Office Copy.—

Filed: Oct. 11, 1934
E. D. Duffield, Clerk. No.
By _____, Deputy.

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WHITE PINE.

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IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS IN AND TO THE WATERS OF BAKER AND LEHMAN CREEKS AND TRIBUTARIES IN THE COUNTY OF WHITE PINE, STATE OF NEVADA.	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE

The above-entitled matter came on regularly for hearing in the above-entitled Court on August 11, 1933, before Honorable H. W. Edwards, District Judge of said Court, the whole of said stream system being within said White Pine County, State of Nevada and he being the Judge designated by statute to hear and having jurisdiction to hear said matter, upon the State Engineer's Final Order of Determination of the relative rights of the claimants and appropriators to the use of the waters of the stream system of Baker and Lehman Creeks and their tributaries, which Final Order of Determination had been duly filed by said State Engineer herein, and also upon certain exceptions thereto which were duly filed herein by the hereinafter named claimants to the use of said waters, the sworn statements and claims of claimants and all the other evidence on file herein and the entire records and files in said matter.

Gray Mashburn, Attorney-General of the State of Nevada, appeared in said hearing and proceedings on behalf of said State and the State Engineer of the State of Nevada; and J. M. Collins, Esquire, appeared on behalf of said exceptors.

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And it appearing to the satisfaction of the Court that said Final Order of Determination of the relative rights of the claimants and appropriators to the use of the waters of said stream system was duly filed herein on or about April 10, 1933; that, pursuant to the law of this State and the Lawful Order of this Court and the notices duly given of the time within which to file exceptions thereto and the lawful extensions of time therefor, the above-mentioned exceptions thereto were duly filed herein by Glen A. Bellander and Philip W. Baker on or about June 23, 1933, and by Kitty E. Christopharson, E. J. Meecham, Grant Smith, J. L. Ransan, George T. Baker, and H. M. Watson on or about June 24, 1933; that the only matter in said Final Order of Determination which was thereby or at all finally excepted to related to that portion thereof pertaining to the measurement of water as provided for in said Final Order of Determination; and that, on August 11, 1933, the date duly fixed for said hearing, and prior to the time said hearing actually began, a written stipulation was made and entered by and between said State Engineer and said above-named claimants who so excepted to said Final Order of Determination, through their said counsel, respectively, wherein and whereby it was agreed that that portion of said Final Order of Determination under the title and heading thereof designated "MEASUREMENT OF WATER" on page 3 thereof be amended so as to read as hereinafter specified and that, when so amended, it should be included in and made a part of these Findings of Fact, Conclusions of Law, and Decree, which stipulation was then and there filed herein, and which reads as follows:

"MEASUREMENT OF WATER

All water diverted from Baker and Lehman Creeks stream system for use on Class 'A' lands, in accordance with this order, shall be measured at a point below the

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confluence of the two streams or in the NE¼ of the SE¼ of Section 8, Township 13 N.; R. 70 E., due allowances being made for losses from said point of measurement to the point where the water of the deeded users herein, recognized on page 12 hereof, becomes immediately adjacent to or enters the land to be irrigated, so that the amount of water actually delivered to each user on his land shall be the amount deeded to him, said point of diversion being where the main ditches divert from the channel proper as designated in permit No. 3906."

And it further appearing to the satisfaction of the Court that said stipulation and amendment removed the objections of said excepting claimants to said Final Order of Determination and rendered it satisfactory to all claimants and appropriators of the use of waters on said stream system; that the notice of said hearing, and all other notices required by law to be given prior to said hearing, had been given at the time so fixed for such hearing in the manner and for the time required by the law of this State relating to such matters; that said matter was in condition to be heard and tried, and that this Court has jurisdiction of the subject matter and of the parties herein.

The Attorney-General thereupon, at said hearing, offered, and there were received in evidence in support of the rights of claimants, as set forth in said Final Order of Determination, the said stipulation so made and entered into on August 11, 1933, and so hereinbefore quoted, as Exhibit "I" in said matter, and, also, the sworn statements of claimants, verified affidavits, files, and records of the State Engineer's office respecting the rights of each claimant to the use of the waters of said stream system, including, also, the cultural maps establishing the cultural area

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involved, the diversion ditches, and the kinds and character of lands irrigated by each of said claimants, together with the oral testimony of H. W. Reppert, Assistant State Engineer of the State of Nevada, explaining said maps and other files and records so introduced in evidence.

No evidence was introduced by said excepting claimants, in view of the fact that they were satisfied with said Final Order of Determination as so amended by said stipulation so made and entered into on August 11, 1933.

The Court, having duly considered the entire record and evidence so introduced and being fully advised in the premises, made and entered its "DECISION AFFIRMING ORDER OF DETERMINATION," dated August 11, 1933, and filed the same herein at or about that time, and directed the Attorney-General of the State of Nevada to prepare Findings of Fact, Conclusions of Law, and Decree herein for submission to and approval by this Court.

WHEREFORE, pursuant to and in accordance with said decision, the Court finds the facts, makes its conclusions of law, and enters its final judgment and decree concerning all and singular the matters submitted to the Court herein as follows, to wit:

FINDINGS OF FACT

I.

That the State Engineer of the State of Nevada, pursuant to Section 18, Chapter 140, 1913 Statutes of Nevada, and acts amendatory thereof and supplementary thereto, being Nevada Compiled Laws, 1929, Section 7905, on or about May 22, 1925, selected Baker Creek and Lehman Creek and their tributaries, in White Pine County, State of Nevada, for determination of the relative rights of the various claimants upon each of said streams to the

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use of the waters thereof, each of said creeks and its tributaries being then considered as a separate stream system, as shown by said Orders; and said State Engineer thereupon made and entered his orders accordingly and that the examination and proceedings for such determination begin as soon as practicable thereafter, to wit, on July 12, 1925, as stated in said Orders, all as provided for in said Section 7905 (Section 18 of the Water Code of this State), and also included therein a requirement and notice that all claimants to the use of said waters were required to make proof of their rights to such use of said waters as were claimed by them; that said State Engineer thereupon and commencing May 25, 1925, and ending June 15, 1925, caused said Orders and notices to be published once a week for four consecutive weeks in Ely Daily Times, a newspaper of general circulation published in Ely, White Pine County, Nevada; that on or about July 18, 1925, said State Engineer made and entered Orders and notices designating and fixing the period of time for the taking of proofs to be made by said claimants of their rights to the use of said waters, the date for the end of said period and prior to which said proofs must be filed being not less than sixty (60) days after the date so set for the commencement of the taking of said proofs, as provided for in Section 22 of the Water Code of this State, the said Water Code being Nevada Compiled Laws, 1929, Sections 7890-7978, inclusive, and said Section 22 being Section 7909, Nevada Compiled Laws, 1929, and caused said notices of said Orders to be given all claimants to the use of said waters, by publication thereof at least once a week for four consecutive weeks in said Ely Daily Times commencing on July 24, 1925, and ending August 14, 1925, the last publication thereof being not less than fifteen (15) days prior to the date so fixed for the commencement of the taking of said

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proofs, and, on or about August 11, 1925, caused said notice to be mailed, by registered mail and postage prepaid, to each of said claimants, to wit, each person who he had reason to believe had any interest in said proceedings, with return receipts requested, all as provided for in said Section 7909 (Section 22 of said Water Code), and thereafter extended the time for the filing of said proofs and any additional or supplemental maps, plats, surveys and evidence relating to any such claim or claims, from time to time, as provided for in Nevada Compiled Laws, 1929, Section 7912 (Section 25 of said Water Code), up to and including November 1, 1929, and gave each of said claimants and persons who he had any reason to believe had any interest in said proceedings due notice thereof, as provided for in Nevada Compiled Laws, 1929, Section 7910 (Section 23 of said Water Code) and as shown on pages 3 and 4 of the "Affidavit of Compliance with Jurisdictional Requisites" on file herein and in Exhibit "F" mentioned therein; and that, prior to the beginning of said proceedings, all of said claimants to the use of said waters had filed in the office of said State Engineer proofs of appropriation and cultural maps in support of their claims, showing with substantial accuracy the location and source of said streams and their tributaries, the location of each ditch diverting water therefrom, the points of diversion thereof, the area and outline of each parcel of land irrigated with said waters, and the kind of culture upon each of said parcels of land, and the other information required in and as provided for in Nevada Compiled Laws, 1929, Section 7907 (Section 20 of said Water Code).

That, on or about March 3, 1931, said claimants and the water users then on said stream systems made and entered into a stipulation and agreement relating to and settling certain matters concerning their respective rights to the use of the water thereof,

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which stipulation and agreement is as follows:

"IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS IN AND TO THE WATERS OF BAKER AND LEHMAN CREEKS AND THEIR TRIBUTARIES	STIPULATION

IT IS STIPULATED by and between the parties undersigned that the hearing held at Ely, White Pine County, State of Nevada, on the 3rd day of March, 1931, shall be deemed to be and is hereby declared to be a final hearing and further notice thereof is hereby expressly waived.

IT IS FURTHER STIPULATED that the State Engineer shall make his determination of the vested rights of Philip M. Baker, sometimes known as P. M. Baker, in accordance with his proofs, Numbers 01064, 01065, 01066, which proofs are now on file in the State Engineer's Office and which shall be considered as the limit of his vested rights initiated prior to 1905.

IT IS FURTHER STIPULATED that the State Engineer shall issue and file his order of determination within the Seventh Judicial District Court of the State of Nevada, in and for the County of White Pine, to Philip M. Baker and his successors in interest.

IT IS FURTHER STIPULATED that the State Engineer may make his order of determination in typewritten form if the same shall be deemed more expedient to him.

IT IS FURTHER STIPULATED that all other proofs filed in this proceeding conflicting with the above mentioned proofs of Philip M. Baker can be withdrawn and they are hereby considered as withdrawn.

Beatrict I. Rhodes
C. T. Rhodes
United Securities Corp.,
by V. H. Vargas, Duly Authorized Agent
George T. Baker
J. F. and Kitty Christopherson
B. P. Hockman
Glen A. Bellander
By J. M. Lockhart
Their Attorney and Agent

Mrs. Esther Smith

That said claimants and State Engineer have considered said Baker Creek and its tributaries and said Lehman Creek and its tributaries as one stream system and the Court hereby finds that they are and constitute one stream system and they are so considered and treated herein; that, on or about January 10, 1933, the State Engineer prepared and filed an Abstract of Claims, as provid-

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ed for in Nevada Compiled Laws, 1929, Section 7915 (Section 28 of said Water Code), and, on or about February 15, 1933, duly filed, in the manner provided by law, his Order of Determination, in typewritten form, as provided for in said above-quoted stipulation, of the relative rights of the water users on said combined stream system to the use of the waters thereof, and, on or about April 7, 1933, duly mailed a certified copy thereof, by registered mail and postage prepaid, to each of said claimants and parties in interest whose name appeared in said Order of Determination or who had become interested in said water and these proceedings, at his or her last post office address known to said State Engineer, and, on or about April 10, 1933, filed a duly certified copy of said Order of Determination and all the original evidence and a transcript of the testimony filed with or taken before said State Engineer with the Clerk of this Court; that said State Engineer thereupon obtained an Order of this C ourt, dated April 10, 1933, setting the time for hearing exceptions to said Order of Determination for May 22, 1933, at the hour of 10:00 o'clock A. M. of that day, in and at the courtroom of this Court, in the White Pine County Court House, at E ly, Nevada, and requiring all parties in interest who were aggrieved by or dissatisfied with said Order of Determination to file with the Clerk of this Court and serve upon or transmit to said State Engineer by registered mail notice of exceptions thereto at least five (5) days prior to the date set for the hearing thereof, all as provided for in Nevada Compiled Laws, 1929, Sections 7921 and 7922 (Sections 34 and 35 of said Water Code), and gave and served due notice thereof on all of said claimants and water users by registered mail, postage prepaid, and by publication thereof in Ely Record, a newspaper of general circulation and published at Ely, White Pine County, Nevada, at least

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once a week for five (5) consecutive weeks, as provided by law; that the time of said hearing of said Order of Determination and the exceptions thereto was duly continued from time to time until 10:00 o'clock A. M. on August 11, 1933; and that, on or about June 23 and 24, 1933, the exceptors hereinbefore in the third paragraph hereof named filed herein and served their said exceptions to said Order of Determination, which exceptions were waived when said Order of Determination was amended under said heading so designated "MEASUREMENT OF WATER" by said stipulation as hereinbefore quoted, and said Order of Determination duly came on for hearing and confirmation on August 11, 1933.

II.

The Court further finds that all and singular the orders and notices required by said Water Code of this State were duly made and given as required by law and all and singular the proceedings required by law to be had were duly had as required by said Water Code; that all and singular the claimants and persons named in said Order of Determination and hereinafter in this decree as the persons entitled to use the waters of said stream system, or their predecessors in interest, respectively, duly filed their claims and proofs of claims and appropriation with said State Engineer and are the claimants, appropriators, and users of the waters of the stream system of Baker and Lehman Creeks and their tributaries; and that the persons hereinafter named and shown are entitled to the use of the waters thereof as hereinafter set forth and are the only claimants who are appropriators and users of the waters of said stream system, excepting from this finding the names of those persons who have made application to the State Engineer for permits, if any there be.

III.

The Court further finds from the evidence submitted

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at said hearing that all of the persons named as claimants or appropriators in said Final Order of Determination as claimants to the waters of the stream system of Baker and Lehman Creeks and their tributaries by and through the several diversion ditches are appropriators or claimants to the waters of said stream system and each of them is such an appropriator or claimants; that each of such appropriators or claimants, either for himself or by and through his respective claimants and predecessors in interest, made due and legal appropriations of the quantity of water, for beneficial uses, at the times and in the manner set forth in said Order of Determination; and that each of such appropriators or claimants or his respective successor in interest now is the owner or possessor of the lands described in said Order of Determination and in these Findings of Fact, Conclusions of Law, and Decree, and each of them continuously, from the date of said appropriation or priority, when such water was available for such baneficial use, diverted all of such quantity of water from said stream system and applied the same to beneficial use, as set forth in said Order of Determination.

IV.

The Court further finds that the climate where the lands of said respective claimants in said Order of Determination are situated is dry and arid; that it is necessary to irrigate said lands in order to produce or raise crops thereon; that, with such irrigation, said lands produce valuable crops of the culture specified in said Order of Determination; and that there is no source of supply of water for the irrigation of said lands of claimants and for stock and domestic purposes other than the waters of said stream system.

V.

That the names of claimants and appropriators set forth

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in said Final Order of Determination, the source of water supply, the means by which the water is secured from such sources and applied to beneficial use, the year of priority, the legal subdivisions and classification of lands, the length of the irrigation season, the provisions for the installation, maintenance, and regulation of headgates and control works, measuring devices, designation of ditches and channels, the duty of water, and provisions for the rotation of the use of water for each of said claimants, and the provisions as to junior rights and relative rights of appropriators, as set forth in said Final Order of Determination, and more particularly on pages 2-5 thereof, are true, proper, and correct, except as the same or some portion thereof may be modified by and as set forth in said Stipulation amending said Order of Determination on page 3 thereof under the title "MEASUREMENT OF WATER" so hereinabove quoted and so made and entered into on August 11, 1933; and, as so modified, all and singular the same is and are hereby approved and confirmed.

VI.

That said Order of Determination as to the relative rights of the users of said stream system as it appears on pages 6-9 thereof and in all other respects, except as so modified by said Stipulation so made and entered into on August 11, 1933, relating to "MEASUREMENT OF WATER", is correct and in accordance with the said vested rights of the said Philip M. Baker who is the same person as and who is known as and designated therein and herein as P. M. Baker, under his said Proofs of Appropriation Nos. 01064, 01065, and 01066, as provided for in said Stipulation as set forth and quoted hereinbefore on page 7 hereof, which Order of Determination as so modified is hereby approved and confirmed; that the water rights determined in said Order of Deter-

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mination to have belonged to said "Claimant P. M. Baker" under his said Proofs of A ppropriation Nos. 01064, 01065, and 01066 were, after said rights had vested, duly transferred and conveyed to others as shown in the Appendix to said Order of Determination, pages 14-34, thereof, so that the said water rights of said Philip M. Baker under the said Proofs of Appropriation vested in and belonged to the claimants and users named and as shown in said Order of Determination at the time of the making and filing thereof and at the time of said hearing in the above-entitled court on August 11, 1933, and so that they now vest in and belong to the claimants and users thereof as hereinafter found, determined, ordered, adjudged, and decreed.

VII.

PRIORITIES

The Court further finds that the priorities under the following proofs of Appropriation are as follows:

Proof No. 01064 - The priority under this Proof No. 01064 is hereby found to be and fixed at the year 1869, in accordance with the statement of water right made and filed by A. S. Lehman, dated May 2, 1887, and recorded in the records of White Pine County, Nevada, at the request of Willard Burbank on May 7, 1887, as shown in the Appendix to said Order of Determination, pages 16-17 thereof.

Proof No. 01065 - The priority in this Proof No. 01065 is hereby found to be and fixed at the year 1890.

Proof No. 01066 - The priorities in this Proof No. 01066 are hereby found to be and fixed as of the years indicated in the proof submitted and are those of the parent appropriator and as hereinafter and in said Order of Determination shown. The relative priorities of the owners who have acquired title to

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the use of water from the parent appropriator, or his and/or their successors in interest, are fixed by and as of the dates indicated in the deeds as hereinafter found and decreed.

VIII.

CLASSES OF LAND

The Court also finds that there are two general classes of land served with water from said stream system, which are hereby designated as Class A and Class B lands; that the Class A lands are the sandy, loam, valley lands located in Township 13 North, Range 70 East, and consist of all the lands listed under said Proof No. 01066; that the Class B lands are rocky lands located on the bench in Township 13 North, Range 69 East, commonly known as the Rowland Ranch; and that all Class B lands are listed under said Proofs of Appropriation Nos. 01064 and 01065.

IX.

IRRIGATION SEASON

The Court further finds that water for irrigation purposes was used during the entire year; and that a summer irrigation season and a winter irrigation season were thereby established for both Class A and Class B lands; and the Court finds that the summer irrigation season on both classes of lands begins, and should begin, on April 15 and ends, and should end, on September 15 of each year, both dates inclusive, and that the winter irrigation season on both classes of land begins, and should begin, on September 16 of each year and ends, and should end on April 14 of the following year, both dates inclusive.

X.

MEASUREMENT OF WATER

The Court further finds that the water users on said

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Class A lands shall be at the rate of 1.5 cubic feet per second continuous flow, or 4.62 acre feet per acre, during the summer irrigation season of 154 days, as above specified, and .5 cubic foot per second continuous flow, or 2.11 acre feet per acre, during the winter irrigation season of 111 days, as above specified.

The duty of water on Class B lands shall be at the rate of 2.00 cubic feet per second for 100 acres continuous flow, or 6.16 acre feet per acre, during the summer irrigation season of 154 days, and 1.0 cubic foot per second per 100 acres continuous flow, or 4.22 acre feet per acre, during the winter irrigation season of 111 days.

The cubic feet per second continuous flow in each of the above cases is that quantity necessary to serve 100 acres.

XIII.

ROTATION IN USE OF WATER

The Court also finds that the persons named in this Order of Determination as claimants and users of water, or their successors in interest, need not be required, except where they are bound by the provisions of deeds, to take or use the amount of water allowed them, respectively, in a continuous flow, but may cumulate said flow or any part thereof in rotation or periodic turn within the seasonal limits and with the approval of the Water Commissioner on said stream system and subject to the control and direction of the State Engineer.

XIV.

JUNIOR RIGHTS

The Court further finds that no person holding a water right of a later priority than those herein listed, and not included herein, shall be entitled to receive any water from Baker and Lehman Creeks stream system or its tributaries until all appropriations herein set forth shall have been fully satisfied.

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XV.

From the foregoing and the evidence, the Court further finds that United Securities Corporation, a corporation, is the successor in interest of said P. M. Baker under said Proof of Appropriation No. 01064, and it and its successors in interest have the said water rights of said P. M. Baker under said Proof No. 01064 as specified in said Order of Determination, and particularly on page 6 thereof, and have the right to use a portion of the waters of Lemay, Lehman, or Big Springs Creek, a tributary to said Lehman Creek and being a part of said Baker and Lehman Creeks stream system, from the sources, through the ditches, at the point of diversion, at the times, in the amounts, with the priority or priorities, and upon the lands, as follows:

Claimant: United Securities Corporation
Proof No. 01064
Source: Lemay, Lehman, or Big Springs
Ditch: Lehman
Point of Diversion: In the SE¼ SE¼, Sec. 10, T. 13 N., R. 69 E.

CULTURE(Ac.)		DESCRIPTION				DUTY OF WATER Cubic feet per Second	
Priority	Class ~~A~~ B Harvest Crop	Subd'vn	Sec.	Tp.N.	R.E.	Summer Irrigation	Winter Irrigation
1869	3.125	SW¼NE¼	11	13	69	0.06	0.03
"	12.25	NE¼NE¼	11	"	"	0.25	0.12
"	12.25	SE¼NE¼	11	"	"	0.25	0.12
"	14.50	NW¼NW¼	12	"	"	0.29	0.15
"	16.25	NE¼SE¼	12	"	"	0.32	0.16
"	3.50	NE¼NW¼	12	"	"	0.07	0.03
"	37.75	SW¼NW¼	12	"	"	0.75	0.38
"	26.50	SW¼NE¼	12	"	"	0.53	0.26
"	38.95	SE¼NW¼	12	"	"	0.78	0.39
"	6.25	SE¼NE¼	12	"	"	0.13	0.07
"	22.25	NW¼SW¼	12	"	"	0.44	0.22
"	15.50	SW¼SW¼	12	"	"	0.31	0.15
"	1.95	NW¼NW¼	13	"	"	0.04	0.02
"	80.00	E½SW¼	12	"	"	1.60	0.80
"	13.125	NE¼NW¼	13	"	"	0.26	0.13
"	7.75	NW¼NE¼	13	"	"	0.16	0.08
"	80.00	W½ SE¼	12	"	"	1.60	0.80
"	2.25	NE¼NE¼	13	"	"	0.04	0.02
"	21.25	SE¼SE¼	12	"	"	0.43	0.22
Total	415.40 acres						
		Total Cubic Feet Second				8.31	4.15

Total acre feet required for summer irrigation (154 days) with a duty of 6.16 acre feet per acre equals 2559.0.

Total acre feet required for winter irrigation (211 days) with a duty of 4.22 acre feet per acre equals 1752.0.

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XVI.

The Court also finds that claimant C. T. Rhodes is the successor in interest of said P. M. Baker under said Proof of Appropriation No. 01065, and that he and his successors in interest have the said water right of said P. M. Baker under said Proof No. 01065 as specified in said Order of Determination, and more particularly on page 7 thereof, and the right to use a portion of the water of Cave Springs, a tributary of Lehman Creek, being a part of Baker and Lehman Creeks stream system, from the source, through the ditch, at the point of diversion, at the times, in the amounts, with the priority, and upon the lands as follows:

Claimant: C. T. Rhodes
Proof No. 01065
Source: Cave Springs
Ditch: Lehman
Point of Diversion: In the SW¼ SW¼, Sec. 10, T. 13 N., R. 69 E.

CULTURE(Ac.)			DESCRIPTION					
Priority	Class A Harvest	Crop	Subd'vn Sec.		Tp.N.	R.E.	Cubic feet per sec.	Total Ac.Ft.
1890	7.5		(NE¼NW¼ (NW¼NE¼	15	13	69	0.15	*109.50

* Year around irrigation (365 days with a continuous flow of 0.15 cubic feet per second.

XVII.

The Court further finds that claimant United Securities Corporation, a corporation, is a successor in interest of said P. M. Baker under said Proof of Appropriation No. 01066, and that it and its successors in interest have, subject to the limitations hereinafter mentioned, the said water rights of said P.M. Baker under said Proof No. 01066 as specified in said Order of Determination, and more particularly on pages 8-11 thereof, and the right, subject to those certain deeds of Baker Livestock Company and / or others conveying certain lands and/ or water rights as hereinafter

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found and set forth, to use a portion of the waters of Baker and Lehman Creeks stream system, from the sources, through the ditches, at the point of diversion, at the times, in the amounts, with the priorities, and upon the lands, as follows:

Claimant: United Securities Corporation
Proof No. 01066
Source: Baker and Lehman Creeks
Ditches: Baker Ranch ditches
Point of Diversion: From the combined stream in the NE¼SE¼, Sec. 8, T. 13 N., R. 70 E.

CULTURE(Ac.)		DESCRIPTION				DUTY OF WATER Cubic feet per Second	
Priority	Class A Harvest Crops	Subd'vn	Sec.	Tp.N.	R.E.	Summer Irrigation	Winter Irrigation
1872	40.0	NW¼NE¼	15	13	70	0.60	0.20
"	40.0	NE¼NW¼	15	"	"	0.60	0.20
"	40.0	NW¼NW¼	15	"	"	0.60	0.20
"	40.0	NW¼NW¼	10	"	"	0.60	0.20
"	40.0	SW¼NW¼	10	"	"	0.60	0.20
"	40.0	NE¼NW¼	10	"	"	0.60	0.20
"	40.0	SE¼NW¼	10	"	"	0.60	0.20
"	40.0	NE¼SW¼	10	"	"	0.60	0.20
"	40.0	NW¼SW¼	10	"	"	0.60	0.20
"	40.0	SW¼SW¼	10	"	"	0.60	0.20
"	40.0	SE¼SW¼	10	"	"	0.60	0.20
"	52.7	W½ SE¼	9	"	"	0.60	0.20
1876	40.0	NE¼NE¼	9	"	"	0.79	0.26 ?
"	40.0	NW¼NE¼	9	"	"	0.60	0.20
"	40.0	SW¼NE¼	9	"	"	0.60	0.20
"	40.0	SE¼NE¼	9	"	"	0.60	0.20 ?
1881	2.0	SE¼SW¼	9	"	"	0.60	0.20
1885	33.4	SW¼SW¼	11	"	"	0.03	0.01 ?
"	7.5	SE¼SW¼	11	"	"	0.50	0.17
"	40.0	NE¼SW¼	11	"	"	0.11	0.04
"	40.0	NW¼SW¼	11	"	"	0.60	0.20
"	19.8	NW¼SE¼	11	"	"	0.60	0.20
1886	40.0	NE¼SW¼	4	"	"	0.30	0.10
"	40.0	NW¼NE¼	10	"	"	0.60	0.20 ?
"	40.0	SW¼NE¼	10	"	"	0.60	0.20
1888	40.00	NE¼SE¼	10	"	"	0.60	0.20
"	40.0	NE¼SE¼	10	"	"	0.60	0.20
"	40.0	SW¼SE¼	10	"	"	0.60	0.20
"	40.0	SE¼SE¼	10	"	"	0.60	0.20
1889	29.2	SE¼NE¼	16	"	"	0.60	0.20
"	1.0	SW¼NE¼	16	"	"	0.44	0.14
1891	10.0	NW¼NE¼	16	"	"	0.01	0.01
1894	30.0	SW¼NW¼	15	"	"	0.15	0.05
1895	39.0	SW¼NE¼	15	"	"	0.45	0.15
"	40.0	SE¼NW¼	15	"	"	0.58	0.19
"	52.0	(NE¼SW¼	15	"	"	0.60	0.20
		(NW¼SE¼	"	"	"	0.78	0.26
"	29.0	NE¼NE¼	15	"	"	0.44	0.15
"	2.5	NW¼NW¼	14	"	"	0.04	0.01
"	20.0	S½SW¼	15	"	"	0.30	0.10

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Priority	CULTURE(Ac.) Class A Harvest Crops	DESCRIPTION Subd'vn	Sec.	Tp.N.	R.E.	DUTY OF WATER Cubic feet per Second Summer Irrigation	Winter Irrigation
1897	40.0	NE¼SE¼	4	13	70	0.60	0.20
"	40.0	NW¼SE¼	4	"	"	0.60	0.20
"	40.0	SW¼SE¼	4	"	"	0.60	0.20
"	40.0	SE¼SE¼	4	"	"	0.60	0.20
1902	40.0	NE¼NE¼	16	"	"	0.60	0.20
1903	40.0	SE¼SW¼	4	"	"	0.60	0.20
1904	14.7	SW¼SE¼	15	"	"	0.22	0.07
"	20.0	NE¼NW¼	9	"	"	0.30	0.10
"	5.0	SE¼NW¼	9	"	"	0.08	0.03
"	40.0	NW¼SW¼	3	"	"	0.60	0.20
"	40.0	SW¼SW¼	3	"	"	0.60	0.20
	1767.8 acres						
		Total Cubic Feet Second				26.32	8.84

Total acre feet required for summer irrigation (154 days) with a duty of 4.62 acre feet equals 8168.2

Total acre feet required for winter irrigation (211 days) with a duty of 2.11 acre feet equals 3730.4.

That, after said water right of said P.M. Baker had vested, it was conveyed to Baker Livestock Company, a corporation, and said Baker Livestock Company thereby became the successor in interest of said P. M. Baker under said Proof of Appropriation No. 01066; and said Baker Livestock Company thereafter conveyed certain lands and/ or water rights to the other persons hereinafter mentioned at the time and in the amounts hereinafter specified, without specifying the priorities of the water and water rights so conveyed; that the order of sequence in which said conveyances were made are as hereinafter specified under letters a to k, both inclusive, hereof; that the order in which said conveyances were made is and determines the order of priority of the water right thereby conveyed and is as follows:

(a) That Baker Livestock Company, as successor in interest to Frank J. Doolin, and its successors in interest, under and by virtue of that certain deed from Baker Livestock Company to Frank J. Dollin, dated December 11, 1916, have the first right to the

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use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragraph, such right being more fully defined as 3.2 cubic feet per second in continuous flow for a period of 365 days each year.

b) That the United Securities Corporation, as successor in interest to Geo. T. Baker, and its successors in interest, under and by virtue of that certain deed dated May 16,1917, from Philip M. Baker and Baker Livestock Company to Geo. T. Baker, have the second right to the use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragraph, such right being more fully defined as 1.60 cubic feet per second in continuous flow for a period of 365 days each year.

c) That Addie S. Wheeler and her successors in interest, under and by virtue of that certain deed dated November 6, 1917, from Baker Livestock Company to Addie S. Wheeler, have the third right to the use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragraph, such right being more fully defined as 0.50 0.16 see NUNC PRO TUNC ORDER of 1950 cubic feet per second for a continuous flow of 24 hours each eighth day during an irrigation season of 365 days or 2.5 acre feet per acre for 7.13 acres located in the SW¼NE¼ of Sec. 9, T. 13 N., R. 70 E., M. D. B. & M.

d) That B. P. Hockman and his successors in interest, under and by virtue of that certain deed dated February 4, 1918, from Baker Livestock Company to B. P. Hockman, have the fourth right to the use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragrpah, such right being more fully defined as 0.25 cubic feet per second for a continuous flow of twenty-four hours each eighth day during an irrigation season of 150.4 days or 2.4 acre feet of water per acre for 3.75 acres located in the SE¼ of Sec. 16, T. 13 N., R. 70 E., M. D. B. & M.

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e) That Esther D. Smith and her successors in interest, under and by virtue of that certain deed dated February 28, 1918, from Baker Livestock Company to Esther D. Smith, have the fifth right to the use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragraph, such right being more fully defined as 0.25 cubic feet per second in continuous flow for twenty-four hours each eighth day during an irrigation season of 150.4 days or 2.5 acre feet per acre for 3.77 acres in the NE¼ of Sec. 16, T. 13 N., R. 70 E., M. D. B. & M.

f) That Geo. T. Baker and his successors in interest, under and by virtue of that certain deed dated April 15, 1918, from Baker Livestock Company to Geo. T. Baker, have the sixth right to the use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragraph, such right being more fully defined as 0.6 cubic feet per second in continuous flow for twenty four hours each eighth day during an irrigation season of 148.6 days, or 2.5 acre feet per acre for 8.8 acres located in the NW¼SE¼ of Sec. 9, T. 13 N., R. 70 E., M. D. B. & M.

g) That B. P. Hockman, as successor in interest to Belle Smith, and his successors in interest, under and by virtue of that certain deed dated April 12, 1919, from Baker Livestock Company to Belle Smith, have the seventh right to the use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragraph, such right being more fully defined as 0.75 cubic foot per second in continuous flow of twenty-four hours each eighth day during an irrigation season of 135 days or 2.5 acre feet per acre for 11.64 acres located in the SE¼ of Sec. 16, T. 13 N., R. 70 E., M. D. B. & M.

h) That Glenn A. Bellender, as successor in interest to P. M. Baker, and his successors in interest, under and by

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virtue of that certain deed dated October 8, 1919, from Baker Livestock Company to P. M. Baker, have the eighth right to the use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragraph, such right being more fully defined as 0.86 cubic foot of water per second in continuous flow for an irrigation season of 120 days beginning not later than the first day of May each year, or 2.5 acre feet per acre for 80 acres in the SW¼SE¼ and SE¼SW¼ of Sec. 4, T. 13 N., R. 70 E., M. D. B. & M.

i) That Francisco Achabal and his successors in interest, under and by virtue of that certain deed dated June 1, 1920, from Baker Livestock Company to Francisco Achabal, have the ninth right to the use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragraph, such right being more fully defined as 0.15 cubic foot per second in continuous flow of twenty-four hours each eighth day during an irrigation season of 153.3 days or 2.5 acre feet for 2.3 acres in Lot A, Sec. 9, T. 13 N., R. 70 E., M. D. B. & M.

j) That Kitty E. Christopherson and her successors in interest, under and by virtue of that certain deed dated June 21, 1920, from Baker Livestock Company to Kitty E. Christopherson, have the tenth right to the use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragraph, such right being more fully defined as 3.35 cubic feet per second in continuous flow of twenty-four hours each fourth day during an irrigation season of 119.4 days or 2.5 acre feet per acre for 80 acres in the NE¼SW¼ and NW¼SE¼ of Sec. 4, T. 13 N., R. 70 E., M.D.B. & M.,

k) That Amanda Meecham and her successors in interest, under and by virtue of that certain deed dated May 24, 1921, from Baker Livestock Company to Amanda Meecham, have the eleventh right to the use of the waters of Baker and Lehman Creeks as defined

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hereinabove in this paragraph, such right being more fully defined as 0.17 cubic foot per second in continuous flow of twenty-four hours each eighth day during an irrigation season of 160.6 days or 2.5 acre feet of water per acre for 2.73 acres located in Lot 7 in the SE¼ of Sec. 16, T. 13 N., R. 70 E., M. D. B. & M., and that, at the option of the grantee, a proportionate continuous flow each and every day during the irrigation season is allowable.

CONCLUSIONS OF LAW

From the foregoing facts so found, the Court makes the following Conclusions of Law:

That the State Engineer duly made all orders necessary and proper and entered the same in his office as required by 1913 Statutes of the State of Nevada, pages 192 et seq. and acts amendatory thereof or supplemental thereto, known as the Water Code of the State of Nevada and being Nevada Compiled Laws, 1929, Sections 7890-7978, as amended; that each and every notice required by law, and in accordance with said stipulation so made and entered into on March 3, 1931, required to be given to claimants and appropriators, was duly given by said State Engineer in the manner and at the time required by law and the said notices so given contained all the statements required by law; that all claimants and appropriators of the waters of said Baker and Lehman Creeks stream system and its tributaries duly received the information and notices required by law, and each and all of said claimants duly appeared in these proceedings.

That the parties named herein as claimants constitute and are, respectively, the only claimants who were and are appropriators and users of the waters of Baker and Lehman Creeks stream system on the date the Final Order of Determination was

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filed with the Clerk of this Court and at the time of the hearing hereof, except those parties who have subsequently made application to the State Engineer for permits to use the waters of said stream system, if any there be.

That all and singular the persons named as claimants or appropriators in this Order of Determination, and as hereinbefore found and hereinafter decreed, as claimants to the waters of Baker and Lehman Creeks stream system and its tributaries are, respectively, appropriators or claimants of the waters of said stream system, by and through the several diversion ditches and canals named in said Order of Determination and herein found and decreed; that all and singular the said appropriators and claimants, each for himself or by and through his respective claimants or predecessors in interest, made due and legal appropriations, for beneficial use, of the quantity of water, at the times and in the manner set forth in said Order of Determination and as herein found and decreed; that each of said appropriators and claimants, or his respective successors in interest, is now the owner or possessor of the lands described in said Order of Determination and as described herein, and each continuously, from the date of his said appropriation or priority, when such water was available for such beneficial use, diverted all of said quantity of water from said Baker and Lehman Creeks stream system and applied the same to beneficial use, as set forth in said Order of Determination and as herein found and decreed; that each of said appropriators and claimants is legally entitled to the use of the quantity of water from said stream system specified in said Order of Determination and herein found and decreed, for said beneficial use, and from the source of water supply. by the ditch or ditches and other means of diversion and application to benefi-

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cial use, with the priority or priorities, the length and time of irrigation season or seasons, the duty of water, and the point of measurement and measuring devices, and is legally entitled to the right to so use and apply said quantity of water to the legal subdivisions and classifications of lands owned or possessed by him, and to install, maintain, and regulate his headgates, control works and measuring devices, and also to use said water in rotation with other water users on said stream system and/ or otherwise use it as herein determined and decreed, and to protection from junior or subsequent appropriators, all as set forth in said Order of Determination and as herein found, adjudged, and decreed.

That the climate where the lands of said respective claimants named in said Order of Determination and herein are situated is dry and arid; that it is necessary to irrigate said lands in order to produce or raise crops thereon; that, with irrigation, said lands produce valuable harvest crops, meadow pasture, and/ or diversified pasture; and that there is no source of supply of water for the irrigation of said lands and for stock and domestic purposes other than the waters of said stream system and its tributaies.

Drinking

That the appropriators or claimants under said Proofs of Appropriations Nos. 01064, 01065, and 01066, respectively, and their respective successors in interest, are legally entitled to the following priorities:

> Under said Proof No. 01064, to a priority of the year 1869;
>
> Under said Proof No. 01065, to a priority of the year 1890; and
>
> Under said Proof No. 01066, to the priorities specified in said Order of Determination and herein found and decreed.

That final decree and judgment should be entered here-

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in in accordance with said Final Order of Determination as so modified by said Stipulation as to "Measurement of Water" on August 11, 1933, and in accordance with the Opinion and Decision of this Court heretofore filed herein, and with these Findings of Fact and Conclusions of Law, and as hereinafter specified.

That the Judgment and Decree to be hereinafter entered should provide that each and every water user of the Baker and Lehman Creeks stream system and its tributaries, and each of their agents, attorneys, servants, employees, and their respective successors in interest, and each and every person acting in aid or assistance of said parties, or either or any of them, be perpetually enjoined and restrained as follows, to-wit:

(a) From at any time diverting or using or preventing or obstructing the flow, in whole or in part, in or along its natural channel, of any of the water of said stream system, except to the extent and in the amount and in the manner and at the time or times fixed by this Decree and allocated, allowed, prescribed, and determined to such parties respectively, and as may be allowed in the permits which have been or may hereafter be granted by the State Engineer of the State of Nevada.

(b) From diverting from the natural channel and from using any of the said water for irrigation or any other purpose in excess of the amount specifically allotted to or for said party herein and fixed by this Decree, or in excess of the specified allotment under such permit or permits so heretofore granted or which may hereafter be granted by said State Engineer.

(c) From diverting from the natural channel and from using any of the said waters in any other manner or for any other purpose or purposes or upon any other land or lands or in any other amount than as provided and prescribed by the terms of this Decree,

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or by any such permit so granted by said State Engineer.

(d) From diverting from the natural channel and from using any of the said water at any other time or times than as specified and provided by the terms of this Decree or by any such permit so granted by the said State Engineer.

(e) From in any manner meddling, with, opening, closing, changing, injuring, or interfering with any headgates, weirs, water-boxes, flumes, or measuring devices, or either or any of them, placed, installed, established, or approved by said State Engineer or by his authority or direction, unless such act be done with the permission or authority of the water commissioner or commissioners on said stream system during the period of his regulation or control of said water, or, if not done during such period of his control, then by virtue of the allowances, authority, terms, and provisions of this Decree or by a permit so granted by said State Engineer.

The Court further concludes from the facts so found that all and singular the appropriators and claimants hereinafter named in the Judgment and Decree herein are entitled to all and singular the water rights and other rights incident thereto as specified, adjudged, and decreed in the Judgment and Decree herein.

JUDGMENT AND DECREE

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

I.

That, except such persons as may have acquired rights to the waters of Baker and Lehman Creeks stream system and its tributaries granded under and pursuant to applications to the

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State Engineer under and by virtue of the Statutes of 1905, Chapter 46, Statutes of 1907, page 30, and under and by virtue of Chapter 140, Statutes of 1913, as amended, no person other than the parties named herein had any interest in or to the waters of said stream system or in or to the use of said waters of said stream system, or any part thereof.

II.

That the names of claimants or appropriators of the waters of said Baker and Lehman creeks stream system and its tributaries who divert waters from said stream system for beneficial use, the source of water supply, the means by which water is secured from the source of supply and applied to beneficial use, the point of diversion and measurement of water, the year of priority, the cultured acreage, the legal subdivisions, sections, township, and range, length of season, and duty of water for each os said claimants or appropriators are hereby adjudged and decreed as follows, to wit:

Claimant: UNITED SECURITIES CORPORATION
Proof No. 01064
Source: Lemay, Lehman, or Big Springs
Ditch: Lehman
Point of Diversion: In the SE¼SE¼, Sec. 10, T. 13 N., R. 69 E.

	CULTURE(Ac.)	DESCRIPTION				DUTY OF WATER Cubic Feet per Second	
Priority	Class A Harvest Crop	Subd'vn.	Sec.	Tp.N.	R.E.	Summer Irrigation	Winter Irrigation
1869	3.125	SW¼NE¼	11	13	69	0.06	0.03
"	12.25	NE¼NE¼	11	"	"	0.25	0.12
"	12.25	SE¼NE¼	11	"	"	0.25	0.12
"	14.50	NW¼NW¼	12	"	"	0.29	0.15
"	16.25	NE¼SE¼	12	"	"	0.32	0.16
"	3.50	NE¼NW¼	12	"	"	0.07	0.03
"	37.75	SW¼NW¼	12	"	"	0.75	0.38
"	26.50	SW¼NE¼	12	"	"	0.53	0.26
"	38.95	SE¼NW¼	12	"	"	0.78	0.39
"	6.25	SE¼NE¼	12	"	"	0.13	0.07
"	22.25	NW¼SW¼	12	"	"	0.44	0.22
"	15.50	SW¼SW¼	12	"	"	0.31	0.15
"	1.95	NW¼NW¼	13	"	"	0.04	0.02
"	80.00	E½SW¼	12	"	"	1.60	0.80
"	13.125	NE¼NW¼	13	"	"	0.26	0.13
"	7.75	NW¼NE¼	13	"	"	0.16	0.08
"	80.00	W½SE¼	12	"	"	1.60	0.80
"	2.25	NE¼NE¼	13	"	"	0.04	0.02
"	21.25	SE¼SE¼	12	"	"	0.43	0.22
Total	415.40 acres						
		Total Cubic Feet Second				8.31	4.15

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Total acre feet required for summer irrigation (154 days) with a duty of 6.16 acre feet per acre equals 2559.0.

Total acre feet required for winter irrigation (211 days) with a duty of 4.22 acre feet per acre equals 1752.0.

Claimant: C. T. RHODES
Proof No. 01065
Source: Cave Springs
Ditch: Lehman
Point of Diversion: In the SW¼SW¼, Sec. 10, T. 13 N., R.69E.

CULTURE(Ac.)		DESCRIPTION				DUTY OF WATER	
Priority	Class A Harvest Crop	Subd'vn.	Sec.	Tp.N.	R.E.	Cubic feet per sec.	Total Ac. Ft.
1890	7.5	(NE¼NW¼ (NW¼NE¼	15	13	69	0.15	*109.50

*Year around irrigation (365 days) with a continuous flow of 0.15 cubic feet per second.

Claimant: UNITED SECURITIES CORPORATION
Proof No. 01066
Source: Baker and Lehman Creeks
Ditches: Baker Ranch ditches
Point of diversion: From the combined stream in the NE¼SE¼, Sec. 6, T. 13 N., R. 70 E.

CULTURE(Ac.)		DESCRIPTION				DUTY OF WATER	
Priority	Class A. Harvest Crop	Subd'vn	Sec.	Tp.N.	R.E.	Cubic feet per Second Summer Irrigation	Winter Irrigation
1872	40.0	NW¼NE¼	15	13	70	0.60	0.20
"	40.0	NE¼NW¼	15	"	"	0.60	0.20
"	40.0	NW¼NW¼	15	"	"	0.60	0.20
"	40.0	NW¼NW¼	10	"	"	0.60	0.20
"	40.0	SW¼NW¼	10	"	"	0.60	0.20
"	40.0	NE¼NW¼	10	"	"	0.60	0.20
"	40.0	SE¼NW¼	10	"	"	0.60	0.20
"	40.0	NE¼SW¼	10	"	"	0.60	0.20
"	40.0	NW¼SW¼	10	"	"	0.60	0.20
"	40.0	SW¼SW¼	10	"	"	0.60	0.20
"	40.0	SE¼SW¼	10	"	"	0.60	0.20
"	52.7	W½ SE¼	9	"	"	0.79	0.26
"	40.0	NE¼SE¼	9	"	"	0.60	0.20
"	40.0	SE¼SE¼	9	"	"	0.60	0.20
1876	40.0 872.7	NE¼NE¼	9	"	"	0.60 9.59	0.20 2.96
"	40.0	NW¼NE¼	9	"	"	0.60	0.20
"	40.0	SW¼NE¼	9	"	"	0.60	0.20
"	40.0 160.00	SE¼NE¼	9	"	"	0.60 1.00	0.20 0.60
1881	2.0	Se¼SW¼	9	"	"	0.03	0.01
1885	33.4	SW¼SW¼	11	"	"	0.50	0.17
"	7.5	SE¼SW¼	11	"	"	0.11	0.04
"	40.0	NE¼SW¼	11	"	"	0.60	0.20
"	40.0	NW¼SW¼	11	"	"	0.60	0.20
"	19.8	NW¼SE¼	11	"	"	0.30	0.10
	140.70					1.11	0.71

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Priority	CULTURE(Ac.) Class A Harvest Crop		DESCRIPTION Subd'vn	Sec.	Tp.N.	R.E.	DUTY OF WATER Cubic feet per Second Summer Irrigation		Winter Irrigation	
1886	40.0		NE¼SW¼	4	13	70	0.60		0.20	
"	40.0		NW¼NE¼	10	"	"	0.60		0.20	
"	40.0		SW¼NE¼	10	"	"	0.60		0.20	
1888	40.0	120.00	NE¼SE¼	10	"	"	0.60	1.80	0.20	0.60
"	40.0		NW¼SE¼	10	"	"	0.60		0.20	
"	40.0		SW¼SE¼	10	"	"	0.60		0.20	
"	40.0		SE¼SE¼	10	"	"	0.60		0.20	
1889	29.2	160.00	SE¼NE¼	16	"	"	0.44	2.40	0.14	0.80
"	1.0		SW¼NE¼	16	"	"	0.01		0.01	
1891	10.0	30.2	NW¼NE¼	16	"	"	0.15	0.45	0.05	0.15
1894	30.0		SW¼NW¼	15	"	"	0.45		0.15	
1895	39.0		SW¼NE¼	15	"	"	0.58		0.19	
"	40.0		SE¼NW¼	15	"	"	0.60		0.20	
"	52.0		(NE¼SW¼	15	"	"	0.78		0.26	
			(NW¼SE¼	"	"	"				
"	29.0		NE¼NE¼	15	"	"	0.44		0.15	
"	2.5		NW¼NW¼	14	"	"	0.04		0.01	
"	20.0		S½ SW¼	15	"	"	0.30		0.10	
1897	40.0	182.50	NE¼SE¼	4	"	"	0.60	2.74	0.20	0.91
"	40.0		NW¼SE¼	4	"	"	0.60		0.20	
"	40.0		SW¼SE¼	4	"	"	0.60		0.20	
"	40.0		SE¼SE¼	4	"	"	0.60		0.20	
1902	40.0	160.00	NE¼NE¼	16	"	"	0.60	2.40	0.20	0.80
1903	40.0		SE¼SW¼	4	"	"	0.60		0.20	
1904	14.7		SW¼SE¼	15	"	"	0.22		0.07	
"	20.0		NE¼NW¼	9	"	"	0.30		0.10	
"	5.0		SE¼NW¼	9	"	"	0.08		0.03	
"	40.0		NW¼SW¼	3	"	"	0.60		0.20	
"	40.0		SW¼SW¼	3	"	"	0.60		0.20	
Total	1767.5 acres	1197.70						1.80		0.60
			Total Cubic Feet per Second				26.52		8.84	

Total acre feet required for summer irrigation (154 days) with a duty of 4.62 acre feet equals 8168.2.

Total acre feet required for winter irrigation (211 days) with a duty of 2.11 acre feet equals 3730.4.

That, by reason of the conveyances by Baker Livestock Company mentioned on page 19 hereof to other persons without specifying the priorities of the water and water rights so conveyed as found on said page 19, IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the following persons have the following water rights in the order of sequence in which said conveyances were made, which order of sequence and conveyance is the order of priority of the particular water right, as follows:

a) FIRST RIGHT -- That Baker Livestock Company and its

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successors in interest have the FIRST RIGHT and priority under said Proof No. 01066 to the use of the waters of Baker and Lehman Creeks stream system to the extent of 3.2 cubic feet per second in continuous flow for a period of 365 days each year.

b) SECOND RIGHT -- That United Securities Corporation and its successors in interest have the SECOND RIGHT and priority under said Proof No. 01066 to the use of the waters of said Baker and Lehman Creeks stream system to the extent of 1.60 cubic feet per second in continuous flow for a period of 365 days each year.

c) THIRD RIGHT -- That Addie S. Wheeler and her successors in interest have the THIRD RIGHT and priority under said Proof No. 01066 to the use of the waters of said Baker and Lehman Creeks stream system to the extent of 0.16 (0.50 nunc pro tunc order of 1950) cubic foot per second in continuous flow of twenty-four hours each eighth day during an irrigation season of 365 days, or 2.5 acre feet per acre for 7.13 acres located in the SW¼NE¼ of Section 9, T. 13 N., R. 70 E., M.D.B.&M.

d) FOURTH RIGHT -- That B. P. Hockman and his successors in interest have the FOURTH RIGHT and priority under said Proof No. 01066 to the use of the waters of said Baker and Lehman Creeks stream system to the extent of 0.25 cubic foot per second in continuous flow of twenty-four hours each eighth day during an irrigation season of 150.4 days, or 2.4 acre feet of water per acre for 3.76 acres located in the SE¼ of Sec. 16, T. 13 N., R. 70 E., M.D.B.&M.

e) FIFTH RIGHT -- That Esther D. Smith and her successors in interest have the FIFTH RIGHT and priority under said Proof No. 01066 to the use of the waters of said Baker and Lehman Creeks stream system to the extent of 0.25 cubic foot per second in continuous flow of twenty-four hours each eighth day during an irrigation season of 160.6 days, or 2.5 acre feet per acre for 3.77 acres in the NE¼ of Sec. 16, T. 13 N., R. 70 E., M.D.B.&M.

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j) TENTH RIGHT -- That Kitty E. Christopherson and her successors in interest have the TENTH RIGHT and priority under said Proof No. 01066 to the use of the waters of said Baker and Lehman Creeks stream system to the extent of 3.35 cubic feet per second in continuous flow for twenty-four hours each fourth day during an irrigation season of 119.4 days, or 2.5 acre feet per acre for 80 acres in the NE¼SW¼ and NW¼SE¼ of Section 4, T. 13 N., R. 70 E., M. D. B. & M.

k) ELEVENTH RIGHT -- That Amanda Meecham and her successors in interest have the ELEVENTH RIGHT and priority under said Proof No. 01066 to the use of the waters of said Baker and Lehman Creeks stream system to the extent of 0.17 cubic foot per second in continuous flow of twenty-four hours each eighth day during an irrigation season of 160.6 days, or 2.5 acre feet of water per acre for 2.73 acres located in Lot T in the SE¼ of Section 16, T. 13 N., R. 70 E., M. D. B. & M., or, at her option, a proportionate continuous flow each and every day during the entire irrigation season.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED as to classes of land, irrigation season, measurement of water, headgates and control works, duty of water, rotation in the use of water, and junior rights, as follows:

That there are two general classes of land served with water from said stream system, which are hereby designated as Class A lands and Class B lands; that Class A lands are sandy, loam, valley lands located in Township 13 North, Range 70 East, and consist of all the lands listed under said Proof No. 01066; that the Class B lands are rocky lands located on the bench in Township 13 North, Range 69 East, commonly known as the Rowland Ranch; and that all Class B lands are listed under said Proofs of Appropriation Nos. 01064 and 01065;

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That there is a summer irrigation season and a winter irrigation season for both Class A lands and Class B lands; that the summer irrigation season on both classes of lands shall begin on April 15 and end on September 15 of each year, both dates inclusive, and that the winter irrigation season on both classes of lands shall begin on September 16 of each year and end on April 14 of the following year, both dates inclusive;

That the water users on said stream system and its tributaries made and entered into a stipulation on August 11, 1933, in the following language:

"MEASUREMENT OF WATER

> All water diverted from Baker and Lehman Creeks stream system for use in Class 'A' lands, in accordance with this order, shall be measured at a point below the confluence of the two streams or in the NE¼ of the SE¼ of Section 8, Township 13 N.; R. 70 E., due allowance being made for losses from said point of measurement to the point where the water of the deeded users herein, recognized on page 12 hereof, becomes immediately adjacent to or enters the land to be irrigated, so that the amount of water actually delivered to each user on his land shall be the amount deeded to him, said point of diversion being where the main ditches divert from the channel proper as designated in permit No. 3906;"

which stipulation is just, fair, and proper, and was made and entered into by the parties freely and voluntarily, and is hereby approved, confirmed, and adopted by the Court; that, pursuant to said stipulation, all water diverted from Baker and Lehman Creeks stream system for use on said Class A lands shall be measured at a point below the confluence of the two streams, i. e., in the NE¼ of the SE¼ of Section 8, Township 13 N., R. 70 E.; that due allowance shall be made for losses from said point of measurement to the point where the water of the deeded users hereinbefore mentioned becomes immediately adjacent to or enters the land to be irrigated, so that the amount of water actually delivered to each water user on his land shall be the amount deeded to him, said

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point of diversion being where the main ditches divert from the channel proper as designated in permit No. 3906;

That it is for the best interests of all water users concerned, and the Court, therefore, ORDERS, ADJUDGES, AND DECREES, that each water user install and maintain substantial headgates, control works, and measuring devices in his ditch or ditches of such construction as is approved by the State Engineer, and keep his ditches, as well as the main stream channel through his land, reasonably clean of weeds, vegetation, and deposits of silt and, in all other respects, maintain said ditches and channels in a manner conducive to minimum loss of conveyed water by seepage, evaporation, and other causes and so as not to conflict with the provisions of said stipulation so made and entered into on August 11, 1933.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the duty of water on said Class A lands shall be at the rate of 1.5 cubic feet per second continuous flow, or 4.62 acre feet per acre during the summer irrigation season of 154 days, as above specified, and .5 cubic foot per second continuous flow, or 2.11 acre feet per acre during the winter irrigation season of 211 days, as above specified; that the duty of water on Class B lands shall be at the rate of 2.00 cubic feet per second for one hundred acres continuous flow, or 6.16 acre feet per acre during the summer irrigation season of 154 days, and 1.0 cubic foot per second per one hundred acres continuous flow, or 4.22 acre feet per acre, during the winter irrigation season of 211 days; and that the cubic feet per second continuous flow in each of the above cases is that quantity of water necessary to serve one hundred acres;

That the persons named in this judgment and decree as claimants and users of water, or their successors in interest, need not be required to take or use the amount of water allowed

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them respectively in a continuous flow, except where they are bound by the provisions of deeds, but may cumulate said flow or any part thereof in rotation or periodic turn within the seasonal limits and with the approval of the Water Commissioner on said stream system, all subject to the control and direction of the State Engineer;

That no person holding a water right of a later priority than those herein listed, and not included herein, shall be entitled to receive any water from Baker and Lehman Creeks stream system or its tributaries until all appropriations herein set forth shall have been fully satisfied.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the order of the rights of the respective appropriators of the waters of said stream system and its tributaries, and in which order they are entitled to divert and use said waters, shall be and is according to the date of the relative priority of right as herein set forth and determined; and the first in order of time according to the date of relative priority and of relative right under the deeds of conveyance hereinbefore mentioned shall be and is the first in order of right and so on down to the date of the latest priority or relative right; and those having prior rights are entitled, respectively, to divert and use the waters of said stream system and its tributaries when necessary for beneficial use in connection with the irrigation of their respective lands at all times and against all those having subsequent rights, without let or hindrance; and, whenever the water is not required by the appropriator or user having a prior right to its use for the purposes for which said water was appropriated, he must and shall permit it to flow down in the natural channel of the stream as itwas wont to flow in its natural course, or in the ditch or channel provided therefor, without hindrance or diversion there-

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of; and those having subsequent rights are entitled to the use of such water and to divert the same to the extent of their rights of appropriations, according to the order of their priority rights; and, at all times, the waters diverted shall be beneficially, economically, and reasonably used without waste by those having the right to the use thereof by reason of the priority of their rights;

Place of use

That the rights of appropriation hereby confirmed are appurtenant to the lands herein described for irrigation purposes, and the right of use of the waters of said stream system and its tributaries by virtue of such rights of appropriation are limited to and confined to the irrigation of the lands described herein to the extent of said lands as herein set forth; and the priorities herein confirmed confer no right of use of the waters of said stream system and its tributaries on lands other than those specified tracts to which such rights of appropriation are herein set forth as appurtenant; and the right of a water user to change the place of use of a vested water right in the manner now or hereafter provided or permitted by law shall not be prohibited or affected by this decree;

That, subject to the provisions of Section 36a of the Water Code, as amended, the beginning and ending of the irrigation seasons shall be as defined in this Decree, except when climatic conditions are such that irrigation in accordance with said irrigation seasons is not in accordance with good husbandy and actual beneficial use of water; that the State Engineer shall, in that event, determine by examination the beginning of the irrigation season and shall set the date thereof in accordance with good husbandry and actual beneficial use of water, giving notice to all water users on said stream system; and that such setting of the beginning of said irrigation season shall be for the sole purpose

Sec. Secretary

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of administration and distribution of the waters of said stream system and its tributaries in accordance with this Decree.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, except as indicated in this Decree, all objections filed to the Final Order of Determination are hereby denied and overruled.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that each and every water user and claimant to the use of the waters of Baker and Lehman Creeks stream system and its tributaries, and each of their agents, attorneys, servants, and employees, and their and each of their successors in interest, and all and every person or persons acting in aid or assistance of said parties, or either or any of them, be, and each of them hereby is, perpetually enjoined and restrained as follows, to wit:

a) From at any time diverting or using or preventing or obstructing the flow, in whole or in part, in or along its natural channel, of any of the water of said stream system, except to the extent and in the amount and in the manner and at the time or times fixed by this Decree and allocated, allowed, prescribed, and determined to such parties respectively, and as may be allowed in the permits which have been or may hereafter be granted by the State Engineer of the State of Nevada;

b) From diverting from the natural channel and from using any of the said water for irrigation or any other purpose in excess of the amount specifically allotted to or for said party herein and fixed by this Decree, or in excess of the specified allotment under such permit or permits so heretofore granted or which may hereafter be granted by said State Engineer;

c) From diverting from the natural channel and from using any of the said waters in any other manner or for any other purpose or purposes or upon any other land or lands or in any other amount than as provided and prescribed by the terms of this Decree,

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or by any such permit so granted by said State Engineer;

d) From diverting from the natural channel and from using any of the said water at any other time or times than as specified and provided by the terms of this Decree or by any such permit so granted by the said State Engineer;

e) From in any manner meddling with, opening, closing, changing, injuring, or interfering with any headgates, weirs, water-boxes, flumes, or measuring devices, or either or any of them, placed, installed, established, or approved by said State Engineer or by his authority or direction, unless such act be done with the permission or authority of the water commissioner or commissioners on said stream system during the period of his regulation or control of said water, or, if not done during such period of his control, then by virtue of the allowances, authority, terms, and provisions of this Decree or by a permit so granted by said State Engineer.

DONE at Ely, White Pine County, Nevada, this 1st day of October, 1934.

Will Edwards
District Judge.

ATTORNEY-GENERAL'S OFFICE CARSON CITY NEVADA

Filed February 23rd, 1950 No. 2874

F. D. Oldfield, Clerk

By _____, Deputy

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WHITE PINE

* * * * * * *

IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS IN AND TO THE WATERS OF BAKER AND LEHMAN CREEKS AND TRIBUTARIES IN THE COUNTY OF WHITE PINE, STATE OF NEVADA.	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE NUNC PRO TUNC

It appearing to the Court that the Findings of Fact, Conclusions of Law and Decree heretofore entered herein under date of October 16, 1934, being Case No. 2874, is not a correct memorial of the Findings of Fact, Conclusions of Law and Decree as found, rendered and announced by this Court in that said Findings of Fact, Conclusions of Law and Decree as found, rendered and announced by said Court through inadvertence and clerical error in sub-paragraph c of Finding of Fact No. XVII, Page 20, set forth therein the following, to-wit:

> "That Addie S. Wheeler and her successors in interest, under and by virtue of that certain deed dated November 6, 1917, from Baker Livestock Company to Addie S. Wheeler, have the third right to the use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragraph, such right being more fully defined as 0.16 cubic foot per second for a continuous flow of 24 hours each eighty day during an irrigation season of 365 days or 2.5 acre feet per acre for 7.13 acres located in the SW¼NE¼ of Sec. 9, T. 13 N., R. 70 E., M. D. B. & M."

And further that there was through inadvertence and clerical error in sub-paragraph c of Paragraph II, Page 31, of the judgment and Decree set forth the following, to-wit:

> "That Addie S. Wheeler and her successors in interest have the THIRD RIGHT and priority under said Proof No. 01066 to the use of the waters of said Baker and Lehman

eighth day during an irrigation season of 365 days, or 2.5 acre feet per acre for 7.13 acres located in the SW¼NE¼ of Section 9, T. 13 N., R. 70 E., M.D.B.&M.", and

Whereas through the foregoing inadvertences and clerical errors there was omitted from the said Findings of Fact, Conclusions of Law and Decree the Findings of Fact, Conclusions of Law and Decree as actually made, rendered and announced by said Court as follows, to-wit:

> That Addie S. Wheeler and her successors in interest, under and by virtue of that certain deed dated November 6, 1917, from Baker Livestock Company to Addie S. Wheeler, have the third right to the use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragraph, such right being more fully defined as the right to the use of 0.5 cubic foot per second for a continuous flow of twenty-four hours each eighth day during an irrigation season of 365 days for 7.13 acres located in the SW¼NE¼ of Section 9, T. 13 N., R. 70 E., M. D. B. & M.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Findings of Fact, Conclusions of Law and Decree heretofore entered by the Court in the above entitled action on the said 16th day of October, 1934, be, and the same are hereby, corrected to conform to the actual Findings of Fact, Conclusions of Law and Decree made, rendered and announced by the Court by striking said paragraph c at Page 20 of said Findings of Fact, Conclusions of Law and Decree and inserting in lieu thereof the following:

> "That Addie S. Wheeler and her successors in interest, under and by virtue of that certain deed dated November 6, 1917, from Baker Livestock Company to Addie S. Wheeler, have the third right to the use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragraph, such right being more fully defined as the right to the use of 0.5 cubic foot per second for a continuous flow of twenty-four hours each eighth day during an irrigation season of 365 days for 7.13 acres located in the SW¼NE¼ of Section 9, T. 13 N., R. 70 E., M. D. B. & M."

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that the said Findings of Fact, Conclusions of Law and Decree heretofore entered by the Court in the above entitled action on the said 16th

Decree made, rendered and announced by the Court by striking said paragraph c at Page 31 of said Findings of Fact, Conclusions of Law and Decree and inserting in lieu thereof the following:

> "That Addie S. Wheeler and her successors in interest, under and by virtue of that certain deed dated November 6, 1917, from Baker Livestock Company to Addie S. Wheeler, have the third right to the use of the waters of Baker and Lehman Creeks as defined hereinabove in this paragraph, such right being more fully defined as the right to the use of 0.5 cubic foot per second for a continuous flow of twenty-four hours each eighth day during an irrigation season of 365 days for 7.13 acres located in the SW¼NE¼ of Section 9, T. 13 N., R. 70 E., M. D. B. & M."

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that this order and decree correcting the record of said Findings of Fact, Conclusions of Law and Decree be entered nunc pro tunc to appear of record as of the 16th day of October, 1934, that being the date when said Findings of Fact, Conclusions of Law and Decree were originally made and entered.

Done in Open Court this 23rd day of February, 1950.

HARRY M. WATSON
District Judge

OFFICE OF

County Clerk and Ex-Officio Clerk of the Seventh Judicial District Court

IN AND FOR

WHITE PINE COUNTY, NEVADA

STATE OF NEVADA,
COUNTY OF WHITE PINE. } ss.

I, F. D. OLDFIELD, County Clerk and ex-officio Clerk of the Seventh Judicial District Court of the State of Nevada, County of White Pine, do hereby certify that the above and foregoing is a full, correct and true copy of the original

"FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE NUNC PRO TUNC", IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS IN AND TO THE WATERS OF BAKER AND LEHMAN CREEKS AND TRIBUTARIES IN THE COUNTY OF WHITE PINE, STATE OF NEVADA. File No. 2874.

which now remains of record in my office at Ely, County and State aforesaid.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court, at my office in the City of Ely, this 23rd day of February, A. D. 1950.

F. D. Oldfield

County Clerk and ex-Officio Clerk
of Said Court.

By _____
Deputy