

BEFORE THE STATE ENGINEER OF OREGON

Lake County

IN THE MATTER OF THE DETERMINATION)
OF THE RELATIVE RIGHTS TO THE USE OF)
THE WATERS OF BRIDGE CREEK AND ITS)
TRIBUTARIES, LAKE 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 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

Bridge Creek heads approximately 3½ miles northeast of Yamsay Mountain in the Freemont National Forest at elevation 7,400 feet mean sea level, near the southwest corner of Section 21, Township 30 South, Range 12 East, W.M., flowing in a generally northeast direction in a well defined channel through relative deep canyons for about 15 miles, thence emerging onto the floor of Silver Lake Valley about two miles west of the town of Silver Lake, Oregon.

One major tributary, South Fork of Bridge Creek, heads approximately two miles northeast of the main stream, at a lower elevation, and joins Bridge Creek in Section 6, Township 30 South, Range 13 East, W.M. One other tributary arises from springs in Section 1, Township 30 South, Range 12 East, W.M., at a lower elevation and joins Bridge Creek in Section 29, Township 29 South, Range 13 East, W.M.

While Bridge Creek is a perennial stream, its run-off is derived principally from melting snow during the months of May and June, varying with the seasons. During the summer months the upper reaches of the stream remain alive from springs situated along its course, however, below the center of Section 30, Township 28 South, Range 14 East, W.M., the stream becomes practically dry through the summer months.

Near the center of Section 20, Township 28 South, Range 14 East, W.M., the main channel diverges and aided by constructed ditches and dykes, it spreads out over the irrigated lands. The stream channel passes under the Freemont Highway (Oregon 31) in several corrugated metal culvert pipes, and remains in separate channels and ditches till its confluence with Island Branch of Silver Creek.

The G.L.O. Plats of this township dated September 22, 1871, shows the channel of Bridge Creek passing through the north one-half of Section 15, Township 28 South, Range 14 East, W.M., in a northwesterly direction and extending to its confluence with Silver Creek within SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 11. It appears that with the settlement of the country and the gradual reclamation of the lands the lower portion of the channel of Bridge Creek became known as the Island Branch.

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That on the 17th day of August, 1960, there was filed in the office of the State Engineer an order of the Circuit Court of the State of Oregon for Lake County, dated August 15, 1960, in the case of W. R. Karn and Lena Karn, husband and wife, Plaintiffs, vs Sinton & Brown, a California Corporation, Defendants, directing that said cause be referred to the State Engineer in accordance with ORS 539.020 for the purpose of adjudicating the relative rights of all water users from Bridge 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 Bridge Creek and its tributaries, as provided by law.

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That a 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 Bridge Creek and its tributaries, and the existing works for the utilization of the waters thereof, and said notice was published in two issues of the Lake County Examiner, a newspaper printed and published weekly at Lakeview, Lake County, Oregon, and of general circulation in said county, said two issues of said newspaper being those of September 8, and September 15, 1960, the date of the last publication being more than ten days prior to the date fixed for the beginning of the taking of measurements and the collection of other data relating to said stream system by the State Engineer, as provided by law.

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That the State Engineer did send by certified 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 any of 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 as described in Finding 2, and included therewith an explanatory statement and a blank form upon which the claimant or owner could prepare in writing his notice of intention to file a statement and proof of claim of his right to the use of the waters of Bridge Creek and its tributaries, if any he had.

By notice dated September 1, 1960, the following named persons, firms or corporations were duly notified of the proceeding by certified mail, as provided by law, of the commencing of the investigations by the State Engineer, or his duly authorized assistants, and were furnished an explanatory statement and pamphlet of information and a form upon which to declare their notice of intention to file a claim to the use of the waters of said Bridge Creek and its tributaries:

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| ARBOW, J. D. & R. C. | Silver Lake, Oregon |
| CLIFF, Cameron | Silver Lake, Oregon |
| EMERY, Dale & Lucille | Route 1, Box 178 B, Corning, California |
| EMERY, Esther G. | Silver Lake, Oregon |
| EMERY, Dale & M. | Silver Lake, Oregon |
| EMERY, Russell C. & Mary V. | Silver Lake, Oregon |
| IVERSON, Lawrence | Silver Lake, Oregon |
| KARN, W. R. & Lena R. | Route 1, Box 243, Hillsboro, Oregon |
| LINEBAUGH, Leston & Anna | Silver Lake, Oregon |
| O'KEEFFE, Michael J. | Summer Lake, Oregon |
| PITCHER, Frank & J. | Silver Lake, Oregon |
| ROLLINS, Wm. A. | Silver Lake, Oregon |
| SCHUMACHER, C. & M. | Silver Lake, Oregon |
| SCHUMACHER, Dan & Mabel | Silver Lake, Oregon |
| U. S. Forest Service c/o Silver Lake Ranger Station | Silver Lake, Oregon |
| WEYERHAEUSER Co. | Box 1645, Tacoma, Washington |

That notice was also provided by mail to Theodore R. Conn, Box 351, Lakeview, Oregon, as agent for Sinton & Brown, and to DeArmond, Goodrich & Gray, P. O. Box 1151, Bend, Oregon, as agent for W. R. Karn and Lena Karn.

That duly qualified assistants to the State Engineer did proceed to make examinations, surveys and measurements of said Bridge Creek and its tributaries, and of ditches, canals, or 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 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 all streams in the drainage basin, the location of each canal, ditch 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 preceding paragraph, the State Engineer did prepare a notice setting forth a place and time certain when he would begin the taking of statements and proofs of claim as to the relative rights of the various claimants to the use of the waters of Bridge Creek and its

tributaries; that said notice was published in two issues of the Lake County Examiner, a newspaper printed and published weekly at Lakeview, Lake County, Oregon, and of general circulation in said county, said two issues of said newspaper being those of November 3, and November 10, 1960, the date of the last publication being at least thirty days prior to the first date fixed for the taking of statements and proofs of claim by the State Engineer.

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That the State Engineer did send by certified mail to each person, firm or corporation, who had filed a declaration of intention to file a claim to the use of the waters of Bridge Creek and its tributaries in this proceeding, in response to the notice described in Finding 2 above, a notice similar to such published notice described in the preceding finding, 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 Bridge Creek 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 claim in each instance. And the State Engineer did include 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 preparation of their statements and proofs of claim and with the adjudication of water rights.

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That the times and places where the State Engineer, or his duly authorized assistant, did appear and receive the statements and proofs of claim of the various parties, were fixed in said notice as follows:

On Tuesday, December 13, 1960, in Room 1 of the Silver Lake Motel, Silver Lake, Oregon.

And for a period of twenty days, beginning with Wednesday, December 14, and ending with Tuesday, January 10, 1961, (Saturdays, Sundays and holidays excepted) at the office of the State Engineer, 251 Finance Building, Salem, Oregon

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By notice dated November 1, 1960, the following named persons, firms or corporations, who had filed their notice of intention to file a statement and proof of claim, were duly notified by certified mail, as provided by law, of the commencing of the taking of the statements and proofs of claim of their asserted rights to the use of the waters of Bridge Creek and its tributaries:

| | |
|-------------------------------|--|
| EMERY, Dale | 711 Walnut Street, Corning, California |
| EMERY, Russell C. | Silver Lake, Oregon |
| IVERSON, Lawrence | |
| c/o DeArmond, Goodrich & Gray | P. O. Box 1151, Bend, Oregon |
| SCHUMACHER, Mabel A. | Silver Lake, Oregon |
| SINTON & BROWN | |
| c/o Theodore R. Conn | Box 351, Lakeview, Oregon |

That upon request dated December 17, 1960, from DeArmond, Goodrich & Gray, as agent for Cameron Cliff, notice was also mailed on December 19, 1960, to DeArmond, Goodrich & Gray, P. O. Box 1151, Bend, Oregon.

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

| | |
|-------------------------------------|---------------------------------|
| CLIFF, Cameron | Burns, Oregon |
| EMERY, Kenneth by Dale Emery, Agent | Silver Lake, Oregon |
| EMERY, Russell | Silver Lake, Oregon |
| KARN, W. R. & Lena | Box 474, Long Beach, Washington |
| SCHUMACHER, Mabel | Box 8, Silver Lake, Oregon |
| SINTON & BROWN by Silas D. Sinton | Paisley, Oregon |

That all of said claimants submitted statements and proofs of claim which were in ample form and were accompanied by the statutory fees and were filed by the State Engineer.

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That after the completion of the taking of such statements and proofs of claim, the State Engineer did, on the 17th day of January, 1961, give notice by certified mail to each of the various claimants to the use of the waters of said Bridge Creek and its tributaries, as provided by law, that at the times and places named in said notice, to wit:

On Friday, February 3, 1961, in the Lunch Room of the Public School Building, School District No. 14, at Silver Lake, Oregon.

And for a period of ten days, beginning with Monday, February 6, 1961, and ending with Friday, February 17, 1961, (Saturdays and Sundays, excepted) at the office of the State Engineer, 251 State Finance Building, Salem, Oregon.

the statements and proofs of claim theretofore filed would be open to public inspection between the hours of 8:00 o'clock A.M. and 12:00 M and from 1:00 o'clock P.M. to 5:00 o'clock P.M. on each of said days. That said notice did state therein the county in which the determination of the State Engineer would be heard by the Circuit Court of the State of Oregon, to wit: the County of Lake.

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That the State Engineer did, in accordance with said notice as described in the preceding Finding 11, keep said statements and proofs of claim open to public inspection at said times and places.

That the time set by law for the filing of statements of contest, within fifteen days after the expiration of the period of public inspection, would expire on March 4, 1961, and no extension of time for said filings being requested, the following Contests were initiated by the filing with the State Engineer of notices of Contest, in writing:

| | | |
|----------------------|---|-------------|
| <u>CONTEST NO. 1</u> | W. R. Karn & Lena Karn | Contestants |
| | vs | |
| | Sinton & Brown Company | Contestees |
| <u>CONTEST NO. 2</u> | Cameron Cliff | Contestant |
| | vs | |
| | Sinton & Brown Company | Contestees |
| <u>CONTEST NO. 3</u> | Sinton & Brown Company | Contestants |
| | vs | |
| | Cameron Cliff | Contestee |
| <u>CONTEST NO. 4</u> | Sinton & Brown Company | Contestant |
| | vs | |
| | Russell Emery | Contestee |
| <u>CONTEST NO. 5</u> | Sinton & Brown Company | Contestant |
| | vs | |
| | Kenneth Emery | Contestee |
| <u>CONTEST NO. 6</u> | Sinton & Brown Company | Contestant |
| | vs | |
| | W. R. Karn & Lena Karn & Lawrence & Marjorie Iverson | Contestees |

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 4th day of May, 1961, serve notice of said contests, by certified mail, on each of the parties to said contests and on their respective counsel, the date fixed for the hearing being not less than thirty days and not more than sixty days from the date the notice of said hearing was served on said parties and their counsel.

That the date and time and place set for said hearing was defined in said notice as: Tuesday, June 20, 1961, at the hour of 9:30 o'clock A.M., in the County Courthouse at Lakeview, Oregon.

That upon the date and at the time and place fixed, the hearing of the contests was commenced before the State Engineer, and his authorized assistant.

Mr. Theodore R. Conn, counsel for Sinton & Brown Company, entered an objection to the continuation of the hearing, on the grounds that there are land owners below the confluence of Bridge Creek and Silver Creek who were not given notice of the time and place of this hearing, who may have either prior or subsequent rights to these waters, as Bridge Creek is a tributary of Silver Creek, and moved the hearing be adjourned until it is properly noticed. Mr. Robert F. Nichols, counsel for Jess Penington, successor in interest to Dale Emery, joined in the motion and protested any further continuation in the matter. Mr. Bradley D. Fancher, counsel for W. R. and Lena Karn and Cameron Cliff, requested a recess for consultation with his clients, whereupon the State Engineer declared the hearing would recess at 10:15 o'clock A.M.

After a short recess, the State Engineer re-opened the hearing at 10:55 A.M., at which time Mr. Bradley D. Fancher joined in the motion as made by Mr. Conn.

The State Engineer granted the motion and outlined the procedure as follows: to re-open the record for filing of amended claims on Bridge Creek and after the usual period will again notify all interested parties, including the possible users of the waters of Silver Creek below the junction of these creeks, in order that they may be able to contest any claims to the use of the waters of Bridge Creek. There being nothing further from counsel for the parties, the State Engineer declared the hearing to stand adjourned sine die.

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On July 12, 1961, the State Engineer mailed to Theodore R. Conn, Attorney at Law, Lakeview; Robert F. Nichols, Attorney at Law, Lakeview; and Bradley D. Fancher, Attorney at Law, Bend, Oregon, a letter containing the following proposals:

1. To begin with ORS 539.040 by publishing a new notice and sending notice by certified mail to the same list used in sending the notice dated October 31, 1960. This new notice would advise that those persons who had previously filed statements and proofs of claim in response to the October 31, 1960, notice may, if they so desire, amend their claims or file new claims. If they neither amend nor file new claims, the claims previously submitted will be retained and considered as properly filed in this new proceeding.
2. Under ORS 539.090, to give notice to all claimants and also to all owners of land along and adjacent to Silver Creek with water rights of record, as well as those owners of land having water rights confirmed by Hough vs Porter.
3. Under ORS 539.100, to accept statements of contest by any person owning any irrigation works, or claiming any interest in the waters of Silver Creek and its tributaries and Bridge Creek and its tributaries.
4. To take the position that rights determined by Hough vs Porter are res judicata and that such rights may not be disturbed in this proceeding.
5. Any contests would be heard and the proceedings continued as provided in ORS 539.110 et seq.

Some objections were voiced and a substantial amount of discussion, correspondence and conferences were held in an attempt to resolve the differences. When all attempts failed, the State Engineer advised the parties of his intention to proceed.

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The State Engineer did prepare a notice setting forth a place and time certain when he, or his duly authorized assistant, would begin the taking of statements and proofs of claim as to the relative rights of the various claimants to the use of the waters of Bridge Creek and its tributaries and Silver Creek and its tributaries, Lake County, Oregon; that said notice was published in two issues of the Lake County Examiner, printed and published weekly at Lakeview, Oregon, and of general circulation in said county, said issues of the newspaper being those of May 5, and May 12, 1966, the date of the last publication being at least thirty days prior to the date fixed for the taking of statements and proofs of claim by the State Engineer.

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That the State Engineer did send on May 9, 1966, by certified mail to all persons, firms and corporations claiming a right to the use of the waters of, or owning or being in possession of lands bordering on or having access to Bridge Creek and its tributaries in Lake County, Oregon; and to all persons, firms and corporations owning or holding a right of record to the waters of Silver Creek and its tributaries in Lake County, Oregon, a notice similar to such published notice described in the preceding paragraph, setting forth the date when the State Engineer, or his duly authorized assistant, would receive the statements and proofs of claim of the various claimants to the use of these waters. That said notice was mailed at least thirty days prior to the date set therein for the receiving of such statements and proofs of claim in each instance. And the State Engineer did include with each of said notices a blank form 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 preparation of their statements and proofs of claim and with the adjudication of water rights.

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That the time and places where the State Engineer, or his duly authorized assistant, did appear and receive statements and proofs of claim of the various parties, were fixed in said notice as follows:

On Tuesday, June 14, 1966, in Room 3 of the Silver Lake Motel, Silver Lake, Oregon.

And for a period of twenty days beginning with Wednesday, June 15, and ending with July 13, 1966, (Saturdays, Sundays and holidays, excepted) at the office of the State Engineer, 516 Public Service Building, Salem, Oregon.

That thereafter, it appearing that further time was necessary in which to file statements and proofs of claim, the State Engineer, did on the 4th day of August, 1966, enter an order directing that the time to file statements and proofs of claim be extended and continued to include the 11th day of August, 1966.

Said notice stated that claimants may rest on the statements and proofs of claim as originally filed or may amend them to correct such errors as may have been made.

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That the following named persons, firms or corporations were duly notified by certified mail, as provided by law, of the commencing of the taking of statements and proofs of claim of their asserted rights to the use of the waters of Bridge Creek and its tributaries:

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|------------------------------|---------------------------------|
| CLIFF, Cameron | Bell A Ranch, Burns, Oregon |
| EMERY, Russell & Mary | Silver Lake, Oregon |
| IVERSON, Lawrence & Marjorie | Silver Lake, Oregon |
| KARN, W. R. & Lena | Box 474, Long Beach, Washington |
| PENINGTON, Jess H. & Pearl | Summer Lake, Oregon |
| SCHUMACHER, Mabel | Box 8, Silver Lake, Oregon |
| SINTON & BROWN | Paisley, Oregon |

And the following persons, firms or corporations owning or holding a right of record to the waters of Silver Creek and its tributaries:

| | |
|---------------------------------|---|
| BROWN, Stanley | Z X Ranch, Paisley, Oregon |
| CORUM, Jewell D. & Mary | Silver Lake, Oregon |
| EMERY, Kenneth & Dale | Silver Lake, Oregon |
| LINEBAUGH, Leston & Anna | Silver Lake, Oregon |
| LONG, Dudley S. & Veva | Silver Lake, Oregon |
| MATLOCK, A. M. | 1311 West 11 th , Eugene, Oregon |
| O'KEEFFE, J. W. & May | Silver Lake, Oregon |
| O'KEEFFE, Jack W. | Silver Lake, Oregon |
| O'KEEFFE, J. W. & Ruby May | Silver Lake, Oregon |
| SILVER Lake Irrigation District | Silver Lake, Oregon |

That all of said notices sent by certified mail to the above named appear to have been delivered by the Post Office Department.

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That in response to said notices to file statements and proofs of claim, the following named persons, firms or corporations did submit amended statements and proofs of claim which were in ample form and were accompanied by the statutory fees and were filed with the State Engineer:

| | |
|-------------------|-----------------------------|
| CLIFF, Cameron | Bell A Ranch, Burns, Oregon |
| PENINGTON, Jess | Summer Lake, Oregon |
| SCHUMACHER, Mabel | Box 8, Silver Lake, Oregon |

That the following named persons, firms or corporations appeared and submitted a statement that they intended to stand on their claims as previously submitted:

| | |
|---|---------------------------------|
| EMERY, Russell (James H. & Lorraine Sphar) | Silver Lake, Oregon |
| KARN, W. R. & Lena (Lawrence & Marjorie Iverson) | Box 474, Long Beach, Washington |
| SINTON & BROWN | Paisley, Oregon |

On July 5, 1966, a statement and proof of claim submitted by Theodore R. Conn, Attorney at Law, Lakeview, Oregon, in the names of Leston and Ana Linebaugh, claiming a right for the use of the waters of Silver Creek for irrigation of 60 acres in S $\frac{1}{2}$ NW $\frac{1}{4}$ and 60 acres in N $\frac{1}{2}$ SW $\frac{1}{4}$, Section 11, Township 28 South, Range 14 East, W.M., with a claimed date of 1906, as the initiation of such right. This statement and proof of claim was not accepted by the State Engineer as the source of water claimed was Silver Creek.

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That all persons, firms or corporations to whom notices were sent by certified mail as tabulated under Finding 19 above, who have failed, neglected or refused to appear herein and submit proof of a right or claim to the use of waters of Bridge Creek and its tributaries, initiated prior to the adoption of the Oregon Water Code on February 24, 1909, now the Oregon Water Rights Act, if any they have or claim, 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 Bridge 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, as provided by law.

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That after the completion of the taking of such statements and proofs of claim, the State Engineer did, on January 18, 1967, give notice by certified mail to each of the various claimants to the use of the waters of Bridge Creek and its tributaries, and to their counsel, that the times and places named in said notice, to wit:

On Tuesday, January 31, 1967, in the County Courthouse, Court Room 2, Lakeview, Oregon.

On Wednesday, February 1, 1967, in the Soil Conservation Service Office in the School Building at Silver Lake.

And for a period of ten days beginning with Thursday, February 2, 1967, and ending with Thursday, February 16, 1967, (Saturdays, Sundays and holidays, excepted) at the office of the State Engineer, 516 Public Service Building, Salem, Oregon.

the statements and proofs of claim theretofore filed would be open to public inspection between the hours of 8:00 o'clock A.M. and 12:00 M and from 1:00 o'clock P.M. to 5:00 o'clock P.M. on each of said days. That said notice did state therein the county in which the determination of the State Engineer would be heard by the Circuit Court of the State of Oregon, to wit: the County of Lake.

That the State Engineer did, in accordance with said notice as described in the preceding Finding 22, keep said statements and proofs of claim open to public inspection at said times and places.

That the time set by law for the filing of statements of contest, within fifteen days after the expiration of the period for public inspection, would expire on March 3, 1967, and it appearing that additional time was required by certain parties to properly prepare and file their statements of contest, the State Engineer did, on the 1st day of March, 1967, enter an order extending, as provided by law, and the same was thereby extended and continued to include the 13th day of March, 1967. That within the time therefore, as extended by order of the State Engineer, the following Contests were initiated by the filing with the State Engineer of notices of Contest, in writing:

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|----------------------|---|-------------|
| <u>CONTEST NO. 1</u> | Jess Penington | Contestant |
| | | vs |
| | Cameron Cliff | Contestee |
| <u>CONTEST NO. 2</u> | Jess Penington | Contestant |
| | | vs |
| | Russell Emery (James and Lorraine Sphar, Successors in interest) | Contestees |
| <u>CONTEST NO. 3</u> | Jess Penington | Contestant |
| | | vs |
| | W. R. and Lena Karn (Lawrence and M. Iverson, Successors in interest) | Contestees |
| <u>CONTEST NO. 4</u> | Jess Penington | Contestant |
| | | vs |
| | Mabel A. Schumacher | Contestee |
| <u>CONTEST NO. 5</u> | Cameron Cliff and W. R. and Lena Karn | Contestants |
| | | vs |
| | Jess Penington | Contestee |
| <u>CONTEST NO. 6</u> | Cameron Cliff and W. R. and Lena Karn | Contestants |
| | | vs |
| | Russell Emery (J. H. and Lorraine Sphar) | Contestees |

| | | |
|-----------------------|---|-------------|
| <u>CONTEST NO. 7</u> | Cameron Cliff and W. R. and Lena Karn | Contestants |
| | vs | |
| | Kenneth Emery (now Jess Penington) | Contestee |
| <u>CONTEST NO. 8</u> | Cameron Cliff and W. R. and Lena Karn | Contestants |
| | vs | |
| | Sinton & Brown (Z X Ranch) | Contestee |
| <u>CONTEST NO. 9</u> | Cameron Cliff and W. R. and Lena Karn | Contestants |
| | vs | |
| | Mabel A. Schumacher | Contestee |
| <u>CONTEST NO. 10</u> | Mabel A. Schumacher | Contestant |
| | vs | |
| | Cameron Cliff | Contestee |
| <u>CONTEST NO. 11</u> | Mabel A. Schumacher | Contestant |
| | vs | |
| | Russell Emery (now James and Lorraine Sphar) | Contestees |
| <u>CONTEST NO. 12</u> | Mabel A. Schumacher | Contestant |
| | vs | |
| | W. R. and Lena Karn and Lawrence and Marjorie Iverson | Contestees |
| <u>CONTEST NO. 13</u> | Z X Ranch, Inc. | Contestant |
| | vs | |
| | Cameron Cliff | Contestee |
| <u>CONTEST NO. 14</u> | Z X Ranch, Inc. | Contestant |
| | vs | |
| | Russell Emery (now James and Lorraine Sphar) | Contestees |
| <u>CONTEST NO. 15</u> | Z X Ranch, Inc. | Contestant |
| | vs | |
| | W. R. and Lena Karn and Lawrence and M. Iverson | Contestees |

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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 September 3, 1969, serve

notice of said contests, by certified mail, on each of the parties to said contests and on their respective counsel, the date fixed for the hearing being not less than thirty days and not more than sixty days from the date the notice of said hearing was served on said parties and their counsel.

That the date and time and place set for said hearing was defined in said notice as:

October 27, 1969, at the hour of 9:30 o'clock A.M., in the Circuit Court Room of the County Courthouse, at Lakeview, Oregon.

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By request of counsel for all parties for a postponement of time for the hearing on contests in order to prepare a stipulation of the facts in dispute in said contests, the State Engineer entered an order, dated October 24, 1969, postponing said hearing. A tentative date for the hearing was set for December 2, 1969, but by request of various counsel, additional time was granted upon being informed that progress was being made in resolving the various particulars and drafting said stipulation.

On July 22, 1970, the State Engineer received the following stipulation from Mr. Theodore R. Conn, signed by all parties, contestants and contestees and by their respective attorneys.

STIPULATION

WHEREAS, W. R. Karn and Lena Karn, husband and wife, as plaintiffs, instituted a suit in the Circuit Court of the State of Oregon for the County of Lake against Sinton & Brown, an Oregon corporation, as defendant, involving the use of the waters of Bridge Creek, a natural stream arising in Lake County, Oregon; and,

WHEREAS, the Circuit Court of the State of Oregon for Lake County made and entered an order in said cause on August 15, 1960, referring said matter to the State Engineer of the State of Oregon for final determination and adjudication pursuant to the Water Code of the State of Oregon; and,

WHEREAS, the undersigned parties pursuant to a notification by the State Engineer have filed various proofs of claims and the respective parties hereto, together with their respective counsel, have had an opportunity to examine the various proofs, and

WHEREAS, said State Engineer has made an examination of the physical facts on the ground, has made a determination of the use of the waters for irrigating lands within Lake County, Oregon, has made and filed his report thereof and is now prepared to make his findings and determination as to the use of the waters of Bridge Creek; and,

WHEREAS, the users of the waters of Bridge Creek have studied said report and are now prepared to make and enter a stipulation for consideration by the State Engineer relative to the use of the waters of Bridge Creek for irrigation and the watering of domestic livestock; and,

WHEREAS, the parties have reached an understanding and agreement concerning the relative rights to the use of said water and lands to be irrigated thereunder;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED between the parties hereto:

1. That the undersigned Lawrence Iverson and Marjorie Iverson, husband and wife, are the successors in interest of W. R. Karn and Lena Karn, husband and wife; that the undersigned Jess Pennington is the successor in interest of Dale Emery and Lucille Emery, husband and wife; that the undersigned James S. Sphar and Lorraine Sphar, husband and wife, are the successors in interest of Russell C. Emery and Mary Emery, husband and wife; that the undersigned ZX Ranch, Inc., a corporation, is the successor in interest of Sinton & Brown, an Oregon corporation.

2. That this stipulation and any decree entered thereon shall not alter or affect any of the rights of any of the parties hereto to the use of the waters of Silver Creek and its tributaries, as found and determined in the case of Hough v. Porter, 51 Or. 318.

3. That Proof No. 5 of Jess Pennington and Proof No. 9 of Mabel Schumacher are hereby withdrawn from the consideration of the State Engineer in this cause; that said Proof No. 9 is withdrawn for the reason that there is no evidence of any direct diversion from Bridge Creek to the lands of the said Mabel Schumacher, and such lands are only affected by such waters after the same have commingled and become a part of Silver Creek and are controlled under the decree of the Court in Hough v. Porter, 51 Or. 318.

4. That the lands of said claimant Cameron Cliff, as set forth in Proof No. 1 heretofore filed herein, lie downstream and to the west and north of the lands of all other claimants and can only receive waters of Bridge Creek after such waters have passed by the lands of all other claimants hereinafter mentioned excepting the lands of Mabel Schumacher heretofore mentioned. That the waters of Bridge Creek commingle with the waters diverted from Silver Creek on the lands described in Proof No. 1 on the $W\frac{1}{2}SW\frac{1}{4}$ of Section 15, Township 28 South, Range 16 EWM, thereby making it impossible to distinguish, describe and separate the lands irrigated by the waters of Bridge Creek from the lands irrigated by the waters of Silver Creek on the lands covered by Proof No. 1. The parties agree and stipulate that the rights of Cameron Cliff under Proof No. 1 shall be inferior in time and subsequent in right to all the rights of the parties as hereinafter tabulated and that the said Cameron Cliff shall, under Proof No. 1, take and receive the waters of Bridge Creek after the same have been utilized by the other claimants herein in their respective order of priority, and the said Cameron Cliff shall not claim any priority in time or superior right to irrigate from the waters of Bridge Creek the land described in Proof No. 1 over the other parties to this stipulation for the lands hereinafter described; but this provision shall in no manner be deemed to affect or alter the rights granted to the real property described in Proof No. 1 of the said Cameron Cliff under the decree of the case of Hough v. Porter, 51 Or. 318.

5. It is further stipulated and agreed between the parties hereto that because of the location and proximity to the channel of Bridge Creek of the lands of the several claimants hereinafter described, it will be impossible as a practical matter to divert the waters and to hold the waters upon said lands in the exact dates of priority of appropriation for the several tracts and, therefore, the parties have stipulated and agreed that each claimant who is a party to this stipulation shall have a common date of priority for all of his lands as hereinafter set forth in the tabulation in Paragraph 9.

6. That the lands herein described are arid in nature and that irrigation is necessary on said lands to produce crops of hay, grain and grasses.

7. That the annual duty of water necessary to produce crops of value upon said lands is three acre feet per year.

8. That the general recognized irrigation season within the area begins on April 1 of each year and ends September 30th of such year and that the irrigation waters are needed and necessary for the irrigation and production of crops during such period, and that during such period, and, in fact, during all of the calendar year, waters are necessary to flow in the channel of Bridge Creek for the watering of domestic livestock.

9. That the parties stipulate and agree that the State Engineer of the State of Oregon may make findings of fact and determination of the relative rights of the parties hereto in accordance with this stipulation and may submit the same to the Circuit Court of the State of Oregon for the County of Lake for approval; that said tabulation of the relative rights and area of use of the waters of the respective parties hereto is as follows:

| <u>Name and Post Office Address of Applicant</u> | <u>Date of Priority</u> | <u>No. of Acres</u> | <u>Stream</u> | <u>Description of Land and Place of Use</u> |
|--|-----------------------------|--------------------------|-----------------|---|
| <u>Proof No. 1</u> Cameron Cliff | 6/1/1884 | | Bridge Creek | As it states in the Hough v. Porter case 51 Or 318, "50 inches from Bridge Creek" |
| <u>Proof No. 2</u> James & Lorraine Sphar | 1895 | 0.2 3.2 5.7 4.5 | Bridge Creek | <u>T 29 S, R 13 EWM</u> Sec. 2: NW $\frac{1}{2}$ NW $\frac{1}{2}$ <u>T 28 S, R 13 EWM</u> Sec. 35: NE $\frac{1}{2}$ SW $\frac{1}{2}$ SW $\frac{1}{2}$ SW $\frac{1}{2}$ SE $\frac{1}{2}$ SW $\frac{1}{2}$ |
| <u>Proof No. 3</u> W. R. Karn (Iverson) | 1903 | 36.3 3.5 | Bridge Creek | <u>T 28 S, R 14 EWM</u> Sec. 20: NE $\frac{1}{2}$ NE $\frac{1}{2}$ NW $\frac{1}{2}$ NE $\frac{1}{2}$ |
| <u>Proof No. 4</u> Jess Pennington Summer Lake, Oregon | 5/5 1884 | 30.0 3.9 34.4 | Bridge Creek | <u>T 28 S, R 13 EWM</u> Sec. 25: SW $\frac{1}{2}$ SW $\frac{1}{2}$ SE $\frac{1}{2}$ SW $\frac{1}{2}$ Sec. 26: SE $\frac{1}{2}$ SE $\frac{1}{2}$ |

| <u>Name and Post office Address of Applicant</u> | <u>Date of Priority</u> | <u>No. of Acres</u> | <u>Stream</u> | <u>Description of Land and Place of Use</u> |
|--|-----------------------------|---|-----------------|---|
| <u>Proof No. 5</u> Withdrawn | | | | |
| <u>Proof No. 6</u> Jess Pennington Summer Lake, Oregon | 5/5 1884 | 10.0 | Bridge Creek | <u>T 28 S, R 13 EWM</u> Sec. 35: NE $\frac{1}{4}$ NE $\frac{1}{4}$ |
| <u>Proof No. 7</u> Jess Pennington | 5/5/1884 | 0.1 | Bridge Creek | <u>T 28 S, R 13 EWM</u> Sec. 36: NW $\frac{1}{4}$ NW $\frac{1}{4}$ |
| <u>Proof No. 8</u> Jess Pennington Summer Lake, Oregon | 5/5/1884 | 13.1 20.1 6.5 | Bridge Creek | <u>T 28 S, R 13 EWM</u> Sec. 25: NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 26: NE $\frac{1}{4}$ SE $\frac{1}{4}$ |
| <u>Proof No. 9 (10)</u> ZX Ranch, Inc. Paisley, Oregon (Formerly Sinton & Brown) | 1875 | 10.2 31.6 15.8 39.8 10.0 33.2 39.6 39.0 39.6 35.1 29.6 3.7 20.0 27.7 30.5 | Bridge Creek | <u>T 28 S, R 14 EWM</u> Sec. 16: SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 20: SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 21: NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ |

10. That heretofore and on May 28, 1906, the Circuit Court of the State of Oregon for the County of Lake made and entered a decree within Chewaucan Land & Cattle Company, a corporation, was plaintiff, it being a predecessor in interest of ZX Ranch, Inc., and E. B. Brewer, Alfred W. Lenning, Mary C. Owsley, nee James, and William B. Owsley were defendants, they being the predecessors in interest of Jess Pennington, under and by virtue of the terms of which the predecessor in interest of claimant ZX Ranch, Inc., was granted the right to the use of three-fourths of the entire natural flow of Bridge Creek for lands described as all of Section 16, saving the N $\frac{1}{2}$ N $\frac{1}{2}$ thereof; all of Section 21, save the S $\frac{1}{2}$ SE $\frac{1}{4}$ thereof; the S $\frac{1}{2}$ NE $\frac{1}{4}$, the SE $\frac{1}{4}$ NW $\frac{1}{4}$, and the NE $\frac{1}{4}$ SW $\frac{1}{4}$, the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, all in Township 28 South, Range 14 EWM; and the said defendants in said suit were granted the right to use one-fourth of the flow of such stream on the lands described as the SW $\frac{1}{4}$ and the N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 25, the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26, Township 28 South, Range 13 EWM; and it is stipulated by and between the parties to the above entitled litigation, their heirs and successors, that although the above litigation does not affect third parties not a party thereto, that it is a binding and recognizable decree and determination as between the principals thereto; and, therefore, at such time as the streamflow shall be inadequate to supply the needs and demand for the lands described above, such streamflow shall be divided three-fourths to the ZX Ranch, Inc., under its claim No. 9 herein, and one-fourth to the lands of said Jess Pennington as described above.

11. It is further stipulated that none of the parties hereto shall recover any costs or disbursements in said cause and each of the parties shall bear their own expense, both as to attorney fees and costs and disbursements.

Dated this 17th day of March, 1970.

/s/ Mabel Schumacher
Mabel Schumacher

W. R. Karn

ZX RANCH, INC.

By /s/ C. L. Patterson Vice Pres.

Lena Karn

/s/ Lawrence Iverson
Lawrence Iverson

CONN & LYNCH

By /s/ Theodore R. Conn
Of Attorneys for Mabel
Schumacher and ZX Ranch, Inc.

/s/ Marjorie Iverson
Marjorie Iverson

/s/ Jess H. Pennington
Jess Pennington

/s/ Cameron Cliff
Cameron Cliff

/s/ Robert F. Nichols
Robert F. Nichols, Attorney for
Jess Pennington

GRAY, FANCHER, HOLMES & HURLEY

By /s/ B. D. Fancher
Of Attorneys for W. R. Karn
and Lena Karn, Lawrence
Iverson and Marjorie Iverson,
and Cameron Cliff

/s/ James Sphar
James Sphar

/s/ Lorraine Sphar
Lorraine Sphar

/s/ Forrest E. Cooper
Forrest E. Cooper, Attorney for
James Sphar and Lorraine Sphar

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STOCK USE

Not all claimants in this proceeding have asserted rights by appropriation to a use of the waters of Bridge Creek for stock purposes with no direct diversion being made, however, in accordance with the stipulation, a reasonable quantity of water to furnish an ample supply to all and in such a manner that the stream shall not become stagnant, depending on the supply, for watering of domestic livestock shall continue throughout all of the calendar year.

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DUTY AND RATE OF FLOW

The rate of flow or head of water to be diverted hereby is fixed at not to exceed 1/80th cubic foot per second for each acre irrigated during the irrigation season and the duty of water hereby is fixed at not to exceed three acre feet per year.

IRRIGATION SEASON

The irrigation season is hereby fixed as beginning April 1, of each year and ending September 30, of each year.

The stipulation refers to Hough v. Porter, 51 Or. 318, and in the tabulation paragraph 9, page 4, of said stipulation in the name of Cameron Cliff, Proof No. 1, the description of said lands and place of use state "50 inches from Bridge Creek" with no reference to amount of acreage nor location of place of use of said 50 inches.

At paragraph 54, (51 Or. page 427), is stated: "The second appropriation (1884), consisting of 150 inches, 50 of which were from Bridge Creek, dates from June 1, 1884; and he (George H. Small) is entitled as of this date to 50 inches from Bridge Creek and to 100 inches from Silver Creek, or its branches, measured at the point of diversion therefrom, and is limited in its use to the irrigation of 300 acres." Thus it appears that the 50 miner inches from Bridge Creek is for irrigation of 100 acres of land in Section 15, Township 28 South, Range 15 East, W.M., or one-half inch per acre. From the surveys and investigations made by the State Engineer in connection with these proceedings it appears that said 100 irrigated acres is and has been located as follows: 11.4 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 30.3 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 4.5 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 31.9 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, 20.3 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, and 1.6 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$.

It does not appear that the owners of the lands now in the ownership of Sphar, Penington and Karn were made party to the Hough v. Porter decree, however, these owners have signed this stipulation, and therefore, Cameron Cliff shall be awarded 50 miner inches or 1.25 cubic feet per second of the waters of Bridge Creek under date of priority of June 1, 1884, for irrigation of 11.4 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 30.3 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 4.5 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 31.9 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, 20.3 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, and 1.6 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ in Section 15, Township 28 South, Range 15 East, W.M.

PLACE OF MEASUREMENT

The place of measurement of the water, to which any appropriator of the waters of Bridge Creek and its tributaries is entitled, hereby is fixed to be at the point of diversion from the stream.

HEAD GATES AND MEASURING DEVICES

The owner or owners of any ditch, canal, conduit or other means of diversion and conveyance, whether the rights are determined in this proceeding or subsequently initiated

and perfected, shall maintain to the satisfaction of the Watermaster a substantial head-gate at the point where the water is diverted, which shall be constructed so that it can be set and locked, or closed and locked, by the Watermaster. And when in the distribution of water by the Watermaster, he may require the installation of suitable head-gates or measuring devices, such owner or owners shall construct and maintain such suitable head-gates or measuring devices at such points along such ditch, canal, conduit or other means of conveyance as may be necessary to assist the Watermaster to determine the quantity of water that is to be diverted into said ditch, canal, conduit or other means of conveyance.

If any owner or owners shall refuse or neglect to install such head-gate or measuring device after ten days written notice, the Watermaster may close and post such ditch, canal or other means of conveyance and the same shall not be opened or any water diverted from the source of supply under the penalties prescribed by law for the illegal opening of head-gates lawfully closed, until the requirements of the Watermaster, as to such head-gates or measuring devices, have been complied with.

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ROTATION

To provide a sufficient rate of diversion or head of water, the Watermaster may arrange such system or systems of rotation among the water users as best may be applicable:

- (1) By giving a greater amount of water to a water user for a proportionately less time;
- (2) Where two or more water users agree between themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the Watermaster, and such system does not infringe upon the rights of others, the Watermaster shall distribute the water according to such agreement.

As all parties have stipulated and agreed that each claimant who is a party of said stipulation shall have a common date of priority for all his lands as hereinafter set forth in the tabulation in Finding 34 following, the Watermaster must follow common dates of priority in any rotation system.

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ORDER OF DETERMINATION

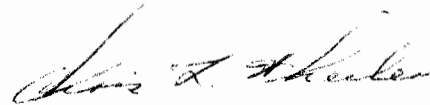
To summarize and supplement the specific findings herein, the rights of the claimants to the use of the waters of Bridge Creek and its tributaries, as set forth in the stipulation, are arranged in tabulated form, with the date of relative priority of such appropriation, the quantity or rate of flow of the water allowed such appropriation, the number of acres to be irrigated by such appropriation, the use or uses to which such water is applied, and the description of the land upon which the water has been used and is fixed as appurtenant, the tabulated rights of each appropriator being set forth opposite and following his name and post office address, as stated in the stipulation, 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 |
|---|---------------------------|------------------------------|--------------|-------------------------|--|-----------------|---|
| CLIFF, Cameron Burns, Oregon (Proof No. 1) See Finding 26 And Finding 30 | 6/1/1884 | 1.25 | 100.0 | Irrigation | Unnamed Ditches, Dams and Dikes | Bridge Creek | 11.4 acres in SW $\frac{1}{2}$ NE $\frac{1}{2}$ 30.3 acres in SE $\frac{1}{2}$ NW $\frac{1}{2}$ 4.5 acres in SW $\frac{1}{2}$ NW $\frac{1}{2}$ 31.9 acres in NW $\frac{1}{2}$ SW $\frac{1}{2}$ 20.3 acres in NE $\frac{1}{2}$ SW $\frac{1}{2}$ 1.6 acres in NW $\frac{1}{2}$ SE $\frac{1}{2}$ Section 15, T. 28 S., R. 14 E., W.M. |
| SPHAR, James and Lorraine Silver Lake, Oregon Successors in inter- est to Russell and Mary Emery (Proof No. 2) See Finding 26 | 1895 | 0.170 | 13.6 | Irrigation | Unnamed Ditch | Bridge Creek | 0.2 acre in NW $\frac{1}{2}$ NW $\frac{1}{2}$ Section 2, T. 29 S., R. 13 E., W.M. |
| | | | | | Unnamed Ditches | | 3.2 acres in NE $\frac{1}{2}$ SW $\frac{1}{2}$ 5.7 acres in SW $\frac{1}{2}$ SW $\frac{1}{2}$ 4.5 acres in SE $\frac{1}{2}$ SW $\frac{1}{2}$ Section 35, T. 28 S., R. 13 E., W.M. |
| IVERSON, Lawrence and Marjorie Silver Lake, Oregon Successors in inter- est to W. R. and Lena Karn (Proof No. 3) See Finding 26 | 1903 | 0.498 | 39.8 | Irrigation and Stock | Unnamed Ditches | Bridge Creek | 36.3 acres in NE $\frac{1}{2}$ NE $\frac{1}{2}$ 3.5 acres in NW $\frac{1}{2}$ NE $\frac{1}{2}$ Section 20, T. 28 S., R. 14 E., W.M. |
| PENINGTON, Jess H. and Pearl Summer Lake, Oregon Successors in inter- est to Dale and Lucille Emery (Proof No. 4) See Finding 26 | 5/5/1884 | 0.854 | 68.3 | Irrigation and Stock | Unnamed Ditches | Bridge Creek | 30.0 acres in SW $\frac{1}{2}$ SW $\frac{1}{2}$ 3.9 acres in SE $\frac{1}{2}$ SW $\frac{1}{2}$ Section 25, 34.4 acres in SE $\frac{1}{2}$ SE $\frac{1}{2}$ Section 26, T. 28 S., R. 13 E., W.M. |
| PENINGTON, Jess H. and Pearl (Proof No. 5) See Finding 26 | WITHDRAWN | | | | | | |
| PENINGTON, Jess H. and Pearl (Proof No. 6) See Finding 26 | 5/5/1884 | 0.125 | 10.0 | Irrigation and Stock | Unnamed Ditches | Bridge Creek | 10.0 acres in NE $\frac{1}{2}$ NE $\frac{1}{2}$ Section 35, T. 28 S., R. 13 E., W.M. |
| PENINGTON, Jess H. and Pearl (Proof No. 7) See Finding 26 | 5/5/1884 | 0.001 | 0.1 | Irrigation and Stock | Unnamed Ditch | Bridge Creek | 0.1 acre in NW $\frac{1}{2}$ NW $\frac{1}{2}$ Section 36, T. 28 S., R. 13 E., W.M. |
| PENINGTON, Jess H. and Pearl (Proof No. 8) See Finding 26 | 5/5/1884 | 0.484 | 39.7 | Irrigation and Stock | Unnamed Ditches | Bridge Creek | 13.1 acres in NE $\frac{1}{2}$ SW $\frac{1}{2}$ 20.1 acres in NW $\frac{1}{2}$ SW $\frac{1}{2}$ Section 25, 6.5 acres in NE $\frac{1}{2}$ SE $\frac{1}{2}$ Section 26, T. 28 S., R. 13 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 |
|--|---------------------------|------------------------------|--------------|----------------------|---------------------------------|--------------|---|
| SCHUMACHER, Mabel Box 8 Silver Lake, Oregon (Proof No. 9) See Finding 26 | WITHDRAWN | | | | | | |
| Z X Ranch, Inc. Paisley, Oregon Successors in interest to Sinton & Brown Co. (Proof No. 10) See Finding 26 | 1875 | 5.068 | 405.4 | Irrigation and Stock | Unnamed Ditches, Dams and Dikes | Bridge Creek | 10.2 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 31.6 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 15.8 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 39.8 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 10.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ 33.2 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ 39.6 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 39.0 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 39.6 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 35.1 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 29.6 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 16, |
| | | | | | Unnamed Ditch | | 3.7 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 20, |
| | | | | | Unnamed Ditches, Dams and Dikes | | 20.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 27.7 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 30.5 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 21, |
| | | | | | | | T. 28 S., R. 14 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 Bridge 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 30th day of December, 1970.



CHRIS L. WHEELER
State Engineer