

BEFORE THE STATE WATER BOARD OF OREGON.

WATER DIVISION No. 1, KLAMATH COUNTY

IN THE MATTER OF THE DETERMINATION OF THE )  
RELATIVE RIGHTS TO THE WATERS OF LOST )  
RIVER, A TRIBUTARY OF TULE LAKE, IN )  
KLAMATH COUNTY, OREGON. )  
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FINDINGS OF FACT

AND

ORDER OF DETERMINATION.

Now on this 1st day of May, 1917, at an adjourned regular meeting of the State Water Board, the above entitled matter regularly coming on for hearing, and for the making and entry of findings of fact and an order of determination therein by said Board, on motion of James T. Chinnock, Superintendent of Water Division No. 1 of the State of Oregon, and the Board having carefully and fully considered the testimony and the evidence herein, and all of the statements and proofs of claim of the various claimants on file herein, and being now fully advised in the premises, now makes the following as its

FINDINGS OF FACT

1.

That Lost River is a natural watercourse rising in the State of California and flowing thence into and through the State of Oregon, and back into the State of California, into Tule Lake, of which it is a tributary, in said State of California, and that in so far as the waters of said Lost River are herein involved, and in so far as said Lost River is situate in the State of Oregon, the said stream is situated in the County of Klamath in said state; that these proceedings are intended to determine and adjudicate the relative rights of the various claimants to the waters of said Lost River in so far as said Lost River is situate within the State of Oregon.

2.

That during the irrigation season as hereinafter described, the rainfall within the area of land irrigated by said stream and in the vicinity thereof is insufficient for the profitable production of profitable agricultural crops on the lands irrigated therefrom, and said lands are arid in character and become

during the crop growing period of each year dry and unproductive without artificial irrigation, and in order to render said lands productive and for the profitable growing of crops thereon, it is and always has been since the first use of water from said stream for irrigation purposes necessary to divert and use the waters of said stream for the irrigation of said lands susceptible of irrigation therefrom, and with such irrigation said lands yield annually valuable crops of hay, natural grasses, grain and vegetables, and produce pasturage for livestock.

3.

That on the 15th day of August, 1910, there were filed in the office of the Board of Control of the State of Oregon, now the State Water Board of the State of Oregon, several petitions requesting a determination of the relative rights of the various claimants to the waters of said Lost River and its tributaries; that George Deal, D. G. Horn, W. A. Duncan, George McDonald, S. W. Kilgore, and Alex. McDonald, are, and each of them was, at the time of the filing of said petitions, water users of the waters of said Lost River, in said Klamath County, Oregon, and were the owners of lands irrigated by the diversion of the waters of said stream, and ever since have been and now are water users upon said stream and the owners of land irrigated therefrom, and entitled to request a determination of the relative rights of the various claimants to the waters of said stream and its tributaries by said State Water Board.

4.

That thereafter, and upon investigation, the said Board found the facts and conditions such as to justify the making of a determination of the rights of said various claimants, and thereafter an order was entered by said Board in its record, fixing a time for the taking of testimony and for the making of such examination as would enable it to determine the rights of said various claimants.

5.

That said Board prepared a notice setting forth the date when the State Engineer of Oregon would begin an investigation of the flow of said stream, and of the ditches diverting water therefrom, and the place and time certain when the Superintendent of Water Division No. 1, in which said stream is situate, would begin the taking of testimony as to the rights of the parties claiming water therefrom, and thereafter said notice was duly published according to law in two issues of a newspaper of general circulation, in said Klamath County, Oregon, and published therein, said dates of publication being the 17th day of October, 1912, and the 24th day of October, 1912, said 24th day of October, 1912 being the date of

the last publication of said notice, and the date of said last publication being more than thirty days prior to the beginning of the taking of testimony by said superintendent as fixed in said notice, to-wit, the 9th day of December, 1912, or the time fixed in said notice for the examination of said stream by said State Engineer or his assistant, to-wit, the 7th day of December, 1912; proof of the publication of said notice being a part of the record and on file herein. That on the 24th day of October, 1912, the Superintendent of Water Division No. 1 of the State of Oregon did send notice by registered mail to each person, firm or corporation claiming the right to the use of any of the waters of said stream, and to each person, firm or corporation owning or being in possession of lands bordering on and having access to said stream, or its tributaries, so far as such persons, owners and persons in possession could be reasonably ascertained, which notice was a similar notice to such published notice, setting forth the date when said State Engineer or his assistant would begin the making of an examination of said stream and the ditches diverting water therefrom, and also the date when the Superintendent would take testimony as to the rights to the waters of said stream; the date for the taking of testimony and for the making of said examination being as set forth in said published notice, and as above set forth, and being more than thirty days prior to the date fixed in said notice for the beginning of the taking of said testimony by said Superintendent, or the measurement and examination of said stream by said State Engineer. Due proof of the mailing of said notice being on file and a part of the record herein. That said Superintendent did enclose in addition to said notice and therewith a blank form on which said claimant so notified might present in writing all the particulars necessary for the determination of his rights to the waters of said stream, and which should show a compliance with the law in acquiring such right; a copy of said blank form being a part of the proof of service of such notice and in the record herein.

6.

That upon the date named in said notice the assistant to the State Engineer of Oregon did proceed to make an examination of said stream and the works diverting water therefrom, including the measurement of said stream, and the carrying capacity of the various ditches and canals, and an examination of the irrigated lands; and an approximate measurement of the lands irrigated, or susceptible of irrigation from the various ditches and canals; which said observations and measurements have been reduced to writing and made a matter of record in the office of said State Engineer, together with maps and plats showing with substantial accuracy the course of said stream, location of each ditch or canal diverting water therefrom, and the legal subdivisions of lands which have been irrigated or which are susceptible of irrigation

from ditches and canals already constructed; copies of said observations, measurements, maps and data, duly certified to, being now on file and a part of the record herein.

7.

That upon the date named in the aforesaid notice the Superintendent of Water Division No. 1 of Oregon (as more fully appears from his certificate on file and now a part of the record herein) began the taking of testimony in the above entitled matter and continued the same to completion; and the persons named in the tabulated statement in the order of determination herein appeared and submitted proof of their rights to the use of the above named stream or its tributaries.

8.

That each of said claimants set forth the particulars necessary for a determination of their rights to the waters of said stream in writing, together with such other facts as tended to show a compliance with the law in acquiring such right; and each of said claimants did certify to his said statement under oath; and said proofs are now a part of the record herein; and said Superintendent did take such testimony and evidence as was offered on behalf of said claimants, or either of them.

9.

That upon the completion of the taking of testimony as aforesaid the Superintendent of Water Division No. 1 of Oregon gave notice by registered mail to the said claimants by depositing said notice in the post office, that at a time and place named in said notice, more than ten days thereafter, all of said evidence taken as aforesaid would be open to inspection of said claimants, and all other persons interested, during said time aforesaid, said period for inspection being more than ten days after the giving of said notice by registered mail as aforesaid, and thereupon said Superintendent did open said evidence to inspection at said places and at the times as fixed in said notice, and kept the same open to inspection for a period of ten days, excluding Sundays and legal holidays; and it was set forth and stated in said notice that the determination of the said State Water Board in the above-entitled matter would be heard by the Circuit Court of the State of Oregon, for Klamath County, in which county said stream is wholly situate, in so far as involved herein, due proof of the mailing of said notice and of the holding of said inspection being now on file and a part of the record herein.

10.

That after the period for inspection as aforesaid, the evidence in the original hearing before the said Superintendent and the evidence taken in all contests was duly transmitted by said Superintendent in person to said State Water Board, and filed with

said Board in its office at Salem, Oregon.

11.

That C. C. Beekman has filed separate claims herein, claiming in one instance as an appropriator of the waters of Lost River, and in the other claim as a riparian proprietor, and claiming as such a riparian right to irrigate the lands described in his claim of appropriation, together with additional lands not shown as irrigated upon the maps of the State Engineer on file herein; that the Board finds that said Beekman has elected to claim as an appropriator of the waters of Lost River, and his rights should be determined as such; and that he has waived any other or further rights to the said waters as a riparian owner by reason of his said claim of appropriation.

12.

That C. C. Beekman, a claimant herein, died, subsequent to the commencement of these proceedings and prior to these findings, and that the rights claimed by said Beekman should be adjudicated and decreed to his estate and heirs.

13.

That the United States is engaged in the reclamation and irrigation of land in Klamath County, Oregon and Modoc and Siskiyou Counties, California, with the waters of Lost River and its tributaries, and by special appearance in these proceedings asserts certain rights to the use of the waters of said Lost River and its tributaries and to the storage of the waters of Lost River in the Clear Lake Reservoir in Modoc County, California and the waters of Miller Creek in the Horsefly Reservoir in Klamath County, Oregon.

That by the posting of a notice at the proposed point of diversion on March 8, 1905, the United States initiated a right to appropriate 1000 second feet of the waters of Miller Creek for irrigation, domestic, power, mechanical, storage and other beneficial uses.

That by the posting of a notice at the proposed point of diversion on December 19, 1904, the United States initiated a right to appropriate 5,000 second feet of the waters of Lost River, to be stored in the Clear Lake Reservoir.

That by the filing of a notice, in the office of the State Engineer, the United States did on May 17, 1905, initiate a right to divert and use for beneficial purposes under the Act of Congress approved June 17, 1902, known as the reclamation act, all the unappropriated waters of Lost River and its tributaries.

That all of said appropriations were for the purpose of carrying into effect a general plan of reclamation, and from and after the time that each of said appropriations were made, work on this general plan of reclamation has been diligently prosecuted, and subject to all prior appropriations from said stream the right of the United States in and to such appropriations of water insofar as the same may be applied to the intended uses and purposes as hereinafter set forth, is hereby recognized.

That the United States has acquiesced in an appropriation of the waters of Miller Creek by the Horsefly Irrigation District, subject to the condition that such water right shall revert to the United States in case the said district shall fail to utilize the water, and the right of the United States to the waters of Miller Creek is recognized, subject to such right as the said Horsefly Irrigation District may have by reason of its appropriations and the acquiescence of the United States therein.

14.

CONTEST NO. 1: ELIZA PFANNSTIEHL v. C. C. BEEKMAN, CHARLES HORTON, OLENE LIVE STOCK COMPANY, AND TASSEY STEWART.

That Eliza Pfannstiehl commenced a contest against the rights claimed by C. C. Beekman, Charles Horton, Olene Live Stock Company, and Tasseey Stewart, and the same was heard upon notice duly and regularly given. After consideration of the testimony offered, the Board finds as follows:

1. That sometime prior to the year 1895 the lands of the contestant, Eliza Pfannstiehl, were irrigated by means of dams placed in the natural channel of Lost River and sloughs diverging therefrom, and the evidence tends to indicate that these dams were first placed in said channels and sloughs about the year 1885. That not to exceed 59 acres of the lands claimed by said contestant have been irrigated.

2. That upon stipulation of the parties, it was agreed that the contest as to the claim of C. C. Beekman should be dismissed.

3. That there is <sup>no</sup> evidence before the Board tending to show that the rights of the contestant are prior in time to those of the contestee, Charles Horton. That said contestee is entitled to a priority as of the year 1883 for the irrigation of the lands described in his statement and proof of claim, No. 16 herein.

4. That Rex E. Bord has succeeded to all of the right, title and interest in and to the lands and water rights heretofore claimed by the Olene Live Stock Company in Proof No. 25, and has been duly substituted as a party hereto for said Olene Live Stock Company. That prior to 1902, and, according to the proof of the contestee, Olene Live Stock Company, about the year 1888, the waters of Lost River were diverted by means of a water wheel whereby certain of the lands now owned by said Rex E. Bord were irrigated. In 1902 the said Olene Live Stock Company, a corporation, having acquired title to said lands and appurtenant water rights, replaced said original water wheel with a larger water wheel, and undertook the reclamation of a larger area of said lands. That the reclamation of said lands has been hindered and delayed by virtue of difficulties and disagreements with the Reclamation Service of the United States relative to rights of way and the inclusion of said lands within its proposed reclamation project, known as the Klamath Project. That it appears from the investigations made on behalf of the State Water Board by its engineers, that a total area of 251 acres of the lands now owned by Rex E. Bord has been irrigated from Lost River, and the Board finds that he is entitled to a priority of 1888 for that portion of his lands irrigated before 1902, and a priority of 1902 for the remainder of his said lands.

5. That Tassej Stewart, in Proof No. 31, alleges that he has a riparian right initiated in the year 1882, and claims a right for the irrigation of 250 acres, and in addition, proposes to irrigate 220 acres. That none of the lands described in said proof are shown as irrigated lands on the State Engineer's plats. That investigations made subsequent to the State Engineer's survey convince the Board that none of said lands had ever been irrigated from Lost River and cannot be designated irrigated lands. That Tassej Stewart has never acquired any rights by appropriation, and that neither he nor his predecessors in interest have ever made any beneficial use of the water for the irrigation of said premises.

That although duly notified of the time and place appointed for the hearing of said contest, as appears from the returns and proof of service of the notice of said hearing on file herein, and although said notice was served more than thirty days and less than sixty days prior to said hearing, said Tassej Stewart made no appearance at said hearing, either in person or by attorney, and has never appeared herein, and no evidence or proof in the matter of said contest has ever been offered by him or in his behalf, and that he is therefore in default in said contest. That

no facts are alleged in his statement and proof of claim showing or tending to show that he or his predecessors in interest derived title to said lands from the United States prior to March 3, 1877, and his proof would indicate that title was derived subsequent to said date and that he therefore has no riparian right to the use of the waters of Lost River for irrigation purposes. That as a riparian owner, he is entitled to a reasonable amount of water for stock and domestic purposes dating from settlement upon his said lands about the year 1890. The claim of Tassey Stewart for irrigation purposes as set forth in Proof No. 31 herein is therefore denied, and he should be allowed a reasonable amount of water for stock and domestic purposes upon his said land.

15.

CONTEST NO. 2: FRANK D. SWINGLE v. CHARLES J. SWINGLE.

That Frank D. Swingle initiated a contest against the claim made by Charles J. Swingle to the waters of Miller Creek, a tributary of Lost River, and the same was regularly heard, after due notice properly given. From the testimony and evidence taken at said hearing, the following facts are found:

1. That in 1890 Charles J. Swingle filed upon the  $E\frac{1}{2}NW\frac{1}{2}$  and Lots 2 and 3 of Section 7, Twp. 40 S. R. 14 E. W. M., under the homestead laws, and patent for said lands was issued to him on October 4, 1898. That Oliver H. Swingle filed on the  $SE\frac{1}{4}NE\frac{1}{4}$  and  $NE\frac{1}{4}SE\frac{1}{4}$  of Section 12, Twp. 40 S. R. 13 E. W. M., in 1870 under the preemption laws, and the lands were patented to him in 1875. That Charles J. Swingle has since acquired title to these lands last described. That one Joseph Wagon filed on the  $E\frac{1}{2}NW\frac{1}{2}$  and  $NW\frac{1}{2}NW\frac{1}{2}$  of Section 13, Twp. 40 S. R. 13 E., W. M. in the year 1889, and having conveyed the premises to Charles J. Swingle in 1890, patent was issued therefor in 1892. That said Charles J. Swingle and his wife and daughter are the joint owners of the  $NW\frac{1}{4}SE\frac{1}{4}$ ,  $SW\frac{1}{4}NE\frac{1}{4}$  and  $N\frac{1}{2}NE\frac{1}{4}$  of Section 13, Twp. 40 S. R. 13 E. W. M., but when or how title was derived from the Government to these lands does not appear.

2. That contestant, Frank Swingle, settled upon a portion of his lands under the homestead laws in 1880, but there is no proof offered on behalf of said Frank Swingle showing what lands were included within his homestead or when he derived title thereto, or to his other lands, from the Government.

3. It clearly appears from the testimony and the admissions of the parties that there was no attempt to divert or control, either by dams or ditches,



the waters of Miller Creek for the irrigation of any of these lands prior to the year 1882. Prior to said year 1882 Miller Creek naturally overflowed its banks during the flood period and spread out over adjacent meadow land, thereby moistening and naturally irrigating said land and producing a growth of wild grass thereon valuable for stock food, when cut for hay or used for pasture. That from 1870 to about 1880 portions of the lands now owned by both said contestant and contestee, except those lands hereinbefore described as the Oliver Swingle pre-emption and patented to said Oliver Swingle in 1875, were public lands of the United States occupied by divers persons whose right of possession and improvement were transferred from one to another by verbal agreement. Commencing as early as 1870 the occupants of said lands then in possession thereof cut the said wild hay on said overflowed lands each year, and utilized the pasturage produced by said natural overflow until about the year 1882, but none of the occupants of said lands prior to said year 1882 ever made any attempt to control the natural flow of said Miller Creek, or by dams or ditches, or in any other manner to aid or assist by artificial means the natural irrigation, overflow, or subirrigation of said lands. That prior to the year 1878 none of said occupants made any attempt to acquire title to any of said lands under the public land laws of the United States. In 1878 one James Lindsay filed a declaratory statement under the pre-emption laws for the E $\frac{1}{2}$ NW $\frac{1}{4}$ , and SW $\frac{1}{2}$ NW $\frac{1}{4}$ , and NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Sec. 7, Twp. 40 S., R. 14 E. W. M., now owned by said Charles J. Swingle, but never perfected such statement by making entry, and in 1880 transferred his possession of said and other land to one Joseph Swingle, who in 1883 made timber culture entry for the said E $\frac{1}{2}$ NW $\frac{1}{4}$ , and for Lots 2 and 3 of said Section 7, Twp. 40 S., R. 14 E. W. M. That in 1890 said Joseph Swingle transferred his possessory rights to said lands last described, together with the improvements thereon, to said Charles J. Swingle, the said timber culture entry was cancelled and said Charles J. Swingle filed for said lands under the homestead laws and subsequently acquired title thereto. That in 1882, and subsequently each year thereafter, said Joseph Swingle put dams in the natural channel of Miller Creek crossing his lands, thereby forcing the waters out over the said lands last described and over other lands then owned by, or in possession of said Joseph Swingle and now owned by said Charles J. Swingle, and artificially aided and assisted the natural overflow of said Miller Creek and controlled

the waters thereof, thereby diverting said waters and appropriating the same, and applying the said waters to the artificial irrigation of the said lands to produce wild hay thereon, and increasing the area of land irrigated, and annually cut the said wild hay and used said lands for pasturage purposes. That by virtue of said appropriation Charles J. Swingle, as the successor in interest of said Joseph Swingle, has a right of appropriation dating from the year 1882 for the irrigation of his said lands, excepting those lands irrigated under the Swingle ditch hereinafter described. That commencing about said year 1882 said Frank Swingle also placed dams in the natural channels of Miller Creek crossing his lands to artificially aid in the irrigation thereof, and thereby diverted and beneficially used the waters of said stream for the production of wild hay and pasturage, and initiated rights of appropriation. That the rights of appropriation of said Frank Swingle and said Charles J. Swingle, except as to the Charles Swingle lands irrigated from the Swingle ditch as hereinafter set forth, are equal in priority.

4. That the cutting of hay upon the lands of Charles J. and Frank Swingle prior to 1882, and when the said lands were public lands, by the various occupants thereof did not constitute an appropriation of the waters of said stream, and that said occupants, being mere squatters upon said lands, never in fact acquired any right, title or interest therein of any riparian rights appurtenant thereto. That all of said lands which were riparian in character to said Miller Creek were public lands on March 3, 1877 and for several years subsequent thereto, and neither said Frank D. Swingle nor said Charles Swingle, or their predecessors in interest ever had or acquired any riparian rights for irrigation purposes in or to the waters of Miller Creek.

5. That in 1898 said Charles Swingle commenced the construction of a ditch, herein referred to as the Swingle ditch, to divert the waters of said Miller Creek for the irrigation of certain lands described in the tabulated statement herein and in Proof No. 34 of the record herein. That said ditch was completed in 1902, and the waters of said stream diverted through the same. That said Charles Swingle also constructed a reservoir of the capacity of about 60 acre feet to impound waters diverted through said ditch and assist in the irrigation of said lands. That within a reasonable time after the construction of said ditch the waters of Miller Creek were applied to the irrigation of the lands described in Proof No. 34, and by means thereof said lands have been annually irrigated ever since. That said Charles Swingle is entitled to a priority of 1898 for the irrigation of the lands described in Proof

No. 34 under said Swingle ditch. That these lands are also described in Proof No. 32, but should be eliminated therefrom inasmuch as they were not irrigated prior to said year 1902. That said Charles Swingle also has a right both as a riparian owner and as an appropriator to the use of the waters of the Oliver Swingle spring, which rises upon lands of said Charles Swingle which were patented to Oliver Swingle, his predecessor in interest, in 1875, under a pre-emption claim filed in 1870. That this right should date from 1870. That further investigations show that more land should be allowed as irrigated in both the Charles and Frank Swingle cases than shown upon the original plat of the State Engineer herein.

16.

CONTEST NO. 3: F. D. SWINGLE v EDWARD DUFALT.

That F. D. Swingle contested the claim filed by Edward DuFault, being Proof No. 13. That it appears from the proof aforesaid that said DuFault is the owner of land naturally overflowed by Miller Creek, and that said overflow has produced hay and pasturage upon said land. It appears from said proof that said Edward DuFault is claiming nothing more than flood waters during the flood or spring season, and from the testimony of the contestant, it appears that the contestee has had the benefit of said flood waters and that said contestant does not object to the use thereof during the overflow or flood season in the manner said water has been used in the past. That said DuFault has no dams or ditches to control said waters, his said lands being overflowed naturally each year by freshets in Lost River. In said Proof No. 13 it further appears that said claimant does not require to exceed one acre foot per acre during the flood season for said lands. Said DuFault, although duly notified, made no appearance in said contest, and is in default therein.

That since the DuFault lands have been benefited to some extent by overflow waters from Miller Creek, and since said DuFault claims no interest in the normal flow but only in the flood water, his right should be limited to the flood water season, which ordinarily extends from January 1st to April 15th, and any right he may have should be subject and subordinate to the rights of the contestant, and other claimants to the waters of Miller Creek herein determined to have rights thereto.

17.

CONTEST NO. 4, HORSEFLY IRRIGATION DISTRICT v. WILLIAM WIGHT, ET AL.

That the Horsefly Irrigation District filed a contest against a number of claimants to the waters of Miller Creek, but that said contest should be dismissed because of the failure of said contestant to further appear therein and direct a hearing thereof, as requested by the Superintendent, and it appearing to the Board that said contestant was notified and requested to state whether a hearing of such contest should be had; and has failed to respond or make known its wishes with respect thereto, said contest has not, therefore, been considered by the Board.

18.

That a proper rotation system as among said water users will add greatly to the duty of water, and be beneficial to the water users. That for the purpose of securing a reasonable and beneficial rotation in the use of water, the decree herein should provide for the arrangement of the water users in groups or systems of rotation, and the distribution of the water in periods of time, when necessary to secure the most beneficial use of the waters diverted, rather than in continuous flow, in the absence of an agreement among the several water users as to the manner or method by which the distribution shall be made.

19.

D U T Y   O F   W A T E R .

1. General Statement: The Lost River drainage system includes four valleys, known as Langell Valley, Yonna Valley, Poe Valley and Klamath Valley. Lost River has its source in Clear Lake, in the State of California, and flows through the valleys named, which are situated in the State of Oregon. The United States is the owner of irrigation works and is constructing a system of works, in Klamath County, having for its object the drainage of large areas of swamp and water covered land in Oregon and California, caused by the flood waters of Lost River, and subsequent to the reclamation of such lands, the proper irrigation of the same, as well as the application of the water to other lands now arid in character. In connection with this project, a storage reservoir has been constructed in Clear Lake at the source of Lost River, whereby the waters of Lost River are stored and controlled, and for several years the United States has assumed control over the waters of Lost River at the source thereof and has

turned down said stream such amounts of water as was deemed by the officials in charge of said project sufficient to supply the requirements of water users in Oregon for stock, domestic and irrigation purposes.

2. Claims of Water Users: The estimates made by claimants herein as to the quantity of water required for their irrigation purposes vary to a considerable extent.

Langell Valley: In Langell Valley, the lands owned by the C. C. Beekman Estate, consisting of about 1000 acres, are naturally overflowed in the early spring, and to some extent flooded in April and May by dams placed in Lost River. In proof No. 4, it is claimed that one inch per acre is necessary for these lands, during an irrigation season from April to November. The rate of flow in this case is practically impossible of determination. For similar lands adjacent, E. E. Ralston in proof No. 27 alleged that 1800 acre feet is sufficient for about 1200 acres, but no estimate of rate of flow required is made. Edward DuFault, for about 275 acres at the mouth of Miller Creek, estimates that about 300 acre feet is sufficient. These lands are what may be termed "marsh lands," being to some extent annually flooded by natural overflow.

George Deal, Alex. McDonald, Geo. McDonald, and Jeff Wilson, owners of lands in Upper Langell Valley, assert that one inch per acre is necessary for the proper irrigation of their premises, but make no estimate of the quantity required in acre feet. S. W. Kilgore estimates that three acre feet per acre will suffice for the lands of the Kilgore Estate.

Yonna Valley: Francis J. Bowne states that one inch per acre is required for his land; while D. G. Horn makes no estimate.

Poe Valley: Rex Bord, for the Olene Live Stock Company, claims 500 inches for 272 acres; E. Pfannstiehl claims  $1\frac{1}{2}$  second feet per acre; E. W. Roberts claims 400 acre feet for 212 acres; and Charles Horton two acre feet per acre.

Miller Creek: Charles Swingle claims one inch per acre from Miller Creek; while F. D. Swingle makes no estimate. Thos. H. Wilkerson claims "about 90 acre feet" for 56 acres.

Buck Creek: Wm. Wight claims 150 acre feet for 100 acres from Buck Creek.

3.- The United States, as heretofore set forth, filed its "Notice and Suggestion", in Paragraph XXIII wherein it was suggested that the United States did not intend in any event to recognize any of the claims of the claimants made

in this proceeding beyond the extent set forth in said Paragraph XXIII, namely: First, the right to irrigate 1090½ acres of irrigable land from Miller Creek as described in said Paragraph XXIII, during the early spring or prior to May 30th of each year, at the rate of not to exceed one-eightieth of one cubic foot per second for each acre thereof. Second, the claim of right to irrigate by pumps and from mountain stream flow 572 acres of land situate near and in the vicinity of Bonanza, at the rate of not to exceed one-eightieth of one cubic foot per second for each acre of said lands as the same are described on page 23 of said "Notice and Suggestion." Third, the claim of right to irrigate 553 acres of land in Poe Valley by pumping and from flood waters from Lost River, at the rate of not to exceed one-eightieth of one cubic foot per second for each acre of land, said lands being described on page 24 of said "Notice and Suggestion" as a part of subdivision 3 of said Paragraph XXIII. Fourth, the claim of right to irrigate 214 acres from Nuss Lake and mountain springs in the vicinity thereof, at the rate of not to exceed one-eightieth of one cubic foot per second for each acre of the lands described in subdivision 4 of said Paragraph XXIII on page 24 of said "Notice and Suggestion." Fifth, the claim of right to irrigate 239 acres from Buck Creek, said lands being described in subdivision 5 of said Paragraph XXIII, at the rate of not to exceed one-eightieth of one cubic foot per second for each acre of land. Sixth, the claim of right to irrigate 883 acres in Upper Langell Valley from springs, at the rate of not to exceed one-eightieth of one cubic foot per second for each acre of land, as said lands are described in subdivision 6 of said Paragraph XXIII. Seventh, the claim of right to have released from the Clear Lake reservoir during the months of August, September and October not to exceed 130 acre feet of water for stock, and during the months of May and June not to exceed 2000 acre feet of water for irrigation for 1930 acres of meadow and swamp lands described in subdivision 7 of said paragraph.

**4.- Flow of Stream:** It appears that Lost River diminishes naturally in volume during May and June, and after June has little or no runoff in average seasons above the vicinity of Bonanza. Near Bonanza several large springs rise along and in the natural channel, and create a flow of water in Lost River below Bonanza.

Miller Creek, a tributary, commences to diminish in volume toward the last of April, and while ordinarily affording water until the first of June, after the first of June there is generally a shortage of water in Miller Creek, although in some years the flow of water continues into June.

**5.- Methods of Irrigation:** The lands in Langell Valley were to a large extent

originally naturally overflowed by flood waters from Lost River, and portions thereof were swampy in character. In other instances the lands, while not naturally marsh lands, are low and flat, and easily flooded by placing dams in the natural channels of Lost River, or sloughs diverging therefrom, thereby forcing the water out over the land. On such lands wild hay crops are annually grown and cut, and irrigation thereof is accomplished without ditches, and by assisting the natural tendency of Lost River to overflow its banks by the construction of dams and their maintenance from year to year.

In a few instances gravity ditches have been constructed, and in other instances water is raised by means of pumps from Lost River, and distributed over the land by means of ditches.

In some cases alfalfa and tame hay crops are grown, as well as grains of various kinds, but the greater part of the area irrigated from Lost River is devoted to the production of natural grasses which are annually cut for hay, or used for pasture.

The lands irrigated from Miller Creek are irrigated by means of overflow produced by dams placed in the natural channel, and in one instance by a gravity ditch irrigating a portion of the Charles Swingle lands. On these lands the principal crop is wild hay.

6.- Character of land and Climatic Conditions: The conditions of elevation, temperature, rainfall, evaporation, and irrigation season are, in general, similar in each valley along Lost River and its tributaries, and the general character of the soil does not materially vary as regards its water requirements.

Two classes of lands may be described, which for purposes of convenience, may be termed marsh lands and uplands. Much of the marsh land is irrigated by flooding from the natural channel and by natural overflow; while the upland is irrigated from gravity ditches and by pumping from Lost River.

According to the testimony taken in contests relative to the waters of Miller Creek, it appears that the soil along Miller Creek is a "Yakima" loam, or fine soil, about five feet in depth; that the hay crops are cut about the 1st of July, and that the only irrigation after the hay is cut is for pasture. It appears that the lands of Edward DuFault for which a right is claimed from Miller Creek are annually overflowed by freshet waters, and while these lands have received the benefit of the early flow of Miller Creek, no attempt has been made to construct ditches to said lands, or to

assist the natural overflow by means of dams.

Of the lands irrigated from Lost River in Langell Valley, the Beekman lands are described as black adobe in character; the Edward DuFault lands are described as black loam in character; the George Deal lands are described as a loose black loam composed of rotted vegetation and not gravelly in character; the lands of the S. W. Kilgore Estate are described as adobe soil formed by river wash and sediment; the lands of Alex McDonald are described as a loose black loam and porous; the lands of George McDonald are described as black loam; the lands of E. E. Ralston are described as black loam; the lands of Jeff Wilson are described as loose loam and very porous.

The lands of D. G. Horn in Yonna Valley are described as adobe soil, or sediment washed in by the river, and the lands of Francis J. Downe, also in the vicinity of Bonanza, are described as a sandy loam.

In Upper Poe Valley the lands of Eliza Pfannstiehl are described as an ash adobe, and the higher lands as a sandy loam; the lands of Charles Horton are described as a black loam; the lands of Rex Bord, formerly owned by the Olene Live Stock Company, are described as mostly "Yakima" sandy loam.

It appears, therefore, that the lands irrigated by flooding from natural channels are a black loam or adobe in character, while the higher lands are, in general, a sandy loam in character.

7.-- It appears from the testimony of Rex Bord that he has about 270 acres under irrigation, and that he is pumping from Lost River with a thirty horse-power electric motor; that he cannot state how much water has been used, in miner's inches, but that 1500 gallons a minute is sufficient for stock and irrigation purposes for the lands irrigated by him, flowing continuously.

Since this quantity of water would equal about 3-1/3 second feet (One second foot being equivalent to 7½ gallons per second) it appears from the testimony of this claimant that he requires for the lands at present irrigated by him a rate of less than one-half inch per acre (or 1/80 of a second foot per acre). However, the investigations made on behalf of the Board and the State Engineer show that not to exceed 251 acres of the Rex Bord lands have been irrigated, and it would appear, therefore, that about 1/2 inch per acre is the quantity which has actually been used for these lands.

8.-- Duty of Water. Considering all the factors entering into the determination of the quantity of water which should be allowed in this proceeding



in each case, it appears to the Board that the limitations placed upon the various appropriations should be of two kinds, to-wit: First, in the case of the lands along Lost River and its tributaries which have been and are irrigated by dams in the natural channel and by overflow, it is impracticable, if not almost impossible, to place a limitation upon the rate of flow which these lands are entitled to receive, for the reason that the quantity which may be required will vary from time to time, depending upon the flow of water in the stream. In some seasons the flood period will last but a short time, and as soon as the floods are over, the supply of water becomes insufficient for irrigation purposes. The time of the floods varies from year to year. In order to irrigate the lands during the time water is available, it is necessary to have a sufficient head or quantity of water to irrigate each tract quickly. The Board therefore is of the opinion that for these lands a limitation in acre feet would be more practicable and beneficial than an attempt to limit the rate of flow which the lands shall receive. From and after the 1st of May of each year, and until the termination of the irrigation season, the Board finds that not to exceed  $1\frac{1}{2}$  acre feet of water will be sufficient for the proper irrigation of the lands last above described, which include the lands irrigated from Miller Creek, Buck Creek, and from Lost River in Langell Valley; lands of D. G. Horn in the vicinity of Bonanza, and the lands in the upper part of Poe Valley. It also appears that these lands receive benefits of the flow of water in Lost River prior to May 1st, either by natural overflow or by diversions through dams placed in the natural channel, and the Board finds that prior to May 1st these lands require not to exceed for their proper irrigation, in addition to the quantity required after May 1st, one acre foot, and a total of not to exceed two and one-half acre feet is ample and sufficient for the irrigation of these lands.

In the case of the lands of the Olene Live Stock Company in Poe Valley, and of Francis J. Bowne in the vicinity of Bonanza, it appears that the system of irrigation employed is pumping from Lost River and distributing over the lands by gravity ditches. From the proofs offered by these claimants it would appear that the soil is similar in character, and that the crops raised are also similar. The Board finds that not to exceed  $1/80$  of a second foot per acre, continuous flow, is required for the proper irrigation of these premises.

Based upon the foregoing Findings of Fact, the Board makes the following

ORDER OF DETERMINATION.

1.

That the following named claimants to the waters of Lost River and its tributaries are entitled to rights of appropriation as of the priority to the extent and for the uses and purposes set forth in the following tabulated statement, and their rights are determined and set forth accordingly in said tabulated statement; and each of the following named claimants is entitled to the entry of a decree herein and to the issuance of a water right certificate in accordance therewith, determining, establishing and confirming their respective rights to the use of the waters of said stream, or the tributary thereof, as indicated opposite their respective names under the heading "Stream", as of the date of relative priority and in the amount of water in acre feet or cubic feet per second, for the irrigation of the number of acres, by means of the ditch or other method of irrigation, upon the hereinafter described lands, as such date, amount, number of acres, use, ditch or method of irrigation, and the lands are hereunder set forth or described in tabulated form opposite the name of the claimant entitled to the right thereby defined, to-wit:

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
<u>LOST RIVER.</u>							
Barrows, T. A., Jr Merrill, Oregon. (Proof 1. Vol.1)	1892	0.10 sec.ft.		Domestic and stock	No. ditch	Lost River	Lots 6 and 7 Sec. 11 Tp. 41 S. R. 10 E.W.M., Klamath County, Oregon.
Bechdoldt, Freder- ick C. and Irene E. Bonanza, Oregon. (Proof 2, Vol.1)	1888	187.5 ac.ft.	75	Irrigation Domestic and stock	Bechdoldt ditches and res- ervoir	Bechdoldt Gulch	8 ac. in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 9 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 13 17 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 21 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 14 20 ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 24 Tp. 38 S.R. 11 E.W.M., Klamath County, Oregon.
Beekman, Estate and Heirs of C. C., Jacksonville, Ore. (Proof 4. Vol.1)	1871	3306.3 ac.ft.	1322.5	Irrigation Domestic and stock	Dams and Dykes	Lost River	36 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 28 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 30 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 37 $\frac{1}{2}$ ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 36 40 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 27 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 14 2 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 5 $\frac{1}{2}$ ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 11 Tp. 40 S.R. 13 E.W.M. 160 ac. in NE $\frac{1}{4}$ ; 160 ac. in NW $\frac{1}{4}$ ; 160 ac. in SW $\frac{1}{4}$ ; 80 ac. in NE $\frac{1}{2}$ SE $\frac{1}{2}$ ; 40 ac. in SW $\frac{1}{2}$ SE $\frac{1}{2}$ ; Sec. 6 Tp. 41 S.R. 14 E.W.M. 35 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 23 $\frac{1}{2}$ ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 15 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 5 $\frac{1}{2}$ ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 23 ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 17 $\frac{1}{2}$ ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 37 ac. in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 25 ac. in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 32 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 8 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 39 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 4 $\frac{1}{2}$ ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 31 16 ac. in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 3 ac. in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 27 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 27 $\frac{1}{2}$ ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 9 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 30 Tp. 40 S.R. 14 E.W.M. 19 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 1 20 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 12 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 12 Tp. 41 S.R. 13 E.W.M. Klamath County, Oregon.

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
2367 Bloomingcamp, Ed Bly, Oregon. (Proof 5, Vol.1)	1900	0.20 sec.ft.		Stock water	No ditches	Lost River	SE $\frac{1}{2}$ Sec. 30 Lot 1 Sec. 31 Tp. 39 S. R. 10 E.W.M., Klamath County, Oregon.
2470 Bord, Rex E. (Successor to Olene Livestock Company, a cor- poration) Olene, Oregon. (Proof 25. Vol.1)	1888	2.19 sec.ft.	175	Irrigation Domestic and Stock	Pumping Plant	Lost River	10 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 11 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 2 24 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 10 $\frac{1}{2}$ ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 26 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 24 $\frac{1}{2}$ ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 1 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 11 33 ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 33 ac. in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 32 ac. in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 11 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 35 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 12 Tp. 39 S.R. 10 E.W.M., Klamath County, Oregon.
271 Bowne, Francis J., Bonanza, Oregon (Proof 6, Vol.1)	1902	4.20 sec.ft.	336	Irrigation Domestic and stock	Pumping plant and Bowne ditches	Lost River and tributary springs	40 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 35 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 9 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 9 6 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 21 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 32 ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 16 30 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 34 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 28 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 30 ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 7 ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 33 ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 17 4 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 5 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 22 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 8 Tp. 39 S.R. 11 E.W.M., Klamath County, Oregon.
							<i>Ch. Pt. of Div. for Part of these Lands Sp. Or. Vol. 7, p. 438</i>  <i>Ch. Pt. of div for 174.5 acres Sp. Or. Vol 26, p. 447</i>
275 Buesing, Fred Klamath Falls, Oregon. (Proof 7. Vol.1)	1900	0.25 sec.ft.		Stock and Domestic	No. ditch	Lost River	30 ac. from North side of Lot 2; Sec. 34 Tp. 40 S.R. 10 E.W.M., Klamath County, Oregon.
278 Bunnell, Estate of A. F. R. H. Bunnell, Admr., Klamath Falls, Oregon. (Proof 8, Vol.1.)	1902	0.50 sec.ft.		Domestic and Stock	No ditch	Lost River	E $\frac{1}{2}$ NE $\frac{1}{4}$ ; and NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 20 W $\frac{1}{2}$ SW $\frac{1}{4}$ ; and Lots 2 and 3 Sec. 21 Lot 1, Sec. 28 Tp. 40 S.R. 10 E.W.M., Klamath County, Oregon.

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
2274 Bunting, C. A. Klamath Falls, Oregon. (Proof 9, Vol.1)	1900	0.25 sec.ft.		Domestic and Stock	No ditch	Lost River	Lot 6; Sec. 34 Lot 2; Sec. 35 Tp. 40 S.R. 10 E.W.M., Klamath County, Oregon.
2275 Bunting, Mrs. M. Veneta, Klamath Falls, Oregon (Proof 10, Vol.1.)	1902	0.25 sec.ft.		Domestic and Stock	No ditch	Lost River	Lot 7; Sec. 34 Tp. 40 S.R. 10 E.W.M., Klamath County, Oregon.
Deal, George Langel Valley, Oregon. (Proof 11, Vol.1)	1873	335 ac.ft.	134	Irrigation Domestic and Stock	Dams and Dykes	Lost River	40 ac. in SE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; 40 ac. in NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; 18 ac. in NW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; Sec. 12 Tp. 41 S.R. 13 E.W.M., 36 ac. in NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; Sec. 7 Tp. 41 S.R. 14 E.W.M., Klamath County, Oregon.
2277 DuFault, Edward H. Klamath Falls, Oregon. (Proof 12, Vol.1)	1873	445 ac.ft.	178	Irrigation and Stock	No ditch	Lost River	10 ac. in NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; 23 ac. in SE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; Sec. 10 34 <sup>1</sup> / <sub>2</sub> ac. in SW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; 9 <sup>1</sup> / <sub>2</sub> ac. in SE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; Sec. 11 40 ac. in NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; 40 ac. in NW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; Sec. 14 21 ac. in NE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> ; Sec. 15 Tp. 40 S. R. 13 E.W.M.
( Proof 13, Vol.1)	1873 subject to Finding 16 to Apr.15	64 ac.ft. from Jan.1 to Apr.15	64	Irrigation	Dams	Miller Creek	30 ac. in NW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> ; 34 ac. in NE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; Sec. 11 Tp. 40 S.R. 13 E.W.M., Klamath County, Oregon.
2278 Horn, D. G. Bonanza, Ore. (Proof 14, Vol.1)	1884	742.5 ac.ft.	297	Irrigation Domestic and Stock	Dams in natural channel	Lost River	80 ac. in E <sup>1</sup> / <sub>2</sub> NW <sup>1</sup> / <sub>4</sub> ; 37 ac. in SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; 80 ac. in E <sup>1</sup> / <sub>2</sub> SW <sup>1</sup> / <sub>4</sub> ; 40 ac. in SW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> ; Sec. 7 20 ac. in NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; 40 ac. in NW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> ; Sec. 18 Tp. 41 S.R. 14 E.W.M., Klamath County, Oregon.
Horsefly Irrigation District, a cor- poration, F.J.Bowne, Secy. Bonanza, Oregon. (Proof 15, Vol.1)	Jan.5 1912 App.No. 1972 Permit No.1306		19780	Irrigation Domestic and Stock		Miller Creek	Lands described in Application No. 1972, Permit No. 1306, Records of State Engineer of Oregon; right to be completed according to terms of permit. See Paragraph 6.

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
1877 Horton, Charles Olene, Oregon. (Proof 16, Vol.1)	1883	652.5 ac.ft.	261	Irrigation Domestic and Stock	Horton or Mastin	Lost River	24 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 21 6 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 22 12 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 28 3 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 37 ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 8 ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 16 ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 3 ac. in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 6 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 14 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 8 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 17 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 27 13 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 26 (Sub-irrigated lands) 11 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 11 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 19 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ 19 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ 4 ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 13 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 15 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 2 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 35 Tp. 39 S.R. 11 $\frac{1}{2}$ E.W.M., Klamath County, Oregon.
Keller, Alfred and G. P., Bonanza, Oregon. (Proof 17, Vol.1)	Jan. 1911 Appl. No. 1070; Permit No. 505.			Irrigation	Keller	Lost River	Lands described in Application No. 1070 (Permit No. 505) Records of State Engineer of Oregon. See Paragraph 6
1870 Kilgore, Estate of S. W., By W.A. Duncan, Administrator Lorcell, Ore. (Proof 18, Vol.1)	1870	727.5 ac.ft.	291	Irrigation Domestic and Stock	Dams in Lost River and Ditches from Springs	Lost River and Kilgore Springs	160 ac. in NE $\frac{1}{4}$ 36 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ 27 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 8 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 7 38 ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ 16 ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 6 ac. in NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 8 Tp. 41 S.R. 14 E.W.M. Klamath County, Oregon.
1871 Mark, Albert Olene, Oregon (Proof 19, Vol.1)	1872	0.20 sec.ft.		Stock and Domestic	No ditch	Lost River	NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 34 SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 27 E $\frac{1}{2}$ SE $\frac{1}{2}$ and Lot 3 Sec. 28 Tp. 39 S.R. 11 $\frac{1}{2}$ E.W.M., Klamath County, Oregon.
1872 McDonald, Alex Klamath Falls, Oregon. (Proof 20, Vol.1)	Sept. 21, 1874	230 ac.ft.	92	Irrigation Domestic and Stock	Dam	Lost River	39 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 13 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 1 Tp. 41 S.R. 13 E.W.M., Klamath County, Oregon.

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
2083 McDonald, George Klamath Falls, Oregon. (Proof 21, Vol.1)	1872	320 ac.ft.	128	Irrigation Domestic and Stock	Dam	Lost River	17 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 35 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 36 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 40 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 1 Tp. 41 S.R. 13 E.W.M., Klamath County, Oregon.
	1874	277.5 ac.ft.	111	Irrigation Domestic and Stock	Dam	Lost River	40 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 32 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 2 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 12 Tp. 41 S.R. 13 E.W.M., 37 ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 7 Tp. 41 S.R. 14 E.W.M., Klamath County, Oregon.
McDonald, M. E., Klamath Falls, Oregon. (Proof 23, Vol.1)	1883	0.50 sec.ft.		Domestic and Stock	McDonald	Langell Branch from Ralston Spring in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 27 Tp. 40 S., R. 13 E. W.M.	S $\frac{1}{2}$ SE $\frac{1}{4}$ ; Sec. 26 N $\frac{1}{2}$ NE $\frac{1}{4}$ ; Sec. 35 Tp. 40 S.R. 13 E.W.M., Klamath County, Oregon.
Merrill, N. S., Merrill, Oregon (Proof 23, Vol.1)	1890	0.10 sec.ft.		Domestic and Stock	No ditch	Lost River	S $\frac{1}{2}$ Lot 3 (S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ ) Lot 2; (NW $\frac{1}{4}$ SW $\frac{1}{4}$ ) Lot 1; (SW $\frac{1}{4}$ SW $\frac{1}{4}$ ) Sec. 2 Tp. 41 S.R. 10 E.W.M., Klamath County, Oregon.
Merrill, P. R., Merrill, Oregon. (Proof 24, Vol.1)	1892	0.10 sec.ft.		Domestic and Stock	No ditch	Lost River	N $\frac{1}{2}$ Lot 3 (N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ ) Sec. 2 Tp. 41 S.R. 10 E.W.M., Klamath County, Oregon.
Pfannstiehl, Eliza Madison, Yolo County, Calif. (Proof 26, Vol.1)	1885	147.5 ac.ft.	59	Irrigation Domestic and Stock	Dam	Lost River	12 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 35 Tp. 39 S.R. 11 $\frac{1}{2}$ E.W.M., 13 $\frac{1}{2}$ ac. in Lot 1; 10 ac. in Lot 8; Sec. 3; 16 $\frac{1}{2}$ ac. in Lot 5; 7 ac. in Lot 12; Sec. 2 Tp. 40 S.R. 11 E.W.M., Klamath County, Oregon.

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
Ralston, E. E. 1310 Palm St., San Diego, Calif. (Proof 27, Vol. 1)	1882	1970 ac.ft	788	Irrigation Domestic and Stock	No ditches overflow water	Lost River	39 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 21 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 22 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 10 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 26 ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 13 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 38 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 22 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 28 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 25 10 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 5 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 21 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 2 ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 32 ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 25 ac. in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 36 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 10 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 34 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 40 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 24 39 ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 31 ac. in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 38 ac. in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 16 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 32 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 23 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 13 Tp. 40 S.R. 13 E.W.M., 40 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 19 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 19 39 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 39 ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 22 ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 16 ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 30 Tp. 40 S.R. 14 E.W.M.,
	1900	467.5 ac.ft.	183	Irrigation Domestic and Stock	No ditch overflow water	Lost River	32 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 15 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 19 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 20 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 36 Tp. 40 S.R. 13 E.W.M. 12 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 38 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 7 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 30 Tp. 40 S.R. 14 E.W.M.
	1900						
	1882	47.5 ac.ft.	19	Irrigation Domestic and Stock		Ralston Springs	7 ac. in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 12 ac. in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 26 Tp. 40 S.R. 13 E.W.M., Klamath County, Oregon,
Roberts, E. W., Box 37 Bonanza, Oregon. (Proof 28, Vol. 1)	1897	505 ac.ft.	202	Irrigation Domestic and Stock	Dam	Lost River	23 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 37 ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 40 ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 21 ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 11 ac. in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 19 ac. in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 3 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 6 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 36 12 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ (Lot 6) 20 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 10 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 35 Tp. 39 S.R. 11 $\frac{1}{2}$ E.W.M., Klamath County, Oregon.



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
2270 Rueck, Jacob Yonna, Oregon (Proof 29, Vol.1)	1901	25 ac.ft.	10	Irrigation Domestic and Stock	Overflow water	Buck Creek	4 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 6 ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 24 Tp. 38 S.R. 11 $\frac{1}{2}$ E.V.M., Klamath County, Oregon.
291 Short, J. B. Olene, Oregon. (Proof 30, Vol.1)	1902	0.10 sec.ft.		Domestic and Stock	No ditch	Lost River	Lots 7 and 8 Sec. 19 NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 29 NE $\frac{1}{2}$ NE $\frac{1}{4}$ ; Sec. 30 Tp. 39 S.R. 11 $\frac{1}{2}$ E.V.M., Klamath County, Oregon.
Stewart, Tassej Milton, Oregon. (Proof 31, Vol.1)	1890	0.50 Sec.ft.		Stock and Domestic	No ditch	Lost River	E $\frac{1}{2}$ SW $\frac{1}{4}$ ; S $\frac{1}{2}$ SE $\frac{1}{4}$ ; Sec. 20 SW $\frac{1}{4}$ ; W $\frac{1}{2}$ SE $\frac{1}{4}$ ; Sec. 21 NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 28 Tp. 39 S.R. 11 $\frac{1}{2}$ E.V.M., Klamath County, Oregon.
Swingle, Charles J. Lorella, Oregon. (Proof 32, Vol.1)	1882	425 ac.ft.	170	Irrigation Domestic and Stock	Dams and Dykes	Miller Creek	40 ac. in Lot 2 20 ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 35 ac. in Lot 3 Sec. 7 Tp. 40 S.R. 14 E.V.M. 40 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 35 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 12 Tp. 40 S.R. 13 E.V.M., Klamath County, Oregon.
(Proof 33, Vol.1)	1870	42.5 ac.ft.	17	Irrigation Domestic and Stock	Dams	Oliver Swingle springs tributary to Lost River	A right to supplement the above right on the following lands: 17 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 12 Tp. 40 S.R. 13 E.V.M., Klamath County, Oregon.
Swingle, Charles J. and Orpha F., Lorella, Oregon and Oka Swingle Zimmerman, Yamhill, Oregon. (Proof 34, Vol.1)	1898	455 ac.ft.	182	Irrigation Domestic and Stock Storage of 60. ac.ft.	Swingle ditch and reservoir	Miller Creek	13 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 27 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 36 ac. in NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 22 ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 40 ac. in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 4 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 13 Reservoir in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 13 Tp. 40 S.R. 13 E.V.M., Klamath County, Oregon.

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
Swingle, F. D. Ashland, Oregon. (Proof 35, Vol.1)	1882	451.3 ac.ft.	180 $\frac{1}{2}$	Irrigation Domestic and Stock	Dams	Miller Creek	40 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 40 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 12 Tp. 40 S.R. 15 E.W.M. 40 ac. in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 25 ac. in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 15 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 20 $\frac{1}{2}$ ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 7 Tp. 40 S.R. 14 E.W.M., Klamath County, Oregon.
Taylor, W. T. Klamath Falls, Oregon. (Proof 36, Vol.1)	1896	0.025 sec.ft.		Domestic and Stock	No ditch	Lost River and Springs on Claim- ants land	SE $\frac{1}{4}$ SW $\frac{1}{4}$ and Part of Lot 9 (NE $\frac{1}{4}$ SW $\frac{1}{4}$ ) Sec. 19 Tp. 39 S.R. 11 $\frac{1}{2}$ E.W.M., Klamath County, Oregon.
United States of America (Pg.157, Vol.1)	May 1901	3  5	240	Irrigation and Domestic Water Wheel		Lost River	17 ac. in Lot 11; 6 ac. in Lot 10 26 ac. in Lot 9 36 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 40 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 33 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 28 ac. in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; 36 ac. in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 18 ac. in Lot 7 Sec. 31 Tp. 39 S.R. 10 E.W.M., Klamath County, Oregon.
Wight, James G. Hildebrand, Oreg. (Proof 37, Vol.1)	1887	32.5 ac.ft.	13  <del>25</del>	Irrigation Domestic and Stock	J.G. Wight ditch	Buck Creek	3 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 2 ac. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 4 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 4 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 35 Tp. 37 S.R. 11 $\frac{1}{2}$ E.W.M., Klamath County, Oregon.
Wight, Williams Dairy, Oregon. (Proof 38, Vol.1)	1898	250 ac.ft.	100	Irrigation Domestic and Stock	William Wight	Buck Creek	18 ac. in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 29 ac. in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 36 ac. in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 12 ac. in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 23 5 ac. in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 26 Tp. 38 S.R. 11 $\frac{1}{2}$ E.W.M., Klamath County, Oregon.
Wilkerson, Thomas Lorell, Oregon. (Proof 39, Vol.1)	1887	140 ac.ft.	56	Irrigation Domestic and Stock	Dams	Miller Creek and Springs tributary to Miller Creek	36 ac. in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 7 20 ac. in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 6 Tp. 40 S.R. 14 E.W.M., Klamath County, Oregon.

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
<p>Wilson, Jeff Klamath Falls, Oregon. (Proof 40, Vol. 1)</p>	<p>June 28 1886</p>	<p>217.5 ac.ft.</p>	<p>87</p>	<p>Irrigation Domestic and Stock</p>	<p>Dam</p>	<p>Lost River</p>	<p>7 ac. in SW<math>\frac{1}{4}</math> NW<math>\frac{1}{4}</math>; 40 ac. in SE<math>\frac{1}{4}</math> NW<math>\frac{1}{4}</math>; 40 ac. in NE<math>\frac{1}{4}</math> SW<math>\frac{1}{4}</math>; Sec. 1 Tp. 41 S.R. 13 E.W.M., Klamath County, Oregon.</p>
<p>Zlabek, Ferdinand Merrill, Ore. (Proof 41, Vol. 1)</p>	<p>1900</p>	<p>0.25 sec.ft.</p>		<p>Domestic and Stock</p>	<p>No ditch</p>	<p>Lost River</p>	<p>SE<math>\frac{1}{4}</math> SW<math>\frac{1}{4}</math> and Lot 1 Sec. 35 Lot 5; Sec. 34 Tp. 40 S.R. 10 E.W.M., Klamath County, Oregon.</p>

That the United States, having heretofore initiated rights of appropriation of the waters herein involved, is entitled to complete and perfect the same, and to have its several rights relate back to the dates hereinafter set forth. And upon the complete application of the waters covered by said appropriations to any part of the lands hereinafter described, and upon satisfactory proof of such reclamation being submitted to the State Water Board, final water right certificate shall be issued to the United States or to any one whom it may designate, for the whole or any part of such land which shall have been so reclaimed. The rights of the United States are hereby recognized to the extent the water may be beneficially used on the lands reclaimed and for such other uses and purposes as may be incidental to the reclamation thereof; and the use of water for irrigation shall not exceed one-eightieth of one cubic foot per second for each and every acre reclaimed.

The maximum amount of the rights so recognized, the priority dates of the same, the name of the stream, and the description of the land, being as hereinafter set forth, to-wit:

(1) From Miller Creek, with a priority date of March 8, 1905, for irrigation and storage in the Horsefly Reservoir with a capacity of 75,000 ac.ft. located in Sections 35 and 36, Tp. 38 S. R. 13 E., Sections 29, 30, 31, 32, Tp. 38 S. R. 14 E., Sections 1, 2, 10 and 13, Tp. 39 S. R. 13 E., Sections 5, 6, 7, 8, 17, 18, 19, 20, 16, 21, 22, Tp. 39 S. R. 14 E., 1,000 cubic feet per second, for the irrigation of 21,000 acres of land in the so-called Bonanza Sub-project, located in the following sections; Sections 7, 18, 19, 30, 31 and 32, Tp. 38 S. R. 11 E. W. M., Sections 10, 11, 12, 13, 14, 15, 23, 24, 25, 26, 35 and 36, Tp. 38 S. R. 11 $\frac{1}{2}$  E. W. M., Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, Tp. 39 S. R. 11 $\frac{1}{2}$  E. W. M., Sections 1 and 12, Tp. 39 S. R. 11 $\frac{1}{2}$  E. W. M., Sections 7, 8, 16, 17, 18, 19, 20, 21, 26, 27, 28, 29, 30, 32, 33, 34, 35 and 36, Tp. 39 S. R. 12 E. W. M., Sections 1, 2, 3, 4, 10, 11, 12, Tp. 40 S. R. 13 E. W. M., Sections 6, 7, 8, Tp. 40 S. R. 14 E. W. M.,

(2) From the waters of Lost River and its tributaries, stored in Clear Lake Reservoir, with a priority date of December 19, 1904, 162.5 cubic feet per second, for the irrigation of 13,000 acres in the so-called Modoc Unit in the State of Oregon, located in the following sections: Sections 28, 29, 32, 33, 34, 35, 36, Tp. 40 S., R. 11 E. W. M., Sections 28, 29, 30, 31, 32, 33, 34, 35, Tp. 40 S. R. 12 E. W. M., Sections 1, 2, 3, 4, 5, Tp. 41 S. R. 11 E. W. M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 23, 24, Tp. 41 S. R. 12 E. W. M., Sections 7, 18, 19, Tp. 41 S. R. 13 E. W. M.

(3) From Lost River and its tributaries with a priority date of May 19, 1905, and from Clear Lake Reservoir with a priority date of December 19, 1904, 25 cubic feet per second by means of the Griffith Lateral, for the irrigation of 2,000 acres in the so-called Second Unit of the Klamath Project, located in the following sections: Sections 29, 31 and 32, Tp. 39 S. R. 10 E. W. M., Sections 5, 6, 7, 8, 16, 17, 20, 21, 22, 26, 27 and 28, Tp. 40 S. R. 10 E. W. M.

(4) From Lost River and its tributaries, with a priority date of May 17, 1905, and from Clear Lake Reservoir with a priority date of December 19, 1904, 25 cubic feet per second, for the irrigation of 2,000 acres of land in the bed of Tule Lake in the State of Oregon, located in the following sections: Sections 13, 14, 15 and 16, Tp. 41 S. R. 11 E. W. M., Sections 19, 20 and 21, Tp. 41 S. R. 12 E. W. M.

(5) From the waters of Lost River and its tributaries with a priority date of May 17, 1905 and from Cleak Lake Reservoir, with a priority date of December 19, 1904, 162.5 cubic feet per second, for the irrigation of 15,000 acres of land in the so-called Modoc Unit in California (The water to be diverted in the State of Oregon),

From Lost River and its tributaries, with a priority date of May 17, 1905, and from Cleak Lake Reservoir, with a priority date of December 19, 1904, 187.5 cubic feet per second, for the irrigation of 15,000 acres in the bed of Tule Lake in Modoc and Siskiyou counties, California, (the water to be diverted in the State of Oregon.)

The right of the United States to store the water of Lost River and its tributaries in Cleak Lake in Modoc County, California, to the extent of the capacity of said Cleak Lake Reservoir, subject to all prior rights to the use of the waters of Lost River and its tributaries, is hereby recognized.

3.

That the waters of said stream shall be diverted under the rights of priority hereby confirmed, in the order thereof, according to the priority dates of the several rights, and at all times when those having prior rights shall not require the use of the quantities of water herein allowed them, or only part thereof, such water shall be at the disposal and subject to the use of those claimants having subsequent rights, in their priority order; and for the purpose of carrying into effect this principle, rotation in the use of water shall be required when necessary to secure a more economical and equitable distribution as among the several claimants; that where rotation is practicable among claimants utilizing the flow of the stream through ditches, a water master shall have authority to provide for a rotation in the following manner:

such water master shall arrange the water users in groups or systems of rotation, first giving to the user who is first in priority an amount of water equal to the combined quantity of water to which all the users in said group or system are entitled, for a length of time bearing the same ratio to the whole time required to make the complete rotation through the whole group of users, as the quantity to which the said first user is entitled bears to the combined appropriations of said users, in said groups, and shall next serve the next user in point of priority with a like amount of water for his proportionate length of time, and so on, until all the users in said group are served; then the distribution of water shall be repeated in the same manner throughout the irrigation season; that in the case of two or more water users in said group or system having the same priorities, then the said water master shall distribute the water as between those users having the same priorities to the one whose ditch taps the stream nearest its source first, and the next lower down next, and so on; and in case two or more users have equal priorities and divert water through the same ditch, the water master shall distribute the water as between said users to the one whose lands are first covered by said ditch and nearest the head thereof, first, and to the next lower down on said ditch, next, and so on; and the provisions of this paragraph shall be applicable to groups or systems of ditches, jointly owned, as well as individually owned; and where two or more users agree as between themselves as to the manner and system of rotation in the use of water, the said water master shall distribute the water in accordance with such agreement; provided always that such arrangement into groups or systems of rotation, or distribution under such agreements, shall not interfere with the prior rights of any user not a member of such group or system, or a party to such agreement. That as between claimants utilizing the waters of said stream either through natural overflow or by means of dams placed in natural channels or sloughs, thereby diverting the water without ditches, such system or method of rotation shall be established by the water master as shall secure the most economical and reasonable use of the water as between said claimants, or as between said claimants and claimants diverting water through ditches; the foregoing plan of rotation being followed in so far as practicable.

4.

That the rights hereby confirmed for irrigation purposes are confined and limited to the irrigation of the lands hereinbefore described, and the waters appropriated as in the tabulated statement set forth are and shall remain appurtenant to said lands, as provided by law.

That the rights of appropriation of the following named claimants to the waters of said stream and its tributaries are limited and confined to an amount of water not exceeding two and one-half acre feet for irrigation purposes for each and every acre of land actually irrigated by each such claimant during the irrigation season commencing the 1st of March, each year, and terminating the 31st day of September of each year, and are limited and confined to a total or aggregate quantity of water for the irrigation of the total or aggregate area of land described in the foregoing tabulated statement in the amount not exceeding the number of acre feet set forth in the third column of the foregoing tabulated statement opposite the name of each such claimant. That of the quantity thus allowed each such claimant such claimant in each case shall be entitled to divert or use not to exceed one and one-half acre feet for each acre actually irrigated by him, during that period or part of the said irrigation season subsequent to May 1st of each year; and the amount which each said claimant is entitled to divert in miner's inches, or second feet, or other unit of measurement of rate of flow is not herein determined, but the whole quantity diverted or used during any irrigation season shall not exceed the amount or quantity in acre feet hereinbefore set forth, and during said irrigation season, and the periods of said irrigation season hereinbefore defined; the said claimants being as follows: all the claimants named in the foregoing tabulated statement diverting or using the waters of Miller Creek, excepting Edward DuFault; Charles J. Swingle, diverting the waters of Oliver Swingle springs; Frederick C. and Irene E. Bechdoldt, claimants to the waters of Bechdoldt gulch; Jacob Rueck, James G. Wight, and William Wight, claimants to the waters of Buck Creek; Alex McDonald, E. W. Roberts, E. E. Ralston, Jeff Wilson, Edward DuFault, Estate and Heirs of C. C. Beekman, George Deal, Estate of S. W. Kilgore, deceased, D. G. Horn, Charles Horton, Eliza Pfannstiehl and George McDonald, claimants to the waters of Lost River, and springs tributary thereto.

That Francis J. Bowne and Rex Bord, successor to the rights of the Olene Live Stock Company, a corporation, diverting water from Lost River by means of pumps and ditches, are entitled to divert and use not to exceed 1/80 of a second foot per acre for each and every acre actually irrigated by each of said claimants during the irrigation season aforesaid, not exceeding the total amount in second feet for the entire acreage of their lands as set forth and described in the foregoing tabulated statement. That the right of Edward DuFault to the waters of Miller Creek is limited to the natural overflow from said stream during the freshet or flood period of said stream to May 1st of each year, and he is not entitled to an amount of water to exceed one acre foot per

acre for each acre of lands to which his said right is appurtenant as described in the foregoing tabulated statement.

That the quantity of water to which each of the foregoing claimants is entitled for stock and domestic purposes does not exceed the rate of one-half second foot for each 1000 head of stock, and in the case of those claimants diverting water for irrigation purposes as set forth in the foregoing tabulated statement, the amount of water herein allowed for irrigation purposes during said irrigation season includes the quantity to which such claimants are entitled for stock and domestic purposes. That the rights to the use of water for stock and domestic purposes continues throughout the year. That the amount of water required by each of the claimants in the foregoing tabulated statement described as entitled to water for stock and domestic purposes, but having no irrigation right appurtenant to their respective lands, does not exceed for such stock and domestic purposes, or either, the quantity of water in second feet set forth opposite their respective names in said tabulated statement, and the right to use the same continues throughout the year.

6.

And the State Water Board being fully advised in the premises, it is hereby CONSIDERED and ORDERED; that the relative rights to the use of the waters of LOST RIVER and its tributaries, be, and the same are hereby adjudicated, determined and settled, in accordance with the foregoing findings.

It is further CONSIDERED and ORDERED, that each and every appropriator holding permits from the State Engineer of Oregon, for the appropriation of water from Lost River and its tributaries, shall have such water right thereunder as is provided by law, and the rights of such appropriators shall be established in the manner provided by law for the issuing of water right certificates in such cases.

JOHN H. LEWIS

*John H. Lewis*  
State Engineer, and President of State Water Board.

*James T. Chinook*  
JAMES T. CHINOOK,

Superintendent of Water Division No. 1

GEO. T. COCHRAN

*Geo T Cochran*  
Superintendent of Water Division No. 2.

ATTEST

*M F Mers*  
M. F. MERS

Secretary of State Water Board.