

HARNEY COUNTY

IN THE MATTER OF THE DETERMINATION OF)
 THE RELATIVE RIGHTS TO THE USE OF THE)
 WATERS OF WILDHORSE CREEK AND ITS)
 TRIBUTARIES, HARNEY COUNTY)
 -----)

FINDINGS OF FACT AND ORDER
OF
DETERMINATION

Now at this time the above-entitled matter coming on for consideration by the State Engineer, and it appearing that all evidence and testimony have been taken in the above-entitled proceeding, and the State Engineer having carefully considered all of such evidence and testimony and the engineering data and information gathered in accordance with law, and being fully advised in the premises, makes and orders to be entered of record in his office the following:

FINDINGS OF FACT AND ORDER OF DETERMINATION

- 1 -

Wildhorse Creek and its tributaries are located in Harney County, Oregon, just east of the crest of the mountain rim known as Steen Mountains. Wildhorse Creek has its origin in two branches, the east branch, known as Wildhorse Creek, arises in the high and precipitous eastern breaks of Steen Mountains within Sections 35 and 36, T. 33 S., R. 33 E., W.M., and flows through a canyon in a general southerly direction to emerge into the head of Wildhorse Valley near the southeast corner of Section 34, T. 34 S., R. 33 E., W.M. The west branch, known as Little Wildhorse Creek, arises in the southeast portion of Section 34 and the southwestern portion of Section 35, T. 33 S., R. 33 E., W.M., approximately a mile west of the main branch. Its channel traverses a steep canyon in a general southerly direction to its confluence with Wildhorse Creek near the center of Section 11, T. 34 S., R. 33 E., W.M. The drainage area above the mouth of Wildhorse Canyon at the head of the valley is approximately 10 square miles.

Wildhorse Creek is a perennial stream, its flash runoff occurring principally during the months of April, May and June from the rapid melting of the snow pack in the high altitude of its headwaters. During the remainder of the year the flow gradually sinks and usually does not reach more than one and one-half miles below the mouth of the Canyon.

Below the mouth of Wildhorse Canyon, the well defined channel of Wildhorse Creek continues in a general southerly direction to a point near the NW corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M. where the channel separates into two branches which are called locally, the East Channel and the West Channel. Both channels continue southerly and almost parallel to again consolidate at a point near the center of the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 23, said township and range, thence continuing in one well defined channel to the approximate center of the SE $\frac{1}{4}$, Section 35, T. 35 S., R. 33 E., W.M. From this latter point the channel separates into several channels and ditches, continuing south for approximately three miles to discharge into Alvord Lake about the center of the E $\frac{1}{2}$ of Section 2, T. 36 S., R. 33 E., W.M., through three well defined channels.

Wildhorse Valley lies close under the east rim of Steen Mountains, gradually widening from the mouth of the canyon to a maximum width of about three miles just above Alvord Lake.

The floor of the valley is quite uneven and, except for the areas which have been reclaimed for cropland and pasture, is covered with a dense stand of sage brush. Several smaller streams arise under the rim of the mountains and flow eastward, being tributary to Wildhorse Creek during the spring run-off season. Two of these streams, known as Stonehouse Creek and Andrews Creek, are perennial throughout the greater part of their course, but, under present conditions, their normal flow does not reach Wildhorse Creek except during the run-off season.

Along the east side of the valley there are no tributary streams. The run-off from the higher areas, which occurs only during the melting of snow or heavy rains, is in numerous draws and over the lands to the valley floor where it eventually drains into Wildhorse Creek.

- 2 -

That on the 3rd day of August, 1950, there was filed in the Office of the State Engineer an Order of the Circuit Court of the State of Oregon for Harney County, dated July 31, 1950, in the case of Mary N. Kueny, Plaintiff, vs. Andrew Shull and Marjorie A. Shull, Defendants, directing that said cause be referred to the State Engineer in accordance with Section 116-801, O.C.L.A., for the purpose of adjudicating the relative rights of all water users from Wildhorse Creek and its tributaries. That the State Engineer thereafter fixed a time for making the necessary surveys and examinations and the beginning of taking of such testimony as would enable him to determine the rights of the various claimants to the use of the waters of Wildhorse Creek and its tributaries, as provided by law.

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That 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 water in said Wildhorse Creek and its tributaries, and ditches diverting water therefrom, and said notice was published in two issues of the Burns Times-Herald, a newspaper printed and published weekly at Burns, Harney County, Oregon, and of general circulation in said county, said two issues of said newspaper being those of August 3 and August 10, 1951, the date of the last publication being more than ten days prior to the date fixed for the beginning of the taking of 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 Wildhorse Creek and its tributaries and of ditches, canals and other works diverting water therefrom and surveys of the lands irrigated, and gathered such other data and information as were essential to the proper determination of the relative rights of the parties interested, which 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 location of said streams in the drainage basin, 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, prints of said maps or plats being on file and a part of the record herein.

That as soon as practicable after the examinations and measurements were completed as described in the preceeding 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 Wildhorse Creek and its tributaries; that said notice was published in two issues of the Burns Times-Herald, a newspaper printed and published weekly, at Burns, Harney County, Oregon, and of general circulation in said county, said two issues of said newspaper being those of December 14 and December 21, 1951, 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.

That the State Engineer did send by registered mail to each person, firm or corporation owning or being in possession of lands in, or 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 use of 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 such statements and proofs of claims in each instance. And the State Engineer did inclose 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 right, under oath, and a pamphlet of information for water users in connection with the adjudication of water rights.

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

On Tuesday, January 29, 1952, in the Circuit Court Room of the County Court House at Burns, Oregon. And for a period of 20 days, beginning with Wednesday, January 30, and ending with Monday, February 18, 1952, at the office of the State Engineer in the State Office Building, Salem, Oregon.

That thereafter, on petition of certain interested parties, it appearing that further time was necessary in which to file said statements and proofs of claim, the State Engineer did, on the 28th day of January, 1952, enter an order directing that the time in which to file said statements and proofs of claim be, and the same thereby was extended, and continued to and including the 1st day of May, 1952, and again on the 14th day of March, 1952, the State Engineer did enter another order directing that the time in which to file said statements and proofs of claim be, and the same thereby was extended and continued to and including the 1st day of July, 1952.

That the following named persons, firms or corporations were duly notified of the proceeding by registered mail and by publication of said notice, as provided by law, of the commencing of the taking of statements and proofs of claim of all parties claiming rights to the use of the waters of said Wildhorse Creek and its tributaries:

- A -

Akin, C. E.	103 North Walnut	Ellensburg, Washington
Almy, J. E.	Route 1, Box 56 A	Carlsbad, New Mexico
Anderson, J. H.	5902 Grandview	Varba, California
Andrews, J. B.	8 Carter Lake Club	Omaha, Nebraska
Arriole, M.		Burns, Oregon

- B -

Barger, J. R.		Burns, Oregon
Blair, H. E.		Andrews, Oregon
Blair, Mrs. L.		Andrews, Oregon
Blair, R. E.		Andrews, Oregon
Bruckwilder, Wm. M.		Andrews, Oregon
Budlong, W. A.	313 Reynolds Blvd.	Winston-Salem, North Carolina

- C -

Carver, J. A., c/o W. M. Carver	Box 19	Elgin, Oklahoma
Chaffee, P. H.	622 North Ash	Pratt, Kansas
Chilcote, G. E.		Clearlakes Oakes, California
Choppell, J. T.	Box 44	Libby, Montana
Cooper, L. A.	2617 East 57th	Kansas City, Missouri

- D -

Dunn, H. M.	2617 East 57th	Kansas City, Missouri
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- E -

Estep, Mrs. F.	709 Almont	Yuba City, California
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- F -

Frownfelter, R. W.	1486 East Baseline	Highland, California
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- G -

Gill Cattle Company		Burns, Oregon
Glusing, R.	Box 846	Kingsville, Texas
Gooding, W. H., c/o L. H. Bowyer	10550 Ayres	Los Angeles, California
Guggenmoe, G. S.		

- H -

Hall, R. A.	1701 Boyce	Hastings, Nebraska
Harman, O. P.	2485 Beachwood	Los Angeles, California
Hershinger, F.	Route 2, Box 123	Amarillo, Texas
Hirsh, Betty	473 Provident	Wunvltka, Illinois
Hunter, J.	3729 West Barton	Seattle, Washington
Hunter, J. E., R. J., & R. E.		Andrews, Oregon

- I -

Irwin, S. J.	604 Fairview	Montgomery, Alabama
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- J -

Jenkins, L. E. c/o M. Kueny		Andrews, Oregon
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- K -

Kirkhuff, C. C.	351 Argona	Elgin, Illinois
Kueny, Mrs. Mary		Andrews, Oregon

Livingston, James

Box 124 A

Jackson, Wyoming

- M -

Martin, Mary
Mayer, C. A.
McElhone, F. & E.
Miller, C. A.
Moss, Emma

653 Oakota
342 Cedar
4575 38th
314 East Monument

Superior, Nebraska
Wallace, Idaho
Andrews, Oregon
San Diego, California
Colorado Springs, Colorado

- N -

Neeb, M. L.
Nicoletti, Permo

15027 Roxford

San Fernando, California
Basche, Oklahoma

- O -

Oetken, Henry

Darchester, Nebraska

- P -

Penland, J. H.
Penland, Mrs. Pearl
Peyton, Robert

1821 Marshall Place

Andrews, Oregon
Andrews, Oregon
Long Beach, California

- R -

Redington, A. L.
Reid, Mrs. M. F.
Richardson, E. T.
Rosser, E. E.

Box 324
Box 567 A
Stockyards Station

Nampa, Idaho
Selma, Oregon
Monrovia, California
Omaha, Nebraska

- S -

Seaman, Fred
Segrin, F.
Shrine Hospital
Shull, Andrew J.
Shull, Marjorie A.
Smith, Geo. & Fannie
Smyth, Johnie A.

2614 Bomas
840 S. Main

Dallas, Texas
Sauk Center, Minnesota
Denver, Colorado
Andrews, Oregon
Andrews, Oregon
Andrews, Oregon
Andrews, Oregon

- T -

Tilbury, G. & E. R.
Tilton, Blanche
Toepfler, John
Toms, Fred
Trego, L. L. II
Turner, Mary H.

631 East Pasadena
808 Eastern Drive

McMinnville, Oregon
Pomona, California
Thornton, Illinois
Newton, Kansas
Silver Springs, Maryland
Andrews, Oregon

- U -

Ude, A. B.

Deshler, Nebraska

- W -

Weeks, N., c/o T. Oden
Weimer, Muriel R.

24 Market Street

Vermillion, South Dakota
Burns, Oregon

That all of said notices sent by registered mail to the above listed persons, firms or corporations at said addresses appear to have been delivered by the Post Office Department except those addressed to the following named persons, and which were returned to the Office of the State Engineer for the reason as stated following the name.

Chas. E. Akin

Moved, left no address

John H. Anderson

No such post office

Joseph R. Barger

Unknown

J. T. Choppell

Deceased

Chas. A. Miller

Moved, left no address

Henry Oetken

Deceased

Muriel R. Weimer

Unknown

That in response to said notice to file statements and proofs of claim, the following named persons, firms or corporations did submit to the State Engineer a statement of their claim:

Blair, Louise
Blair, Harry E. & Bessie
Blair, Robert E.
Bruckwilder, Willem M.
Gill Cattle Company c/o Joe Fine
Gooding, Mrs. William H.
Hershinger, Floyd
Irwin, Maxine
Mason, Alice Geraldine Neeb
McElhone, Frank & Betty
Nicolet, Premo
Penland, Pearl
Penland, John Henry
Rosser, E. E.
Shull, Andrew J.
Shull, Marjorie A.
Toepfer, John C.

10550 Ayres Avenue
Route 2, Box 123

934 Locust Street
408 Spring Street

207 Wolcott Street

Andrews, Oregon
Andrews, Oregon
Andrews, Oregon
Andrews, Oregon
French Glen, Oregon
Los Angeles 64, California
Amarillo, Texas
Zanesville, Ohio
Los Angeles 13, California
Andrews, Oregon
Basche, Oklahoma
Andrews, Oregon
Andrews, Oregon
Council Grove, Kansas
Andrews, Oregon
Andrews, Oregon
Thornton, Illinois

That all of said claims were filed by the State Engineer except those submitted by the following named persons which said claims were not accepted and filed for the reason that they were not complete and did not constitute a proper claim and the statutory filing fee thereon was not paid:

Gooding, Mrs. William H.
Hershinger, Floyd
Mason, Alice Geraldine Neeb
Nicolet, Premo
Rosser, E. E.
Toepfer, John C.

That all of the above named persons were advised by the State Engineer as to the reason their claims, as submitted were not filed.

That all of said persons, firms or corporations as set out under Finding 8 above, who have failed, neglected or refused to appear herein and submit proper proof of a right or claim to the use of the waters of Wildhorse Creek and 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 rights to the use of the waters of said Wildhorse Creek or any tributary thereof included in this proceeding, except by, through or under the rights of persons whose water rights are defined herein, or under and by virtue of permits issued by the State Engineer.

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That after the completion of the taking of such statements and proofs of claims the State Engineer did, on the 2nd day of July, 1952, give notice by registered mail to each of the various claimants to the use of the waters of said Wildhorse Creek and its tributaries, as provided by law, that at the times and places named in said notice, to-wit:

On Wednesday, July 30, 1952, in the Circuit Court Room of the County Court House at Burns, Oregon.

And for a period of 10 days, beginning with Friday, August 1, 1952, and ending with Thursday, August 14, 1952, (Saturdays and Sundays excepted) at the office of the State Engineer in the State Office Building, Salem, Oregon, the statements and proofs of claims theretofore filed would be open to public inspection.

That said notice did state therein the county in which the determination of the State Engineer in said proceeding would be heard by the Circuit Court of the State of Oregon, to-wit: the County of Harney.

That the State Engineer did, in accordance with said notice as described in the preceding finding, keep said statements and proofs of claims open to public inspection at said times and places.

That thereafter and before the time for the filing of statements of contests, as fixed by law, had expired, on petition of certain interested parties, it appearing that further time was necessary in which to file said statements of contest, the State Engineer did, on the 15th day of August, 1952, enter an order directing that the time in which to file said statements of contest be, and the same thereby was extended to and including the 18th day of September, 1952.

That within the time therefore, as thus extended, the following contests were initiated by the filing with the State Engineer of notices of contest in writing:

CONTEST NO. 1

Andrew J. Shull & Marjorie A. Shull
vs. contestants

Gill Cattle Co., an Oregon Corporation
contestee

CONTEST NO. 2

Andrew J. Shull & Marjorie A. Shull
vs. contestants

Willem M. Bruckwilder
contestee

CONTEST NO. 3

John Henry Penland
vs. contestant

Gill Cattle Co., an Oregon Corporation
contestee

CONTEST NO. 4

Robert E. Blair, as successor in interest
to Louise Blair, deceased, Robert E. Blair,
individually, and Robert E. Blair and
Harry Blair, as tenants in common
vs. contestants

Gill Cattle Co., an Oregon Corporation
contestee

CONTEST NO. 5

Harry E. Blair and Bessie Blair
vs. contestants

Gill Cattle Co., an Oregon Corporation
contestee

CONTEST NO. 6

Gill Cattle Co., an Oregon Corporation
vs. contestant

Andrew J. Shull
contestee

CONTEST NO. 7

Gill Cattle Co., an Oregon Corporation
vs. contestant

Andrew J. Shull and Marjorie A. Shull
contestees

CONTEST NO. 8

Gill Cattle Co., an Oregon Corporation
vs. contestant

John Henry Penland
contestee

CONTEST NO. 9

Gill Cattle Co., an Oregon Corporation
vs. contestant

Pearl Penland
contestee

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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 30th day of October, 1952, serve notice of hearing of said contests on each of the parties to said contests and on their respective counsel, the date fixed for the hearing being more than thirty and less than sixty days from the date the notice of said hearing was served on said parties and their counsel. That upon the date and at the time and place as fixed for said hearing, to wit: Thursday, December 11, 1952, at the hour of 9:00 o'clock a.m., in the County Court Chambers of the County Court House at Burns, Harney County, Oregon, the hearing of the contests was commenced before an authorized assistant to the State Engineer and continued until each of said contests was disposed of.

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That for convenience and to avoid unnecessary repetition, certain of said contests were combined, and all of said contests at time of hearing were disposed of by verbal stipulations recited into the record and agreed to by the respective parties thereto and their counsel.

That said contests were taken up and disposed of in the following order:

Contests Nos. 3 and 8	between John Henry Penland and Gill Cattle Co.
Contest No. 9	between Gill Cattle Co. and Pearl Penland
Contest No. 5	between Gill Cattle Co. and Harry E. & Bessie Blair
Contest No. 4	between Gill Cattle Co. and Robert E. & Harry Blair
Contests Nos. 1, 6 and 7	between Gill Cattle Co. and Andrew J. & Marjorie A. Shull
Contest No. 2	between Wm. M. Bruckwilder and Andrew J. & Marjorie A. Shull

That each individual stipulation appears to be sufficient as to the particular contest or contests involved, but that when taken collectively for a proper and complete determination, certain conflicts as to acreage and priority dates are noted.

Each contest or contests and the individual stipulation disposing of same, will be presented independently and after all are so presented, the individual proofs of claim will be taken up for consideration, together with the contests and stipulations which have a bearing thereon, and a specific finding made on each such proof of claim.

PRESENTATION OF CONTESTS AND STIPULATIONS

- 15 -

CONTEST NO. 1

Andrew J. Shull and Marjorie A. Shull	contestants
vs.	
Gill Cattle Co., an Oregon Corporation	contestee

CONTEST NO. 6

Gill Cattle Co., an Oregon Corporation	contestant
vs.	
Andrew J. Shull	contestee

CONTEST NO. 7

Gill Cattle Co., an Oregon Corporation	contestant
vs.	
Andrew J. Shull and Marjorie A. Shull	contesteess

Andrew J. Shull filed herein Statement and Proof of Claim No. 18, asserting a right to the use of the waters of Wildhorse Creek and its tributaries for domestic use and the irrigation of a total of 355.0 acres of land in Sections 26 and 34, T. 35 S., R. 33 E., W.M. Said right was predicated upon an Application for Permit to Appropriate the Public Waters of the State of Oregon, filed with the State Engineer on December 4, 1944, and assigned Application No. 20591.

Andrew J. Shull and Marjorie A. Shull, husband and wife, filed herein Statements and Proofs of Claims No. 19, 20 and 21.

In Statement and Proof of Claim No. 19, a right is asserted to the use of the waters of the West Fork of Wildhorse Creek for the irrigation of a total of 97.0 acres of land located in the W $\frac{1}{2}$, Section 35, T. 35 S., R. 33 E., W.M., with a priority date of 1890.

Statement and Proof of Claim No. 20 asserts a right to the use of the waters of Wildhorse Creek and its tributaries for domestic use and the irrigation of a total of 108.7 acres of land located in Section 27, T. 35 S., R. 33 E., W.M. This right is predicated upon an Application for Permit to Appropriate the Public Waters of the State of Oregon, filed with the State Engineer on August 10, 1950, and assigned Application No. 25115.

In Statement and Proof of Claim No. 21, a right is asserted to the use of the waters of Andrews Creek for domestic use and the irrigation of 2.5 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 34, T. 35 S., R. 33 E., W.M., with a date of priority of 1905.

The Gill Cattle Company filed herein Statement and Proof of Claim No. 9 asserting a right to the use of the waters of Wildhorse Creek and its tributaries for the irrigation of a total of 2429.6 acres of land located in Sections 34 and 35, T. 35 S., R. 33 E., W.M. and Sections 1, 2, 3, 10, 11, 12, 13, 14 and 15, T. 36 S. R. 33 E., W.M., with a priority date of 1882.

It appears from the stipulation recited into the record relative to Contests No. 1, 6, and 7 herein, as contained in the transcript of the hearing, that, as between the Gill Cattle Co. and Andrew J. and Marjorie A. Shull, relative to the waters of Wildhorse Creek, Shull's stipulate that the Gill Cattle Co. has a priority of 1882 for 750.0 acres, hereinafter more particularly described, after which the Gill Cattle Co. stipulates that Shulls are entitled to irrigate the 97.0 acres as set out in their Proof of Claim No. 19, and that thereafter the Gill Cattle Co. is entitled to irrigate the balance of their lands described in their Proof of Claim.

That, relative to Statements and Proofs of Claims Nos. 18 and 20, filed by claimants, Andrew J. and Marjorie A. Shull, which are predicated upon Applications for Permits to appropriate the Public Waters of the State of Oregon, filed with the State Engineer and assigned numbers 20591 and 25115 respectively, contestants will, by appropriate assignment, transfer said applications to the Gill Cattle Company and, in lieu therefore, the Gill Cattle Company stipulates that Shulls shall have the right to the use of the waters of Andrews Creek and Miranda Ditch, above its confluence with Butte Creek at a point just west of the county road at the approximate center of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 34, T. 35 S., R. 33 E., W.M.

Relative to Statement and Proof of Claim No. 21, the stipulation disposing of Claims No's. 18 and 20 also disposes of Claim No. 21, as far as this contest is concerned.

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CONTEST NO. 2

Andrew J. Shull and Marjorie A. Shull

contestants

vs.

Willem M. Bruckwilder

contestee

Andrew J. Shull and Marjorie A. Shull filed herein Statement and Proof of Claim No. 21 asserting a right to the use of the waters of Andrews Creek for domestic use and the irrigation of 2.5 acres of land in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 34, T. 35 S., R. 33 E., W.M., with a date of priority of 1905.

Willem M. Bruckwilder filed herein Statement and Proof of Claim No. 8 asserting a right to the use of the waters of Corral Creek for the irrigation of 1.0 acre of land, domestic and stock use on the North one-tenth of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 34, T. 35 S., R. 33 E., W.M., with a priority dating from a short time subsequent to the construction of the Miranda Ditch.

Andrews Creek is a perennial stream arising in the precipitous breaks under the eastern rim of Steen Mountain, within the SE $\frac{1}{4}$ of Section 20, T. 35 S., R. 33 E., W.M., flowing in a general easterly direction to its original confluence with Wildhorse Creek, apparently within Section 26, said township and range.

It appears that sometime during the early years of the century, Andrews Creek was diverted into a ditch at a point near the southeast corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 28, T. 35 S., R. 33 E., W.M. Said ditch, known variously as Miranda Ditch or Andrews Ditch, was constructed in a general southerly direction along the foothills to the approximate north quarter corner of Section 10, T. 36 S., R. 33 E., W.M., for the purpose of utilizing the waters of Andrews Creek, and several other intermittent streams which it intercepted, including the above mentioned Corral Creek, for the irrigation of certain lands in said Section 10.

That subsequently said Andrews Ditch was tapped at a point approximately 500 feet west of the north quarter corner of Section 34, T. 35 S., R. 33 E., W.M., and a portion of the water conveyed easterly to the place of use for which a claim is herein asserted by contestants Andrew J. and Marjorie A. Shull.

That said Andrews Ditch or Miranda Ditch traverses the S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 27, T. 35 S., R. 33 E., W.M., which land is owned by contestee, Willem M. Bruckwilder, who has asserted a right to the use of a part of the waters flowing in said ditch for the uses designated under Claim No. 8.

It appears from the text of the stipulation disposing of this contest, that the water herein involved is not that flowing in the main Andrews Ditch or Miranda Ditch, but in the smaller Shull Ditch diverting from Andrews Ditch and used to supply the right for which a claim was asserted by contestants, Shulls. That Shulls have agreed by stipulation to allow contestee, Bruckwilder, to use for the sub-irrigation of five fruit trees situate on the present Bruckwilder premises, one miner's inch or 0.025 cubic foot per second of water to be diverted from said Shull Ditch. That the water so diverted shall be allowed to flow past said five fruit trees and then be returned to said Shull Ditch, less the quantity dissipated by evaporation, absorption and sub-irrigation of said trees.

That said Bruckwilder Ditch shall be constructed by contestant and contestee and shall tap said Shull Ditch at a point to be determined jointly.

CONTEST NO. 3

John Henry Penland

contestant

vs.

Gill Cattle Co., an Oregon Corporation

contestee

CONTEST NO. 8

Gill Cattle Co., an Oregon Corporation

contestant

vs.

John Henry Penland

contestee

John Henry Penland filed herein Statements and Proofs of Claims No's. 15, 16 and 17.

In Claim No. 15, a right is asserted to the use of the waters of Stonehouse Creek, formerly known as Johnson Creek, for stock use and the irrigation of 116.8 acres of land in the SW $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M., with a date of priority of 1886.

In Claim No. 16, a right is asserted to the use of the waters of Wildhorse Creek for domestic use and the irrigation of 71.2 acres of land in the E $\frac{1}{2}$ NW $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M., with a date of priority of October 20, 1886.

In Claim No. 17, a right is asserted to the use of the waters of Wildhorse Creek for the irrigation by natural overflow of 70.0 acres of land in the N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M., with the date of priority not stated.

The Claim of the Gill Cattle Company under their Statement and Proof of Claim No. 9 is set out under Finding 15 herein.

It appears from the text of the stipulation disposing of this contest, as recited into the record herein, that claimant, Penland, has recognized the prior right of the Gill Cattle Company for the irrigation of 275.0 acres of land with a priority date of 1882, that thereafter the Gill Cattle Company recognizes the right of claimant, Penland, to irrigate the lands set out in his Claim No. 15, from Stonehouse Creek with a priority date of 1886, that after said lands have been served, the Gill Cattle Company is entitled to irrigate 400.0 acres of land under their claim with a date of priority of 1884. That thereafter, Penland is entitled to irrigate 40.0 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M., from Wildhorse Creek with a priority date of 1886 under his Claim No. 16 and that he has overflow rights for 70.0 acres in the N $\frac{1}{2}$ NE $\frac{1}{4}$, said Section 14, with a priority of 1885. That thereafter, Penland recognizes the subsequent right of the Gill Cattle Company to the use of the waters of Wildhorse Creek from and after 1886 for the irrigation of the balance of the acreage claimed in their Statement and Proof of Claim No. 9.

It appears that the waters of Stonehouse Creek do not normally reach the channel of Wildhorse Creek except for a short period of time during the spring run-off and that during this time Wildhorse Creek is also at the peak of its run-off, with the normal result that excess flood waters are discharged into Alvord Lake. It therefore appears that, except for such a short period of peak run-off, Stonehouse Creek may be considered as not contributing to the flow of Wildhorse Creek which has been beneficially used by the Gill Cattle Company in the irrigation of their lands.

CONTEST NO. 4

Robert E. Blair, as successor in interest
to Louise Blair, deceased, Robert E. Blair,
individually, and Robert E. Blair and
Harry Blair, as tenants in common

contestants

vs.

Gill Cattle Company, an Oregon Corporation

contestees

Contestants filed herein Statements and Proof of Claims No

In Statement and Proof of Claim No. 1, filed by Louise Blair, now deceased, a right is asserted to the use of the waters of Wildhorse Creek for stock use and the irrigation by diversion of 21.8 acres of land, being 7.8 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 8.0 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M., with a date of priority of 1894.

In Statement and Proof of Claim No. 5, filed by Robert E. Blair, individually, a right is asserted to the use of the waters of Wildhorse Creek for the irrigation by diversion of 38.3 acres, being 8.9 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 10.6 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 18.8 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 26, T. 35 S., R. 33 E., W.M., with a date of priority of the spring of 1902.

In Statement and Proof of Claim No. 6, filed by Robert E. Blair and Harry Blair, a right is asserted to the use of the waters of Willow Creek and Willow Springs for the irrigation by diversion of 20.0 acres of land in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, T. 35 S., R. 33 E., W.M., with a date of priority of April 9, 1915. Said right is predicated on a certificate of water right issued in the name of Henry Deppe and recorded in State Record of Water Right Certificates, Volume 3, page 1826.

Statement and Proof of Claim No. 7 filed herein by Robert E. Blair and Harry Blair, asserts a right to the use of the waters of Willow Creek for the irrigation by diversion of 27.7 acres of land, being 22.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10 and 5.2 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 15, T. 35 S., R. 33 E., W.M., with a date of priority of April 30, 1920. Said right is predicated upon a certificate of water right issued in the name of C. G. Henry Deppe and recorded in State Record of Water Right Certificates, Volume 4, page 3452.

The stipulation disposing of Contest No. 4, as recited into the record, is to the effect that contestants, Blairs, recognize the prior right of the Gill Cattle Company to the use of the waters of Wildhorse Creek for the irrigation of 400.8 acres of land in Sections 2, 10, 11, 13 and 14, T. 36 S., R. 33 E., W.M., with a priority date of 1882. That the Gill Cattle Company recognizes the rights of contestants, Blairs, as to acreage claimed and priority dates, as set out in their Claims No's. 1, 5, 6 and 7, which is interpreted to mean that after the Gill Cattle Company has irrigated 400.8 acres, as described, with 1882 priority, Blairs may irrigate their acreage as claimed; and that in normal years, the waters of Willow Springs and Willow Creek do not contribute to the flow in Wildhorse Creek.

It therefore appears that Proof of Claims numbered 6 and 7 have no bearing on the use of the waters of Wildhorse Creek proper, and that this stipulation is effective only as to the use of the waters of Wildhorse Creek proper under contestant's Claims numbered 1 and 5.

CONTEST NO. 5

Harry E. Blair and Bessie Blair

contestants

vs.

Gill Cattle Company, an Oregon Corporation

contestees

Contestants, Harry E. and Bessie Blair, filed herein Statements and Proofs of Claim No's. 2, 3 and 4.

In Statement and Proof of Claim No. 2, a right is asserted to the use of the waters of Wildhorse Creek for stock water and the irrigation by diversion of 137.8 acres of land in the NE $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M., with a date of priority of the spring of 1883.

In Statement and Proof of Claim No. 3, a right is asserted to the use of the waters of Wildhorse Creek for stock use and the irrigation by diversion of 19.0 acres of land, being 3.6 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 13.8 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 1.6 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 24, T. 35 S., R. 33 E., W.M., with a date of priority of 1887.

Statement and Proof of Claim No. 4 asserts a right to the use of flood and seepage flow of Wildhorse Creek and the waters from a group of springs for stock use and the irrigation of 10.0 acres of land, described as 5.0 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 2.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 3.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, T. 35 S., R. 33 E., W.M., with a priority date of July 21, 1913. Said right is predicated on a certificate of water right issued in the name of Joseph M. Baltzor and recorded in State Record of Water Right Certificates, Volume 2, page 1370.

The stipulation disposing of Contest No. 5, as recited into the record, specifies that the Gill Cattle Company has the prior right of 1882 for the irrigation of 175.0 acres of land, described as 50.0 acres in the W $\frac{1}{2}$, Section 11 and 125.0 acres in the NW $\frac{1}{4}$, Section 14, T. 36 S., R. 33 E., W.M. That thereafter contestants are entitled to the acreages and priority dates set forth in their claims number 2, 3, and 4, after which the Gill Cattle Company is entitled to irrigate the balance of their lands as claimed.

Relative to Claim No. 4, in which the asserted right is predicated upon a Water Right Certificate issued by the State Engineer, it appears from the record that the source of supply designated in the Application for a Permit to appropriate the Public Waters of the State of Oregon, which culminated in said Water Right Certificate, was, stated as, "A series of springs situated in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2 and the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, T. 35 S., R. 33 E., W.M." It therefore appears that said Water Right Certificate did not confirm a right to the use of any of the waters of Wildhorse Creek but only the waters of said series of springs. The ditch shown on the State Engineer's map as terminating in the vicinity of said springs was found to be dammed to divert any waters flowing therein away from said springs.

It thus appears that this claim is not involved in the stipulation disposing of Contest No. 5, relative to the use of the waters of Wildhorse Creek proper.

CONTEST NO. 9

Gill Cattle Company, an Oregon Corporation
 vs.
 Pearl Penland

contestant
 contestee

Contestants, Gill Cattle Company, filed herein Statement and Proof of Claim No. 9, the assertions therein being as stated under Finding 15 herein.

Contestee, Pearl Penland, filed herein Statement and Proof of Claim No. 14 asserting a right to the use of the waters of Spring and Wilson Creeks for stock use and the irrigation of 40.0 acres in the NE¹/₄, SE¹/₄, Section 22, T. 35 S., R. 33 E., W.M., with a date of priority of February 6, 1918. Said claim is predicated upon a water right certificate issued in the name of John D. Penland and recorded in State Record of Water Right Certificates, Volume 4, page 3396.

The stipulation regarding this contest recognizes, on the part of contestant, Gill Cattle Company, that contestee, Pearl Penland, is entitled to the acreage and date of priority set out in her claim as to the waters of Spring and Wilson Creeks but provides that the ditch diverting from Stonehouse Creek to contestee's lands shall be blocked at the point of diversion and its use discontinued.

It thus appears that this claim is not involved in the stipulations relative to the use of the waters of Wildhorse Creek proper.

SPECIFIC FINDINGS ON CLAIMS

- 21 -

Louise Blair - Claim No. 1

Statement and Proof of Claim No. 1 was filed herein by Louise Blair asserting a right to the use of the waters of Wildhorse Creek for stock water and the irrigation of 21.8 acres of land described as 7.8 acres in the SW¹/₄, NE¹/₄, 8.0 acres in the NE¹/₄, NW¹/₄, and 6.0 acres in the SE¹/₄, NW¹/₄, Section 2, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1894.

Louise Blair passed away shortly after filing said claim and her son, Robert E. Blair, has assumed her interests as claimant herein.

Claimant has accepted the State Engineer's map as correctly showing the irrigated lands and the diversions and ditches serving said lands. It appears that the waters of Wildhorse Creek and its tributaries have been beneficially used for stock water and the irrigation of the lands as claimed.

Contest No. 4 initiated herein by Robert E. Blair, as successor in interest to Louise Blair and others, against the Gill Cattle Company, contestees, involves Claim No. 1. The stipulation disposing of said Contest No. 4, on the part of the Gill Cattle Company, recognizes the rights of claimant herein to the use of the waters of Wildhorse Creek for the irrigation of the lands and the date of relative priority as asserted in said Claim No. 1.

A right is allowed in the name of Robert E. Blair, successor in interest to Louise Blair, deceased, to the use of the waters of Wildhorse Creek for the irrigation of 7.8 acres in the SW¹/₄, NE¹/₄, 8.0 acres in the NE¹/₄, NW¹/₄ and 6.0 acres in the SE¹/₄, NW¹/₄, Section 2, T. 35 S., R. 33 E., W.M. with a date of relative priority of 1894.

Harry E. and Bessie Blair - Claims No. 2, 3 and 4

Claim No. 2

Statement and Proof of Claim No. 2, filed herein by Harry E. and Bessie Blair, husband and wife, asserts a right to the use of the waters of Wildhorse Creek for stock water and the irrigation of 30.0 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 34.3 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 33.5 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 40.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1883.

Claimants state that the State Engineer's map correctly shows the location of the irrigated lands and the diversion and ditches serving said lands, except that a slight increase in the irrigated acreage is claimed in the E $\frac{1}{2}$ NE $\frac{1}{4}$, said Section 14.

It appears that the lands along the creek bank which are not shown as irrigated, are being claimed as pasture. It further appears that said lands are served by two ditches known as the Turner Ditches, one on each side of the creek channel and both diverting from the west channel of Wildhorse Creek; above a permanent dam located approximately 1250 feet north and 800 feet east of the N $\frac{1}{4}$ corner of said Section 14, and that the waters of Wildhorse Creek and its tributaries have been beneficially used for the irrigation of the lands as claimed.

Contest No. 5, initiated herein by claimants against the Gill Cattle Company involves this claim. Said Contest No. 5 was disposed of by a stipulation which recognized, on the part of the Gill Cattle Company, the rights of claimants herein under Claim No. 2, to the use of the waters of Wildhorse Creek for the acreage and priority date as claimed.

A right is allowed in the name of Harry and Bessie Blair to the use of the waters of Wildhorse Creek and its tributaries, to be diverted from the west channel thereof, for the irrigation of 30.0 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 34.3 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 33.5 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 40.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1883. Said right shall be equal in priority date to that allowed in the name of Frank & Betty McElhone and Mary N. Kueny under Finding 26 herein, relative to Claim No. 11.

Claim No. 3

Statement and Proof of Claim No. 3 asserts a right to the use of the waters of Wildhorse Creek for stock water and the irrigation of 19.0 acres of land described as 3.6 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 13.8 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 1.6 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 24, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1887. Claimants assert that they accept the State Engineer's map as correctly showing the location of the irrigated lands and the ditches serving said lands.

It appears that beneficial use of the waters of Wildhorse Creek has been made in the irrigation of the lands as claimed, by means of a ditch, known as the Larson Ditch, diverting from the left bank of the west channel of Wildhorse Creek at a point approximately 100 feet north and 450 feet east of the center of the SE $\frac{1}{4}$ of Section 14, T. 35 S., R. 33 E., W.M.

Contest No. 5 initiated herein by claimants against the Gill Cattle Company also involves this claim. The stipulation disposing of said Contest No. 5 recognized on the part of the Gill Cattle Company claimants right to the use of the waters of Wildhorse Creek for the irrigation of the acreage and the date of priority as set out in said Claim No. 3.

A right is allowed in the name of Harry and Bessie Blair to the use of the waters of Wildhorse Creek and its tributaries, to be diverted from the west channel thereof, for the irrigation of 3.6 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 13.8 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 1.6 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 24, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1887.

Claim No. 4

Statement and Proof of Claim No. 4 asserts a right to the use of flood and seepage flow of main Wildhorse Creek and from a group of springs, for stock water and the irrigation of 5.0 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 2.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 3.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, T. 35 S., R. 33 E., W.M.

Said right is asserted as having been initiated by Joseph M. Baltzor who settled on the W $\frac{1}{2}$ SW $\frac{1}{4}$, said Section 1 as a Desert Land Entry and on July 21, 1913, applied to the State Water Board for a permit to appropriate the waters from a group of springs located on the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 1 for the irrigation of 10.0 acres of land.

It appears from the records of the State Engineer, that on July 21, 1913, there was filed in the office of the State Engineer by Joseph M. Baltzor an application for a permit to appropriate the waters of a series of springs situated on the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2 and the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, T. 35 S., R. 33 E., W.M., for the irrigation of 10.0 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 1. Said application was assigned number 3095 and on September 11, 1913, a permit therefor was granted, being Permit No. 1685. Subsequently on March 5, 1917, upon satisfactory proof being submitted by permittee, a certificate of water right was issued confirming a right to the use of 1/8 cubic foot per second of the waters of a series of springs situated in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 1, T. 35 S., R. 33 E., W.M., for the irrigation of 10.0 acres of land in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 1, said water right certificate being recorded in State Record of Water Right Certificates, Volume 2, page 1370.

It appears that the flow of said series of springs is not augmented by any flood or seepage waters from Wildhorse Creek and that the ditch shown on the State Engineer's map as terminating in the vicinity of said springs is dammed to prevent any water flowing therein from discharging into said spring area. That the above mentioned application which culminated in a water right certificate did not mention or otherwise include any of the flow of Wildhorse Creek and that the location of said series of springs and the lands irrigated therefrom, as set out in Claim No. 4, do not conform to said water right certificate nor to the State Engineer's map. It appears possible, however, that during the wet season of the year the flow of said springs may be tributary to Wildhorse Creek.

The rights to the use of the waters of Wildhorse Creek as asserted in Statement and Proof of Claim No. 4, filed herein by Harry E. and Bessie Blair, are denied, but the rights asserted to the use of the waters of said series of springs, predicated upon the rights confirmed by that certain water right certificate recorded in State Record of Water Right Certificates, Volume 2, page 1370, are herein allowed as modified to show the location of said series of springs to be in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1 and the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M., and the lands irrigated therefrom as 1.5 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 2.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, 4.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 1.0 acre in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M. Modified - See Decree Vol. 15 page 448

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Robert E. Blair - Claim No. 5

Statement and Proof of Claim No. 5 was filed herein by Robert E. Blair and asserts a right to the use of the waters of Wildhorse Creek for the irrigation of 38.3 acres, described as 8.9 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 10.6 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 18.8 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 26, T. 35 S., R. 33 E., W.M., with a date of relative priority of the spring of 1902.

The state Engineer's map shows as irrigated, only the lands on claimants three government legal subdivisions which were presently in a state of reclamation and cultivation, consisting of 0.6 acre in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 12.6 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 26.

Claimant does not accept the State Engineer's map and has accompanied his claim with a map prepared by C. N. Young, Registered Surveyor, showing the irrigated acreage as set out in his claim.

It appears that at least part of the additional acreage claimed as irrigated, may have been irrigated many years ago but that at the time of the State Engineer's survey and classification of the lands, had reverted to a stand of sage brush, which appeared to be several years old.

The remains of some old ditches indicated that at least an attempt had been made to reclaim and irrigate a greater area.

The irrigation of claimant's lands is accomplished by means of a ditch diverting from the east side of the main channel of Wildhorse Creek at a point approximately 550 feet north and 250 feet west of the southeast corner of Section 23, T. 35 S., R. 33 E., W.M. At this point, approximately 200 feet downstream from the confluence of the east and west channels of Wildhorse Creek and approximately 100 feet above the confluence of the channel of Stonehouse Creek, a semi-permanent brush and earth dam is maintained to raise the elevation of the water surface to the head of the ditch.

It further appears that this claim was not contested but was involved in Contest No. 4 initiated by claimant and others against the Gill Cattle Company. Said contest was settled by stipulation in which the Gill Cattle Company recognized the acreage and date of relative priority of claimant as set out and asserted in his Claim No. 5.

A right is allowed in the name of Robert E. Blair to the use of the waters of Wildhorse Creek for the irrigation of 8.9 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 10.6 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 18.8 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 26, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1902.

Robert E. Blair and Harry Blair - Claims No's. 6 and 7

Statements and Proofs of Claims numbered 6 and 7 were filed herein by Robert E. Blair and Harry Blair as tenants in common of the lands involved.

In Claim No. 6, a right is asserted to the use of the waters of Willow Creek and Willow Springs for the irrigation of 20.0 acres of land in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, T. 35 S., R. 33 E., W.M., with a date of priority of April 9, 1915. Said claim is predicated upon a certificate of water right recorded in State Record of Water Right Certificates, Volume 3, page 1826.

In Claim No. 7, a right is asserted to the use of the waters of Willow Creek for the irrigation of 22.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10 and 5.2 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 15, T. 35 S., R. 33 E., W.M., with a date of priority of April 30, 1920. Said claim is predicated upon a certificate of water right recorded in State Record of Water Right Certificates, Volume 4, page 3453.

In both of said claims, claimants state that they accept the State Engineer's map as correctly showing the irrigation lands and the ditches serving said lands. The State Engineer's map shows as irrigated, 22.5 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ said Section 10 and 5.2 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 15. The ditch serving said lands diverts from the channel of Willow Creek at a point approximately 500 feet north and 700 feet east of the S $\frac{1}{4}$ corner of said Section 10.

It appears from the records of the State Engineer that one, C. G. Henry Deppe settled upon the lands herein involved, as a Desert Land Entry and thereafter, on April 9, 1915, filed with the State Engineer, an application for permit to appropriate 30 miner's inches of the waters of Willow Creek and Willow Springs for the irrigation of 20.0 acres in the E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 10. A permit was granted and subsequently on October 13, 1919, a certificate of water right was issued upon which Claim No. 6 is now based.

That it was Mr. Deppe's understanding of the requirements of the General Land Office relative to his Desert Land Claim that he must reclaim the remainder of the said SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10 and 5.0 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ said Section 15, accordingly on April 30, 1920. Mr. Deppe filed another application for permit to appropriate 0.31 cubic foot per second of the waters of Willow Creek for the irrigation of 20.0 acres in the W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 10 and 5.0 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, said Section 15. Permit therefore was granted and subsequently proof of appropriation submitted which culminated in the certificate of water right upon which Claim No. 7 herein, is based.

It further appears that the available water supply was not sufficient to beneficially irrigate the total of 45.0 acres under both water rights and that subsequently the water has been beneficially used to irrigate the lands as shown by the State Engineer's map. That said Claims numbered 6 and 7 were not contested but were involved in Contest No. 4 initiated by claimants herein against the Gill Cattle Company. That said Contest No. 4 was settled by stipulation wherein the Gill Cattle Company has recognized the acreage and dates of priority as set out and asserted in said Claims numbered 6 and 7, and that the waters of Willow Creek and Willow Springs are not normally tributary to Wildhorse Creek.

Said certificates of water right, recorded in State Record of Water Right Certificates Volume 3, page 1826 and Volume 4, page 3453, are herein modified to correctly show the acreage actually irrigated under each. A right is allowed in the names of Robert E. Blair and Harry Blair to the use of the waters of Willow Creek and Willow Springs for the irrigation of 20.0 acres in the E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, T. 35 S., R. 33 E., W.M., with a date of priority of April 9, 1915, and for 2.5 acres in the W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, and 5.2 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 15, T. 35 S., R. 33 E., W.M., with a date of priority of April 30, 1920.

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Willem M. Bruckwilder - Claim No. 8

Statement and Proof of Claim No. 8 was filed herein by Willem M. Bruckwilder asserting a right to the use of the waters of Corral Creek for domestic use, stock water and the irrigation of 1.0 acre of land in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 27, T. 35 S., R. 33 E., W.M., with a priority dating from "a short time following the completion of the Miranda Ditch." Claimant claims no interest in said Miranda Ditch but claims ownership of the ditch diverting from Miranda Ditch. Corral Creek was not identified on the State Engineer's map as to its relation to Andrews Creek.

Said Claim No. 8 was contested by Andrew J. and Marjorie A. Shull, Contest No. 2, and was settled by stipulation, treated under Finding 16 herein.

A right is allowed in the name of Willem M. Bruckwilder to the use of the waters of Andrews Creek for the irrigation of five fruit trees located on the N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 27, T. 35 S., R. 33 E., W.M., to the extent of one miner's inch or 0.025 cubic foot per second of water, with a date of priority of 1905, said right to be inferior to the right allowed Andrew J. Shull and Marjorie A. Shull, under their Claim No. 21 and by virtue of the provisions of the stipulation disposing of Contest No. 1 herein.

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Frank & Betty McElhone and Mary N. Kueny - Claims No's. 11, 12 and 13

Statements and Proofs of Claims numbered 11, 12 and 13 were filed herein jointly by Frank McElhone and Betty McElhone, his wife, and Mary N. Kueny, a widow.

Claim No. 11

In Statement and Proof of Claim No. 11, a right is asserted to the use of the waters of Wildhorse Creek, main channel, east and west forks and unnamed streams tributary thereto for domestic and stock use for 250 head of cattle and horses and the irrigation of 33.1 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 22.6 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 21.8 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 38.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1883.

Claimants herein, in answer to Item No. 22, in their Statement and Proof of Claim No. 11, state that the irrigated acreage as shown on the State Engineer's map is correct but that there are more points of diversion from Wildhorse Creek, serving said lands than are shown on said map.

The lands for which a right is asserted under Proof of Claim No. 11 constitute the SW $\frac{1}{4}$ of said Section 2 and appeared to be served by four separate diversions and ditches from Wildhorse Creek and the west branch or channel. The upper diversion from Wildhorse Creek proper is located approximately 200 feet south and 750 feet east of the northeast corner of said Section 2, being in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ thereof.

Said ditch is apparently used to irrigate part of the land in the E $\frac{1}{2}$ NW $\frac{1}{4}$ and the land in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ lying west of the west channel of Wildhorse Creek. Of the 21.3 acres irrigated in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 2, 5.0 acres located west of said ditch appears to be irrigated from a small, unnamed tributary stream when water is available therefrom.

A second diversion point is located on the west channel of Wildhorse Creek approximately 150 feet north and 200 feet east of the southwest corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$, said Section 2. Two ditches, one on each side of said west channel, are used to irrigate the lands adjacent thereto.

Another diversion from said west channel is located approximately 550 feet west and 50 feet south of the northeast corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 2. Ditches to the east are used to irrigate the land within the said SE $\frac{1}{4}$ SW $\frac{1}{4}$ located east of said west channel, as well as other lands under Proof of Claim No. 12.

One diversion point was observed on the east channel, being located approximately 350 feet west and 200 feet south of the center of said Section 2. A ditch leading from the west side of said east channel is used to irrigate the land in the E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 2.

Claimants did not submit a map showing the location of any additional points of diversion serving the lands under this claim, nor was a descriptive location submitted therefor. It is entirely possible that other diversion points of a temporary nature may have been utilized at various times, however, it is believed that all permanent diversions and ditches are shown on the State Engineer's map.

It appears that the waters of Wildhorse Creek and its tributaries have been beneficially used in the irrigation of said lands as claimed and that said claim was not contested.

A right is allowed for the use of the waters of Wildhorse Creek and its tributaries for the irrigation of 33.1 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 22.6 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 21.8 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 38.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1883. Said right shall be equal in priority date to that allowed in the names of Harry E. and Bessie Blair under Finding 22 herein relative to Claim No. 2.

Claim No. 12

In Statement and Proof of Claim No. 12, a right is asserted to the use of the waters of Wildhorse Creek, main channel, east and west forks and unnamed streams tributary thereto, for domestic and stock use for 250 head of cattle and horses and the irrigation of 0.2 acre in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 17.0 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, 35.4 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, 10.2 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, 6.6 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 36.4 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 15.2 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 11, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1893.

The lands for which a right is asserted under Proof of Claim No. 12 lie east and south of those under Proof No. 11 and are irrigated, partly by overflow from lands above and partly by direct diversion from the channels of Wildhorse Creek.

Claimants assert that they are entitled to 10.0 acres more in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, than the 25.4 acres shown on the State Engineer's map. Due to the difficulty in exactly determining the irregular borders of the lands classified as irrigated, it is believed that claimants are justified in their claim for an additional 10.0 acres. In all other respects, claimants appear to be in accord with the State Engineer's map.

Of the 15.2 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 36.4 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, said Section 11, 10.2 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 1.0 acre in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ appear to be irrigated from a small tributary to Wildhorse Creek, when water is available therefrom.

It appears that the waters of Wildhorse Creek and its tributaries have been beneficially used in the irrigation of said lands as set out and claimed in the proof and that said claim was not contested.

A right is allowed for the use of the waters of Wildhorse Creek and its tributaries for the irrigation of 0.2 acre in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 17.0 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, 35.4 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, 10.2 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, 6.6 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 36.4 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 15.2 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 11, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1893.

Claim No. 13

In Statement and Proof of Claim No. 13 a right is asserted to the use of the waters of Wildhorse Creek and unnamed creeks tributary thereto for domestic and stock use and the irrigation of 3.2 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, T. 34 S., R. 33 E., W.M., 1.5 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 1.0 acre in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1899.

Claimants accept the State Engineer's map as correctly showing the location of the irrigated lands and the diversions and ditches serving said lands.

Of the 5.7 acres for which a right is asserted hereunder, 3.2 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, T. 34 S., R. 33 E., W.M. and 1.5 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M., are irrigated by means of a ditch diverting from Wildhorse Creek at a point approximately 600 feet north and 60 feet east of the southwest corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, T. 34 S., R. 33 E., W.M. It appears that this ditch and diversion is owned jointly by claimants and Robert Blair. Another old ditch diverted at a point approximately 200 feet upstream but its use appeared to have been discontinued.

The 1.0 acre in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M., for which a right was asserted under this claim, is located partly on either side of the west channel of Wildhorse Creek, adjacent to the south subdivision line and is served by the same ditch and diversion point as are some of the lands under Claim No. 11.

It appears that the waters of Wildhorse Creek have been beneficially used for the irrigation of the lands as claimed and that this claim was not contested.

A right is allowed for the use of the waters of Wildhorse Creek and its tributaries for the irrigation of 3.2 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, T. 34 S., R. 33 E., W.M., 1.5 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and 1.0 acre in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1899.

Pearl Penland - Claim No. 14

Statement and Proof of Claim No. 14 was filed herein by Mrs. Pearl Penland and asserts a right to the use of the waters of Spring and Wilson Creeks for stock water and the irrigation of 40.0 acres of land in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 22, T. 35 S., R. 33 E., W.M., with a date of priority of February 6, 1918, said claim being predicated upon a certificate of water right recorded in State Record of Water Right Certificates, Volume 4, page 3396.

Contest No. 9 herein was initiated by the Gill Cattle Company against said claim and was settled by stipulation wherein the Gill Cattle Company recognizes the acreage and date of priority asserted by Mrs. Penland, as claimed.

Claimant has accepted the State Engineer's map as correctly showing the location of the ditch and part of the irrigated land but asserts that the entire NE $\frac{1}{4}$ SE $\frac{1}{4}$ is irrigated during years when sufficient water is available from Spring and Wilson Creeks. Said lands are reclaimed and cultivated and there was evidence which indicated that the lands had been irrigated.

It appears that during years of sufficient run-off from the melting of the winter snows, the waters of Spring and Wilson Creeks are beneficially used in the irrigation of the lands as claimed. Said water right certificate recorded in State Record of Water Right Certificates, Volume 4, page 3396, is herein modified to correctly describe the location of the land irrigated thereunder as 30.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 22, T. 35 S., R. 33 E., W.M. In addition thereto a right is herein allowed for the irrigation of 10.0 acres, being the balance of said NE $\frac{1}{4}$ SE $\frac{1}{4}$, with the same date of priority, February 6, 1918.

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John Henry Penland - Claims No. 15, 16 and 17

John Henry Penland filed herein Statements and Proofs of Claims numbered 15, 16 and 17.

Claim No. 15

In Claim No. 15, a right is asserted to the use of the waters of Stonehouse Creek, formerly known as Johnson Creek, for stock water and the irrigation of 116.8 acres, described as 21.3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 40.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 40.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 15.5 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1886.

Claimant does not accept the State Engineer's map as correctly showing the location of the ditches and irrigated land under this claim and has submitted a map prepared by Paul R. Revis, Registered Engineer of Burns, Oregon, in support of his claim for the acreage set out therein.

The State Engineer's map shows as being irrigated from the waters of Stonehouse Creek, 11.5 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 3.6 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 21.5 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 32.3 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 18.8 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 15.5 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M. The diversion dam from Stonehouse Creek is located approximately 600 feet south and 1800 feet west of the W $\frac{1}{4}$ corner of said Section 14, being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 15, said township and range. The ditch leading from said diversion dam bears in a northeasterly direction to the approximate W $\frac{1}{4}$ corner of Section 14, thence east along the north edge of the cultivated land approximately 200 feet north of the east-west center section line, from which the water is spread over the land for the irrigation thereof.

settled by stipulation, being previously treated herein under Finding 17. The pertinent part of said stipulation here involved being the recognition by the Gill Cattle Company of claimant's right to irrigate the lands classified by the State Engineer as irrigated from the waters of Stonehouse Creek after the Gill Cattle Company has first irrigated a total of 274.0 acres of land as set out in their tabulation of stipulated acreage.

A right is allowed in the name of John Henry Penland to the use of the waters of Stonehouse Creek for the irrigation of 11.5 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 3.6 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 21.5 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 32.3 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 18.8 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and 15.5 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M., with a date of priority of 1886.

Claim No. 16

In Claim No. 16, a right is asserted to the use of the waters of Wildhorse Creek for domestic use and the irrigation of 40.0 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 31.2 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M., with a date of priority of October 20, 1886.

The State Engineer's map shows as being irrigated from this source, 40.0 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, the diversion point from Wildhorse Creek being located at a point within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 11, approximately 550 feet north and 260 feet east of the center of said Section 11, T. 35 S., R. 33 E., W.M. The ditch leading from the diversion point bears in a general southerly direction to a point approximately 500 feet east of the northwest corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$, said Section 11, where the ditch intercepts a natural depression or channel through which the water is conveyed to a point approximately 200 feet north and 300 feet east of the S $\frac{1}{4}$ corner of said Section 11 where a dam is maintained to divert the water into a ditch leading to the N $\frac{1}{4}$ of Section 14 and onto the said NE $\frac{1}{4}$ NW $\frac{1}{4}$ shown as irrigated on the State Engineer's map.

Claimant does not accept the State Engineer's map as correctly showing all of the irrigated land for which a right is asserted, and has submitted a map prepared by Paul R. Revis, Registered Engineer, of Burns, Oregon, in support of his claim.

Said claim is included in Contest No. 8 initiated by the Gill Cattle Company, as treated under Finding 17 herein. The stipulation disposing of Contest No. 8 recognizes, on the part of the Gill Cattle Company, claimant's right to irrigate 40.0 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14 by means of the diversion and ditch above described, with a date of priority of 1886.

In accordance with the analysis of said claim and claimant's stipulation with the Gill Cattle Company, in their relation to the rights of other claimants to the use of the waters of Wildhorse Creek proper as set out in Finding 30 following, a right is allowed in the name of John Henry Penland to the use of the waters of Wildhorse Creek for the irrigation of 40.0 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1904.

Claim No. 17

In Statement and Proof of Claim filed by John Henry Penland which is designated in this proceeding as Claim No. 17, the answers to the questions propounded therein are as follows:

2. Q.- Do you claim a right to the waters of the above named stream or a tributary thereof?
If from a tributary, give its name. A.- Wildhorse Creek.

3. Q.- What is the nature of the right or use on which this claim to the waters of said stream is based? A.- Irrigation, overflow, waste and surplus of right established in NE $\frac{1}{4}$ of Section 14, T. 35 S., R. 33 E.

4. Q. - How was such right initiated, or upon what is it based? A.- Overflow from adjacent lands for NE $\frac{1}{4}$ Section 14.

5. Q. - State the date of initiation of such water right. A.- _____.

6. Q. - What steps were taken by this claimant or his predecessor in interest to initiate said right? Answer fully, attaching separate sheet if necessary. A.- None - natural flow across lands of claimant.

7. Q. - When was water first used for irrigation, or other beneficial use? A.- _____.

8. Q. - State the means of utilizing such water, giving the name by which the ditch is most commonly known, if a ditch is used. A.- No ditch used - sloughs and flow only.

The State Engineer's map does not show any irrigated land in said subdivisions. It appears that the major portion of said subdivisions are covered with a heavy stand of wild rye grass to the extent of approximately the acreage for which a right is asserted and that said rye grass has a certain value as winter pasture for livestock. Whether or not this particular stand of wild rye may be considered as being beneficially irrigated by overflow waters from Wildhorse Creek has not been definitely determined, however, with the exception of the Gill Cattle Company, this claim was not contested by the other claimants to the use of the waters of Wildhorse Creek.

Contest No. 8 initiated by the Gill Cattle Company included this claim. In the stipulation disposing of Contest No. 8, the Gill Cattle Company has recognized that claimant John Henry Penland has overflow rights for 70.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ said Section 14, with a priority date of 1885.

When the answers to questions in said Statement and Proof of Claim No. 17 are considered together it appears that the claim is for the surplus of the water diverted for the irrigation of lands in the NE $\frac{1}{4}$ of Section 14, T. 35 S., R. 33 E., W.M., and waters which, during the flood stages of Wildhorse Creek, overflow and spread over the valley floor.

A right is allowed under said Claim No. 17 to use the overflow and waste water from the NE $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M., for the irrigation of 35.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 35.0 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M., with a date of priority of 1885. This right does not include the right to require the release of waters by upstream appropriators with subsequent dates of priorities, including any rights which may hereafter be initiated.

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Andrew J. and Marjorie A. Shull - Claims No's. 18, 19, 20 and 21

Statements and Proofs of Claims No's. 18, filed herein by Andrew J. Shull, and No's. 19, 20 and 21 filed herein by Andrew J. Shull and Marjorie A. Shull, husband and wife, were contested by the Gill Cattle Company under Contests No's. 6 and 7. The stipulations disposing of said contests were previously treated under Finding 15 herein.

Claim No. 19

In accordance with the analysis of said Claim No. 19 and Claimant's stipulation with the Gill Cattle Company, in their relation to the rights of other claimants to the use of the waters of Wildhorse Creek proper as set out in Finding 30, following, a right is allowed in the name of Andrew J. Shull and Marjorie A. Shull to the use of the waters of Wildhorse Creek for

the irrigation of 20.2 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 36.8 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 40.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 35, T. 35 S., R. 33 E., W.M., with a date of relative priority of 1906.

Claim No. 21

Relative to Claim No. 21 wherein a right is asserted to the use of the waters of Andrews Creek for domestic use and the irrigation of 2.5 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 34, T. 35 S., R. 33 E., W.M., with a priority date of 1905, it appears that beneficial use has been made of the waters of Andrews Creek as claimed. This claim was contested by Wm. Bruckwilder, said contest being treated under Finding 16 herein.

A right is allowed in the name of Andrew J. Shull and Marjorie A. Shull to the use of the waters of Andrews Creek for the irrigation of 2.5 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 34, T. 35 S., R. 33 E., W.M., with a date of priority of priority of 1905.

Claims No's. 18 and 20

Relative to the right of Andrew J. Shull and Marjorie A. Shull to the use of the waters of Andrews Creek and Miranda Ditch or Andrews Ditch, above its confluence with Butte Creek at the approximate center of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 34, T. 35 S., R. 33 E., W.M., as provided in the stipulation disposing of Contests No's. 1, 6 and 7 herein, said right shall be initiated and perfected in the manner provided by law for the acquisition of water rights through application to the State Engineer therefor.

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Gill Cattle Company, an Oregon Corporation - Claim No. 9

Statement and Proof of Claim No. 9 filed herein by the Gill Cattle Company, an Oregon Corporation with headquarters located at Frenchglen, Oregon, asserts a right to the use of the waters of Wildhorse Creek and its tributaries for stock use and the irrigation of a total of 2429.6 acres of land located in Section 35, T. 35 S., R. 33 E., W.M., and Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, and 36, T. 36 S., R. 33 E., W.M., with a date of relative priority of 1882.

Accompanying said Proof and made a part thereof, is a map prepared by Clarence N. Young, Registered Surveyor, showing the location of the lands for which a claim is asserted. Said map was submitted by claimants in lieu of the State Engineer's map which claimants did not accept as correctly showing the location and extent of the lands irrigated.

The State Engineer's maps show all of the lands over which the waters of Wildhorse Creek and its tributaries have been applied in the irrigation thereof. A total of 1659.0 acres were classified by the State Engineer as irrigated land on the subdivisions owned or in possession of claimant, Gill Cattle Company, of which amount 9.5 acres in the N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 11, T. 36 S., R. 33 E., W.M., are included in Statement and Proof of Claim No. 10, filed herein by Maxine Irwin.

The claim of the Gill Cattle Company was contested by several other waterusers of Wildhorse Creek, being Contests No's. 1, 3, 4 and 5 herein, which were all settled by stipulations entered into under each contest by contestants and contestees. Said contests and stipulations have been previously presented herein under Findings 15, 17, 18 and 19, to which reference is here made.

Subsequent to the hearing herein, the Gill Cattle Company submitted to the State Engineer an application for a permit to appropriate the unappropriated waters of Wildhorse Creek for the irrigation of 804.6 acres of which 770.6 acres are included in the lands for which a claim was asserted in their Statement and Proof of Claim No. 9, which lands were not classified by the State

Engineer as irrigated. Said application for a permit was filed in the office of the State Engineer on June 26, 1953, and is designated on the records of the State Engineer as Application No. 28563. It therefore appears that the Gill Cattle Company has accepted the State Engineer's map as correctly showing the location and extent of their irrigated lands, herein involved.

It will be noted from said stipulations that the acreage of the Gill Cattle Company, stipulated as having priority dates of 1882 and 1884, is inconsistent between the several stipulations as to the number of acres and location of the lands. For the purpose of more definitely describing said stipulated acreage, claimant, Gill Cattle Company, has, through their attorney, E. E. Kriesien, submitted a tabulation relative to each contest, setting forth the stipulated acreage of 1882 and 1884 priority as to the legal government subdivisions and sections, all being within T. 36 S., R. 33 E., W.M., which are here presented, combined into one tabulation, as follows:

		Between Gill Cattle Company and:				
Section	Legal Subdivision	J. H. Penland		Andrew Shull, et ux	Robert Blair	Harry Blair
		Contests No. 3 & 8		Contests No. 1, 6 & 7	Contest No. 4	Contest No. 5
		Priority		Priority	Priority	Priority
		1882	1884	1882	1882	1882
2	NE $\frac{1}{4}$ SW $\frac{1}{4}$	34.5		34.5	34.5	
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	20.2		20.2	20.2	
	NE $\frac{1}{4}$ SE $\frac{1}{4}$			24.0		
10	NE $\frac{1}{4}$ NE $\frac{1}{4}$		37.3	37.3		
	NW $\frac{1}{4}$ NE $\frac{1}{4}$		20.0	20.0	20.0	
	SW $\frac{1}{4}$ NE $\frac{1}{4}$		35.8	35.8		
	SE $\frac{1}{4}$ NE $\frac{1}{4}$		35.7	35.7		
	NE $\frac{1}{4}$ NW $\frac{1}{4}$		13.0	13.0		
	SW $\frac{1}{4}$ NW $\frac{1}{4}$		5.2	5.2		
	SE $\frac{1}{4}$ NW $\frac{1}{4}$		33.2	33.2		
	NE $\frac{1}{4}$ SW $\frac{1}{4}$		27.1	27.1		
	NW $\frac{1}{4}$ SW $\frac{1}{4}$		11.7	11.7		
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	35.0		35.0	35.0	
	NW $\frac{1}{4}$ SE $\frac{1}{4}$		24.5	24.5		
	SW $\frac{1}{4}$ SE $\frac{1}{4}$		19.0	19.0		
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	40.0		40.0	40.0	
11	NW $\frac{1}{4}$ NW $\frac{1}{4}$	37.0		37.0	37.0	37.0
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	13.0		13.0	13.0	13.0
12	SW $\frac{1}{4}$ NW $\frac{1}{4}$			35.0		
	SE $\frac{1}{4}$ NW $\frac{1}{4}$			16.0		
13	NW $\frac{1}{4}$ NW $\frac{1}{4}$		20.0	20.0	20.0	
	SW $\frac{1}{4}$ NW $\frac{1}{4}$		30.0	30.0	30.0	
14	NE $\frac{1}{4}$ NE $\frac{1}{4}$		11.2	11.2	11.2	
	NW $\frac{1}{4}$ NE $\frac{1}{4}$		23.6	23.6	23.6	
	SW $\frac{1}{4}$ NE $\frac{1}{4}$		8.0	8.0	8.0	
	SE $\frac{1}{4}$ NE $\frac{1}{4}$		14.0	14.0	14.0	
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	30.4		30.4	30.4	30.4
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	27.2		27.2	27.2	27.2
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	17.8		17.8	17.8	17.8
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	18.9		18.9	18.9	18.9
	NE $\frac{1}{4}$ SW $\frac{1}{4}$		6.3	6.3		6.3
	NW $\frac{1}{4}$ SW $\frac{1}{4}$		24.4	24.4		24.4
Totals		274.0	400.0	749.0	400.8	175.0

From the above tabulation it is noted that the lands of 1882 priority under the stipulation with J. H. Penland total only 274.0 acres instead of the 275.0 acres and that the lands of 1882 priority under the stipulation with Andrew Shull, et ux, total only 749.0 acres instead of 750.0 acres. The acreage figures as shown in the above tabulation will be used in analyzing the effect of the various stipulations.

It is also noted that the total of 749.0 acres of land stipulated as having a priority of 1882, under the disposition of Contests No's. 1, 6 and 7, 674.0 acres are covered under the stipulation disposing of Contests No's. 3 and 8, of which amount only 274.0 acres were claimed as

having a priority date of 1882, the remaining 400.0 acres being claimed under a priority date of 1884. This overlap in priority dates presents a conflict since a tract of land cannot be recognized as having one date of priority as against certain lands and another date of priority as against other lands.

It is further noted that of the 175.0 acres of land stipulated as having a date of priority of 1882 under the disposition of Contest No. 5, 6.3 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 24.4 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 14, are not included in the claim of 1882 priority under the disposition of Contest No. 4.

The Statement and Proof of Claim of the Gill Cattle Company, the contests initiated relative thereto and the stipulations disposing of said contests, present a conflict in administration which must be eliminated. The State Engineer's Findings and Order of Determination, and the Court's Decree must be workable so that the watermaster or other official charged with the administration thereof, may distribute the waters of Wildhorse Creek in accordance with said Order of Determination, and Court's Decree, when entered.

For a proper determination of the rights of each of the claimants to the use of the waters of Wildhorse Creek proper in relation to the other claimants, all of the claims to the use of the waters of Wildhorse Creek proper, and the contests and stipulations relative thereto, must be considered.

The following tabulation shows the pertinent factors of the several claims to the use of the waters of Wildhorse Creek proper, and the stipulation between the named claimants and the Gill Cattle Company disposing of the contests filed herein, arranged in the order of their geographical progression down stream.

Claim No.	Name of Claimant	Acreage Claimed	Description Sec. Tp. Rg.			Priority Claimed	Contest No.	Stipulation
13	Frank McElhone, et al	5.7	34 2	34S 35S	33E 33E	1899	none	Claim not contested.
1	Louise (Robert) Blair	21.8	2	35S	33E	1894	4	First - Gill Cattle Co. 400.8 acres in Sections 2, 10, 11, 13 and 14 T. 36 S., R. 33 E., W.M., with 1882 priority. Second - Blairs, acreage and priority as claimed, being 21.8 acres 1894 and 38.3 acres 1902. Third - Gill Cattle Co. balance of acreage claimed.
11	Frank McElhone, et al	115.5	22	35S	33E	1883	none	Claim not contested.
12	Frank McElhone, et al	121.0	2, 11	35S	33E	1893	none	Claim not contested.
16	J. H. Penland	71.2	14	35S	33E	1887	3 & 8	First - Gill Cattle Co. 274.0 acres, priority 1882.
17	J. H. Penland	70.0	14	35S	33E	natural overflow		Second - Penland, 103.2 acres in Section 14 from waters of Stonehouse Creek, prior- ity not stated. Third - Gill Cattle Co. 400.0 acres, priority 1884. Fourth - Penland, 40.0 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, 1886 priority and overflow right for 70.0 acres in N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 14, with 1885 priority. Fifth - Gill Cattle Co. balance of lands claimed.
22	Harry Blair, et ux	137.8	14	35S	33E	Spring of 1883	5	First - Gill Cattle Co. 175.0 acres in Sections 11 and 14, T. 36 S., R. 33 E., W.M., with 1882 priority.
3	Harry Blair, et ux	19.0	24	35S	33E	1887	5	Second - Blairs, acreage and priority dates as claimed being 137.8 acres, 1883 and 19.0 acres, 1887. Third - Gill Cattle Co. balance of acreage claimed.
5	Robert E. Blair	38.3	26	35S	33E	Spring of 1902	4	As stated under Claim No. 1, above.
19	Andrew Shull, et ux	97.0	35	35S	33E	1890	1, 6, & 7	First - Gill Cattle Co. 749.0 acres in Sections 2, 10, 11, 12, 13 and 14, T. 36 S., R. 33 E., W.M., with priority of 1882. Second - Shulls, 97.0 acres in Section 35, T. 35 S., R. 33 E., W.M., priority date not stated. Third - Gill Cattle Co. balance of acreage claimed.
9	Gill Cattle Co.	2429.6		36S	33E	1882	1, 3-8 inc.	As stated above.
10	Maxine Irwin	18.0	111	36S	33E	---	none	Claim not contested.

In analysing the several stipulations as to their effect on the claims involved as well as on the other claims, it is necessary to take into consideration that the claims of Frank McElhone, et al, were not contested; that the claims of all claimants except the Gill Cattle Company were not contested as between each other; and that in the preparation of the various stipulations the parties thereto had knowledge of all other proofs of claim filed in this proceeding.

Under Contest No. 5, Harry and Bessie Blair vs. Gill Cattle Company, Blairs stipulate that the Gill Cattle Company has a priority of 1882 for 175.0 acres, then the Gill Cattle Company stipulates that Blairs are entitled to the acreage and priority dates set forth in their Claims No's. 2 and 3, being 137.8 acres with priority of 1883 and 19.0 acres with priority of 1887, then the Gill Cattle Company has the right to irrigate the balance of their lands as claimed.

However, Frank McElhone, et al, under Claim No. 11, has asserted a right for 115.5 acres of 1883 priority which was not contested. Therefore McElhone's 115.5 acres are equal in priority to Harry Blair's 137.8 acres. Then Harry Blair has the right to irrigate his 19.0 acres with 1887 priority.

Under Contest No. 3, John Henry Penland vs. Gill Cattle Company, and Contest No. 8, Gill Cattle Company vs. John Henry Penland, Penland stipulates that the Gill Cattle Company has a priority date of 1882 for 274.0 acres, then the Gill Cattle Company stipulates that Penland may irrigate 103.2 acres under his Claim No. 15, from the waters of Stonehouse Creek, priority date not stated. Penland further stipulates that the Gill Cattle Company has 400.0 acres with priority date of 1884, then the Gill Cattle Company recognize Penland's Claim No. 17 to the extent of 70.0 acres overflow right with 1885 priority and Claim No. 16 to the extent of 40.0 acres from Wildhorse Creek with 1886 priority.

Here it should be observed that Penland's Claim No. 17 was not for direct diversion from Wildhorse Creek, but for overflow from irrigated lands above, therefore said Claim need not be recognized in this analysis; that the priority date asserted in Claim No. 16 is 1887 instead of 1886; that the stipulation of an earlier date of priority than that claimed in the proof can not be recognized and that Penland's stipulation recognizing the Gill Cattle Company's priority of 1884 for 400.0 acres is not binding on other claimants.

In the stipulation with Harry Blair, the Gill Cattle Company claimed only 175.0 acres of 1882 priority before Harry Blair may irrigate his 137.8 acres of 1883 priority and 19.0 acres with 1887 priority, but in the stipulation with Penland, the Gill Cattle Company claimed 274.0 acres before Penland may irrigate his 103.2 acres from Stonehouse Creek and an additional 400.0 acres of 1884 priority before Penland may irrigate his 40.0 acres from Wildhorse Creek, for which, in his claim, Penland asserted a priority of 1887.

However, under Contest No. 4, Robert E. Blair, et al vs. Gill Cattle Company, Blairs stipulate that the Gill Cattle Company has a priority date of 1882 for 400.8 acres before he, Robert Blair, may irrigate his 21.8 acres of 1894 priority and his 38.3 acres of 1902 priority. Here the claim of Frank McElhone, et al, being Claim No. 12, for the irrigation of 121.0 acres with a priority date of 1893 must be recognized since said claim was not contested.

Thus, after Harry Blair has irrigated his 19.0 acres of 1887 priority, McElhone has a right to irrigate his 121.0 acres of 1893 priority, then the Gill Cattle Company has a right to irrigate another 225.8 acres to make a total of 400.8 acres, stipulated as being prior to Robert Blair, after which Robert Blair has a right to irrigate his 21.8 acres of 1894 priority. Then the claim of Frank McElhone, et al, being Claim No. 13, for the irrigation of 5.7 acres with 1899 priority must be satisfied, since said claim was not contested, after which Robert Blair has a right to irrigate his 38.3 acres of 1902 priority.

The Gill Cattle Company then has the right to irrigate another 273.2 acres to make their total of 674.0 acres, stipulated with Penland as being prior to Penland's 40.0 acres from Wildhorse Creek, after which Penland has a right to irrigate his 40.0 acres of 1887 priority.

The Gill Cattle Company then has the right to irrigate another 273.2 acres to make their total of 674.0 acres, stipulated with Penland as being prior to Penland's 40.0 acres from Wildhorse Creek, after which Penland has a right to irrigate his 40.0 acres of 1887 priority.

It will be noted that Penland's 40.0 acres for which he asserted a claim for 1887 priority is placed subsequent to Harry Blair's 19.0 acres of 1887 priority and several other claims for which later dates of priority were asserted. Relative to the right of Harry Blair, Penland's right would have been of equal priority were it not for the stipulation with the Gill Cattle Company entered into by Penland in which he recognized the right of the Gill Cattle Company to irrigate a total of 674.0 acres before he was entitled to irrigate his 40.0 acres from Wildhorse Creek. By said stipulation Penland has also waived his asserted priority of 1887 with relation to McElhone's 1893 and 1899 priorities, and to Robert Blair's 1894 and 1902 priorities in so far as the administration of water is concerned.

Under Contest No. 1, Andrew Shull, et ux, vs. Gill Cattle Company and Contests No. 6 and 7, Gill Cattle Company vs. Andrew Shull, et ux, Shulls stipulate that the Gill Cattle Company has the right to irrigate 749.0 acres before they may irrigate their 97.0 acres under Claim No. 19. By so stipulating, Shulls have, in effect, waived their priority of 1890 as asserted in Claim No. 19.

Thus, after Penland has irrigated his 40.0 acres from Wildhorse Creek, the Gill Cattle Company has the right to irrigate another 75 acres to make their total of 749.0 acres, after which Shulls have the right to irrigate their 97.0 acres under Claim No. 19, then the Gill Cattle Company has the right to irrigate 900.5 acres, being the balance of their lands as shown on the State Engineer's map, also 9.5 acres covered by the claim of Maxine Irwin, being Claim No. 10.

After careful consideration of the various claims, contests and stipulations, as above analyzed and including the rights allowed herein under specific findings, it is hereby ordered that the relative rights to the use of the waters of Wildhorse Creek proper are as set out in the following table, and as more specifically described in the tabulation under Finding 41 herein.

Order of Delivery	Claim No.	Name	Acreage	Location			Date of Relative Priority
				Section	Twp	Rge	
1	9	Gill Cattle Company	175.0	11 & 14	36S	33E	1882
2	2	Harry Blair, et ux	137.8	14	35S	33E	1883 equal to McElhone, et al, under Claim No. 11
		11 Frank McElhone, et al	115.5	2	35S	33E	1883 equal to Harry Blair, et ux, under Claim No. 2
3	3	Harry Blair, et ux	19.0	24	35S	33E	1887
4	12	Frank McElhone, et al	121.0	2 & 11	35S	33E	1893
5	9	Gill Cattle Company	225.8	2, 10 13 & 14	36S	33E	1893 subsequent to McElhone, et al under Claim No. 12
6	1	Robert Blair (Louise)	21.8	2	35S	33E	1894
7	13	Frank McElhone, et al	5.7	34 2	34S 35S	33E	1899
8	5	Robert Blair	38.3	26	35S	33E	1902
9	9	Gill Cattle Company	273.2		36S	33E	1903
10	16	J. H. Penland	40.0	14	35S	33E	1904
11	9	Gill Cattle Company	75.0		36S	33E	1905
12	19	Andrew Shull, et ux	97.0	35	35S	33E	1906
13	9	Gill Cattle Company	900.0	Balance of acreage 1907 subsequent to all above classified as irrigated lands. on State Engineer's map.			
13		10 Maxine Irwin	9.5	11	36S	33E	1907 equal to Gill Cattle Company.

It appears that of the lands for which a water right for irrigation was allowed and evidenced by certificate recorded in Volume 3, page 1977, State Record of Water Right Certificates, certain lands have never been irrigated and the remainder are allowed an earlier date of priority herein, therefore, it is held that said water right, evidenced by certificate of water right recorded in Volume 3, page 1977, State Record of Water Right Certificates, hereby is declared cancelled and of no further force or effect.

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Maxine Irwin - Claim No. 10

Statement and Proof of Claim No. 10 was filed in the name of Maxine Irwin, 934 Locust Ave., Zanesville, Ohio, asserting a right to the use of the waters of Wildhorse Creek for the irrigation of 18.0 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 11, T. 36 S., R. 33 E., W.M., said right being initiated over forty years ago by means of "natural flow and spreading of water over area from adjacent lands."

In answer to Item No. 6 in the Statement and Proof of Claim, "What steps were taken by this claimant or his predecessor in interest to initiate said right?" Claimant has stated, "No action initiated. Natural spreading of water over these lands from time immemorial and as evidenced by records prepared and mapped as a part of the adjudication of the waters of Wildhorse Creek."

It appears from the county records and from the evidence submitted, that claimant is the owner of the $N\frac{1}{2} SW\frac{1}{4} SE\frac{1}{4}$, Section 11, T. 36 S., R. 33 E., W.M. The State Engineer's map shows 18.0 acres to be classified as irrigated land in the said $SW\frac{1}{4} SE\frac{1}{4}$ but only 9.5 acres in the $N\frac{1}{2}$ of said $SW\frac{1}{4} SE\frac{1}{4}$.

It further appears that neither the claimant herein nor her predecessors in interest have ever done any act which may be credited toward the initiation of a water right for the lands for which a right is claimed, nor have they ever enjoyed the benefits derived from the "natural spreading of water over these lands," but are relying for the establishment of a water right for said lands upon the use of said lands and the benefits derived therefrom by others in possession of adjoining lands, who have caused such "natural spreading of waters" in the irrigation of their lands.

Claimant's lands are of the same type as are adjoining lands for which a right is asserted by the Gill Cattle Company under their Claim No. 9 and, it is believed, are entitled to the same consideration. A right is therefore allowed for the irrigation of 9.5 acres in the $N\frac{1}{2} SW\frac{1}{4} SE\frac{1}{4}$, Section 11, T. 36 S., R. 33 E., W.M., said right to be equal in date of relative priority to the adjoining lands of claimant, Gill Cattle Company.

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Former Decree of Court

A certified copy of the Decree of the Circuit Court of the State of Oregon for Harney County, filed October 15, 1904, by George E. Davis, Circuit Judge, in the case of A. Miranda, Plaintiff, vs. Ed. Carlson, Defendant, was made a part of Statement and Proof of Claim No. 9, filed herein by the Gill Cattle Company. Said decree is now abrogated by the stipulations entered into in this proceeding by the Gill Cattle Company.

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Quantity of Water Available

Records of the discharge of Wildhorse Creek were secured at a station established above the mouth of Wildhorse Canyon within the $NE\frac{1}{4} SE\frac{1}{4}$, Section 34, T. 34 S., R. 33 E., W.M., the location of said station being shown on the State Engineer's map.

The following table shows the essential data for the months of March, April, May, June, July and August of the years 1951, 1952 and 1953, covering the period of the year when the maximum run-off normally occurs. Records for the month of August, 1953, are estimated on the basis of former records and the records of Trout Creek near Denio.

		Total:		Daily Discharge			Period of Maximum run-off when mean daily discharge was 10.0 Sec-ft or more
		Daily Discharge Second-feet	Run-off Acre-feet	Maximum Sec-ft	Minimum Sec-ft	Mean Sec-ft	
1951	March	237.9	472	11	4	7.67	March 20 to July 10 inc.
	April	989	1,960	51	10	33.0	
	May	1,765	3,500	139	22	56.9	
	June	1,001	1,990	60	20	33.4	
	July	257	510	19	2.8	8.29	
	August	64.2	128	-	-	1.49	
1952	March	277.6	551	30	3.0	8.95	March 24 to August 10 inc.
	April	1,612	3,200	129	20	53.7	
	May	2,412	4,780	105	63	77.8	
	June	2,625	5,210	191	45	87.5	
	July	1,404	2,780	89	18	45.3	
	August	191.8	380	16	2.2	6.19	
1953	March	157.1	312	7.8	3.2	5.07	April 20 to August 1 inc.
	April	445.4	883	38	5.9	14.8	
	May	871	1,730	87	18	28.1	
	June	2,025	4,020	107	34	67.5	
	July	1,476	2,930	90	12	47.6	
	August(est)	110	218	-	-	3.55	

The last column of the above table shows the period of maximum run-off during which time the mean daily discharge of Wildhorse Creek at the mouth of Wildhorse Canyon, above all diversions, was 10.0 cubic feet per second, or more. During the remainder of the year the mean daily discharge at the station ranged from a recorded minimum of 0.8 cubic foot per second to 10.0 cubic feet per second.

Rights to the use of the waters of Wildhorse Creek proper are herein allowed for the irrigation of a total of 2255.1 acres of land. The following table shows the number of acre-feet of water per acre which would have been available for the irrigation of said 2255.1 acres of land, on a pro-rated basis, not considering the possible availability of waste water or return flow, from irrigated lands above.

		Available Run-off in Acre-feet	Acre-feet per Acre pro-rated for 2255.1 acres
1951	March	472	0.21
	April	1,960	0.87
	May	3,500	1.55
	June	1,990	0.88
	July	510	0.22
	August	128	0.06
1952	March	551	0.24
	April	3,200	1.42
	May	4,780	2.12
	June	5,210	2.31
	July	2,780	1.23
	August	380	0.17
1953	March	312	0.14
	April	883	0.39
	May	1,730	0.77
	June	4,020	1.78
	July	2,930	1.30
	August(est)	218	0.10

Irrigation Season

As may be readily noted from the preceeding run-off records, the flow of Wildhorse Creek and tributary streams is insufficient to supply all of the lands irrigated therefrom except during the period of spring run-off from melting snow, normally lasting from about mid-March to the last of June. During the remainder of the year the flow of the three perennial streams, Wildhorse Creek, Stonehouse Creek and Andrews Creek, affords only sufficient water to irrigate a comparatively small acreage, and even when not being used for irrigation, extends only a short distance into the valley before sinking into the bed of the stream channel.

Storage of the early run-off waters has not been provided and the irrigation of the lands must of necessity be accomplished during the run-off period when the water is available and should commence as early as the water may be beneficially applied to the land. For this reason, no definite irrigation season is fixed.

Duty of Water and Head of Water

Taking into consideration all testimony and evidence introduced in this proceeding together with the time and manner of run-off, the character of the lands and crops grown, the acreage for which rights are allowed and the quantity of water available, the duty of water is fixed so as not to exceed two and one-half acre-feet per acre irrigated during any year and the head of water shall not exceed one-sixtieth of one cubic foot per second per acre irrigated, except where rotation is practiced as hereinafter provided.

Installation of Head-gates and Measuring Devices, Place of Measurement of Water, Waste Water

In accordance with the various stipulations disposing of the several contests herein, wherein the installation of certain head-gates and measuring devices were specified, such head-gates and measuring devices shall be installed to the satisfaction of the State Engineer within one year from the date of entry of the Decree of the Circuit Court in this matter.

Whenever it shall become further necessary in the distribution of water, the State Engineer and/or Watermaster having jurisdiction herein, may require the installation and maintenance of additional, suitable head-gates or measuring devices. The construction of all such head-gates and measuring devices shall be approved by the State Engineer or Watermaster and the cost of such construction and maintenance shall be borne by the appropriator or appropriators benefited thereby.

The water to which each appropriator herein is entitled for the irrigation of his lands shall be measured at the point of diversion of such water from the main stream, except the Gill Cattle Company and Andrew Shull, et ux, whose water from Wildhorse Creek, to which they are each entitled under dates of priority, shall be measured at the location of the old Kueny-Crump diversion, approximately 800 feet north and 150 feet west of the south one-quarter corner of Section 26, T. 35 S., R. 33 E., W.M.

In regulating the quantity of water diverted by any appropriator, the watermaster shall take into account the quantity being received by such appropriator's lands as waste water from lands above, so far as same may be of benefit to such appropriator's lands.

All waste water shall be controlled so as to be available for use by lower appropriators.

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Stock and Domestic Use

It appears that all of the claimants to the use of the waters of Wildhorse Creek and its tributaries in this proceeding, have wells or other sources of supply from which they satisfactorily secure water for stock and domestic use. During a considerable portion of each year there is no surface flow in the stream channels on the valley floor and no water would be available from this source, therefore, no water in addition to that allowed for the irrigation of the lands will be allowed from Wildhorse Creek for stock and domestic use.

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Rotation

To secure a sufficient rate of flow or head of water, the watermaster 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 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 such rotation in the use of water and such agreement is in writing and is filed by such water users with the watermaster, and such rotation system shall not interfere with the rights of any water user not included in such rotation system, the watermaster shall, if practical, distribute the water according to such agreement.

To secure a sufficient head of water where there is no agreement providing for a system of rotation, the watermaster 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 the water user in said group next in priority, with a like quantity for his proportionate time, and so on until all the water users of said group or system are served, then the distribution of water may be repeated in the same manner throughout the remainder of the period during which water is available and may be beneficially applied; provided, that no system of rotation shall be established by the watermaster 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 source of supply where rotation is practiced shall not exceed two and one-half acre-feet per acre irrigated during any year.

Rights Appurtenant to Land

The rights to the use of the water for irrigation purposes as hereby confirmed are appurtenant to the lands herein described, and the rights to the use of the waters of Wildhorse Creek and its tributaries by virtue of such rights are limited and confined to the 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 restrained and enjoined from diverting and using water from said stream and its tributaries on such other lands without lawful permits therefor first obtained from the State Engineer. The right of a water user to change the place of use of a vested water right in the manner now, or hereafter provided or permitted by law, shall not be prohibited nor affected by this proceeding.

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Diversions Governed by Priorities and Beneficial Use

The order of the rights of the respective claimants of the waters of Wildhorse Creek and its tributaries, and in which order they are entitled to divert and use said water, shall be and is according to 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 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 appropriator having a prior right to its use for the purpose for which said water was appropriated, he must and shall permit it to flow down the natural channel of the stream as it was wont to flow in its natural course without hindrance or diversion thereof, and those having subsequent rights are entitled to the use of such water and to divert the same to the extent of their rights, 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 appropriator having a valid right to divert the water than such appropriator can beneficially use for the purpose to which the water is to be put.

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To summarize and supplement the specific findings herein, the rights of the claimants to the use of the waters of Wildhorse Creek and its tributaries, as defined herein, are arranged in tabulated form with the dates of relative priority of such appropriations, the number of acres to which such appropriations are appurtenant, the use to which said water is applied, the name of 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 the water has been used and is now appurtenant; the tabulated rights of each appropriator being set opposite and following his name and post office address, as follows:

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
Robert E. Blair successor to Louise Blair, deceased Andrews, Oregon Claim No. 1 Contest No. 4 Findings 18 and 21	1894		21.8	Irrigation	Unnamed	Wildhorse Creek	7.8 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 8.0 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 6.0 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M.
Harry E. Blair and Bessie Blair Andrews, Oregon Claim No. 2 Contest No. 4 Findings 19 & 22	1883		137.8	Irrigation	Turner	Wildhorse Creek, West Channel	30.0 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 34.5 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 33.5 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 40.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M.
Claim No. 3 Contest No. 4 Findings 19 & 22	1887		19.0	Irrigation	Larson	Wildhorse Creek, West Channel	3.6 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 13.8 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 1.6 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 24, T. 35 S., R. 33 E., W.M.
Claim No. 4 Contest No. 4 Findings 19 & 22	July 21, 1913		10.0-8.5	Irrigation		Unnamed Springs	1.5 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 2.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, 4.0 acres in the NE$\frac{1}{4}$ SE$\frac{1}{4}$, 1.0 acre in the SE$\frac{1}{4}$ SE$\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M.
Modifying Water Right Certificate recorded Volume 2, page 1370, State Record of Water Right Certificates.							
Robert E. Blair Andrews, Oregon Claim No. 5 Contest No. 4 Findings 18 and 23	1902		38.3	Irrigation	Unnamed	Wildhorse Creek	8.9 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 10.6 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 18.8 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 26, T. 35 S., R. 33 E., W.M.
Robert E. Blair and Harry Blair Andrews, Oregon Claim No. 6 Contest No. 4 Findings 18 & 24	April 9, 1915		20.0	Irrigation	Unnamed	Willow Creek & Willow Springs	20.0 acres in the E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, T. 35 S., R. 33 E., W.M.
Confirming Water Right Certificate recorded Volume 3, page 1826, State Record of Water Right Certificates.							
Claim No. 7 Contest No. 4 Findings 18 and 24	April 30, 1920		7.7	Irrigation	Unnamed	Willow Creek	2.5 acres in the W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, 5.2 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 15 T. 35 S., R. 33 E., W.M.
Confirming and modifying Water Right Certificate recorded Volume 4, page 3453, State Record of Water Right Certificates.							
Willem M. Bruckwilder Andrews, Oregon Claim No. 8 Contest No. 2 Findings 16 & 25	1905			Irrigation	Unnamed	Andrews Creek	5 fruit trees located in the N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 27 T. 35 S., R. 33 E., W.M.
This right is inferior to the right of Andrew J. and Marjorie A. Shull under Claim No. 21.							
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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
Gill Cattle Company, an Oregon Corporation Frenchglen, Oregon Claim No. 9 Contests No's. 1, 3-9 inc. Findings 15, 17-25 inc., 27, 28, 30-33 inc.	1882		175.0	Irrigation	Unnamed	Wildhorse Creek	37.0 acres in the NW $\frac{1}{4}$, NW $\frac{1}{4}$, 13.0 acres in the SW $\frac{1}{4}$, NW $\frac{1}{4}$, Section 11, 30.4 acres in the NE $\frac{1}{4}$, NW $\frac{1}{4}$, 27.2 acres in the NW $\frac{1}{4}$, NW $\frac{1}{4}$, 17.8 acres in the SW $\frac{1}{4}$, NW $\frac{1}{4}$, 18.9 acres in the SE $\frac{1}{4}$, NW $\frac{1}{4}$, 6.3 acres in the NE $\frac{1}{4}$, SW $\frac{1}{4}$, 24.4 acres in the NW $\frac{1}{4}$, SW $\frac{1}{4}$, Section 14, T. 36 S., R. 33 E., W.M.
	1893		225.8	Irrigation	Unnamed	Wildhorse Creek	34.5 acres in the NE $\frac{1}{4}$, SW $\frac{1}{4}$, 20.2 acres in the SE $\frac{1}{4}$, SW $\frac{1}{4}$, Section 2, 37.3 acres in the NE $\frac{1}{4}$, NE $\frac{1}{4}$, 20.0 acres in the NW $\frac{1}{4}$, NE $\frac{1}{4}$, 35.8 acres in the SW $\frac{1}{4}$, NE $\frac{1}{4}$, 3.0 acres in the SE $\frac{1}{4}$, NE $\frac{1}{4}$, 35.0 acres in the NE $\frac{1}{4}$, SE $\frac{1}{4}$, 40.0 acres in the SE $\frac{1}{4}$, SE $\frac{1}{4}$, Section 10, T. 36 S., R. 33 E., W.M.
	1903		273.2	Irrigation	Unnamed	Wildhorse Creek	32.7 acres in the SE $\frac{1}{4}$, NE $\frac{1}{4}$, 13.0 acres in the NE $\frac{1}{4}$, NW $\frac{1}{4}$, 5.2 acres in the SW $\frac{1}{4}$, NW $\frac{1}{4}$, 33.2 acres in the SE $\frac{1}{4}$, NW $\frac{1}{4}$, 27.1 acres in the NE $\frac{1}{4}$, SW $\frac{1}{4}$, 11.7 acres in the NW $\frac{1}{4}$, SW $\frac{1}{4}$, 24.5 acres in the NW $\frac{1}{4}$, SE $\frac{1}{4}$, 19.0 acres in the SW $\frac{1}{4}$, SE $\frac{1}{4}$, Section 10, 20.0 acres in the NW $\frac{1}{4}$, NW $\frac{1}{4}$, 30.0 acres in the SW $\frac{1}{4}$, NW $\frac{1}{4}$, Section 13, 11.2 acres in the NE $\frac{1}{4}$, NE $\frac{1}{4}$, 23.6 acres in the NW $\frac{1}{4}$, NE $\frac{1}{4}$, 8.0 acres in the SW $\frac{1}{4}$, NE $\frac{1}{4}$, 14.0 acres in the SE $\frac{1}{4}$, NE $\frac{1}{4}$, Section 14, T. 36 S., R. 33 E., W.M.
	1905		75.0	Irrigation	Unnamed	Wildhorse Creek	24.0 acres in the NE $\frac{1}{4}$, SE $\frac{1}{4}$, Section 2, 35.0 acres in the SW $\frac{1}{4}$, NW $\frac{1}{4}$, 16.0 acres in the SE $\frac{1}{4}$, NW $\frac{1}{4}$, Section 12, T. 36 S., R. 33 E., W.M.
	1907		900.5	Irrigation	Unnamed	Wildhorse Creek	8.3 acres in the SW $\frac{1}{4}$, NE $\frac{1}{4}$, 0.5 acre in the SE $\frac{1}{4}$, NE $\frac{1}{4}$, 7.0 acres in the NE $\frac{1}{4}$, SW $\frac{1}{4}$, 12.8 acres in the NE $\frac{1}{4}$, SE $\frac{1}{4}$, 14.0 acres in the NW $\frac{1}{4}$, SE $\frac{1}{4}$, 12.2 acres in the SW $\frac{1}{4}$, SE $\frac{1}{4}$, 18.9 acres in the SE $\frac{1}{4}$, SE $\frac{1}{4}$, Section 35, T. 35 S., R. 33 E., W.M. 24.1 acres in the NW $\frac{1}{4}$, NW $\frac{1}{4}$, 18.0 acres in the SW $\frac{1}{4}$, NW $\frac{1}{4}$, 12.4 acres in the NW $\frac{1}{4}$, SW $\frac{1}{4}$, 12.1 acres in the SW $\frac{1}{4}$, SW $\frac{1}{4}$, 3.5 acres in the SE $\frac{1}{4}$, SW $\frac{1}{4}$, Section 1, 27.5 acres in the NE $\frac{1}{4}$, NE $\frac{1}{4}$, 23.0 acres in the NW $\frac{1}{4}$, NE $\frac{1}{4}$, 13.9 acres in the SW $\frac{1}{4}$, NE $\frac{1}{4}$, 16.9 acres in the SE $\frac{1}{4}$, NE $\frac{1}{4}$, 4.0 acres in the SE $\frac{1}{4}$, NE $\frac{1}{4}$, 14.6 acres in the NW $\frac{1}{4}$, NW $\frac{1}{4}$, 15.3 acres in the SW $\frac{1}{4}$, NW $\frac{1}{4}$, 16.6 acres in the SE $\frac{1}{4}$, NW $\frac{1}{4}$, 17.3 acres in the NW $\frac{1}{4}$, SW $\frac{1}{4}$,

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
Gill Cattle Company continued							6.5 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, 5.3 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, 18.5 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, 17.4 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, 14.2 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3, 9.7 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 5.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 5.2 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, 7.5 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 6.3 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 11.2 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 8.8 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, 19.2 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 12.0 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 10.1 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 19.8 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 35.4 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 39.9 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, 32.4 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, 23.3 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 21.8 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, 8.5 acres in the S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, 22.8 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 11, 3.4 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, 6.7 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 19.8 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 11.7 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 13.9 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 21.3 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 6.2 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, 3.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, 0.2 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 12, 4.6 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 2.0 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 5.7 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 13.0 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 9.8 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 21.5 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 13, 15.5 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 9.3 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, 9.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, 13.7 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 3.0 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14, 37.8 acres in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 4.9 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 7.4 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, 2.4 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 1.0 acre in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 15, T. 36 S., R. 33 E., W.M.
Maxine Irwin 934 Locust Ave. Zanesville, Ohio Claim No. 10 Finding 31	1907		9.5	Irrigation	Unnamed	Wildhorse Creek	9.5 acres in the N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 11, T. 36 S., R. 33 E., W.M.
Frank McElhone, Betty McElhone and Mary N. Kueny Andrews, Oregon Claim No. 11	1883		115.5	Irrigation	Unnamed	Wildhorse Creek and Unnamed tributary	33.1 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 22.6 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 21.8 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, 38.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M.

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
Frank McElhone, Betty McElhone and Mary M. Kuery Andrews, Oregon Claim No. 12 Finding 26	1893		121.0	Irrigation	Unnamed	Wildhorse Creek and Unnamed tributary	0.2 acre in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 17.0 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, 35.4 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, 10.2 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, 6.6 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, 36.4 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, 15.2 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 11, T. 35 S., R. 33 E., W.M.
Claim No. 13 Finding 26	1899		5.7	Irrigation	Unnamed	Wildhorse Creek	3.2 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, T. 34 S., R. 33 E., W.M. 1.5 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 1.0 acre in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, T. 35 S., R. 33 E., W.M.
Pearl Penland Andrews, Oregon Claim No. 14 Contest No. 9 Findings 20 & 27	Feb. 6, 1918		30.0	Irrigation	Unnamed	Spring Creek and Wilson Creek	30.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 22, T. 35 S., R. 33 E., W.M.
Finding 30	Feb. 6, 1918	Confirming and modifying Water Right Certificate recorded Volume 4, page 3396, State Record of Water Right Certificates.					
45388 31542 John Henry Penland Andrews, Oregon Claim No. 15 Contests No's. 3 & 8 Findings 17, 28 & 30	1886		103.2	Irrigation	Unnamed	Stonehouse Creek	11.5 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 3.6 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 21.5 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, 32.3 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 18.8 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, 15.5 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M.
Claim No. 16 Contests No's. 3 & 8 Findings 17, 28 & 30	1904		40.0	Irrigation	Unnamed	Wildhorse Creek	40.0 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M.
Claim No. 17 Contests No's. 3 & 8 Findings 17 & 28	1885		70.0	Irrigation		Overflow & waste water only	35.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, 35.0 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 14, T. 35 S., R. 33 E., W.M.
Andrew J. Shull and Marjorie A. Shull Andrews, Oregon Claims No's. 18 & 20 Contest No. 6 Findings 15, 29 & 30	Claims No.'s 18 and 20 are predicated on water right applications 20591 and 25115, respectively, which were stipulated to be assigned to the Gill Cattle Company.						
Claim No. 19 Contest No. 7 Findings 15, 29 & 30	1890-1906 Modified - See Decree Vol. 15, page 448		97.0	Irrigation	Shull ditch through Kuery-Crump ditch	Wildhorse Creek	20.2 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, 36.8 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, 40.0 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 35, T. 35 S., R. 33 E., W.M.
Claim No. 21 Contests No's. 1 & 2 Findings 15, 16 & 29	1905		2.5	Irrigation	Unnamed	Andrews Creek	2.5 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 34, T. 35 S., R. 33 E., 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 Wildhorse 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 13th day of October, 1953.

CHAS. E. STRICKLIN
State Engineer