

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF DESCHUTES

IN THE MATTER OF THE DETERMINATION
OF THE RELATIVE RIGHTS TO THE USE
OF THE WATERS OF TUMALO CREEK,
A TRIBUTARY OF THE DESCHUTES RIVER.

NO. 519.

SUPPLEMENTAL DECREE
AND DETERMINATION

From the initiation of the legal proceedings as above entitled to the time of the organization of Deschutes County, all legal proceedings were conducted in the Circuit Court of Oregon for Crook County.

After the organization of Deschutes County such legal proceedings were in the Circuit Court of Oregon for Deschutes County. All claims for the use of the waters of Tumalo Creek are for, or in connection with, lands now in Deschutes County. Tumalo Creek and its tributaries from the point of origin thereof to the confluence with the Deschutes River, are entirely within Deschutes County.

In all decrees or orders of the Court prior hereto it has been determined that certain rights to the use of waters of Tumalo Creek have been perfected and vested. Certain other claims to the use of waters of said stream are recognized as inchoate.

On April 24, 1913, John H. Lewis, as State Engineer, and President of the Board of Control, together with James T. Chimcock, Superintendent of Water Division No. 1, and George T. Cochran, Superintendent of Water Division No. 2, made an order, under the seal of the Board of Control; extending the time for perfection of the inchoate rights to October 1, 1915.

By decree of the Circuit Court of Oregon for Crook County, entered under date of March 9, 1914, the Court approved and confirmed the order of the Board of Control.

No further action was taken in this proceedings until November 17, 1949. At that time the Deschutes County Municipal Improvement District filed in the office of the County Clerk of Deschutes County, an application for the extension of time for perfecting the inchoate rights to June 30, 1950.

The application of Deschutes County Municipal Improvement District was at once presented to the Circuit Court for said County and State and an order was made on November 17, 1949, granting the application as presented.

After June 30, 1950, the State Engineer of Oregon made his examination and investigation as to the perfection of the inchoate water rights previously determined. On May 15, 1953, he made his Supplemental Findings of Fact and Order of Determination. This apparently was filed in the office of the County Clerk of Deschutes County on May 18, 1953.

On May 20, 1953, the Circuit Court of Oregon for Deschutes County, by order, set August 3, 1953, as a date by which exceptions might be filed with the County Clerk of Deschutes County as to the Supplemental Findings of Fact and Order of Determination, made by the State Engineer of Oregon. This was continued from time to time. Finally on November 9, 1955, the Circuit Court

of Oregon for Deschutes County made an order setting time for the filing of exceptions as January 23, 1956, and directed that hearings be held on exceptions, if any, commencing thereafter.

The State Engineer of Oregon gave notice, by registered mail, on May 26, 1953, to those claiming inchoate rights to the use of waters of Tumalo Creek to file their written exceptions by August 3, 1953, and at that time the Court would set a date for hearing upon such exceptions.

Only one exception was filed by August 3, 1953, or by January 23, 1956, the date set by the Court for filing such exceptions. The exception is that of L. L. McDaniel. It is directed to the failure of the State Engineer to allow his claim to water for the irrigation of land in the Northeast Quarter of the Northeast Quarter and the Southeast Quarter of the Northeast Quarter, all in Section 35, Township 16 South, Range 11 EWM. This is shown in Finding No. 14, at pages 8 and 9 of the Supplemental Findings of Fact and Order of Determination of the State Engineer.

The claim of L. L. McDaniel is made for water for irrigation of land within each subdivision of the Northeast Quarter of Section 35, Township 16 South, Range 11 EWM. He takes exception to the disallowance of any water right for the Northeast Quarter of the Northeast Quarter of said S section, and to the allowance of but 4.7 acres of water right for the Southeast Quarter of the Northeast Quarter of said section. No exception is taken by Mr. McDaniel to the allowances made for the Northwest Quarter of the Northeast and the Southwest Quarter of the Northeast Quarter of said section.

It will be noted in the decree of Judge W. L. Bradshaw, in this matter, under date of May 5, 1911, at page 15 of such decree, an inchoate water right was allowed for the Northeast Quarter of Section 35, Township 16 South, Range 11 EWM and for the Northeast Quarter of Section 3, in Township 17 South, Range 11 EWM, all under the name of Charles J. Mock, in the amount of 225 acres. There was no designation made as to what part of this inchoate water right was allowed for land in either section or any subdivision thereof.

Hearing was held upon the exceptions of L. L. McDaniel, as above mentioned, on February 9, 1956. At that time, and in a session of the Court, the claimant presented evidence in his own behalf.

By the time the hearings were completed the Court requested an examination of the written transcript of the testimony submitted by Mr. McDaniel. The testimony was transcribed and filed with the County Clerk on November 18, 1957. The Court has had access thereto from that date.

From the evidence presented in behalf of claimant I find that as early as between 1922 and 1925, inclusive, there was cleared, cultivated, seeded and irrigated an acreage in each 40 acre subdivision in excess of that claimed by L. L. McDaniel. This is shown upon the map of the State Engineer as being in cultivation but not as being irrigated. I find that, at least, such acreage has been irrigated in other years prior to June 30, 1950. I find no evidence of abandonment of such irrigation at any time by the claimant, Mr. McDaniel, or by his predecessors in interest.

Based upon the testimony presented to the Court I conclude that in the Northeast Quarter of the Northeast Quarter of Section 35, Township 16 South, Range 11 EWM the claimant and his predecessors in interest had cleared, prepared for cultivation, had seeded and placed under irrigation 24.4 acres of land prior to June 30, 1950.

I further conclude that in the Southeast Quarter of the Northeast Quarter of Section 35, Township 16 South, Range 11 EWM, the claimant or his predecessors in interest cleared, prepared for cultivation, seeded to crops and irrigated a total of 20 acres prior to June 30, 1950.

BASED UPON THE FOREGOING FINDINGS AND CONCLUSIONS,

IT IS DECREED that a water right is allowed for the Northeast Quarter of the Northeast Quarter for 24.4 acres and for the Southeast Quarter of the Northeast Quarter for 20 acres and that the tabulation show such allowances.

The Court affirms and approves the order of the State Engineer of Oregon as shown in his Supplemental Findings of Facts and Order of Determination, and including his tabulations, except as to the claim of said L. L. McDaniel.

BASED UPON the Supplemental Findings of Fact and Order of Determination of the State Engineer of Oregon, with the modification thereof as above set forth, the following is a Tabulation of the water rights which are before the Court in this matter, with all essential details. They are 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
Deschutes County Municipal Improvement District Route 2, Box 79 Bend, Ore.	Aug. 5, 1900	3.679	257.6	Irrigation and Domestic	Tumalo Canal, Columbia Southern Canal & Laterals	Tumalo Creek	(See description of land of individual land- owners following)
	Sept. 1900	23.997	1822.0	"	"	"	
	April 28, 1905	1.870	130.9	"	"	"	
	May 27, 1907	0.474	33.2	"	"	"	
	June 1, 1907	15.703	1099.05	"	"	"	
S. T. Bristow	Sept. 1900	0.278	19.5				16.4 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 3.1 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7
	June 1, 1907	0.109	7.6				7.6 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7 T. 16 S., R. 12 E., W.M.
O. C. McDowell	Sept. 1900	0.285	30.5	T-5098 A POU 3 $\frac{1}{2}$ ac NESW; 1 $\frac{1}{2}$ ac SESW			12.1 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 18.4 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7
	June 1, 1907	0.190	13.3				13.3 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7 T. 16 S., R. 12 E., W.M.
E. W. Putnam	Sept. 1900	0.518	55.3	25 $\frac{1}{2}$ ac Section 7			29.8 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 25.5 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 7 T. 16 S., R. 12 E., W.M.
H. S. Applegate	Sept. 1900	0.285	30.4				11.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 19.4 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 7 T. 16 S., R. 12 E., W.M.
James Mulvahill <i>T-5122 A POU 10$\frac{1}{2}$ ac</i>	Sept. 1900	0.574	40.2				11.2 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 29.0 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 8 T. 16 S., R. 12 E., W.M.
John L. Jones	June 1, 1907	0.286	20.0				20.0 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 8 T. 16 S., R. 12 E., W.M.
R. V. Gillispie	June 1, 1907	1.103	77.2				39.4 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 8 37.8 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 9 T. 16 S., R. 12 E., W.M.
George Heilman <i>T-5122 A POU 10$\frac{1}{2}$ ac</i>	Sept. 1900	0.628	67.0				34.2 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 32.8 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 8 T. 16 S., R. 12 E., W.M.
Lester Garbutt <i>T-5467 A POU</i>	Sept. 1900	0.283	19.8				19.8 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 8 T. 16 S., R. 12 E., W.M.
Stanley Bride <i>T-5646 A POU 10$\frac{1}{2}$ ac (6/1/1907)</i>	Sept. 1900	0.329	23.0				23.0 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$
	June 1, 1907	0.226	15.8				15.8 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 8 T. 16 S., R. 12 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
Dr. R. F. Jones	Sept. 1900	0.364	25.5				14.4 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 11.1 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 8
	June 1, 1907	0.249	17.4				9.9 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 7.5 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 8 T. 16 S., R. 12 E., W.M.
Earl C. Gurnesy	June 1, 1907	1.104	77.3				38.8 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 38.5 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 9 T. 16 S., R. 12 E., W.M.
M. A. Piercy	Sept. 1900	0.789	55.2				33.0 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 22.2 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 16 T. 16 S., R. 12 E., W.M.
Deschutes County Municipal Improvement District	Sept. 1900	0.210	14.7	(T-50) 0.6 11.7 11.5 p. 112			0.6 acre in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 35 T. 16 S., R. 11 E., W.M.
	June 1, 1907	1.320	92.4	(T-50) 6.9 11.4 11.4 p. 123			6.0 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 1 5.6 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 2.5 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 11 T. 17 S., R. 11 E., W.M. 7.3 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 22 35.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 38.5 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 24 T. 16 S., R. 11 E., W.M.
L. L. Lindsay	June 1, 1907	0.551	38.6				11.6 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 17 T. 16 S., R. 12 E., W.M.
L. E. Barnet	Sept. 1900	0.226	15.8				38.6 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 17 T. 16 S., R. 12 E., W.M.
	June 1, 1907	0.274	19.2				15.8 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 17 T. 16 S., R. 12 E., W.M.
Fred C. Shepard	June 1, 1907	0.806	56.4	(1) T-7121 A POU 6 $\frac{3}{4}$ ac			19.2 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 17 T. 16 S., R. 12 E., W.M.
	Sept. 1900	0.530	37.1				(1) 31.2 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 25.2 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 17 37.1 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 18 T. 16 S., R. 12 E., W.M.
Delmer Davis	Sept. 1900	0.165	17.6				2.4 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 15.2 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13 T. 16 S., R. 11 E., W.M.
	June 1, 1907	1.050	73.5				26.5 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 15.5 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 31.5 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 17 T. 16 S., R. 12 E., W.M.
E. C. Wagner	Sept. 1900	0.250	17.5				17.5 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 17 T. 16 S., R. 12 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
Lee E. Putnam	Sept. 1900	0.559	39.1				39.1 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 18 T. 16 S., R. 12 E., W.M.
	June 1, 1907	0.554	38.8				38.8 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 18 T. 16 S., R. 12 E., W.M.
Bernard Hunt	Sept. 1900	0.550	38.5				38.5 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 18 T. 16 S., R. 12 E., W.M.
	June 1, 1907	0.023	1.6				1.6 acre in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 18 T. 16 S., R. 12 E., W.M.
C. M. Barnum	Sept. 1900	0.100	7.0				7.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 18 T. 16 S., R. 12 E., W.M.
	June 1, 1907	0.389	27.2				27.2 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 18 T. 16 S., R. 12 E., W.M.
R. A. Gridley T-4854-A POU 2 ² ec	June 1, 1907	0.207	17.3				17.3 acres Lot 3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$) Section 18 T. 16 S., R. 12 E., W.M.
O. B. Twigg	June 1, 1907	0.643	59.0				27.0 acres Lot 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$) 32.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 18 T. 16 S., R. 12 E., W.M.
G. C. Gibson	June 1, 1907	0.429	30.7				30.7 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18 T. 16 S., R. 12 E., W.M.
O. A. Johnson	June 1, 1907	0.433	30.3				30.3 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18 T. 16 S., R. 12 E., W.M.
J. J. Naylor	June 1, 1907	0.443	31.0				31.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18 T. 16 S., R. 12 E., W.M.
J. A. Smith	June 1, 1907	0.446	31.2			Sp. Or. V. 43, p. 492 T-6154, -4e	31.2 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18 T. 16 S., R. 12 E., W.M.
Wm. Kirkpatrick T-3127	Sept. 1900	0.050	3.5				3.5 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 19 T. 16 S., R. 12 E., W.M.
Lyle Bowers T-4969	Sept. 1900	0.209	14.6				14.6 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 19 T. 16 S., R. 12 E., W.M.
O. A. Wilson	Sept. 1900	0.5454	31.8				31.8 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 19 T. 16 S., R. 12 E., W.M.
W. L. Kurtz	Sept. 1900	0.910	63.7			105 Ac. 1/2 Sp. Or. V. 43, p. 492	32.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$ 31.7 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 19 T. 16 S., R. 12 E., W.M.
C. B. Jenkins	Sept. 1900	0.253	17.7				17.7 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 19 T. 16 S., R. 12 E., W.M.
L. W. Parkhurst	Sept. 1900	0.906	63.4				16.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 34.1 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 13.3 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 31, T. 16 S., R. 12 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
E. W. Strunk	April 28, 1905	0.323	22.6				8.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12 T. 17 S., R. 11 E., W.M. 14.6 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7 T. 17 S., R. 12 E., W.M.
City of Bend	Sept. 1900	0.727	50.9				26.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 6 T. 16 S., R. 12 E., W.M. 1.9 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 23.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 2 T. 17 S., R. 11 E., W.M.
	June 1, 1907	0.023	1.6				1.6 acre in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 1 T. 16 S., R. 11 E., W.M.
Joe C. Henry	Sept. 1900	0.024	1.7				1.7 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12 T. 16 S., R. 11 E., W.M.
	June 1, 1907	0.283	19.8				19.8 acres Lot 2 (SW $\frac{1}{4}$ NW $\frac{1}{4}$) Section 7 T. 16 S., R. 12 E., W.M.
Warren Higginbotham	Sept. 1900	0.410	26.7				4.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12 24.7 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13 T. 16 S., R. 11 E., W.M.
	June 1, 1907	0.374	26.2				17.3 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12 8.9 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13 T. 16 S., R. 11 E., W.M.
Paul Williams	Sept. 1900	0.583	62.2	(1) T-7832 A POU 12 ^{ac} (2) T-7832 A POU 7 ^{ac} (3) T-5022 A POU 5 ^{ac}			(1) 19.2 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ (2) 31.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ (3) 12.0 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13 T. 16 S., R. 11 E., W.M.
C. A. Foute	Sept. 1900	0.286	30.5				23.0 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 7.5 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13 T. 16 S., R. 11 E., W.M.
Kenneth Wortman	Sept. 1900	0.610	42.7				10.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 23.2 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14 9.5 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15 T. 16 S., R. 11 E., W.M.
							T-5643 A POU 12 ^{ac} SW NW, Sec 14
Harold Bryson	Sept. 1900	0.372	39.7				24.4 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 2.4 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 12.9 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 15 T. 16 S., R. 11 E., W.M.
J. M. Johnson	Sept. 1900	0.504	35.3				35.3 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 21 T. 16 S., R. 11 E., W.M.
							T-5088 A POU 5 ^{ac}

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
J. W. Martin <i>T-5088 A POU 0² ac NESE; 1² ac SESE</i>	Sept. 1900	0.229	16.0				10.5 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 5.5 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21 T. 16 S., R. 11 E., W.M.
C. O. Dobbins <i>T-5467 A POU 4⁰ ac NWNE T-5401 A POU 4⁰ ac NWNE Amended Sp. of V. 41, p. 187</i>	Sept. 1900	0.844	59.1				15.3 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 31.4 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 12.4 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 22 T. 16 S., R. 11 E., W.M.
	April 28, 1905	0.296	20.7				20.7 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 22 T. 16 S., R. 11 E., W.M.
R. W. Denning	Sept. 1900	0.229	16.0				16.0 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22 T. 16 S., R. 11 E., W.M.
	June 1, 1907	0.400	28.0				28.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22 T. 16 S., R. 11 E., W.M.
J. A. McCullough <i>T-4887 A POU 7⁰ ac NWSW T-4890 A POU 4⁰ ac SWSW (T-5597 A POU T-4890)</i>	Sept. 1900	0.667	46.7				12.5 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 15.1 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 19.1 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 22 T. 16 S., R. 11 E., W.M.
Donald L. McClean <i>T-7227 A POU 2⁰ ac SWSW</i>	Sept. 1900	0.503	35.2				12.2 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 23.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 22 T. 16 S., R. 11 E., W.M.
Susan B. Turner <i>T-7111 A POU 2⁰ ac SWSW V32 p. 499 T-4051 1⁰ ac Sp. of V. 40, p. 282 of 1st</i>	Sept. 1900	0.571	40.0				40.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26 T. 16 S., R. 11 E., W.M.
C. L. Allen <i>T-5824 A POU 10⁰ ac SWSW</i>	June 1, 1907	0.380	26.6				5.3 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 8.8 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 12.5 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 23 T. 16 S., R. 11 E., W.M.
Edward Lake <i>T-5020 A POU 1⁰ ac SENW</i>	Sept. 1900	0.561	39.3				9.9 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 17.2 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 12.2 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 24 T. 16 S., R. 11 E., W.M.
Clarence Stewart	Sept. 1900	0.521	36.5		<i>T-4830 A POU 6⁰ ac NSESE T-5330 A POU 1⁰ ac NESE</i>		36.5 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 24 T. 16 S., R. 11 E., W.M.
	June 1, 1907	0.234	16.4				16.4 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 24 T. 16 S., R. 11 E., W.M.
R. G. Anliker	April 28, 1905	0.556	38.9				38.9 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 25 T. 16 S., R. 11 E., W.M.
James Whitlock <i>Sp. of Sp. of V. 12, p. 114</i>	Sept. 1900	0.479	33.5				33.5 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 27 T. 16 S., R. 11 E., W.M.
J. R. Cowan	Sept. 1900	0.330	23.1		<i>T-4991 A POU 2⁰ ac SWSW</i>		23.1 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 25 T. 16 S., R. 11 E., W.M.
	June 1, 1907	0.501	35.1				35.1 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 26 T. 16 S., R. 11 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
Lee Allen <i>T-5298 A POU 10² ac SWNW, Sec 26</i>	Sept. 1900	1.400	98.0				38.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26 20.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 27 T. 16 S., R. 11 E., W.M.
	April 28, 1905	0.423	29.6				29.6 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 26 T. 16 S., R. 11 E., W.M.
	June 1, 1907	0.086	6.0				6.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 27, T. 16 S., R. 11 E., W.M.
L. E. Newton	Sept. 1900	0.550	38.5				38.5 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 26 T. 16 S., R. 11 E., W.M.
F. B. Holloway	April 28, 1905	0.211	14.8				14.8 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 26 T. 16 S., R. 11 E., W.M.
	June 1, 1907	0.343	24.0				24.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 26 T. 16 S., R. 11 E., W.M.
Ray Bessey	Sept. 1900	0.411	28.8		<i>T-2937 A POU 15¹ ac NW</i>		17.8 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 11.0 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 27 T. 16 S., R. 11 E., W.M.
Charles Porter	August 5, 1900	0.540	37.8				25.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 12.8 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 27 T. 16 S., R. 11 E., W.M.
	Sept. 1900	0.484	33.9				8.6 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 25.3 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 27 T. 16 S., R. 11 E., W.M.
	June 1, 1907	0.306	21.4				21.1 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 0.3 acre in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 27 T. 16 S., R. 11 E., W.M.
Sid Rogers <i>T-4123 A POU 8² ac T-4124 A POU 1⁶ ac SWSW</i>	Aug. 5, 1900	0.384	26.9				*9.9 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 17.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 27 T. 16 S., R. 11 E., W.M.
Roy Clark <i>T-4889 A POU 0⁵ ac NWNE, Sec 34 T-5051 A POU 9² ac NWNE, Sec 34</i>	Sept. 1900	0.829	58.0				25.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 27 33.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 34 T. 16 S., R. 11 E., W.M.
	June 1, 1907	0.206	14.4				1.8 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 27 T. 16 S., R. 11 E., W.M. 12.6 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 34 T. 16 S., R. 11 E., W.M.
Mrs. F. L. Hall	Sept. 1900	0.250	17.5				6.4 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 11.1 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28 T. 16 S., R. 11 E., W.M.
	June 1, 1907	0.223	15.6				5.6 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 10.0 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28 T. 16 S., R. 11 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
Mrs. Frances Rippan	Aug. 5, 1900	0.424	29.0				29.0 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28 T. 16 S., R. 11 E., W.M.
W. A. Howe	Aug. 5, 1900	0.397	27.8				27.8 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28 T. 16 S., R. 11 E., W.M.
T-5695 A POU 2 $\frac{1}{2}$ ac							
M. A. Couch	Sept. 1900	0.079	5.5				5.5 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33 T. 16 S., R. 11 E., W.M.
W. D. Collins	Aug. 5, 1900	1.141	79.9		T-2559 14 $\frac{1}{2}$ ac Amended Sp. Or. V 36, p 606 T-5596 14 $\frac{1}{2}$ ac T-5598 14 $\frac{1}{2}$ ac T-2559 14 $\frac{1}{2}$ ac Amended Sp. Or. V 36, p 606		36.7 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33 29.8 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33 10.3 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34 3.1 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 34 T. 16 S., R. 11 E., W.M.
T-7958 A POU 15 $\frac{1}{2}$ ac NE SE, S 2 $\frac{1}{2}$ ac SE SE, "							
T-4967							
T-5296 A POU 18 $\frac{1}{2}$ ac SE SE, S 2 $\frac{1}{2}$ ac							
T-5694 A POU 2 $\frac{1}{2}$ ac SE SE, S 2 $\frac{1}{2}$ ac							
J. A. McKinnon	August 5, 1900	0.803	56.2				34.4 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34 21.8 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34 T. 16 S., R. 11 E., W.M.
T-5392 A POU 2 $\frac{1}{2}$ ac N ENW							
T-5707 A POU 2 $\frac{1}{2}$ ac SE NW							
D. W. Rutherford	Sept. 1900	0.157	11.0		T-7796 A POU 3 $\frac{1}{2}$ ac T-7989 A POU 1 $\frac{1}{2}$ ac		11.0 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 34 T. 16 S., R. 11 E., W.M.
L. L. McDaniel	Sept. 1900	0.750	80.0		T-5875 A POU 0 $\frac{1}{2}$ ac SW NE		24.4 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35 12.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35 23.6 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35 20.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35 T. 16 S., R. 11 E., W.M.
T-5087 A POU 4 $\frac{1}{2}$ ac NENE 2 $\frac{1}{2}$ ac NNNE 5 $\frac{1}{2}$ ac SW NE 2 $\frac{1}{2}$ ac SE NE							
G. P. Allison	June 1, 1907	0.281	19.7				19.7 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35 T. 16 S., R. 11 E., W.M.
Kenneth Moison	June 1, 1907	0.131	9.2				9.2 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35 T. 16 S., R. 11 E., W.M.
F. N. Bodtker	Sept. 1900	0.134	9.4				6.8 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 1 2.6 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 1 T. 17 S., R. 11 E., W.M.
E. W. Armstrong	Sept. 1900	0.291	20.4				15.6 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 1 4.8 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 1 T. 17 S., R. 11 E., W.M.
T-5049 A POU 0 $\frac{1}{2}$ ac NNNE							
T-5293 A POU 7 $\frac{1}{2}$ ac NENN							
T-5392 A POU 0 $\frac{1}{2}$ ac NNNE							
	June 1, 1907	0.464	32.45				32.45 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 1 T. 17 S., R. 11 E., W.M.
Ralph McLean	June 1, 1907	0.383	26.8		T-7829 A POU 7 $\frac{1}{2}$ ac		26.8 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 2 T. 17 S., R. 11 E., W.M.
W. L. Wilson	Sept. 1900	0.507	35.5				35.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12 T. 17 S., R. 11 E., W.M.
A. J. Halter	April 28, 1905	0.061	4.3				3.2 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 12 1.1 acre in NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12 T. 17 S., R. 11 E., W.M.
F. J. Brennan	May 27, 1907	0.474	33.2				13.2 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 13 10.0 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 13 4.4 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13 5.6 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13 T. 17 S., R. 11 E., W.M.
T-5019 A POU 2 $\frac{1}{2}$ ac SW NE							

BASED UPON THE FINDINGS AND THE LAW APPLICABLE THERETO, AND IN ACCORDANCE WITH THE SPECIAL FINDINGS MADE BY THE COURT OR AFFIRMED BY IT AND SHOWN IN THE TABULATION HEREIN:

IT IS HEREBY DETERMINED AND DECREED That the relative rights of the various claimants to the use of the waters of Tumalo Creek in Deschutes County, Oregon, be and the same are HEREBY ADJUDICATED, DETERMINED, SETTLED AND VESTED as herein before set forth in the tabulation.

Dated at Bend, Oregon, this August 27, 1958.

Ralph B. Hamilton
Circuit Judge

STATE OF OREGON)
) ss.
County of Deschutes)

I, Helen M. Dacey, County Clerk of Deschutes County, Oregon, and Ex-Officio Clerk of the Circuit Court of the State of Oregon, for Deschutes County, do hereby certify that the foregoing and attached copy of IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS TO THE USE OF THE WATERS OF TUMALO CREEK, A TRIBUTARY OF THE DESCHUTES RIVER, Case #519 has been by me compared with the original as above listed now on file and of record in my office and that it is a true, full and correct copy and transcript therefrom and of the whole thereof of such original as above listed.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Circuit Court this 30th day of Sept, 1958.

Helen M. Dacey, Clerk
By _____, Deputy

S E A L

STATE OF OREGON)
) ss.
County of Marion)

I, LEWIS A. STANLEY, State Engineer of the State of Oregon, do hereby certify that the foregoing copy of decree of the Circuit Court for Deschutes County, Oregon, in the matter of the determination of the relative rights to the Use of the Waters of Deschutes River and its tributaries, is a true and correct copy of the certified copy of such decree as the same was received in this office and entered of record herein this 2nd day of October, 1958.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of October, 1958.

Lewis A. Stanley
LEWIS A. STANLEY
State Engineer