

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

CHARLES WALKER,
Plaintiff
vs.
GEORGE C. RICHMOND, J.B.MALLORY,
L. S. HEBNER, substituted for
W. F. OWENS,
Defendants.

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DE C R E E

Now at this time the above entitled cause coming regularly before the court for final determination and decree, and it appearing that said suit was heretofore referred, the testimony duly submitted to the court with briefs and argument by respective counsel, and upon consideration thereof an opinion was rendered herein on the 3rd day of July, 1931 and that findings of fact and conclusions of law have been made and entered, and in accordance therewith the court makes and enters its DECREE.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Prather Creek, located in Harney County, Oregon is a perennial stream and the waters of said stream are subject to appropriation and beneficial use.

IT IS ORDERED, ADJUDGED AND DECREED THAT the Plaintiff, Charles Walker is entitled to and is hereby awarded a right by appropriation and beneficial use with a priority of 1884 to the use of the waters of said stream for the irrigation of and which said right shall be appurtenant to the following described parcels and subdivisions of land, said real property being situated in Harney County, State of Oregon, to-wit:

In Section 36, Township 22, South, Range 31, East
Willamette Meridian.

NE $\frac{1}{4}$ of NW $\frac{1}{4}$	-	18 acres
NW $\frac{1}{4}$ of NE $\frac{1}{4}$	-	36 "
NE $\frac{1}{4}$ of NE $\frac{1}{4}$	-	20 "
SW $\frac{1}{4}$ of NE $\frac{1}{4}$	-	28 "
SE $\frac{1}{4}$ of NE $\frac{1}{4}$	-	31 "
NW $\frac{1}{4}$ of SE $\frac{1}{4}$	-	37 "
NE $\frac{1}{4}$ of SE $\frac{1}{4}$	-	33 "
SW $\frac{1}{4}$ of SE $\frac{1}{4}$	-	33 "
SE $\frac{1}{4}$ of SE $\frac{1}{4}$	-	38 "
SE $\frac{1}{4}$ of SW $\frac{1}{4}$	-	<u>16</u> "
Total		290 acres

IT IS ORDERED, ADJUDGED AND DECREED that the plaintiff Charles Walker is entitled to and is hereby awarded the right to the use of the waters of that certain spring arising in the bed of Prather Creek in Section 25, Township 22, South, Range 31 East, W. M., a few hundred yards north of the south boundary of said section, and is hereby given the exclusive right to develop and use the water of said spring upon said Section 36,

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above mentioned and described, with a priority of 1884.

That a part of the irrigation works used and operated by the plaintiff for the purpose of diverting water from the creek channel and conveying the same to the higher portions of the land above described, both for irrigation and domestic and stock watering purposes, consists of a ditch constructed and used by the plaintiff and his predecessors in interest, leaving the west bank of said creek in the west half of the southeast quarter of said section twenty-four, township 22 south, range 31 east, W.M., being the property of L. S. Hebner described herein, and extending southerly and parallel with said creek across said section 25, above mentioned and delivering water on the northeast quarter of the northwest quarter of said section 36, and said plaintiff is entitled to and is hereby awarded the exclusive right to the maintenance and use of said ditch as now located and operated.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the defendant George C. Richmond is entitled to and is hereby awarded a right by appropriation and beneficial use with priority of 1883 to the use of the water of said stream for irrigation of and which said right shall be appurtenant to the following described parcels and subdivisions of land, situated in Harney County, State of Oregon, to-wit:

In Section 13, Township 22, South, Range 31, East of W.M.

SW $\frac{1}{4}$ of NW $\frac{1}{4}$	0.
NW $\frac{1}{4}$ of SW $\frac{1}{4}$	9.871 acres
SW $\frac{1}{4}$ of SW $\frac{1}{4}$	4.479 acres
NE $\frac{1}{4}$ of SW $\frac{1}{4}$	6.696 acres
SE $\frac{1}{4}$ of SW $\frac{1}{4}$	19.964 acres

In Section 24, Township 22, South Range 31, East, W.M.

NE $\frac{1}{4}$ of NW $\frac{1}{4}$	18.031 acres
NW $\frac{1}{4}$ of NW $\frac{1}{4}$	0.
Total	59.04 acres

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the defendant George C. Richmond is entitled to and is hereby awarded the right to the use of the waters of those certain springs arising on his said lands in Sections 13 and 24 above described, and is hereby granted the use of the water of said springs upon said lands, with priority of 1883.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the water rights claimed from said Prather Creek by the defendant George C. Richmond for the irrigation of his lands in Section 25, Township 22 South, Range 31 East, W.M., has long been lost by non-use and abandonment, and no water right is decreed to said land in this suit from said stream or any of its tributaries.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the defendant L. S. Hebner, hereby substituted for the defendant W. F. Owens, is entitled to and is hereby awarded the right to the use of the waters of said stream, by appropriation and beneficial use with priority of 1898, for the irrigation of and which said rights shall be appurtenant to the following described parcels and subdivisions of land, said real property being

situated in Harney County, State of Oregon, to-wit:

In Section 24, Township 22, South, Range 31, East, W.M.

SE $\frac{1}{4}$ of NW $\frac{1}{4}$	4	acres
SW $\frac{1}{4}$ of NE $\frac{1}{4}$	2.5	acres
NW $\frac{1}{4}$ of SE $\frac{1}{4}$	4.5	acres
SW $\frac{1}{4}$ of SE $\frac{1}{4}$	<u>11</u>	acres
Total	22	acres

It is hereby ORDERED, ADJUDGED AND DECREED that the irrigation season during which the waters of said Prather Creek are to be diverted, measured and used under this decree, shall commence on the 1st day of March and end on the 1st day of July each year, and the amount of water decreed for the irrigation of said lands is hereby fixed at three acre feet per acre to be used thereon during each irrigation season as above prescribed.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that each of the parties to this suit hereby awarded a water right shall have the right to stock water from said Prather Creek thruout the year when same is available but said stock water shall not be in addition to the amount subject to use for the irrigation of said lands during the irrigation season.

IT IS HEREBY ORDERED that each party shall pay his own costs in this suit.

Done and dated in open court in Burns, Oregon, this 20th day of November, 1931.

Filed Nov. 23, 1931.
Wm. M. Carroll, Clerk

W. W. WOOD
Circuit Judge

Recorded Book E, Page 556-557

STATE OF OREGON)
) ss
County of Harney)

I, Wm. M. Carroll, County Clerk and Clerk of the Circuit Court of the County and State aforesaid, do hereby certify that the foregoing copy of Findings of Fact and Conclusions of Law and Decree, Case #2351, Charles Walker, Plaintiff, vs. George C. Richmond, Et Als, Defendants, has been by me compared with the original, and that it is a correct transcript therefrom, and of the whole of such original Findings, Conclusions and Decree as the same appears of record at my office and in my custody.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 6th day of April, 1937.

Wm. M. Carroll,
County Clerk

(SEAL)

By Curtis Smith, Deputy.

STATE OF OREGON)
) ss
County of Marion)

I, CHAS. E. STRICKLIN, State Engineer of Oregon, do hereby certify that the foregoing copy of certified copy of Findings, Conclusions and Decree Case No.2351, Charles Walker, Plaintiff, vs. George C. Richmond, et al, Defendants, has been compared with such certified copy and that it is a correct transcript therefrom and of the whole thereof as the same was received and entered of record in my office and in my custody.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of April, 1937.

CHAS. E. STRICKLIN
State Engineer.