

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF JACKSON

IN THE MATTER OF THE DETERMINATION )  
OF THE RELATIVE RIGHTS TO THE WATER )  
OF ROGUE RIVER AND ITS TRIBUTARIES )

No. 1203-E

ORDER CORRECTING DECREE

This matter coming on to be heard upon the motion of E.H. McNabb and Isabell McNabb to correct the decree entered in the above entitled suit dated April 26, 1919, insofar as the same pertains to the adjudication of water rights to W. T. Bostwick and which adjudication appears on page 6, column 2, of the printed form of decree of April 26, 1919 by striking therefrom the following description to-wit:

8 acres in the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$ ; 5 acres in the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 38 South, Range 1 East of the Willamette Meridian, Jackson County, Oregon.

and inserting in lieu thereof the following description, to-wit:

4.5 acres in the Northeast 1/4 of the Southeast 1/4 of Section 31, Township 38 South, Range 1 East of the Willamette Meridian in Jackson County, Oregon.

AND 8.5 acres in the Northwest 1/4 of the Southwest 1/4 of Section 32, Township 38 South, Range 1 East of the Willamette Meridian in Jackson County, Oregon.

and it appearing to the court that there has been filed in support of said motion the affidavit of David C. Hendrix, Water Master of Jackson County, Oregon, showing that said decree of April 26, 1919 contained an erroneous description as to the description of said water right and that the said described right actually falls upon real property located a great distance from the property of said E. H. McNabb and Isabell McNabb, and

It further appearing from the affidavit of the said David C. Hendrix and from the plat of that certain study of the **subject** property completed by said David C. Hendrix in October, 1963 which revealed the true and correct description of what should have been shown in said decree is the following described property, to-wit:

4.5 acres in the Northeast 1/4 of the Southeast 1/4 of Section 31, Township 38 South, Range 1 East of the Willamette Meridian in Jackson County, Oregon.

AND 8.5 acres in the Northwest 1/4 of the Southwest  $\frac{1}{4}$  of Section 32, Township 38 South, Range 1 East of the Willamette Meridian in Jackson County, Oregon.

And it further appearing to the Court from the affidavit of the petitioners, E. H. McNabb and Isabell McNabb and from the affidavit of David C. Hendrix, that said adjudicated water right has always been used by all of the successors in interest to the said real property owned by the said E. H.

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McNabb and Isabell McNabb and has always been applied upon the two portions of real property above described, and

It further appearing to the court that the error in description sought to be corrected by the motion of E. H. McNabb and Isabell McNabb is one in description and that based upon the affidavit of said E. H. McNabb and Isabell McNabb and the affidavit of said David C. Hendrix, it would be physically impossible for said water right to be used upon the property described in the said decree dated April 26, 1919 and that said description should be conformed to the facts presented to the court at the time of the hearing and proceedings of the above entitled suit and that the court has jurisdiction at this time to correct said description to conform to the facts on file herein.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the decree in the above entitled suit, dated April 26, 1919 be, and the same hereby is corrected and amended in the following particulars:

1. By striking from the original decree dated April 26, 1919, on file in the office of the County Clerk of Jackson County, the following description relative to the adjudication of the water rights to W. T. Bostwick, to-wit:

8 acres in the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$ ; 5 acres in the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 38 South, Range 1 East of the Willamette Meridian, Jackson County, Oregon.

and correcting and inserting in lieu thereof the following description, to-wit:

4.5 acres in the Northeast 1/4 of the Southeast 1/4 of Section 31, Township 38 south, Range 1 East of the Willamette Meridian in Jackson County, Oregon.

AND 8.5 acres in the Northwest 1/4 of the Southwest 1/4 of Section 32, Township 38 South, Range 1 East of the Willamette Meridian in Jackson County, Oregon

2. By correcting the printed copy of said decree of April 26, 1919 on page 6, column 2, under the name of W. T. Bostwick, by striking therefrom the following description, to-wit:

8 acres in the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$ ; 5 acres in the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , Section 32, Township 38 South, Range 1 East of the Willametter Meridian, Jackson County, Oregon.

and inserting in lieu thereof the following description:

4.5 acres in the Northeast 1/4 of the Southeast 1/4 of Section 31, Towndhip 38 South, Range 1 East of the Willamette Meridian in Jackson County, Oregon.

AND 8.5 acres in the Northwest 1/4 of the Southwest 1/4 of Section 32, Township 38 South, Range 1 East of the Willamette Meridian in Jackson County, Oregon.

Dated this 2 day of October, 1964.

James M. Main

Circuit Judge

STATE OF OREGON )  
 ) ss.  
County of Jackson )

I, E. M. MADDEN, County Clerk and Clerk of the Circuit Court of the County and State aforesaid, do hereby certify that the foregoing copy of Order Correcting Decree - - In the Matter of the Determination of the Relative Rights to the Water of Rogue River and its Tributaries --#1203-E has been by me compared with the original, and that it is a correct transcript therefrom and of the whole of such original as same appears of record at my office and in my custody.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 9th day of November, 1964.

E. M. Madden  
Clerk

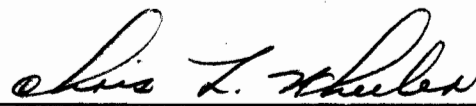
By Vierl Harrison  
Deputy

(SEAL)

STATE OF OREGON )  
 ) ss.  
County of Marion )

I, CHRIS L. WHEELER, State Engineer of the State of Oregon, do hereby certify that the foregoing copy of Decree of the Circuit Court for Jackson County, entered Oct. 2, 1964 correcting the Decree In the Matter of the Determination of the Relative Rights to the Water of Rogue River and its Tributaries, dated April 26, 1919, is a true and correct copy of said decree, as received in this office, Nov. 12, 1964, and entered of record herein this 16th day of November 1964.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of November, 1964.

  
CHRIS L. WHEELER, State Engineer