

La Grande, Oregon, July 29, 1914.

Mr. W. M. Gardner,

North Powder, Oregon;

My Dear Gardner:-

Yours of the 26th instant received. As requested by you, I herewith inclose a copy of my decree in the matter of the determination of the relative rights of water in North Powder River. I understand that there was some misunderstanding about the effect of the decree, some claiming that those taking water from the Mansfield ditches had a right to a priority of one hundred inches of 1868, and could use the same upon their land about seven miles from the place of diversion. Such, as you will observe, is not the decree of the court, for while the decree allows the contestants to appropriate one hundred inches of water with a priority of 1868, yet the decree expressly provides that the water shall be returned to Little Muddy Creek immediately below the lands of A. J. and Lucinda Hartung. If there is any further information you desire please write me.

Yours very truly,



BE IT REMEMBERED, That at a regular term of the Circuit Court of the State of Oregon, for the County of Union, begun and held at the Court House in the city of La Grande, in said County and State, on Monday, the 2 day of February, A. D., 1914, the same being the first Monday of said month, and the time fixed by law for holding a regular term of said Court, when were present:

The Honorable J. W. KNOWLES, Judge Presiding

F. S. IVANHOE, District Attorney

ED. WRIGHT, Clerk

AUGUST HUG, Sheriff.

WHEN, on Monday, the 6th day of April, A. D., 1914, or the 52nd Judicial Day of said term, among others the following proceedings were had, to-wit:

IN THE MATTER OF THE DETERMINATION)
OF THE RELATIVE RIGHTS TO THE WATERS)
OF NORTH POWDER RIVER AND ITS TRIB-)
UTARIES, A TRIBUTARY OF POWDER RIVER)
IN UNION AND BAKER COUNTIES, OREGON.)
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Now at this time this cause came for further hearing upon the Exceptions of C. E. Davis and others, Water Users of the North Powder River and its tributaries, to the modified Findings and order of determination of the Board of Control, made and filed herein on the 18th day of June, 1913, in the above entitled matter, upon the contest of William Anthony and others against S. L. Baer and others, upon their claim to waters of North Powder River and its tributaries diverted in and by means of the Mansfield Ditches, and the order of determination of the Board of Control thereon, and upon the confirmation of said order of determination of the Board of Control, the Board of Control appearing by Hon. Geo. T. Cochran of the Board, C. E. Davis and others appearing by Crawford & Eakin of counsel; James Hutchinson and others appearing by C. H. Finn, of counsel; the North Powder Mercantile & Milling Company, and J. D. McPhee, James Dalton and P. L. Smith appearing by C. E. Cochran, of counsel; and the claimants S. L. Baer and others appearing by Claude McCulloch, of counsel; and the court having heretofore heard the argument of counsel, and having taken the said cause under advisement until this time, and being now fully advised in the premises both as to the facts and the law applicable thereto, the Court finds as follows:

(1) That in so far as said modified order of determination of the Board of Control, in Paragraphs XIV and XV attempts to limit and confine the waters diverted and used to the lands of the respective parties therein described and upon which said waters have been heretofore used, and prohibits their use upon any other lands, the said order of determination should be and is set aside and held for naught.

(2) That in so far as said modified order of determination relative to the rights of the contestees S. L. Baer and others, found in Paragraphs V and IX of said order of determination, limits said contestees to five hundred and twenty-five miners inches of water, with priority as of 1907, the same should be and is set aside, and the said contestees are hereby awarded one hundred inches of the waters of North Powder River with a priority of 1868, the same to be diverted through the Mansfield ditches and returned to Little Muddy Creek immediately below the lands of A. J. and Lucinda Hartung: the said contestees are further awarded six hundred miners inches of water, or fifteen second feet, with a priority of 1907.

(3) That in so far as said modified order of determination of the Board of Control attempts to limit the rights of the claimants to divert and use water from said stream for irrigating purposes to commence April 15th and end September 1st of each year, the same should be and is set aside and held for naught; and the said claimants to said waters for irrigation purposes are hereby allowed to divert, according to their priority, one inch per acre from the 1st of March to the 1st of July of each year, and one-half inch per acre from the 1st of July to the 1st of October of each year.

(4) That in all other respects the exceptions and objections herein filed should be and the same are overruled and denied.

It is, therefore, ORDERED, ADJUDGED and DECREED, That said modified Findings of Fact of the Board of Control in the above entitled matter, as herein modified, be and they are hereby adopted as the Findings of this Court herein; and that said modified order of determination of the Board of Control be and the same is here now modified in the manner and respects above set forth, and that the said order of determination, so modified is here now in all things affirmed, and adopted as the decree of this court.

It is further ORDERED, ADJUDGED AND DECREED, That each of the parties to the proceeding and to any contest herein, pay his and their own costs and disbursements herein, and that no one is entitled to recover costs off the other.

J. W. KNOWLES

Circuit Judge.

STATE OF OREGON,)
(SS.
County of Union.)

I, Ed Wright, County Clerk and Ex-officio Clerk of the Circuit Court of Union County, State of Oregon, do hereby certify that the foregoing copy of Order in the matter of the determination of the relative rights to the waters of North Powder River and its tributaries, a tributary of Powder River in Union and Baker Counties has been compared by me with the original, and it is a correct transcript therefrom, and of the whole of such original order, as the same appears of record in my office and in my custody.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of this court this 7th day of May, A. D. 1914.

(Seal of the Circuit Court for Union County)

Ed Wright

By Anna Alexander,

County Clerk

Deputy.

STATE OF OREGON)
(SS.
County of Marion.)

I, M. F. Mers, Secretary of the State Water Board of the State of Oregon, do hereby certify that the foregoing copy of transcript of Journal Entry was received in the office of the State Water Board, on the 8th day of May, 1914, and entered of record herein on this 8th day of May, 1914.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the State Water Board of the State of Oregon, this 8th day of May, 1914.

M. F. Mers
Secretary of the State Water Board of Oregon.