

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

IN THE MATTER OF THE DETERMINATION)
OF THE RELATIVE RIGHTS TO THE USE)
OF THE WATERS OF UMATILLA RIVER AND)
ITS TRIBUTARIES, TRIBUTARY OF)
COLUMBIA RIVER.)

SUPPLEMENTAL DECREE
ON INCHOATE RIGHTS.

Now at this time the above-entitled matter coming before the Court for entry of Decree upon the Findings of Fact and Order of Determination of the State Engineer as to the extent to which the inchoate water rights allowed by this Court in its Decree dated the 9th day of September, 1916, have been perfected in accordance with the Oregon Water Rights Act, and this Court having heretofore on January 3, 1961, heard the arguments of counsel and the testimony of the exceptors and objectors to said Findings of Fact and Order of Determination of the State Engineer, being now fully advised in the premises and having entered its Oral Opinion on the 16th day of February, 1961;

IT IS CONSIDERED, ORDERED, ADJUDGED AND DECREED:

- (a) That the exceptions and objections of all claimants, be, and they hereby are denied, except as hereinafter allowed.
- (b) That the proceedings of the State Engineer in this matter, be, and the same hereby are approved as hereinafter amended.
- (c) That the Findings of Fact and Order of Determination of the State Engineer, as filed in this Court on the 15th day of December, 1953, are hereby made the Findings and Order of Determination of this Court, subject however, to the following modifications:

I

That, relative to the petition and objection filed by A. J. Vey, Trustee of the Estate of Joseph Ramos, deceased, the State Engineer has filed with this Court a statement as to the validity of said petition and has recommended to the Court that certain additional acreage, which was classified as irrigated land on the State Engineer's adjudication map, but which was inadvertently omitted on the objector's statement and proof of claim filed in this proceeding, be allowed a water right. The Court having reviewed said petition and statement of the State Engineer relative thereto, finds that said certain lands which were not allowed in the Findings of Fact and Order of Determination of the State Engineer, have, and are being irrigated in completion of the inchoate water right allowed by this Court, in accordance with the tabulation of acreage as set out in the State Engineer's

statement relative to objector's petition, and there being no objections thereto, it is hereby ordered that the right of the Estate of Joseph Ramos and Mary Ramos, as set out in the tabulation of rights allowed, appearing on page 53 of the Findings of Fact and Order of Determination of the State Engineer, be, and the same hereby is amended and modified to include the lands as set out in the following tabulation:

Priority	Number Acres	Use	Name of Ditch	Stream	Description of Lands
80980 Dec. 15 1904	30.0	Irrigation	Wilson	Umatilla River	1.2 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ 1.0 acre in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 21 1.6 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ being within that portion lying southwest of the Railroad right-of-way. 2.2 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ 10.5 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ 12.7 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ 0.8 acre in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ lying northeast of the railroad right-of-way. Section 22 T. 3 N., R. 29 E., W.M.

II

Relative to the petition of Frank Correa, Sr. the Court finds that, in addition to the acreage allowed by the Findings of Fact and Order of Determination of the State Engineer, as set out in the tabulation of acreage appearing on page 55, opposite the name of Frank Correa, Sr., under the right of the Pioneer Irrigation Company of Stanfield, Oregon, an additional 8.0 acres have been irrigated, being 4.0 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 4.0 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$. Section 8. T. 3 N., R. 29 E., W.M.

Now therefore it is hereby ordered that the award in the name of the Pioneer Irrigation Company appearing on Page 53, be, and the same hereby is amended to read as follows:

Name	Priority	Number Acres	Use	Name of Ditch	Stream	Description of Lands
Pioneer Irrigation Company Stanfield, Oregon	Jan. 9 1900	196.4	Irriga- tion	Pioneer Canal	Umatilla River	(See under names of individual landowners following)

and that the award in the name of Frank Correa, Sr., landowner under said Pioneer Irrigation Company, appearing on page 55, be, and the same hereby is amended and modified to read as follows:

Name	Priority	Number Acres	Use	Name of Ditch	Stream	Description of Lands
Frank Correa, Sr.		26.0				8.5 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ 4.0 acres in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ 8.0 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ 5.5 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 8 T. 3 N., R. 29 E., W.M. all being located west of the Umatilla River.

III

Relative to the petition of the Westland Irrigation District, the Court finds that said petition, in general, should be, and the same hereby is in all particulars, denied. The Court further finds that, from the testimony and evidence adduced herein, certain individual landowners under said District are entitled to an allowance of acreage awarded a water right in addition to that set out in the tabulation of acreage in the Findings of Fact and Order of Determination of the State Engineer, appearing on pages 60 to 64, inclusive, thereof, as follows:

Relative to the testimony of Maurice Hall, owner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, T. 5 N., R. 28 E., W.M., who asserted that he irrigates a total of 20.0 acres of land within said sub-division, it appears that the State Engineer classified only 9.0 acres as irrigated, all lying southeast of the ditch which is shown on the State Engineer's map as traversing said sub-division in a northeasterly direction.

In the tabulation of acreage under the Westland Irrigation District, said 9.0 acres was not tabulated for the reason that the original Umatilla River Decree of September 9, 1916, allowed a vested right for 10.0 acres appurtenant to said SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32, T. 5 N., R. 28 E., W.M.

From the testimony adduced, the Court finds that an additional 9.0 acres should be allowed appurtenant to said SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32. It therefore, is ordered that the allowance within Section 32, T. 5 N., R. 28 E., W.M., appearing on page 64 of the tabulation of irrigated acreage, be, and the same hereby is amended and modified by the addition of 9.0 acres within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section, so that the tabulation as amended shall read as follows:

9.0 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$
29.6 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$
22.8 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 32
T. 5 N., R. 28 E., W.M.

Relative to the testimony of Charles McKenzie, owner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, T. 5 N., R. 28 E., W.M., who asserted that he irrigated a total of 15.0 acres within said subdivision instead of the 4.5 acres as shown by the State Engineer's survey and as set out in the tabulation of acreage appearing on page 64 thereof, the Court finds that an additional 10.5 acres should be awarded within said subdivision, in accordance with the testimony adduced.

It therefore is ordered that the tabulation of acreage irrigated appurtenant to Section 33, T. 5 N., R. 28 E., W.M., appearing on page 64 of the Findings of Fact and Order of Determination of the State Engineer, be, and the same hereby is amended and modified so as to read as follows:

11.0 acres in the NE¹/₄SW¹/₄
15.0 acres in the SE¹/₄SW¹/₄
Section 33
T. 5 N., R. 28 E., W.M.

Relative to the testimony of Robert B. Dickenson, owner of the SE¹/₄SE¹/₄, Section 8, T. 4 N., R. 28 E., W.M., lying west of the Umatilla River, who asserted that he has irrigated 25.0 acres within said sub-division whereas the State Engineer's has made no allowance appurtenant to said sub-division, the Court finds that, from the testimony adduced, an allowance of 25.0 acres, appurtenant to said sub-division should be made. It therefore is ordered that the tabulation of acreage irrigated appurtenant to Section 8, T. 4 N., R. 28 E., W.M., appearing on page 63 of the Findings of Fact and Order of Determination of the State Engineer, be, and the same hereby is amended and modified by the addition of

25.0 acres in the SE¹/₄SE¹/₄

immediately following the acreage there tabulated appurtenant to Section 8, T. 4 N., R. 28 E., W.M.

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It is further ordered that the total acreage of the Westland Irrigation District of July 1907 priority, appearing on page 62 of the Findings of Fact and Order of Determination, be, and the same hereby is increased by the addition of the above increased awards of 52.5 acres, from 2539.6 acres to 2592.1 acres.

IV

That, upon request of the State Engineer for the correction of certain typographical errors appearing in the Findings of Fact and Order of Determination, which were detected and called to the attention of the Court prior to the hearing before the Court, the Court having considered the matter, finds that the requested corrections are valid and should be made, it therefore is ordered that the following corrections of typographical errors, be, and the same hereby are made:

(a) On page 53, under Finding No. 15 in the name of the Dillon Irrigation Company, Stanfield, Oregon, "T. 3 N., R. 28 E., W.M." shall be inserted in the next line immediately below "Section 1" so that the acreage there tabulated shall appear as appurtenant to Section 1, T. 3 N., R. 28 E., W.M.

(b) On page 27 under the name of Ernest Dumond, "T. 3 N., R. 29 E., W.M." appearing in the second line of the first paragraph, shall be corrected to read "T. 4 N., R. 29 E., W.M."

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED: that, in accordance with said Findings of Fact and Order of Determination of the State Engineer, as

modified and amended herein, the various claimants are entitled to the use of the waters of Umatilla River and its tributaries as contained in these findings and this Decree, and they, and their successors and assigns, and all persons, firms and corporations claiming under them, are hereby enjoined and prohibited from using any of the waters of said stream system in any other amount, manner and priorities than herein found, nor upon any lands or place of use other than herein set out and described without first having complied with the provisions of ORS 540.510 to 540.550 inclusive, or statutory legislation supplementary thereto.

ENTERED in open Court this 1st day of September, 1961.

/sgd/ William W. Wells
Circuit Judge.

STATE OF OREGON)
County of Umatilla) ss.

I, Jessie M. Bell, County Clerk in and for the said County and State, and ex-officio Clerk of the Circuit Court of the State of Oregon for Umatilla County, do hereby certify that the foregoing copy of instrument has been by me compared with the original, and that it is a correct transcript therefrom, and of the whole of such original as the same appears of record and on file at my office and in my custody.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 5th day of September, 1961.

/sgd/ Jessie M. Bell
Clerk.

By /sgd/ Fern Masters
Deputy

STATE OF OREGON)
County of Marion) ss.

I, LEWIS A. STANLEY, State Engineer of the State of Oregon, do hereby certify that the foregoing copy of Decree of the Circuit Court In the Matter of the Determination of the Relative Rights to the Use of the Waters of Umatilla River and Its Tributaries, Tributary of Columbia River, is a full and correct copy of such decree as the same was received in this office and entered of record herein this 6th day of September, 1961.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of September, 1961.



LEWIS A. STANLEY

State Engineer