditch or McKinney Creek, and Norton Creek

81.0 acres within west 1/2 of Section 5, T. 9 S., R. 2 W., W.M., and within the following described tract:

Beginning at the NW corner of the Land Claim of Daniel Delaney at a point 23.68 chs. west of the NE corner of Section 6, T. 9 S., R. 2 W., W. M., thence South 14° 30' E. 74.19 chains; thence N. 74° 15' E. about 38.79 chains to the center of what is known as Delaney's Ditch; thence N. 9° 15' W. 61.10 chains along the center of said ditch to the Township line; thence west to the place of beginning, containing two hundred & eighty-five acres of land, more or less, and being in Sec. 5 and 6, T. 9 S., R. 2 W., W. M., in Marion County, State of Oregon.

1830
Miller, Henry E.
Stayton, Oregon
Proof #55
(See Findings,
Paragraph 24)

1866 See Paragraph 24 Stock No diversions Mill Creek

Place of Use: The S $\frac{1}{2}$ of NW $\frac{1}{4}$ SE $\frac{1}{4}$, and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3, T. 9 S., R. 1 W., W.M.

Mitchell, F. A.
Route 2
Turner, Oregon
Proof #112-A.
(See Findings,
Paragraph 112)

See "Turner, City of" Paragraph No. 111.

1831
Mulkey, Mrs. Lutella
765 E Street
Salem, Oregon
Proof #56
(See Findings,
Paragraph 71)

1866 0.01 Domestic stock By dipping No diversions Unnamed stream in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 17, T. 8 S., R. 2 W., W. M.

Within Section 17 and Section 20, T. 8 S., R. 2 W., W.M. in Wm. H. Baker D.L. C. #60, being within the following described tract:

Beginning at a point which is 17.75 chains N. 89° 39' West and 40.32 chains S. 0° 23' West from the northeast corner of the Donation Land Claim of William H. Baker in T. 8 S., R. 2 W., W. M., in Marion County, Oregon; and from thence running S. 86° 45' West 3.50 chs. thence S. 0° 22' East 3.15 chains; thence N. 89° 38' West 3.174 chains; thence N. 0° 22' West 3.15 chains; thence S. 89° 15' West 16.58 chains to the Northeast corner of the D. L. C. of John Herren and wife in said Township and Range; thence South 0° 30' West 25.37 chains to the Quarter Section corner between Sections 17 and 20 in said Township and Range; thence S. 53° 43' East 12.59 chains; thence S. 30° East 6.60 chains to the south boundary line of the W. H. Baker D. L. C.; thence N. 88° 29' East along the south boundary line of said W. H. Baker D. L. C., 9.76 chains; thence N. 0° 23' East 38.70 chains to the place of beginning.

1832
Myers, William H.
Route 1
Stayton, Oregon
Proof #57
(See Findings,
Paragraph 20)

1876 See Paragraph 20 Stock No diversions Mill Creek

Within the SW $\frac{1}{4}$ Section 3, T. 9 S., R. 1 W., W.M., being within the following described tract:

Beginning on the South boundary of Section 3, Township 9 South, Range 1 West, W. M., in Marion County, Oregon, at a point 7.875 chains West of the quarter section corner in the South boundary of said section and from thence running north parallel with the east boundary of the west half of said section, 34.24 chains to an iron pipe set at a point 45.06 chains south of the north boundary of said section; thence west, parallel with the north boundary of said section, 7.875 chains; thence south, parallel with the east boundary of the west half of said section, 34.22 chains to the south boundary of said section; thence east 7.875 chains to the place of beginning.

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
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4833

Nietling, Mike Route 1 Scio, Oregon Proof #58 (See Findings, Paragraph 72)	1870	0.01		Stock	No diver- sions	Unnamed spring and unnamed stream, trib.to Beaver Creek	Within Section 27 and Section 34, T. 8 S., R.1 W.,W.M., in James D. Brown D. L. C. No. 21, being within the following described tract:
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Beginning at a point 16.67 chains East and 18 chains North of the Southwest corner of D. L. C. No. 21 of James D. Brown, in Marion County, Oregon, and running thence due East 22.58 chains; thence North 12 chains; thence East 75 links, thence North 3.25 chains; thence West 3.25 chains; thence South 3.25 chains; thence West 20.08 chains; thence South 12 chains to the place of beginning.

4834

Norris, J. T. and Rosa B., Turner, Oregon Proof #59 (See Findings, Paragraph 73)	1893	2.6 gallons per minute minute	0.5	Domestic including irrigation of garden not ex- ceeding 0.5 acre and stock use	Pipe line	Unnamed spring in S ₂ SE ₄ ¹ Sec. 12 T. 9 S., R.3 W.W.M.	That part of the following described tract located with- in the NE ₄ SE ₄ ¹ Section 12, T. 9 S., R. 3 W., W. L.:
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Beginning at the quarter section corner on the east boundary of Section 12, T. 9 S., R. 3 W., W. M., in Marion County, State of Oregon, and running thence West 40 chains to the middle point of said Section 12; thence South 17.78 chains; thence East 25.38 chains; thence South 1.53 chains; thence South 8 $\frac{1}{2}$ ⁰ East 3.68 chains along the County road; thence North 87⁰ East 3.55 chains; thence North 45⁰ East 3.48 chains; thence East 6.24 chains; thence North 8 $\frac{1}{4}$ ⁰ East 9.67 chains; thence North 8.17 chains; thence West 10.0 chains; thence North 5.10 chains to the place of beginning.

4835

Oregon Pulp & Paper Company, The Thomas Key Woolen Mills Company, and City of Salem, Oregon Salem, Oregon Proof #60 (See Findings, Paragraph 74)	1857	342.6		Power and manu- facturing	North Power and South Power	Mill Creek	Within the corporate limits of the City of Salem, Oregon.
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See also Power Claim # 68 § 68A

Oregon, State of,
By Oregon State
Board of Control,
Capitol Building
Salem, Oregon
Proof #61
(See Findings,
Paragraph 13)

Claim denied

Proof #62
(See Findings,
Paragraph 13)

Claim denied

Proof #63
(See Findings,
Paragraph 13)

Claim denied

Proof #64
(See Findings,
Paragraph 13)

Claim denied

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
Oregon, State of, (Cont'd)							
Proof #65 (See Findings, Paragraph 13)	Claim denied						
51 551 & 51352 Proof #66 (See Findings, Paragraph 13)	1865	230.0		Power (313.64 T.H.P.)	Power Canal	Mill Creek	Place of Use: That part of the Samuel Parker D. L. C. #77 within Section 25, T. 7 S., R.3 W., W.M., now owned by the State of Oregon
		CANCELLED Spec. Or. V. 13, 371					
							<i>Power Claim # 52</i>
	1865	1,615,562 gallons per 24 hours which includes the 1,200,000 gallons per 24 hours from North Santiam River. Maximum rate of diversion 2500 gallons per minute		Domestic, Stock, and Institutional Uses at the State Penitentiary, State Hospital and grounds and State Capitol Buildings and grounds	Pumping from Power Canal	Mill Creek	That part of the Morgan L. Savage D. L. C. #79 within Section 25, T. 7 S., R.3 W., W.M., now owned by the State of Oregon; That part of the Josiah L. Parrish D. L. C. #61 within Section 24, T. 7 S., R.3 W., W.M., now owned by the State of Oregon; That part of the Isaac Baker D. L. C. #81 within Section 24, T. 7 S., R.3 W., W.M., now owned by the State of Oregon; That part of the Samuel Parker D. L. C. #77 within Section 25, T. 7 S., R.3 W., W.M., now owned by the State of Oregon; ALSO The State Capitol Group of Buildings and Grounds within the City of Salem, Oregon.
Proof #67 (See Findings, Paragraph 13)	1891	304 gallons per minute		Domestic, Stock and Operation & Maintenance of buildings and grounds at the State Tuberculosis Hospital and the State Penitentiary Annex	Pumps and pipe lines	Mill Creek	That part of the William H. Rector D. L. C. #45 within Section 8 Section 17 & Section 18, T. 8 S., R.2 W., W.M., now owned by the State of Oregon, and Lots 1, 2, 3 and 4, Section 18, T. 8 S., R.2 W., W.M.
<i>Ch. in use place of use and pt. of div. - Sp. or Vol. 8, p. 471</i>							
	1891		7.0	Irrigation	Unnamed ditches and pumping	Mill Creek	7.0 acres within that part of Sections 17 and 18, T. 8 S., R.2 W., W.M., now owned by the State of 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
4837 Oregon, State of, (Cont'd) Proof #68 (See Findings, Paragraph 13)	1906	1.0		Domestic, Stock, and Institutional uses at the Oregon State Tuberculosis Hospital and State Penitentiary Annex-Buildings and Grounds	Pipe lines and Reservoir	*Baker Springs located in Sec. 17, T. 8 S., R. 2 W., W.M. (In Wm. H. Baker D. L. C. #65)	Place of Use: As described above under Statement and Proof of Claim No. 67.

*NOTE: Baker Springs arise within the following described tract: Beginning at a point 1094.5 feet East and 24 feet North of the NE corner of the D. L. C. of John Herren and wife, Claim No. 60 in T. 8 S., R. 2 W., W. M., in Marion County, Oregon, thence running East 209.4 feet; thence South 207.9 feet; thence West 209.4 feet; thence North 207.9 feet to the place of beginning, containing one acre of land, more or less, in Marion County, Oregon. (In Section 17, T. 8 S., R. 2 W., W. M.)

Pemberton, Mrs. Geo. P., Olin C. Hadley, and Clifford E. Hadley, By Ivan L. Hadley, Agent, Albany, Oregon Proof #69 (See Findings Paragraph 75)	June 17, 1913	6.2 gallons per minute		Domestic	Pipe line	Unnamed spring in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 12, T. 9 S., R. 2 W. W. M.	Within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 1, T. 9 S., R. 3 W., W.M.
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438 Pemberton, Mrs. Geo. P. Turner, Oregon By Ivan L. Hadley Agent Albany, Oregon Proof #70 (See Findings, Paragraph 76)	1880	2.0 gallons per minute		Domestic	Pipe line	Unnamed spring in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 12, T. 9 S., R. 3 W., W. M.	Within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12, T. 9 S., R. 3 W., W.M.
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Note: Assigned - See Misc'l. Rec. Vol. 2, p 1219

439 Pettyjohn, Winnie Trustee for Christine Dalzell Simons, Salem, Oregon Proof #71 (See Findings, Paragraph 77)	1859	0.01		Domestic Stock	Diverted by dipping No diversions	Unnamed stream	Within Lots No. 28, 29, 34 and 44, Henshaw Fruit Farms, Section 18, T. 8 S., R. 2 W., W.M.
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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
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4840
 Putnam, Geo. Ivan,
 and Adela S. Putnam,
 Route 1, Box 164,
 Aumsville, Oregon
 Proof #72
 (See Findings,
 Paragraph 78)

1875 See
 Para-
 graph
 78

Stock

No diver-
 sions

Unnamed
 springs
 and
 streams
 on claim-
 ant's
 lands

Within Sections 17,
 18 and 19,
 T. 8 S., R.1 W., W.M.
 in Herman J. Geer D.
 L. C. 51, being within
 the following de-
 scribed tract:

Beginning at a point 10.04 chains S. of the NE cor. of Herman J. Geer D. L. C. No. 51, thence W. parallel with the N. line of said claim 49.50 chains; thence S. to the intersection of the County road; thence in a northeasterly direction along the north line of said County road to the east line of said D. L. C.; thence north to the northwest corner of William Simpson D. L. C. No. 52 in Section 19, Township 8 South, Range 1 West, W. M.; thence east and north along said Herman J. Geer D. L. C. No. 51 Claim line to the point of beginning.

Ramage, L. M.
 810 N. Liberty St.
 Salem, Oregon
 Proof #73
 (See Findings,
 Paragraph 79)

Sept. 2, 1939 0.08

Manufactur-
 ing

Pump
 and
 pipe
 line

Mill
 Creek

In Section 22, Town-
 ship 7 South, Range
 3 West, W. M., being
 within the following
 described tract:

Beginning at an iron rod in the intersection of the center line of Mill Creek with the east line of Liberty Street 338.5 feet N. 19° 30' East and 41 feet North 50° 21' E. from the northwest corner of Block 26 in Salem, Oregon; thence N. 50° 21' East along the east line of Liberty Street 171 feet to an iron rod; thence S. 59° 30' East 135.5 feet to an iron bar in the center of Mill Creek; thence down said creek S. 76° 22' West 140.6 feet to an iron rod; thence S. 86° 33' West 111.8 feet to the place of beginning, containing 0.28 acre of land in Salem, Oregon.

4841
 Superseded by
 Cert. No. 28038

Randall, B. M., and
 Ruth R.,
 1100 Front St.
 Woodburn, Oregon
 Proof #74
 (See Findings,
 Paragraph 80)

1871 125.0
 incl.
 North
 Santiam
 River
 water

Power
 (127.8
 theo.
 HP)

Canal
 (Mill
 Race)

Mill
 Creek

Being within the
 following described
 tract:

Power Claim # 16

A tract of land situated in the Town of Turner, Oregon, bounded by: Beginning at the northeast corner of the Depot Grounds of the Oregon & California Railroad Company (now Southern Pacific Company) in said Town of Turner, as marked on the recorded plat of said town, and running thence West 220 feet along the North boundary of said grounds, thence north parallel with said railroad track 330 feet, more or less, to the center of the main channel of Mill Creek; thence easterly following the meanderings of the main channel of Mill Creek until it intersects a northerly extension of the east line of said depot grounds; thence south to the place of beginning, all being in the Town of Turner, in the County of Marion, State of Oregon.

4842
 Read, Amelia C.
 242 North 6th St.
 Corvallis, Oregon
 Proof #75
 (See Findings,
 Paragraph 81)

1857 0.01

Stock

No diver-
 sions

Taylor
 Creek

In the SE¼ NE¼
 Section 35;
 and SW¼ NW¼
 Section 36,
 T. 8 S., R.3 W., W.M.,
 within the following
 described tract:

Beginning at the NW corner of the Southwest Quarter of the Northwest Quarter of Section 36, T. 8 S., R. 3 W., W. M., in Marion County, Oregon; thence S. 89° 45' E. 12.28 chains; thence South 10.36 chains; thence N. 89° 24' West 20.61 chains to the center of the Pacific Highway; thence along said Highway N. 36° 22' West 4.21 chains; thence N. 42° 30' West 2.03 chains; thence N. 74° 50' West 2.03 chains; thence N. 80° 57' West 8.45 chains; thence N. 74° West 1.76 chains; thence N. 63° West 1.76 chains; thence N. 56° 56' West 4.18 chains; thence leaving said Highway and running S. 89° 39' East 29.22 chains to the point of beginning.

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
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Reid Murdoch Company, Salem, Oregon Proof #76 (See Findings, Paragraph 82)	Feb. 27 1931	1.0		Manufactur- ing	Pump and pipe line	Mill Creek	Lots 1 to 6 and N $\frac{1}{2}$ Lot 7 Block 1, Mill Addition to Salem, Marion County, Oregon.
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843 Rosenberg Brothers, By J. H. Rosenberg, Tillamook, Oregon Proof #77 (See Findings, Paragraph 83)	1908	0.02		Domestic Stock	By dipping No diver- sions	Spring rising in Lot 4, Sec. 5, T. 9 S., R. 1 W., W. M.	Within Lots 4 and 5, Section 5, T. 9 S., R. 1 W., W.M., within the following described tract:
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Beginning at the SW corner of the D. L. C. of Allen J. Davis in T. 9 S., R. 1 W., W. M., Marion County, State of Oregon, running thence West a distance of 3.31 chains more or less to the east line of the Farley tract; thence South 19 chains along the Farley line; thence East 5.33 chains more or less to a stone; thence North 2 chains; thence running East 26.015 chains; thence North 17 chains; thence West 28.035 chains to the place of beginning, containing 54.21 acres more or less.

Salem, City of
Salem, Oregon
Proof #60
(See Findings,
Paragraph 74)

See "Oregon Pulp & Paper Company" Paragraph 74.

Schaefer, Mrs. Robert Route 1 Turner, Oregon Proof #111 (See Findings, Paragraph 110)	Aug. 9 1924	0.15	12	Irrigation	Small reservoir, pump and pipe line	Unnamed Spring rising in County road in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 29, T. 8 S., R. 2 W., W. M.	12.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 29, T. 8 S., R. 2 W., W.M., being within the fol- lowing described tract:
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Beginning at the Quarter Section corner between Sections 29 and 30, T. 8 S., R. 2 W., W. M., in Marion County, Oregon, and running thence S. 6° 47' E. 27.34 chains to a point; thence N. 70° 40' E. 7.83 chains to a point; thence N. 6° 47' W. 24.73 chains to the legal subdivision line running east and west through the center of Section 29; thence N. 89° 59' W. 7.74 chains to the place of beginning and containing 20 acres of land, in Marion County, Oregon.

14844 Schifferer, John W. Turner, Oregon Proof #78 (See Findings, Paragraph 84)	1866	0.02 limited to 12,926 gallons each 24 hours	0.5	Domestic including irrigation of $\frac{1}{2}$ -acre garden, and stock	Reservoirs and pipe line	Unnamed springs rising in SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 12, T. 9 S., R. 3 W., W. M.	Within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12, T. 9 S., R. 3 W., W.M.
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School District No. 24,
Marion County, Oregon,
434 N. High St.
Salem, Oregon
Proof #79
(See Findings,
Paragraph 85)

Application No. 16303,
Permit No. 12118.

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, J. Vinton and Frances M., 744 N. Capitol St. Salem, Oregon Proof #80 (See Findings, Paragraph 86)	Dec. 5, 1932	0.01	2/3 acre	Irrigation	Pump	Mill Creek	2/3 acre in Lot 5, Block 3, Parrish Grove Addition to the City of Salem, Oregon.
Shand, Catherine Route 4, Box 147 Salem, Oregon Proof #81 (See Findings, Paragraph 87)	July 20, 1922 CANCELLED Spec. Or. V. 3, p. 120	0.15	12.0	Irrigation	Ditch and dams	Battle Creek and Jory Creek	8.4 acres in SW 1/4 NW 1/4 3.6 acres in W 1/2 of W 1/2 of SE 1/4 NW 1/4 Section 22, T. 8 S., R. 3 W., W.M.
Small, Louesa M. Turner, Oregon Proof #82 (See Findings, Paragraph 88)	Jan. 14, 1874			Irrigation	Lateral from Mill Race	Mill Creek	Lots 1, 2, 3 and 4, Block 8, except the westerly 36 1/2 feet of said lots, in the City of Turner, Oregon.
Smith, John A., and Charles E., Route 5, Box 155 Salem, Oregon Proof #83 (See Findings, Paragraph 89)	1864	0.01		Stock	No diversions	Unnamed Spring, trib. to Beaver Creek	Within the following described tract: Beginning at the NW corner of the Henry Smith D. L. C. No. 38, Section 24, T. 8 S., R. 2 W., W. M., and running thence South 23.16 chains; thence East to the center of the County road; thence S. 10° East 0.29 chain; thence N. 87° East to a point due south of the re-entrant corner of the Henry Smith D. L. C. No. 38; thence North to said re-entrant corner; thence continuing North and West along the boundary line of said Henry Smith D. L. C. to the place of beginning.
Proof #84 (See Findings, Paragraph 89)	1864	0.01		Stock	No diversions	Mill Creek	Within the following described tracts: Beginning at the SW corner of the D. L. C. of Gabriel Brown and wife in T. 9 S., R. 1 W., W.M., Marion County, Oregon. Thence N. 0° 15' West 46.70 chains along the West line of the Brown claim; thence East 30.10 chains; thence S. 0° 30' East 37.44 chains to the South boundary of the Brown Claim; thence S. 55° 10' East 4.52 chains; thence S. 6.50 chains; thence East 4.51 chains; thence South 7.02 chains; thence West 35.15 chains; thence N. 25° 30' West 7.75 chains to the place of beginning. (In Section 33, T. 8 S., R. 1 W., W. M., and Section 4, T. 9 S., R. 1 W., W. M.)
Staples, Mary M. c/o E.L. Crawford, Ladd & Bush Bldg., Salem, Oregon Proof #85 (See Findings, Paragraph 90)	April 2, 1914	20.7 gallons per minute		Irrigation, and for operation of prune dryer	Pipe line	Unnamed stream	1.0 acre and prune dryer in NW 1/4 SW 1/4, Section 8, T. 9 S., R. 2 W., 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
4848 Steffes, Phillip Sublimity, Oregon proof #86 (See Findings, Paragraph 91)	1870	0.01		Stock	No diver- sions	Mill Creek	Within the following described tract: Beginning at a point on the south boundary line of the Donation Land Claim of Allen J. Davie and wife in Townships 8 and 9 South, Range 1 West, W. M., in Marion County, Oregon, said beginning point being 49.97 chains east of the SW corner of said Claim, and running thence North 39.06 chains; thence S. 74° 31' East 9.51 chains; thence north 7.80 chains to the center of the County road leading from Aumsville to Stayton in said County; thence S. 80° 30' East along the center of said road 1.49 chains; thence South 43.80 chains to the south boundary line of said Donation Land Claim; thence West along the south boundary of said D. L. C. 10.56 chains to the place of beginning.
4849 Stringham, Thomas W. and Edith E. Route 2 Turner, Oregon Proof #87 (See Findings, Paragraph 92)	1908	0.02	0.5	Domestic including irrigation of not to exceed 1/2-acre garden, and stock	Pipe line	Unnamed spring	Within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 25, T. 8 S., R. 3 W., W.M. and more particularly described as follows: Beginning at a point in the West boundary line of the NE $\frac{1}{4}$ of Section 25, T. 8 S., R. 3 W., W. M., in Marion County, Oregon, which point is 20.21 chains North 0° 4' East of the SW corner of said NE $\frac{1}{4}$ of said Section 25; thence S. 0° 4' West 9.568 chains; thence N. 68° 25' East 15.352 chains to the center of the County road; thence N. 23° 45' West along the center of the County road 8.94 chains; thence S. 67° 52' West 11.433 chains to the place of beginning and containing 11.898 acres of land.
do	May, 1856	0.01		Stock	No diver- sions	Battle Creek	Within same tract as described im- mediately above.
4850 Studnicka, F. E., and Sylvia, Route 1 Stayton, Oregon Proof #88 (See Findings, Paragraph 93)	1880	0.01		Stock	No diver- sions	Mill Creek	Within the north 45 acres of the following described tract: Beginning at a point 20.0 chains west and 19 chains north of the SE corner of Henry Foster D. L. C.; thence N. 45' West 39.13 chains; thence West 21.99 chains; thence South 15' E. 39.19 chains; thence East 21.68 chains to the place of beginning, situated in the Henry Foster D. L. C., Sec. 4, T. 9 S., R. 1 W., W. M., in Marion County, Oregon.
4851 Sutton, Albert 980 North Cottage St., Salem, Oregon Proof #89 (See Findings, Paragraph 94)	1904	40 gallons per minute	1.7	Irrigation	Pump and pipe line	Porter Creek	* 0.7 acre NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, * 1.0 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, T. 8 S., R. 2 W., W.M. * 1.7 acres CANCELED Spec. Or. V. 28, p. 389
	1904	0.01		Stock	No diver- sions	Porter Creek	Lot 1, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, T. 8 S., R. 2 W., 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
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4852
 Swank, Elizabeth,
 Estate of, by
 C. Brinkman, Admr.,
 Aumsville, Oregon
 Proof #90
 (See Findings,
 Paragraph 95)

1857 0.01 Stock No diver- Unnamed Within 80 acres off
 sions spring the North Half of the
 branch following described
 tract:
 Beginning at a point 16.98 chains N. 89° W. from the SE corner of the John
 McHaley D. L. C. in T. 8 S., W. 2 W., W. M., thence N. 89° West 31.65 chains;
 thence N. 1° East 3.95 chains; thence N. 89° W. 3.17½ chains to the center of
 the County road; thence N. 9° 15' East 25.66 chains to an angle in the road;
 thence N. 8° 45' W. 10.47 chains to a point 50 links south of the division line
 between the north and south halves of the McHaley Claim; thence S. 89° 15' East
 34.32 chains to the west line of the Southern Pacific Railroad right-of-way;
 thence S. 0° 15' West 39.12 chains to the place of beginning.

Terminal Ice & Cold
 Storage Co.,
 990 N. Front St.
 Salem, Oregon
 Proof #91
 (See Findings,
 Paragraph 59)

Aug. 13 1.34 Manu- Pumping Mill Within the West Half
 1937 1937 facturing Creek of Block B,
 Mill Addition to the
 City of Salem, Oregon.

4853
 Belle, G. H.
 Route 1, Box 270
 Stayton, Oregon
 Proof #92
 (See Findings,
 Paragraph 96)

1857 0.01 Stock No diver- Mill In Section 1,
 sions Creek and
 Section 2,
 T. 9 S., R. 1 W., W. M.,
 being within the fol-
 lowing described
 tract:
 in NE¼SE¼,
 Sec. 2,
 T. 9 S.,
 R. 1 W.,
 W. M.

Beginning at the center of Sec. 1, T. 9 S., R. 1 W., W. M., running thence North
 17 rods; thence West 160 rods; thence South 60 rods, thence West 160 rods; thence
 South 117 rods; thence East 320 rods; thence North 160 rods to the place of be-
 ginning, EXCEPTING the following: Commencing at a point on the quarter-section
 line 26 chains north of the quarter post on the south side of Section 2, T. 9 S.,
 R. 1 W., W. M., thence East 2 chains; thence South 5 chains; thence West 2 chains;
 thence North 5 chains. All in Marion County, Oregon

4854
 Koepfer, Joseph L.
 Route 1
 Stayton, Oregon
 Proof #93
 (See Findings,
 Paragraph 97)

1900 0.825 Power Pelton Mill Place of Use: SE¼ SE¼
 (3.0 Theo. Wheel Creek Section 33,
 H. P.) T. 8 S., R. 1 E., W.M.
 1869 0.01 Stock No diver- Mill Within the S¼ SE¼
 sions Creek Section 33,
 and the S¼ SW¼
 Section 34,
 T. 8 S., R. 1 E., W.M.

4855
 Proof #94
 (See Findings,
 Paragraph 97)

1869 0.02 1.0 Domestic Pump Three Within the SE¼ SE¼
 including and pipe springs in Section 33,
 irrigation of not to exceed 1 acre garden and stock in SE¼ SE¼,
 Sec. 33,
 T. 8 S.,
 R. 1 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
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14856
Towle, James E.
Aumsville, Oregon
Proof #95
(See Findings,
Paragraph 98)

1904 10.0 Irrigation Small dams and underground tile system

Simpson Creek, trib. to Beaver Creek

10.0 acres in Lot 1, Waldo Hills Fruit Farms No. 1, Section 19, T. 8 S., R. 1 W., W.M.

Turner, City of
Turner, Oregon
Proof #112
(See Findings,
Paragraph 111)

See Paragraphs No. 111 and No. 112.

14857
Union Central Life Insurance Company
4th & Vine Sts.
Cincinnati, Ohio
Proof #96
(See Findings,
Paragraph 99)

Oct. 3, 1860 0.01 Domestic and Stock Trough

Unnamed Spring in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 16, T. 8 S., R. 2 W., W. M.

Within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 16, T. 8 S., R. 2 W., W.M.

14858
Proof #97
(See Findings,
Paragraph 99)

Jan. 18, 1859 0.01 Domestic By dipping

Unnamed Spring in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 20, T. 8 S., R. 3 W., W. M.

Within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 20, T. 8 S., R. 3 W., W.M.

Jan. 18, 1859 0.01 Stock No diversions

Unnamed Spring in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 20, T. 8 S., R. 3 W., W. M. and unnamed stream

That part of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 20, T. 8 S., R. 3 W., W.M. within the following described tract:

Beginning at the quarter-section corner between Sections 20 and 21 in T. 8 S., R. 3 W., W. M., thence South 20 chains; thence East 20 chains to the southeast corner of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 21; thence South 17.75 chains; thence N. 64° 30' W. 18.10 chains; thence S. 66° 30' West 11 chains; thence N. 79° West 13.70 chains to the legal line between the SW $\frac{1}{4}$ AND SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 20; thence North 12.05 chains to the northwest corner of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 20; thence East 2.75 chains; thence North 20 chains; thence East 17.25 chains to the place of beginning.

14859
Van Handle, Goldie
Route 1
Stayton, Oregon
Proof #98
(See Findings,
Paragraph 22)

1876 See Paragraph 22 Stock No diversions Mill Creek

Within the following described tract:

Beginning at the quarter section corner in the South boundary line of Section 3, T. 9 S., R. 1 W., W. M., in Marion County, Oregon, and from thence running North along the East boundary of the West half of said Section, 34.25 chains to a point 45.06 chains South of the quarter section corner on the North boundary of said Section; thence West parallel with the North boundary of said section 7.875 chains; thence South, parallel with the West boundary of the West half of said section, 34.24 chains to the South boundary of said section; thence East 7.875 chains to the place of beginning.

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
4860 Wain, Fannie K. Rt. 4, Box 140 Salem, Oregon Proof #106, (See Findings, Paragraph 105)	1859	250 gallons Per day		Domestic and stock	Pump and Pipe line	Unnamed spring in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 15, T. 8 S., R. 3 W., W. M.	NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 15, T. 8 S., R. 3 W., W.M.
Proof #113 (See Findings, Paragraph 113)	Feb. 17, 1912	0.02		Domestic and stock	Pipe line	Unnamed spring branch, trib. to Battle Creek	N $\frac{1}{2}$ of Lots 1, 2, 3 & 4, Sunnyside Fruit Farms No. 8, Section 22, T. 8 S., R. 3 W., W.M.
4861 Waters, Frank N. 1545 Center Street Salem, Oregon Proof #99 (See Findings, Paragraph 25)	1888 1915	60.0 102.66		Power (110.9 Theo. H. P.)		Mill Creek	Within the following described tracts in the City of Salem, Marion County, Oregon:
	1915	1.25		Condensing and Cool- ing in operating ice and cold storage plant	Pump	Mill Creek	
<p>Commencing at a stake on the North side of the County Road leading from the North corner of M. L. Savage's land to Salem 1.27 chains South 83° 29' West from the intersection of the West boundary of the land of A. F. Waller with the North side of the said County road; running thence N. 19° 25' E. parallel to the West boundary of said Waller's land 4.74 chains; thence N. 70° 30' W. 40 links to the middle of Mill Creek; thence S. 77° 12' W. up the middle of Mill Creek 2 chains; thence S. 19° 25' W. to the North side of said county road 4.64 chains; thence N. 83° 39' E. along the N. side of said road 2.32 chains to the place of beginning, containing one acre of land more or less. ALSO, the following parcel:</p> <p>Commencing at a point 415 feet Easterly and along the S. line of Marion Street in Roberts Addition to the City of Salem, Marion County, State of Oregon, and from the NW corner of fractional Block Nine; thence S. at right angles with Marion Street 25 feet to the creek; thence down the creek in the Northeasterly direction to where the creek intersects the S. line of said Marion Street; thence Westerly along the S. line of said Marion Street to the place of beginning and being a part of the fractional block Nine in Roberts Addition to the City of Salem, Marion County, State of Oregon. Also all the right, title, and interest, if any, of the grantors in and to the lands between the bank and the center of Mill Creek adjoining and abutting said premises.</p> <p>EXCEPTING from the first described one acre parcel that part or portion thereof conveyed to the Willamette Woolen Manufacturing Company by deed which is recorded on Page 426 of Book 10 of Records of Deeds for Marion County, State of Oregon.</p>							
14862 Wharton, Wallace S., Route 2, Turner, Oregon Proof #103 (See Findings, Paragraph 103)	1871	0.01		Stock	No diver- sions	Unnamed stream, trib. to Battle Creek	Within the tract de- scribed under State- ment and Proof of Claim No. 104 fol- lowing:

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
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Proof #104
(See Findings,
Paragraph 103)

Exclusive
right
(1871)

30.0

Irrigation,
domestic
and stock

Pump
and
pipe
lines

Unnamed
spring
in
SW $\frac{1}{4}$ SE $\frac{1}{4}$
Sec. 36,
T. 8 S.,
R. 3 W.,
W. M.

17.0 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$
5.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$
8.0 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 36,
T. 8 S., R. 3 W., W.M.
being within the fol-
lowing described tract:

Beginning at the NE corner of Lot 4 in Sec. 36, in T. 8 S., R. 3 W., W. M., Marion County, Oregon; thence south along the East line of said section and of Section 1 in T. 9 S., R. 3 W., W. M., 40 chains; thence West 30 chains; thence North 28.50 chains; thence East 2.60 chains; thence North 11.63 chains to the SW corner of the David Delaney D. L. C. #42 in T. 8 S., R. 3 W.; thence East 28.50 chains to the place of beginning.

Willamette Valley
Water Company,
413 Masonic Bldg.,
Salem, Oregon
Proof #99-A
(See Findings,
Paragraph 26)

See Paragraph 26.

Williams, Blanche
and J. Carl Williams
Turner, Oregon
Proof #100
(See Findings,
Paragraph 100)

Jan. 7,
1925

0.30

50.8

Irrigation

Pump
and
pipe
lines

Battle
Creek
and
McKinney
Creek

17.2 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 29;
0.7 acre in SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 30;
4.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$
0.5 acre in SE $\frac{1}{4}$ NE $\frac{1}{4}$
Section 31;
26.0 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$
2.4 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$
Section 32
T. 8 S., R. 2 W., W.M.,
being within the fol-
lowing described tract:

Jan. 7,
1925

0.02

1.2

Domestic
including
irrigation
of a
garden not
exceeding
1.2 acres

Pipe
line

Unnamed
spring
in
NE $\frac{1}{4}$ SE $\frac{1}{4}$
Sec. 30,
T. 8 S.,
R. 2 W.,
W. M.

Place of use: NE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 30;
T. 8 S., R. 2 W., W.M.,
said land also being
within the following
described tract:

Beginning at the quarter section corner between Sections 29 and 30, T. 8 S., R. 2 W., W. M., in Marion County, Oregon; thence N. 89° 50' West 19.90 chains, along the legal subdivision line running east and west through the middle of Section 30; thence South 16.14 chains, to the middle of the County road; thence North 67° 15' East 4.462 chains, along the middle of said County road; thence South 3° 08' East 4.374 chains; thence South 36° 14' East 7.513 chains; thence South 46° 25' East 13.33 chains; thence South 1° 09' West 32.00 chains; thence North 78° 58' East 17.153 chains, to the middle of a ditch; thence North 18° West 2.50 chains, along the middle of said ditch; thence North 6° 32' East 39.06 chains along the middle of said ditch; thence South 70° 40' West 16.41 chains; thence North 6° 47' West 27.34 chains, to the place of beginning, and containing 122.34 acres of land.

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
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1863
 Williams, Jessie Miles
 Route 2, Box 758
 Salem, Oregon
 Proof #101
 (See Findings, Paragraph 101)

1873 0.02 0.6 Domestic including irrigation of a garden not exceeding 0.6 acre, and stock

Pipe line and small ditch

Spring in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 21, T. 8 S., R. 3 W., W. M. and Jory Creek

All that portion of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 21, T. 8 S., R. 3 W., W. M. lying west of County Road.

1864
 Williams, P. A.
 Williams, Byron
 Williams, W. M.
 Williams, Lois E.
 Williams, Ella
 By Lois E. Williams
 Roseland Hotel
 Portland, Oregon
 Proof #102
 (See Findings, Paragraph 102)

1883 0.01 Stock

No diversions

Springs in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 32 & NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, & SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 33, T. 8 S., R. 1 E., W. M., and the North and South Branches of Mill Creek

Govt. Lots #1 and #2, the S $\frac{1}{2}$ of NE $\frac{1}{4}$, and N $\frac{1}{2}$ of SE $\frac{1}{4}$, Section 33, T. 8 S., R. 1 E., W. M.

ALSO, the following described tract:

Beginning at a point 21.76 chains West of the SE corner of Sec. 32 in T. 8 S., R. 1 E., W. M., running thence North 20.25 chains; thence S. 89° 56' East 44.75 chains; thence South 20.18 chains; thence West 44.67 chains to the place of beginning, being that part of the V. H. Caldwell D. L. C. 41 lying within Sections 32 and 33, T. 8 S., R. 1 E., W. M.

1865
 Wood, Laura I.
 211 South 18th St.
 Salem, Oregon
 Proof #105
 (See Findings, Paragraph 104)

1856 0.01 Domestic

By dipping

Taylor Creek and Spring in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 35, T. 8 S., R. 3 W., W. M.

That part of SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, T. 8 S., R. 3 W., W. M., within the following described tract:

Beginning at the NW cor. of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 35, in T. 8 S., R. 3 W., W. M., in Marion County, Oregon, thence S. 89° 39' E. 11.04 chains to the center of the Pacific Highway; thence along said highway S. 56° 56' E. 4.18 chains; thence S. 63° E. 1.76 chains; thence S. 6' W. 17.58 chains; thence N. 89° 46' W. 17.67 chains; thence N. 20' West 21.08 chains to the point of beginning, in Section 35, T. 8 S., R. 3 W., W. M., in Marion County, Oregon.

1856 0.01 Domestic

By dipping

Unnamed stream and springs in NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 35, T. 8 S., R. 3 W., W. M.

That part of NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 35, T. 8 S., R. 3 W., W. M., within the following described tract:

Beginning at the Sw cor. of Sec. 36, T. 8 S., R. 3 W., W. M., in Marion County, Oregon; thence N. 25' West 20.13 chains; thence N. 89° 46' West 14.06 chains to the center of the Pacific Highway; thence along the center of said highway N. 10° 11' East 1.97 chains; thence N. 15° 20' East 2.11 chains; thence N. 19° 45' East 2.11 chains; thence N. 27° 47' East 1.22 chains; thence leaving said highway and running South 89° 24' East 22.18 chains; thence S. 25' East 27.18 chains; thence N. 89° 24' West 10.37 chains to the point of beginning, in Sections 35 and 36, T. 8 S., R. 3 W., W. M.

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 Mill Creek and its tributaries be and the
same are hereby determined and settled as set forth in the foregoing Findings
and Order of Determination.

Dated at Salem, Oregon, this 6th day of May, 1943.



CHAS. E. STRICKLIN

State Engineer

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Staples, Mary M.	90	73	114
Steffes, Phillip	91	74	115
Stock Use where no Artificial Diversion is made	115	91	
Stock Use by Diversion	115	90	
Stringham, Thomas W. and Edith E.	92	74	115
Studnicka, F. E. and Sylvia	93	75	115
Sutton, Albert	94	75	115
Swank, Elizabeth Estate	95	76	116
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Terminal Ice & Cold Storage Co.	59	55	116
Toelle, G. H.	96	76	116
Toepfer, Joseph L.	97	76	116
Towle, James E.	98	77	117
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Union Central Life Insurance Co.	99	78	117
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Waln, Fannie K.	113	87	118
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Wharton, Wallace S.	103	81	118-119
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Williams, Jessie Miles	101	80	120
Williams, P. A., Byron, W. M., Ella and Lois E.	102	80	120
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