

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

3 NO. 4404

4 IN THE MATTER OF THE DETERMINATION) Filed: _____, 1945
5 OF THE RELATIVE RIGHTS IN AND TO)
6 THE WATERS OF BASSETT CREEK AND)
ITS TRIBUTARIES IN WHITE PINE)
COUNTY, STATE OF NEVADA.) County Clerk

MILTON B. BADT
ELKO, NEVADA
ATTORNEY FOR RICHARD BATE

9 FINDINGS OF FACT AND CONCLUSIONS OF LAW.

10
11 The above-entitled matter was initiated in the office of
12 the State Engineer of Nevada upon a petition signed by B. H.
13 ROBISON dated December 14, 1938, requesting that a determination
14 be made of the relative rights in and to the waters of Bassett
15 Creek and its tributaries; the State Engineer, under and pursuant
16 to the statute in such cases made and provided, particularly Sec-
17 tion 18, et seq., Chapter 140, Statutes of 1913, and acts amenda-
18 tory thereof and supplemental thereto, having made an investiga-
19 tion on December 4, 1938, and finding that the facts and conditions
20 justified a determination, entered an order granting said petition
21 on December 22, 1938. Thereafter and after due and legal proceed-
22 ings were had and taken pursuant to the Water Law of the State of
23 Nevada, being Chapter 140, Statutes of Nevada, 1913, and the acts
24 amendatory thereof and supplemental thereto, the State Engineer
25 rendered his final order of determination on the 21st day of August
26 1941, and thereafter filed in the office of the County Clerk of
27 White Pine County, Nevada, pursuant to the requirements of said
28 Water Law, a certified copy of the said order of determination,
29 together with the original evidence and transcript of testimony
30 filed with and taken before the State Engineer, duly certified
31 by him on the 2nd day of April, 1942; that the said Bassett Creek
32 is situated wholly within White Pine County, Nevada, and on the

1 2nd day of March, 1942, the State Engineer duly and regularly pro-
2 cured an order from the Judge of the above-entitled court fixing a
3 time for hearing said matter and fixed the same for the 22nd day
4 of April, 1942; that the Clerk of the District Court thereupon
5 duly and regularly furnished the State Engineer with a certified
6 copy of said Order and the State Engineer did immediately thereafter
7 and upon receipt of same, mail a copy of such certified order of
8 the court by registered mail addressed to each party in interest
9 at his last known place of residence and did cause the same to be
10 published at least once a week for four consecutive weeks in the
11 Ely Record, a newspaper of general circulation published in White
12 Pine County, Nevada, being the County in which such stream system
13 is entirely located; and the State engineer duly and regularly
14 filed with the Clerk of the Court proof of such service by regist-
15 ered mail and by publication; that thereafter and on or about the
16 12th day of November, 1941, and more than five days prior to the
17 date set for hearing said matter, B. H. ROBISON, one of the claim-
18 ants to the waters of said Bassett Creek, duly and regularly filed
19 with the Clerk of the above-entitled Court notice of exceptions
20 to the final order of determination of the State Engineer, briefly
21 stating the exceptions taken, and the prayer for relief, and a
22 copy thereof was duly and regularly transmitted to and served upon
23 the State Engineer by registered mail as well as upon counsel for
24 the only remaining claimant to the waters of said stream system,
25 to-wit: RICHARD BATE; that the hearing on the said Order of
26 Determination and the exceptions thereto was duly and regularly
27 continued from time to time by order of Court and the whole matter
28 duly and regularly came on for hearing on April 22, 1942, before
29 the above-entitled Court, HON. L. O. HAWKINS, presiding. The
30 hearing and trial thereof continued on April 22 to April 25, 1942,
31 inclusive, and was thereupon continued for further hearing to
32 June 17, 1942, whereupon the said hearing and trial were resumed

1 on June 17, 1942, and the same was held on June 17 to June 18,
2 1942, inclusive. Issues were joined upon the said final order of
3 determination of the State Engineer and exceptions thereto filed
4 by claimant B. H. ROBISON, no other exceptions having been filed.

5 Claimant RICHARD BATE was present in Court and represent-
6 ed by his attorney MILTON B. BADT, ESQ., of Elko, Nevada, and
7 claimant B. H. ROBISON was present in Court and represented by
8 GEORGE P. ANNAND and W. M. KEARNEY, ESQS., they having been sub-
9 stituted as attorneys for W. HOWARD GRAY, ESQ., and C. E. HORTON,
10 ESQ., former attorneys for B. H. ROBISON.

11 The State Engineer was represented by MILTON B. BADT,
12 ESQ., upon request of the Attorney General of the State of Nevada.

13 Evidence, both oral and documentary, was submitted on
14 behalf of the State Engineer as well as by both claimants to water
15 rights from Bassett Creek, one of whom was the exceptor, B. H.
16 ROBISON, and thereafter the matter was argued by counsel for all
17 parties interested in the waters of said stream system, and at the
18 conclusion of said argument it was stipulated that the Judge who
19 presided at the hearing and trial would view the premises at a
20 convenient time and upon the taking of such view and inspection the
21 matter would stand submitted to the court for decision. The said
22 view and inspection having been made by the Court said Court there-
23 upon, after the submission of proposed Findings of Fact and Con-
24 clusions of Law and after the submission of proposed modifications
25 thereto thereafter and on November 2, 1942, made its order settl-
26 ing the said findings and November 10, 1942, filed said Order
27 making and adopting its Findings of Fact and Conclusions of Law
28 in accordance with the proposed Findings and Conclusions submitted
29 and filed by the exceptor, ROBISON, October 15, 1942. That there-
30 after and on November 2, 1942, the said District Court, HON. L. O.
31 HAWKINS presiding, made and filed its Judgment and Decree wherein,
32 among other things, said Court set aside and modified certain

1 findings of the State Engineer and adjudged and decreed to the
2 said claimant ROBINSON, certain rights and priorities for the
3 irrigation of lands from the waters of said Bassett Creek with a
4 priority of the year 1883 for 71 acres of harvest crop and 24
5 acres of meadow pasture to the extent of 1.5618 cubic feet of
6 water per second, and adjudged and decreed that the claims,
7 contentions and proofs on behalf of said claimant BATE to the
8 effect that any irrigation of the lands of said claimant ROBINSON
9 were by means of waste water, were not supported and were not
10 true.

11 That thereafter the said claimant BATE prosecuted an
12 appeal from the said decree to the Supreme Court of the State of
13 Nevada, being file No. 3406 in said Court, and that thereafter
14 said Supreme Court on January 29, 1945, made and filed its opinion
15 and decision the final paragraph of which is as follows:

16 "The evidence in this case, as we view it, leads us to
17 the conclusion that the finding of the state engineer
18 was correct, and that the order of the trial court in
19 awarding to Robison a vested right to certain waters
20 of Bassett Creek finds no substantial support in the
21 evidence. It is therefore ordered that the order of
22 the trial court be reversed and the case remanded with
23 directions that the trial court enter a decree sustain-
24 ing the findings of the state engineer."

25 That thereafter and on May 4, 1945, said Supreme Court
26 denied Robison's petition for rehearing, and thereafter on May _____,
27 1945, the Clerk of said court filed its remittitur to this court;
28 that in the meantime, to-wit, on December 1, 1942, the said L. O.
29 HAWKINS, who presided at said trial and made said findings and
30 judgment, retired as Judge of said court, and said cause was there-
31 after duly and regularly reassigned to HON. HARRY M. WATSON for
32 further proceedings.

WHEREFORE, the Court being fully advised in the premises
makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

I.

That Bassett Creek is a natural stream and water course

1 situated entirely in White Pine County, Nevada, the source of
2 which is on the easterly slope of a range of mountains in Eastern
3 White Pine County, Nevada. The said stream, as found by the
4 Supreme Court in adopting the findings of the State Engineer,
5 flows in a northeasterly direction to a point in the SE $\frac{1}{4}$ of the
6 NW $\frac{1}{4}$ of Sec. 2, Twp. 18 N., R. 66 E., M.D.M., being the point of
7 diversion of the northerly ditch of claimant BATE and thence
8 flows in an easterly direction to the South of the Bate house
9 and orchard and divides into several parts through which water
10 reaches the meadow pasture land irrigated by Bate.

11 II.

12 That the State Engineer of Nevada duly and regularly
13 designated said stream system as one for the determination of the
14 relative rights in and to the waters thereof under the provisions
15 of Chapter 140, Statutes of Nevada, 1913, and acts amendatory
16 thereof and supplemental thereto.

17 III.

18 That in said proceeding the State Engineer duly and
19 regularly complied with all requirements of the Statutes of the
20 State of Nevada in such cases made and provided and in rendering
21 his final order of determination and the filing of the same with
22 the Clerk of this Court, and that the order fixing the time for
23 hearing the said matter was duly and regularly obtained, filed,
24 served and published in the manner provided by the said Statutes
25 of the State of Nevada, generally referred to as the Water Law,
26 and particularly Chapter 140, Statutes of Nevada, 1913, and the
27 acts amendatory thereof and supplemental thereto, and that the
28 State Engineer duly and regularly acquired jurisdiction of said
29 cause and duly and regularly performed each, every and all of
30 the acts and things required to be done and performed by him
31 under the said Statutes of Nevada up to and including the time
32 the court assumed and took jurisdiction of the above-entitled

1 proceedings.

2 IV.

3 The Court further finds, in accordance with the said
4 decision of said Supreme Court that the final order of determin-
5 ation of the State Engineer is in accordance with facts and the
6 evidence and is reinstated, affirmed, accepted and adopted by the
7 Court as its findings; that, as held by the Supreme Court in said
8 Appeal "The water which Pat Keegan (predecessor of Claimant
9 Robison) and his successors have used for 60 years was waste waters,
10 of Bassett Creek."

11 V.

12 The court finds that the facts determined by the State
13 Engineer with reference to the irrigation season and the duty of
14 water are correct and that all claimants to water rights of the
15 stream stipulated at the conclusion of said hearing and trial
16 that the court should accept such facts and the findings of the
17 State Engineer as to the duty of water and irrigation seasons
18 and make them a part of any judgment rendered by the court,
19 and the court therefore accepts and adopts as part of these
20 findings the findings of the State Engineer as to the duty of
21 water and the irrigation seasons fixed in the final order of
22 determination of the State Engineer.

23 VI.

24 The court further finds that the irrigation season
25 for harvest crops shall begin on March 15 and end on September
26 15 of each year, and for meadow pasture land the irrigation
27 season shall begin on March 15 and end on June 15 of each year,
28 except when climatic conditions are such that irrigation is not
29 in accordance with good husbandry and actual beneficial use of
30 water. When the date of beginning of the irrigation season is
31 changed from that fixed as above by order of the State Engineer,
32 the date of the end of the irrigation season for harvest crops

Final

1 shall be six months and for meadow pasture land shall be three
2 months from said date.

3 VII.

4 The court further finds and fixed the duty of water at
5 6 acre feet per acre for a season 184 days for harvest crop
6 lands and 3 acre feet per acre for the season of 92 days for
7 meadow pasture lands, or a continuous flow of 0.01644 cubic feet
8 of water per second for each acre, or 1.644 cubic feet of water
9 per second continuous flow for each 100 acres of land.

10 VIII.

11 The court further finds that all water diverted from
12 Bassett Creek and its tributaries for irrigation purposes is to
13 be measured a point where the water in the main ditch first
14 becomes adjacent to the land to be irrigated, or as near thereto
15 as practical and that substantial headgates, control works and
16 wiers shall be installed by the water user and made of such con-
17 struction as approved by the State Engineer.

18 IX.

19 The court further finds that all water allotted in
20 these findings and the decree which follows shall be appurtenant
21 to the lands from which the same was appropriated as designated
22 herein. That in the event the water user from Bassett Creek
23 awarded a water right in this proceeding desires to change the
24 place of use of any of the water herein allotted, such water
25 user must make application to the State engineer for permission
26 to make such change in the manner set forth under the said water
27 laws of the State of Nevada.

28 X.

29 The court further finds claimant RICHARD BATE is the
30 owner and in possession of the lands claimed by him and for which
31 a water right has been awarded as hereinafter particularly des-
32 cribed; that his predecessors diverted said water from said source
at a point in the SE1/4NW1/4 of Section 2, T. 18 N., R. 66 E., M.D.M.,
whence the northwest corner of said Section 2 bears N. 51° 30' E.
3165 feet, and also at a point in said SE1/4NW1/4 of said Section 2,
whence the Northwest corner of said Section 2 bears N. 56° 15' W.
3128 feet; that he has by means of dams, ditches and other artifi-

1 cial works, appropriated, diverted and used the waters of said
 2 Bassett Creek and its tributaries as set forth in the following
 3 tabulations:

4 CLAIMANT RICHARD BATE

Year of Priority	Culture Harvest Crops	(Acres) Meadow Pasture	Description Subdivision	Sec-Tion	Tp. R N.E.	Duty of water C.F.S.
1878		31.55	NW $\frac{1}{4}$ NE $\frac{1}{4}$	1	18 66	0.519
		40.00	NE $\frac{1}{4}$ NW $\frac{1}{4}$	1	18 66	0.658
		36.00	NW $\frac{1}{4}$ NW $\frac{1}{4}$	1	18 66	0.592
		35.51	SW $\frac{1}{4}$ NW $\frac{1}{4}$	1	18 66	0.584
		40.00	SE $\frac{1}{4}$ NW $\frac{1}{4}$	1	18 66	0.658
		27.50	SW $\frac{1}{4}$ NE $\frac{1}{4}$	1	18 66	0.452
		28.00	NW $\frac{1}{4}$ SE $\frac{1}{4}$	1	18 66	0.460
		20.70	NE $\frac{1}{4}$ SW $\frac{1}{4}$	1	18 66	0.340
		20.70	NW $\frac{1}{4}$ SW $\frac{1}{4}$	1	18 66	0.340
		11.01	SW $\frac{1}{4}$ SW $\frac{1}{4}$	1	18 66	0.181
		22.06	NE $\frac{1}{4}$ NE $\frac{1}{4}$	2	18 66	0.363
		.02	SW $\frac{1}{4}$ NE $\frac{1}{4}$	2	18 66	-
		7.75	SE $\frac{1}{4}$ NE $\frac{1}{4}$	2	18 66	0.127
	28.78	0.50	NW $\frac{1}{4}$ NE $\frac{1}{4}$	2	18 66	0.481
	3.54	-	NE $\frac{1}{4}$ NW $\frac{1}{4}$	2	18 66	0.058
	7.00	-	SW $\frac{1}{4}$ SE $\frac{1}{4}$	35	19 66	0.115
		0.75	SW $\frac{1}{4}$ NW $\frac{1}{4}$	36	19 66	0.012
	21.62	12.20	NW $\frac{1}{4}$ SW $\frac{1}{4}$	36	19 66	0.556
	20.70	1.00	SW $\frac{1}{4}$ SW $\frac{1}{4}$	36	19 66	0.357
		1.25	SW $\frac{1}{4}$ SE $\frac{1}{4}$	36	19 66	0.021
		2.10	SE $\frac{1}{4}$ SW $\frac{1}{4}$	36	19 66	0.035
1896						
	0.70	-	NE $\frac{1}{4}$ NW $\frac{1}{4}$	2	18 66	0.012
	14.44	-	SW $\frac{1}{4}$ SE $\frac{1}{4}$	35	19 66	0.237
	18.90	-	NW $\frac{1}{4}$ SE $\frac{1}{4}$	35	19 66	0.311
	7.85	-	NE $\frac{1}{4}$ SW $\frac{1}{4}$	35	19 66	0.129
	7.88	-	SE $\frac{1}{4}$ SW $\frac{1}{4}$	35	19 66	0.130
Totals	131.41	338.60				7.728

26 XI.

27 That neither claimant B. H. ROBISON nor his predecessors
 28 has appropriated any of the natural waters of Bassett Creek

29 XII.

30 A waste ditch was run on the easterly side of these lands
 31 (alfalfa and grain fields in NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, T. 18 N., R. 66 E.,
 32 and W $\frac{1}{2}$ SE $\frac{1}{4}$, Section 35, T. 19 N., R. 66 E., M.D.M) to catch the

1 surplus or waste waters and this ditch (running northerly through
2 said last described 120 acre tract, as depicted on the Frank W.
3 Millard Map of 1912, and on the Settlemeyer Map) conveyed this
4 water to the channel of Garden Creek, a small stream that flows
5 only during the spring months, and which is considered a tributary
6 of Bassett Creek. From this point the water runs easterly and is
7 spread out over the meadow hay lands in the $W\frac{1}{2}SW\frac{1}{4}$ of Section 36,
8 T. 19 N., R. 66 E., M.D.M. From the point of diversion of the
9 North Ditch the main channel of Bassett Creek apparently flows in
10 an easterly direction and divides itself into several diverging
11 forks through which water reaches the meadow pasture land irrigat-
12 ed by Richard Bate.

13 XIII.

14 There is no evidence that the main channel of Bassett
15 Creek ever reached the lands of Claimant, B. H. Robison, under
16 Proof of Appropriation of Water, Serial No. 01467. The map filed
17 in support of this proof in 1916 (O. E. Mann Map) shows Bassett
18 Creek entering the $SE\frac{1}{4}SW\frac{1}{4}$ of Section 36, T. 19 N., R. 66 E., in
19 three channels, and Garden Creek entering the $NE\frac{1}{4}SW\frac{1}{4}$ of said
20 Section 36. There are no such channels that could be called
21 Bassett Creek.

22 XIV.

23 The amount of water reaching the lands now owned by B. H.
24 Robison depended entirely upon the manner of use of the water on
25 the Bassett (Bate) Ranch and such waters reaching the Robison lands
26 were intermittent in character and constituted waste waters flow-
27 ing off the meadow lands on the Bassett (Bate) Ranch.

28 XV.

29 The lands of B. H. Robison, under Proof of Appropriation
30 of Water, Serial No. 01467, i.e. the east half of the southwest
31 quarter ($E\frac{1}{2}SW\frac{1}{4}$), $SW\frac{1}{4}SE\frac{1}{4}$ and $NE\frac{1}{4}SE\frac{1}{4}$ of Section 36, T. 19 N., R. 66
32 E., were dependent upon the surplus and waste waters running off

1 the lands now owned by Richard Bate in numerous small channels and
2 underground seeps.

3 CONCLUSIONS OF LAW

4 AS CONCLUSIONS OF LAW from the foregoing, the court
5 concludes:

6 I.

7 That the final order of determination of the State
8 Engineer of the State of Nevada is correct in all respects as
9 filed with this court and should be adopted, ratified and approved
10 by the court in accordance with the foregoing findings.

11 II.

12 The Court concludes that the Claimant RICHARD BATE is
13 entitled to a judgment awarding to him his court costs in these
14 proceedings in the District Court.

15 DATED: October 10th, 1945.

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18 HARRY M. WATSON
19 District Judge Presiding.
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IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF WHITE PINE.

NO. 4404

IN THE MATTER OF THE DETERMINATION) Filed: Aug 10, 1945
OF THE RELATIVE RIGHTS IN AND TO)
THE WATERS OF BASSETT CREEK AND)
ITS TRIBUTARIES IN WHITE PINE)
COUNTY, STATE OF NEVADA.)
MILTON B. BADT
ELKO, NEVADA
ATTORNEY FOR RICHARD BATE

JUDGMENT AND DECREE

The above-entitled matter was initiated in the office of the State Engineer of Nevada upon a petition signed by B. H. ROBISON dated December 14, 1938, requesting that a determination be made of the relative rights in and to the waters of Bassett Creek and its tributaries; the State Engineer, under and pursuant to the statute in such cases made and provided, particularly Section 18, Et seq., Chapter 140, Statutes of 1913, and acts amendatory thereof and supplemental thereto, having made an investigation on December 4, 1938, and finding that the facts and conditions justified a determination, entered an order granting said petition on December 22, 1938. Thereafter and after due and legal proceedings were had and taken pursuant to the Water Law of the State of Nevada, being Chapter 140, Statutes of Nevada, 1913 and the acts amendatory thereof and supplemental thereto, the State Engineer rendered his final order of determination on the 21st day of August, 1941, and thereafter filed in the office of the County Clerk of White Pine County, Nevada, pursuant to the requirements of said Water Law, a certified copy of the said order of determination, together with the original evidence and transcript of testimony filed with and taken before the State Engineer, duly certified by him on the 2nd day of April, 1941; that the said Bassett Creek is situated wholly within White Pine County, Nevada,

1 and on the 2nd day of March, 1942, the State Engineer duly and
2 regularly procured an order from the Judge of the above-entitled
3 court fixing a time for hearing said matter and fixed the same
4 for the 22nd day of April, 1942; that the Clerk of the District
5 Court thereupon duly and regularly furnished the State Engineer
6 with a certified copy of said order and the State Engineer did
7 immediately thereafter and upon receipt of same, mail a copy of
8 such certified order of the court by registered mail addressed to
9 each party in interest at his last known place of residence and
10 did cause the same to be published at least once a week for four
11 consecutive weeks in the Ely Record, a newspaper of general cir-
12 culation published in White Pine County, Nevada, being the County
13 in which such stream system is entirely located; and the State
14 Engineer duly and regularly filed with the Clerk of the Court
15 proof of such service by registered mail and by publication; that
16 thereafter and on or about the 12th day of November, 1941, and
17 more than five days prior to the date set for hearing said matter,
18 B. H. Robison, one of the claimants to the waters of said Bassett
19 Creek, duly and regularly filed with the Clerk of the above-
20 entitled court notice of exceptions to the final order of determi-
21 nation of the State Engineer, briefly stating the exceptions taken,
22 and the prayer for relief, and a copy thereof was duly and regular-
23 ly transmitted to and served upon the State Engineer by registered
24 mail as well as upon counsel for the only remaining claimant to
25 the waters of said stream system, to-wit: Richard Bate; that the
26 hearing on the said order of determination and the exceptions there-
27 to was duly and regularly continued from time to time by order
28 of court and the whole matter duly and regularly came on for hear-
29 ing, HON. L. O. HAWKINS presiding, on April 22, 1942. The hearing
30 and trial thereof continued on April 22, to April 25, 1942,
31 inclusive, and was thereupon continued for further hearing to
32 June 17, 1942, whereupon the said hearing and trial were resumed

1 on June 17, 1942, and the same was held on June 17 to June 18,
2 1942, inclusive. Issues were joined upon the said final order
3 of determination of the State Engineer and exceptions thereto
4 filed by claimant B. H. Robison, no other exceptions having been
5 filed.

6 Claimant RICHARD BATE was present in court and represent-
7 ed by his attorney MILTON B. BADT, ESQ., of Elko, Nevada, and
8 Claimant B. H. ROBISON was present in court and represented by
9 GEORGE P. ANNAND AND W. M. KEARNEY, ESQS., they having been sub-
10 stituted as attorneys for W. HOWARD GRAY, ESQ., and C. E. HORTON,
11 ESQ., former attorneys for B. H. ROBISON.

12 The State Engineer was represented by attorney MILTON B.
13 BADT, ESQ., upon request of the Attorney General of the State of
14 Nevada.

15 Evidence, both oral and documentary, was submitted on
16 behalf of the State Engineer as well as by both claimants to water
17 rights from Bassett Creek, one of whom was the exceptor, B. H.
18 ROBISON, and thereafter the matter was argued by counsel for all
19 parties interested in the waters of said stream system, and at
20 the conclusion of said argument it was stipulated that the Judge
21 who presided at the hearing and trial would view the premises at a
22 convenient time and upon the taking of such view and inspection
23 the matter would stand submitted to the Court for decision. The
24 said view and inspection having been made by the Court, HON. L. O.
25 HAWKINS presiding as aforesaid, said Court on November 10, 1942,
26 filed its Findings of Fact and Conclusions of Law and its Judg-
27 ment and Decree.

28 Thereafter claimant RICHARD BATE duly prosecuted an
29 appeal from said Judgment and Decree to the Supreme Court of the
30 State of Nevada, which Court on January 29, 1945, made and filed
31 its decision and opinion reversing the Decision, Judgment and
32 Decree of the said District Court and reinstating the findings of

1 the State Engineer, the concluding paragraph of which said opinion
2 and decision is as follows:

3 "The evidence in this case, as we view it, leads us to
4 the conclusion that the finding of the state engineer
5 awarding to Robison a vested right to certain waters of
6 Bassett Creek finds no substantial support in the
7 evidence. It is therefore ordered that the order of the
8 trial court be reversed and the case remanded with
9 directions that the trial court enter a decree sustain-
10 ing the findings of the state Engineer."

11 That thereafter, and on May 4, 1945, said Supreme Court
12 denied Robison's petition for rehearing, and thereafter on May ____
13 1945, the Clerk of said court filed its remittitur to this Court;
14 that in the meantime, to-wit, on December 1, 1942, the said L. O.
15 HAWKINS, who presided at said trial and made said findings and
16 judgment, retired as Judge of said Court, and said cause was
17 thereafter duly and regularly reassigned to HON. HARRY M. WATSON
18 for further proceedings; and the Court having heretofore signed
19 and filed its findings of fact and conclusions of law in accord-
20 ance with the said Opinion and Decision of the Supreme Court and
21 the remittitur filed herein,

22 IT IS THEREFORE, HEREBY ORDERED, ADJUDGED AND DECREED AS
23 FOLLOWS:

24 Said stream has an easterly and northeasterly course and
25 finally terminates in small lakes known as Spring Valley basin or
26 sink and follows a course as more particularly described in the
27 findings of fact last above referred to.

28 That the State Engineer of Nevada duly and regularly
29 designated said stream system as one for the determination of the
30 relative rights in and to the water thereof under the provisions
31 of Chapter 140, Statutes of Nevada, 1913, and acts amendatory
32 thereof and supplemental thereto.

That in said proceeding the State Engineer duly and
regularly complied with all requirements of the Statutes of the

State of Nevada in such cases made and provided and in rendering
 1 his final order of determination and the filing of the same with
 2 the Clerk of this Court, and that the order fixing the time for
 3 hearing the said matter was duly and regularly obtained, filed,
 4 served and published in the manner provided by the said statutes
 5 of the State of Nevada, generally referred to as the Water Law,
 6 and particularly Chapter 140, Statutes of Nevada, 1913; and
 7 the acts amendatory thereof and supplemental thereto, and that
 8 the State Engineer duly and regularly acquired jurisdiction of
 9 said cause and duly and regularly performed each, every and all
 10 of the acts and things required to be done and performed by him
 11 under the said statutes of Nevada up to and including the time
 12 the court assumed and took jurisdiction of the above-entitled
 13 proceeding.

14 That claimant RICHARD BATE and his predecessors diverted
 15 said water from said source at a point in the ~~SE~~ ^{SW} $\frac{1}{4}$ of Section 2,
 16 T. 18 N., R. 66 E., M.D.M., whence the northwest corner of said
 17 Section 2 bears N. 51° 30' W. 3165 feet, and also at a point in
 18 said ~~SE~~ ^{SW} $\frac{1}{4}$ of said Section 2, whence the Northwest corner of
 19 said Section 2 bears N. 56° 15' W. 3128 feet.

20 The Claimant RICHARD BATE is the owner of and entitled
 21 to water rights from Bassett Creek and its tributaries in accord-
 22 ance with the priorities and amounts for use on the lands herein-
 23 after set forth in the following tabulation, to-wit:

Year of Prior- ity	Culture Harvest Crop	(Acres) Meadow Pasture	Description Subdivi- sion	Sec- tion	T. N.	R. E.	Duty of water C.S.S.
23		31.55	NW $\frac{1}{4}$ NE $\frac{1}{4}$	1	18	66	0.519
24		40.00	NE $\frac{1}{4}$ NW $\frac{1}{4}$	1	18	66	0.658
25		36.00	NW $\frac{1}{4}$ NW $\frac{1}{4}$	1	18	66	0.592
26		35.51	SW $\frac{1}{4}$ NW $\frac{1}{4}$	1	18	66	0.584
27		40.00	SE $\frac{1}{4}$ NW $\frac{1}{4}$	1	18	66	0.658
28		27.50	SW $\frac{1}{4}$ NE $\frac{1}{4}$	1	18	66	0.452
29		28.00	NW $\frac{1}{4}$ SE $\frac{1}{4}$	1	18	66	0.460
30		20.70	NE $\frac{1}{4}$ SW $\frac{1}{4}$	1	18	66	0.340
31		20.70	NW $\frac{1}{4}$ SW $\frac{1}{4}$	1	18	66	0.340
32		11.01	SE $\frac{1}{4}$ SW $\frac{1}{4}$	1	18	66	0.181
		22.06	NE $\frac{1}{4}$ NE $\frac{1}{4}$	2	18	66	0.363
		.02	SW $\frac{1}{4}$ NE $\frac{1}{4}$	2	18	66	-
		7.75	SE $\frac{1}{4}$ NE $\frac{1}{4}$	2	18	66	0.127
	28.78	0.50	NE $\frac{1}{4}$ NE $\frac{1}{4}$	2	18	66	0.481
	3.54	-	NE $\frac{1}{4}$ NE $\frac{1}{4}$	2	18	66	0.058
	7.00	-	SW $\frac{1}{4}$ SW $\frac{1}{4}$	35	19	66	0.115
		0.75	SW $\frac{1}{4}$ NE $\frac{1}{4}$	36	19	66	0.012
	21.62	12.20	NE $\frac{1}{4}$ SW $\frac{1}{4}$	36	19	66	0.556
	20.70	1.00	SE $\frac{1}{4}$ SW $\frac{1}{4}$	36	19	66	0.357

1		1.25	SW+SE+	36	19	66	0.021
2		2.10	SE+SE+	36	19	66	0.035
3	1896	0.70	NE+NW+	2	18	66	0.012
4		14.44	SW+SE+	35	19	66	0.237
5		18.90	NW+SE+	35	19	66	0.311
6		7.85	NE+SW+	35	19	66	0.129
7		7.88	SE+SW+	35	19	66	0.130
8	Totals	131.41	338.60				7.728

8 That neither Claimant B. H. ROBISON nor his predecessors
9 appropriated any of the natural waters of said Bassett Creek.

10 That the irrigating season for said lands is fixed to
11 begin on March 15 and end on September 15 of each year for the
12 harvest crop lands and to begin on March 15 and end on June 15
13 each year for meadow pasture lands, except when climatic condi-
14 tions are such that irrigation is not in accordance with good
15 husbandry and actual beneficial use of water.

16 That the duty of water is hereby fixed in the amount
17 of 6 acre feet per acre for a season of 184 days for harvest
18 crop lands and 3 acre feet per acre for the season of 92 days for
19 meadow pasture lands, which is a continuous flow of 0.1644 cubic
20 feet of water per second for each acre of land irrigated.

21 That the State Engineer be and he is hereby authorized
22 to distribute the said water by and through a water commissioner
23 to be appointed for said purpose in the manner now or hereafter
24 provided by the water laws of the State of Nevada applicable
25 thereto. The salary of said water commissioner shall also be
26 paid in the manner provided by the said State Water Law of Nevada.
27 That the water hereby awarded to and for the lands of RICHARD
28 BATE shall be measured at a point or points in the main ditches
29 where the same first become adjacent to the land to be irrigated
30 or as near thereto as practical.

31 IT IS FURTHER ORDERED that substantial headgates, control
32 works and wiers shall be installed by the water user to whom a

1 water right has been awarded and the same shall be of such con-
2 struction as approved by the State Engineer.

3 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant
4 to the order of the Supreme Court, the final order of determination
5 of the State Engineer is in all respects approved, accepted and
6 adopted by the Court.

7 IT IS FURTHER ORDERED, ADJUDGED AND DECREED, in accordance
8 with the said Opinion, Decision and Order of the Supreme Court of
9 the State of Nevada that the final order and determination of the
10 State Engineer denying a water right to Claimant B. H. ROBISON
11 be, and the same hereby is approved and adopted by this Court.

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Claimant
13 RICHARD BATE be, and he hereby is awarded costs in the District
14 Court in the sum of \$ 61.60.

15 Dated: This 10th day of October, 1945.

16
17 DAVID H. WATSON
18 Judge of said District Court presiding
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OFFICE OF
County Clerk and Ex-Officio Clerk of the
Seventh Judicial District Court
IN AND FOR
WHITE PINE COUNTY, NEVADA

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

I, E. J. GARDNER, County Clerk and ex-officio Clerk of
the Seventh Judicial District 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

"FINDING OF FACT AND CONCLUSIONS OF LAW AND RECOMMENDATION"

IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS IN AND
TO THE WATERS OF BASSETT CREEK AND ITS TRIBUTARIES IN WHITE PINE
COUNTY, STATE OF NEVADA

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 town of Ely, this 27th day

of October A. D. 1945.

E. J. Gardner
County Clerk and Ex-Officio Clerk of
Said Court

By

DEPUTY