

BE IT REMEMBERED, That at a Regular Term of the Circuit Court of the State of Oregon, for the County of Marion begun and held at the Court House, in the City of Salem, in said County and State, on Monday, the 3rd day of July, 1944, the same being the First Monday in said month and the time fixed by law for holding a Regular Term of said Court, when were present:

The Hon.	E. M. Page & Geo. R. Duncan,	Judges presiding
	M. B. Hayden,	District Attorney
	H. C. Mattson,	Clerk pro tem
	A. C. Burk,	Sheriff

When, on Wednesday, the 6th day of September, 1944, or the fifty-fifth Judicial Day of said term, among others the following proceedings were had, to-wit:

No. 30156

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MARION

Department No. 2

E. B. COCHRAN,	(	
	)	
Plaintiff,	)	
	(	
vs.	)	<u>DECREE</u>
	(	
J. O. FARR,	)	
	(	
Defendant.	)	

The above entitled matter, having heretofore come on for trial, the Plaintiff appearing in person, and by his Attorney of record, Paul F. Burris, and the Defendant appearing in person and by his Attorney of record Herman E. Lafky, and, on motion of Defendant, this matter was by order of this Court, referred to the State Engineer of the State of Oregon, for the purpose of determining certain water rights herein, pursuant to the provision of the laws of Oregon governing the litigation of water rights, and

The said State Engineer having heretofore made and gathered engineering data and information pertinent hereto, and held hearings and taken testimony as by law provided, and based thereon, has duly made his findings and order of determination of water rights herein, and same having been submitted to this Court by Counsel for the respective parties hereto, on briefs hereto

submitted, and the Court being fully advised, now finds that said findings, and water right determination as filed herein shall be confirmed and that the injunction prayed for by Plaintiff should be permanently denied, now, then,

WHEREFORE, It is Hereby Ordered, Adjudged, and Decreed,

I

That Defendant, J. O. FARR, is the owner of the following described real property situated in Marion County, Oregon.

Beginning at a point on the south line of the Joseph Cox D.L.C. No. 38 in Section 5, Township 9 South, Range 3 West of the Willamette Meridian where the same intersects the Easterly line of the right of way of the Oregon Electric Railway; thence running north 60°26' East along the said south line of the said Joseph Cox D.L.C.; to a point where the same intersects the east line of said section 5; thence north along the said east line of said Section 5, 29.84 chains to the northeast corner of said Section 5; thence westerly along the north line of said section 5, to a point thereon 608.22 feet east of the quarter section corner on the said north line of said section 5; thence south 9°12' East 529.74 feet to a point; thence south 52°43' West 281.86 feet to a point; thence south 38°42' West 383 feet to a point; thence south 9°12' West 560 feet more or less to a point on a line running south 60°26' West from a point on the east line of said section 5, 84 links south of the northeast corner thereof; thence running south 60°26' West along said line to a point on the east line of the right of way of the Oregon Electric Railway; thence south along the said easterly line of said railroad right of way to the place of beginning, together with a right of way for a roadway one rod wide and along a southwesterly extension of the center line of the present county road running along the south line of the said Joseph Cox D.L.C. No. 38, said right of way to extend from the said county road to the Willamette River; saving and excepting from said tract, one half acre of ground deeded to School District No. 37 Marion County Oregon for a cemetery and burial place; which deed is recorded in book 21 of the deed records of Marion County, State of Oregon, on page 162, thereof and also saving and excepting therefrom an additional half acre of ground lying directly east of and adjoining the same which is to be also used for cemetery and burial purposes, which deed is recorded in book 147 page 575 of the deed records of Marion County, State of Oregon. All the above land situate in Marion County, State of Oregon.

The injunction prayed for by Plaintiffs is hereby denied,

And that the water rights herein granted are applicable to the above described premises.

II

That the water subject to this litigation originates from two small un-named springs situated on the above described premises of the Defendant.

III

That the order of the rights of the respective claimants of water of the unnamed stream the source of which is the two springs rising within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 5, Township 9 South, Range 3 West, W. M., and in which order they are entitled to divert and use said water, shall be and is according to the date of the relative priority of the rights as herein set forth and determined, and the first in order of time according to the date of relative priority shall be and is the first in order of right, and those having prior rights are entitled to divert and use the water of said unnamed stream and springs when necessary for beneficial use in connection with the irrigation of their respective land, or other beneficial uses, as allowed herein, and when the water is not required by the claimant having a prior right to its use, for the purpose for which said water was appropriated, he must and shall permit it to flow down the natural channel of the stream so those having subsequent rights can use the same.

IV

That the relative priority dates found herein, are as follows:

Defendant, J. O. FARR, as of 1894

Plaintiffs, E. B. and ZULIMA COCHRAN as of 1905

V

Defendant, J. O. FARR, is hereby granted the right to the use of 12.0 gallons of water per minute, for a period not to exceed 16.0 hours in any one day, and not exceeding a total of 0.96 acre-foot during any calendar month from the spring at the head of the unnamed stream rising near the northeast corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 5, Township 9 South, Range 3 West, W. M., and storage reservoir described herein, for the irrigation of 3.6 acres of land with a date of priority of 1894. Said Defendant is also allowed a right to the use of 4.4 gallons per minute from said spring and reservoir for domestic use in Defendant's residence and for watering stock, with a date of priority of 1894. The total quantity of water to which said Defendant is entitled to divert during any irrigation season for the irrigation of 3.6 acres of land, as described herein, shall not exceed 3.6 acre-feet.

It is further provided that Defendant, J. O. Farr, shall have the right, subject to the maximum rate of use, time of use, and quantity to be used during any calendar month and irrigation season as fixed herein, to use water as allowed herein for the irrigation of a smaller area provided that the quantity does not exceed 1.5 acre-feet per acre during any calendar month and two acre-feet per acre during any irrigation season.

The water allowed to the defendant, J. O. Farr, shall be diverted and conveyed in a pipe line as has been the practice and he, his heirs and successors in interest shall operate and maintain the pipe line and reservoir so as to prevent all waste and when water is not being used the water from the reservoir shall be returned to the stream at the reservoir. The period of time for the use of water for irrigation shall not include the time necessary to fill the reservoir with a capacity not exceeding 686.1 gallons.

VI

That Plaintiffs E. B. and Zulima Cochran, are hereby granted the following water rights, subject to the above described prior water rights of the Defendant, J. O. Farr, namely:

The right to use .01 cubic foot per second from the unnamed stream, the source of which is two springs arising within the NE $\frac{1}{4}$ NW $\frac{1}{4}$  Section 5 Township 9 South, Range 3 West W. M. for use in watering stock. Said right is limited to stock drinking from the channel of said stream from where it enters the land of Plaintiffs, to the junction with the unnamed stream flowing thereunto from the East.

The lands of the Plaintiffs are described as follows:

Beginning at the southeast corner of Lewis Pettyjohn D.L.C. No. 39 in Section 4 Township 9 South, Range 3 West, W. M., thence south 60 degrees west along the south line of said D.L.C., 84.4 chains more or less to the east side of the county road, thence north 30 degrees west along the east side of said county road, 1990 feet more or less to the north line of said D.L.C., thence north 60 degrees east along said D.L.C., 84.4 chains more or less to the northeast corner of said D.L.C., thence south 30 degrees east 30.70 chains to the place of beginning.

It is further provided that said Plaintiffs shall have the right to construct stock ponds in the channel of said stream to store the water for watering or to divert the water allowed herein by means of a pipeline to watering troughs, providing the overflow from the troughs shall be returned to said stream channel without loss.

That Defendant J. O. Farr is awarded judgement of costs herein incurred.

Signed this 6th day of September, 1944.

E. M. PAGE  
Circuit Court Judge

STATE OF OREGON     )  
                          )   ss  
County of Marion    )

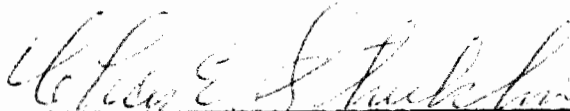
I, H. C. Mattson, County Clerk Pro Tem. of the above named County and State and ex-officio clerk of the Circuit Court of the County of Marion, State of Oregon, do hereby certify that the foregoing copy of DECREE in re: E. B. Cochran vs. J. O. Farr, No. 30156, has been by me compared with the original and that it is a correct transcript therefrom and of the whole of such original record or file as the same appears of record or on file in my office and in my care and custody.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Salem, Oregon, this 25th day of September, A. D. 1944.

S E A L                             H. C. Mattson     County Clerk Pro Tem.  
By H. J. Gregg                     Deputy

STATE OF OREGON     )  
                          )   ss  
County of Marion    )

I, CHAS. E. STRICKLIN, State Engineer of Oregon do hereby certify that the foregoing certified copy of DECREE of the Circuit Court dated September 6, 1944, in the matter of the case of E. B. Cochran, Plaintiff, versus J. O. Farr, Defendant, was received in this office and entered of record herein on this 26th day of September, 1944.

  
CHAS. E. STRICKLIN, State Engineer