

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO.

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1 IN THE MATTER OF THE DETERMINATION )  
2 OF THE RELATIVE RIGHTS IN AND TO THE )  
3 WATERS OF GOOSE CREEK AND ITS TRIB- )  
4 UTARIES, IN ELKO COUNTY, NEVADA. )  
5 . . . . . )

- JUDGMENT AND DECREE -

6 The above entitled matter having come up for hearing before  
7 the Court on the 29th day of June, 1922. ALL of the parties to  
8 said action appearing and being represented in Court by their res-  
9 pective attorneys, and H. U. Castle, Esq., and John V. Mueller,  
10 Deputy State Engineer, being present and representing J. G. Scrug-  
11 ham, the State Engineer of the State of Nevada, and, after hearing  
12 the attorneys for all the parties interested in said matter, the  
13 representatives of the State Engineer of the State of Nevada con-  
14 senting, a stipulation was made and entered in open Court with the  
15 unanimous consent of all parties to the above entitled matter,  
16 whereby it was stipulated and agreed that a judgment and decree of  
17 this Court be made and entered according to the order of determin-  
18 ation, filed herein on the 23rd day of September, 1916, save and  
19 except in the following particulars, to-wit:

20 FIRST. That the "Irrigation Period", shown on the tabulation  
21 in said ORDER OF DETERMINATION, beginning on page seven thereof,  
22 last column of said tabulation, be modified in this particular,  
23 that wherever limitations appear in said column fixing the time by  
24 "months", for the irrigation of Meadow Lands the "Irrigation Per-  
25 iod" shall be for a period of 180 days for Meadow and Cultivated  
26 land without regard to "months"; and wherever limitations appear  
27 in said column fixing the time by "months" for the irrigation of  
28 PASTURE LANDS the "Irrigation Period" shall be for a period of 90  
29 days without regard to "months".

SECOND. That there be inserted in the ORDER OF DETERMINATION the following, to-wit:

"In addition to water used during the irrigation season, each user should be entitled to his proper proportion the priority to the use of water in such reasonable amounts as necessary for the spring and fall irrigation and for stock watering purposes during the irrigation and the non-irrigation season."

THIRD. That areas with a sage brush growth heretofore irrigated and made beneficial use of shall be allotted water and classified as "pasture". These areas are included in the tabulation on page seven and following pages of said ORDER OF DETERMINATION and assigned to the parties in interest in this matter.

FOURTH. That save and except the above-named three amendments, changes and modifications, a decree be entered herein in accordance with the ORDER OF DETERMINATION heretofore filed herein.

And the above-entitled matter and the said original and said modified order of determination of the State Engineer of the State of Nevada in said matter now coming on for hearing and the Court having considered the pleadings of the parties, the documentary evidence on file herein, and the stipulation of the parties made and entered herein, and written findings having been waived by the attorneys for the respective parties, thereupon, upon motion of the attorneys for ALL the parties to said matter, the representatives of the State Engineer of the State of Nevada joining therein.

IT IS BY THE COURT ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

FIRST. That the said ORDER OF DETERMINATION of the State Engineer of Nevada in the matter of the determination of the relative rights in and to the waters of Goose Creek and its tributaries, in Elko County, Nevada, as amended and modified by the stipulation made and entered into in open court by ALL the parties to this matter be and the same hereby are affirmed and confirmed. Wherever the said stipulation differs from, changes, modifies, or is in conflict with the original order of determination, the said original order of determination is and shall be deemed to be modified by the

said stipulation made in open court by the order and decree of this Court, and the same as so modified is hereby affirmed. A copy of said original order of determination marked "Exhibit 1" is annexed to this decree and is made a part hereof as if set forth at length herein, and reference is made to the stipulation made in open court as set forth in the first part of this decree as the stipulation made and entered into by all the parties to this matter. Hereinafter and wherever in this decree whenever the order of determination is referred to it shall, unless otherwise specified, be understood to include both the original order of determination and the stipulation made in open court as set forth herein, and the former as amended, changed and modified by the latter. Said order of determination shall and does define the rights of the parties named therein except as hereinafter in the decree provided.

SECOND. That all areas shown on the original order of determination of the State Engineer on file herein providing for an irrigation period from April 1 to October 1 of each year shall be entitled to the allotments of water given to and made for such areas for a period of 180 days, and the same shall not be limited to any particular months or time but shall be, and they are, entitled to 180 days irrigation without regard to the months or time of the year.

THIRD; That all areas shown in the original order of determination of the State Engineer on file herein providing for an irrigation period from April 1 to July 1 of each year shall be entitled to the allotments of water given to and made for such areas for a period of 90 days, and the same shall not be limited to any particular months or time but shall be, and they are, entitled to 90 days irrigation without regard to the months or time of the year.

FOURTH. That there be and there is inserted in said original order of determination the following:

"In addition to water used during the irrigation season, each user should be entitled to his proper proportion the priority to the use of water in such reasonable amounts as necessary for the spring and fall irrigation and for stock watering purposes during both the irrigating and the non-irrigation season."

1 FIFTH. That the areas with a sage brush growth heretofore  
2 irrigated and on which water has been put to a beneficial use  
3 shall be and the same are allotted water and classified as "pas-  
4 ture". These areas are included in the tabulation and assigned  
5 to the parties in interest and reference is hereby made to said  
6 tabulation as shown by the order of determination for a full des-  
7 cription of the lands to which water is allotted under this decree,  
8 and the parties owning said lands are entitled to divert water upon  
9 said lands for use thereon.

10 Done in open court this first third day of March, A. D. 1925.

11  
12 J. H. McNEILARA  
13 DISTRICT JUDGE  
14 Successor to the presiding  
15 Judge of said Court.  
16  
17  
18  
19

STATE OF NEVADA }  
COUNTY OF ELKO } ss.

I, Mae E. Caine, County Clerk and Ex-Officio Clerk of the District Court of the Fourth Judicial District of the State of Nevada, in and for the County of Elko, do hereby certify that the annexed is a full, true and correct copy of JUDGMENT AND DECREE in the Matter of the Determination of the Relative Rights in and to the Waters of Goose Creek and its Tributaries, in Elko County, Nevada, recorded in Judgment Record Book No. 4, District Court Elko County, pages 575 and 576, as the same appears on file and of record in my office.

WITNESS my hand and the seal of said Court affixed, this

5 day of January A. D., 1925.

Mae E. Caine Clerk

By \_\_\_\_\_  
Deputy Clerk.

IN THE DISTRICT COURT OF THE UNITED STATES,  
FOR THE DISTRICT OF IDAHO, SOUTHERN DIVISION.

TWIN FALLS OAKLEY LAND AND WATER  
COMPANY, a corporation, and OAKLEY  
CANAL COMPANY, a corporation,

Plaintiffs

-vs-

VINEYARD LAND AND STOCK COMPANY, a  
corporation, and UTAH CONSTRUCTION  
COMPANY, a corporation,

Defendants.

DECREE

This cause came on further to be heard at this term  
of this court, the same having been heretofore submitted, and  
the court's decision having been heretofore filed herein;

Thereupon, upon consideration thereof, it was  
ORDERED, ADJUDGED AND DECREED:

1. That the extent and relative dignity of the rights  
of the several parties hereto to use for irrigation purposes the  
waters of what is known as Goose Creek and its tributaries, which  
stream flows in a northerly and northeasterly direction from the  
state of Nevada into the state of Idaho, and the water shed of  
which is situated in both states, are defined as follows:

RIGHTS OF THE PLAINTIFFS, TWIN FALLS OAKLEY LAND  
AND WATER COMPANY, and OAKLEY CANAL COMPANY.

(a) The plaintiffs, the Twin Falls Oakley Land and  
Water Company, a corporation, and Oakley Canal Company, a cor-  
poration, are entitled to divert and use annually:

825 acre feet of water, under their appropriation  
made May 1, 1878.

275 acre feet of water, under their appropriation  
made May 1, 1879.

687.5 acre feet of water, under their appropriation  
made May 1, 1880.

2337.5 acre feet of water, under their appropriation  
made May 1, 1882.

1375 acre feet of water, under their appropriation made May 1, 1883.

8250 acre feet of water, under their appropriation made May 1, 1884.

4125 acre feet of water, under their appropriation made May 1, 1888.

Said plaintiffs are further entitled to divert and use at the rate of 500 cubic feet of water per second of time by virtue of their appropriation made March 27th, 1908, under permit No. 3751, issued by the State Engineer of the state of Idaho; and 600 cubic feet of water per second of time by virtue of their appropriation made March 10, 1909, under permit No. 4731; all of said water to be used on lands embraced in what is known as the Oakley Carey Act project, hereinafter more fully described.

RIGHTS OF VINEYARD LAND AND STOCK COMPANY, a corporation, and UTAH CONSTRUCTION COMPANY, a corporation:

(b) The defendants, Vineyard Land and Stock Company, a corporation and Utah Construction Company, a corporation, are entitled to divert and use annually:

200 acre feet of water, under their appropriation Made May 1, 1875, for use on their Winecup ranch.

650 acre feet of water under their appropriation made May 1, 1883, for use on their Grande ranch.

250 acre feet of water under their appropriation made May 1, 1886, for use on their Winecup ranch.

150 acre feet of water under their appropriation made May 1, 1889, for use on their Grande ranch.

400 acre feet of water under their appropriation made May 1, 1900, one-half on the Winecup ranch and one-half on the Grande Ranch.

285 acre feet of water under their appropriation made May 1, 1904, for use upon their Spring Creek ranch, the lands in said three ranches being hereinafter more fully described.

The relative priority or rank of said several rights of the plaintiffs and of the defendants is and shall be recognized as being in the order of the dates of the several appropriations, and no one holding a subsequent appropriation shall be

entitled to receive any water until all prior appropriations have been fully satisfied.

2. It is further adjudged and decreed that the said defendants may, within the maximum amount of their annual right, as the same is hereinbefore defined, divert the water to which they are entitled from said Goose Creek and its tributaries at the rate of not in excess of six and one-half cubic feet per second of time for the Winecup Ranch, nine cubic feet per second of time for the Grande ranch, and two and one-half cubic feet per second of time for the Spring Creek Ranch.

In utilizing such rights of the plaintiffs as are hereinbefore defined in terms of acre feet, they may divert from the channel of the stream, that is, they shall have the right to receive into their reservoir from the natural flow of the stream not to exceed at the rate of a second foot for each 137.5 acre feet of the appropriation or right, the aggregate amount so diverted not to exceed the total number of acre feet constituting such right. This provision shall not be construed as limiting the amount which the plaintiffs may at any one time divert from their reservoir and use.

The right to divert water at the outlet of the Oakley Reservoir shall be limited under all of the rights decreed to the plaintiffs herein to the amount of one hundred forty-five thousand two hundred (145,200) acre feet annually.

3. Each of the parties hereto, together with its agents, servants, and employes, and those claiming by, through or under it, is perpetually enjoined from using any of the waters of said stream or its tributaries in excess of its several rights as the same are hereinbefore defined, and from using the water at such time or in such manner or in such amount as will infringe upon any right of another party, as such right is hereinbefore defined.

4. It is further ordered and decreed that all water diverted from said Goose Creek and its tributaries be measured at the point of diversion from the natural channel, and that no water shall be diverted except through conduits so constructed that water

stall a suitable and sufficient measuring device at a convenient point immediately above the Oakley Reservoir, and also at the point of diversion at the outlet of what is known as the Oakley Reservoir in Section 25, Twpnship 14 South, Range 22 East, Boise Meridian, Cassia County, State of Idaho, and the defendants are required to install uniform measuring devices at their several points of diversion along the stream and its tributaries, all of such devices to be of such design as to automatically register the amounts of water diverted. All of such measuring devices and gauges shall at all times be subject to the reasonable inspection of either party, and each party shall have access to the premises where the same are situated for such purpose.

5. The lands for which the plaintiffs have the right to use water are embraced within the Oakley project, in Cassia County, Idaho, and are described as follows:

Commencing at the diversion point in the East Side Canal of said Oakley Project in Section Eighteen (18), Township Fourteen (14) South, Range Twenty-two (22) East, Boise Meridian; thence along said canal in a northeasterly direction to the point of intersection with the Main East Side Canal in Section Twenty-seven (27), Township Thirteen (13) South, Range Twenty-two (22) East; thence continuing in a northeasterly direction to the point of crossing with the middle line of section One (1), Township Thirteen (13) South, Range Twenty-two (22) East; thence north along said middle line of said section to the middle of the south line of section Thirty-six (36), Township Eleven (11) South, Range Twenty-two (22) East; thence west to the northwest corner of Section Six (6), Township Twelve (12) South, Range Twenty-one (21) East; thence South to the intersection with the West Side Canal of said Oakley Project; thence southeasterly along said canal to the head of said canal in Section Seventeen (17), Township Fourteen (14) South, Range Twenty-two (22) East, Boise Meridian.

The defendants' Winecup ranch upon which the water applying thereto may be used consists of three hundred and twenty-five acres being the whole or part of the following legal subdivisions situate in Elko County, Nevada, to-wit:

Section Twelve (12), Township Forty-six (46) North, Range Sixty-eight (68) East, Mt.D.M. -- South Half ( $S\frac{1}{2}$ ) of Southeast Quarter ( $SE\frac{1}{4}$ ) of Southwest Quarter ( $SW\frac{1}{4}$ ).

Section Thirteen (13), Township Forty-six (46) North, Range Sixty-eight (68) East, Mt.D.M. -- East Half ( $E\frac{1}{2}$ ) of Northwest Quarter ( $NW\frac{1}{4}$ ), East Half ( $E\frac{1}{2}$ ) of Northeast Quarter ( $NE\frac{1}{4}$ ) of Southwest Quarter ( $SW\frac{1}{4}$ ), East Half ( $E\frac{1}{2}$ ) of Southeast Quarter ( $SE\frac{1}{4}$ ) of Southwest Quarter ( $SW\frac{1}{4}$ ), West Half ( $W\frac{1}{2}$ ) of Southeast Quarter ( $SE\frac{1}{4}$ ), West Half ( $W\frac{1}{2}$ ) of Northeast Quarter ( $NE\frac{1}{4}$ ) of Southeast Quarter ( $SE\frac{1}{4}$ ), West Half ( $W\frac{1}{2}$ ) of Southeast Quarter ( $SE\frac{1}{4}$ ) of Southeast Quarter ( $SE\frac{1}{4}$ ) West Half ( $W\frac{1}{2}$ ) of West Half ( $W\frac{1}{2}$ ) of Northeast Quarter ( $NE\frac{1}{4}$ ).

Section Twenty-four (24), Township Forty-six (46) North, Range Sixty-eight (68) East, Mt.D.M. -- East Half ( $E\frac{1}{2}$ ) of Northeast Quarter ( $NE\frac{1}{4}$ ).

The defendants' Grande ranch upon which the water applying thereto may be used consists of four-hundred fifty (450) acres, being the whole or part of the following legal subdivisions situate in Elko County, Nevada, towit:

*here* Section Twenty-six (26), Township Forty-seven (47) North, Range Sixty-eight (68) East, Mt.D.M.-- East Half ( $E\frac{1}{2}$ ) of Southeast Quarter ( $SE\frac{1}{4}$ ) of Southwest Quarter ( $SW\frac{1}{4}$ ), South Half ( $S\frac{1}{2}$ ) of Southwest Quarter ( $SW\frac{1}{4}$ ) of Southeast Quarter ( $SE\frac{1}{4}$ ),

*and* Section Thirty-five (35), Township Forth-seven (47) North, Range Sixty-eight (68) East, Mt.D.M. -- West Half ( $W\frac{1}{2}$ ) of Northeast Quarter ( $NE\frac{1}{4}$ ), West Half ( $W\frac{1}{2}$ ) of Northeast Quarter ( $NE\frac{1}{4}$ ) of Northeast Quarter ( $NE\frac{1}{4}$ ), West Half ( $W\frac{1}{2}$ ) of Southeast Quarter ( $SE\frac{1}{4}$ ) of Northeast Quarter ( $NE\frac{1}{4}$ ), West Half ( $W\frac{1}{2}$ ) of Southeast Quarter ( $SE\frac{1}{4}$ ), West Half ( $W\frac{1}{2}$ ) of Northeast Quarter

(NW $\frac{1}{4}$ ) of Southeast Quarter (SE $\frac{1}{4}$ ), West Half (W $\frac{1}{2}$ ) of Southeast Quarter (SE $\frac{1}{4}$ ) of Southeast Quarter (SE $\frac{1}{4}$ ), East Half (E $\frac{1}{2}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ) of Northwest Quarter (NW $\frac{1}{4}$ ).

Section Two (2), Township Forty-six (46) North, Range Sixty-eight (68) East, Mt.D.M. -- Northwest Quarter (NW $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ) West Half (W $\frac{1}{2}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ), West Half (W $\frac{1}{2}$ ) of Southeast Quarter (SE $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ), Southwest Quarter (SW $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ), East Half (E $\frac{1}{2}$ ) of Northwest Quarter (NW $\frac{1}{4}$ ) of Southeast Quarter (SE $\frac{1}{4}$ ), East Half (E $\frac{1}{2}$ ) of Southwest Quarter (SW $\frac{1}{4}$ ) of Southeast Quarter (SE $\frac{1}{4}$ ), East Half (E $\frac{1}{2}$ ) of Southeast Quarter (SE $\frac{1}{4}$ ).

Section Eleven (11), Township Forty-six (46) North, Range Sixty-eight (68) East, Mt.D.M. -- Northeast Quarter (NE $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ), East Half (E $\frac{1}{2}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) of the Northeast Quarter (NE $\frac{1}{4}$ ).

Section Twelve (12), Township Forty-six (46) North, Range Sixty-eight (68) East, Mt.D.M. -- West Half (W $\frac{1}{2}$ ) of Northwest Quarter (NW $\frac{1}{4}$ ) of Northwest Quarter (NW $\frac{1}{4}$ ), and Northwest Quarter (NW $\frac{1}{4}$ ) of Southwest Quarter (SW $\frac{1}{4}$ ) of Northwest Quarter (NW $\frac{1}{4}$ ).

Section One (1), Township Forty-six (46) North, Range Sixty-eight (68) East, Mt.D.M. -- West Half (W $\frac{1}{2}$ ) of Southwest Quarter (SW $\frac{1}{4}$ ) of Southwest Quarter (SW $\frac{1}{4}$ ), West Half (W $\frac{1}{2}$ ) of Northwest Quarter (NW $\frac{1}{4}$ ) of Southwest Quarter (SW $\frac{1}{4}$ ).

The defendants' Spring Creek ranch consists of one hundred Twenty (120) acres comprising the whole or a part of the following legal subdivisions situate in Elko County, Nevada, to-wit:

Section Twenty-three (23), Township Forty-six (46) North, Range Sixty-nine (69) East, Mt.D.M. -- West Half (W $\frac{1}{2}$ ) of Southwest Quarter (SW $\frac{1}{4}$ ), West Half (W $\frac{1}{2}$ ) of West Half (W $\frac{1}{2}$ ) of Southeast Quarter (SE $\frac{1}{4}$ ) of Southwest Quarter (SW $\frac{1}{4}$ ), West Half (W $\frac{1}{2}$ ) of West Half (W $\frac{1}{2}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ) of South-

west Quarter (SW $\frac{1}{4}$ ), West Half (W $\frac{1}{2}$ ) of Southwest Quarter (SW $\frac{1}{4}$ ), of Northwest Quarter (NW $\frac{1}{4}$ ), South Half (S $\frac{1}{2}$ ) of Northwest Quarter (NW $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ), North Half (N $\frac{1}{2}$ ) of Southwest Quarter (SW $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ), Southwest Quarter (SW $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ), Northwest Quarter (NW $\frac{1}{4}$ ) of Southeast Quarter (SE $\frac{1}{4}$ ) of Northeast Quarter (NE $\frac{1}{4}$ ) and Northeast Quarter (NE $\frac{1}{4}$ ) of Northwest Quarter (NW $\frac{1}{4}$ )

6. It is further adjudged and decreed that the court retain jurisdiction to make all reasonable rules touching the manner of diverting, measuring and distributing the water, and the devices to be installed and used for such purposes, and to direct that the parties keep accurate and detailed records of the amounts of water diverted and to require reports to be filed from time to time of the amounts so diverted, and generally to make such orders as may be found reasonably necessary to give effect to the decree, and to appoint commissioners or water-masters to make distribution in accordance with its terms, and to punish the parties hereto, their officers, agents, and employes, and their successors in interest, for any violations of the provisions thereof.

Dated this 23<sup>rd</sup> <sup>3</sup> <sup>see letter</sup> day of March, 1916.

(Signed) Frank S. Dietrich  
District Judge.

*as per letter attached*

OFFICE OF STATE ENGINEER  
CARSON CITY, NEVADA.

.....

In the matter of the Determination :  
of the Relative Rights in and to the : ORDER OF  
Waters of Goose Creek and its Tributaries : DETERMINATION  
in Elko County, Nevada. :

Upon petition of the Vineyard Land and Stock Company by  
A. H. Christensen, Vice President, filed March 5th., 1915, this  
proceeding was commenced.

An order selecting Goose Creek and its tributaries for the  
determination of relative rights was duly issued on the 11th.  
day of March, 1915.

Surveys and measurements were made and maps prepared, where-  
upon proofs of appropriation were called for and submitted.

It developed that petitioner, the Vineyard Land and Stock  
Company, was and is the only user on the source which filed  
claims in the proceeding. Investigation indicates that there  
are no other users on the source claiming rights for considera-  
tion in this determination.

Upon the filing of proofs of appropriation and the prepara-  
tion of the abstract of claims required by statute, it was found  
that the record was in such shape that a complete finding could  
not be made without a further investigation on the part of the  
State Engineer. After all the statutory steps had been regular-  
ly and duly taken and complied with to the point of rendering  
the order of determination, a further investigation and hearing  
was duly noticed and forwarded, the same taking place at Montello,  
Nevada, June 19th., 1916.

This determination is based upon the maps, proofs of appropriation, and supplemental affidavits filed, the investigation of conditions by the State Engineer and the record of testimony taken at the hearing at Montello, Nevada, on June 19th., 1916.

The original proofs of appropriation in many cases do not contain data and facts sufficient to prove that legal rights exist, or that an appropriation was made in accordance with laws existing at the time the appropriations are claimed to have been initiated. Nor is it shown that there has been a compliance with subsequent laws so as to perfect an appropriation of a later priority. In all such cases I find it necessary to rule that no appropriation exists which can be considered by the State Engineer acting, as he does, in the capacity of an administrative officer. The tabulation hereinafter contained represents the extent and priority of rights allowed, and all claims or proofs of appropriation not listed therein have been rejected as not constituting valid appropriations.

It might be well to state that the record of testimony taken June 19th, shows that there were benefits derived from the growth of grasses and hay caused by the natural flooding of lands during the spring and early summer months and by sub-irrigation from the waters held in sloughs and swales after the flood subsided. Such benefits appear to have been obtained until about two years ago on part of the land and until one year ago on other parts of the property, when the sloughs were filled in and the land leveled for irrigation by means of ditches. On what is known as the Big Flat Field situated in Sections 19, 20 and 21 of T. 46 N.R. 69 E., M.D.B. & M., the original conditions exist, as well as on the Jay Creek and Hot Creek Fields, and whatever benefits have been obtained in the past can be obtained now and in the future, notwithstanding the fact that by this ruling no legal foundation exists for an appropriation of water.

Perhaps the filling of the sloughs and the leveling of the land so as to confine the water to the main channel has resulted in a development or saving of water that ought to receive some consideration, but I am unable to find any authority conferred by statute upon the State Engineer in a proceeding of this kind to consider it. The court may find such authority.

The amount of water claimed as necessary to properly irrigate the crops on the "Grande Ranch" and Wine Cup Ranch varies from 3.43 acre feet to 4.5 acre feet for a six months irrigation season or a continuous flow of 0.95 to 1.26 cubic feet per second. As a result of a careful examination of the land and conditions, supplemented by the record in the proceeding together with a comparison of soil conditions, methods of irrigation and duty of water on similar lands in Nevada, I have concluded to allow the amounts of water specified in the tabulation. The lands are so situated and of such topography that any excess water diverted, as well as all seepage, undoubtedly will immediately find its way to the stream, and as a consequence the only loss to the main flow will be that lost in evaporation and what is actually held in the soil.

In fixing the duty of water as indicated it is not intended that that amount of water is to be diverted to other than the lands named, nor is it presumed that water will be diverted when not actually required for beneficial purposes. I am of the opinion that there will be periods during the specified irrigation season when water will not be required at all for irrigation purposes. Yet on the other hand when conditions require it, the right to divert and irrigate at any time within the dates named and the amounts fixed should exist.

It will be noted that 180 days has been used as the extent of the irrigation season so as not to involve the figures by using 183 days the actual period from April 1st. to October 1st. Likewise where pasture is allowed a right 90 days has been used as the extent of the season.

LITTLE GOOSE CREEK.

There has not been a sufficient showing made anywhere in the record to warrant the allotment of a water right from Little Goose Creek on the claims submitted for lands situated in Sections 24, 25 and 26 T. 46 N.R. 68 E. M.D.B. & M. and 1.8 acres in Section 19 T. 46 N.R. 69 E. M.D.B. & M.

A valid prima facie claim has been submitted for the lands watered from this source in Section 24 T. 46 N.R. 67 E. and Sections 19 and 30 T. 46 N.R. 68 E. M.D.B. & M. However, I find only 10.35 acres of clear grass out of a total of 53.17 acres in these subdivisions, the balance being uncleared pasture land.

Experience has shown that if brush land is continually and diligently irrigated and pastured, the brush will be killed within a very few years and native grasses will grow, forming in time, with perhaps a little effort in removing the withered brush, clear grass areas.

I am inclined to the belief therefore that the land has only been irrigated intermittently or only during the flood seasons or that there has not been a sufficient flow in the source to continue the irrigation throughout the season. Owing to the fact that alfalfa lands have recently been brought under cultivation lower on the stream, it is evident that the condition of the pasture land is not due to lack of water supply. There are no important tributary sources between the areas of pasture involved and the alfalfa tracts mentioned. I cannot believe that the conditions are such in this locality as would cause a radical change from other districts of similar conditions elsewhere in the State.

Inasmuch as a valid claim has been made as to the irrigation of the land for pasture purposes and has been substantiated by the testimony of Mr. McClellan regarding the construction of ditches and diversion of water but not as to duration of irrigation each year, I think by finding that the land is entitled to a water right during the flood season for pasture limiting the

irrigation to July 1st each year substantial justice will be done.

#### HOT SPRING

The clear grass areas in Sections 10 and 15 T. 46 N.R. 69 E. in the vicinity of Hot Spring below the confluence of Spring Creek with Goose Creek are not shown to have been irrigated by any system of ditches, but appear to be benefitted by natural overflow and sub-irrigation. That condition will probably continue so that the same benefits can be obtained in the future.

#### JAY CREEK

The conditions on Jay Creek appear to be similar to those on the Hot Spring tract and the benefits obtained in the past will, I believe, be naturally obtained in the future.

#### HORSE CREEK

I have segregated Horse Creek claims as regards brush pasture and clear grass in the same manner as Little Goose Creek claims have been separated. Here, however, the flow of water after July 1st. is so small that it probably will not reach main Goose Creek under any condition and it should be allowed to be diverted to any of the areas listed throughout the period April 1st. to October 1st. upon proper compliance with law. Otherwise I fear it may merely waste in the channel. In fact I doubt very much it there will be very much, if any water for the pasture land after July 1st. each year unless developed.

#### SPRING CREEK.

Mr. McClellan who surveyed the ditches to divert from Spring Creek testified that Ditch No. 3 was not in existence in 1904. (Transcript Page 56.).

Mr. Gamble testified (pp 81-82-83) that Ditch No. 3, was constructed in 1903 or 1904 and that the ditches, four in number, were surveyed by Mr. McClellan and dug by himself.

Gamble's testimony as to the character of the land in 1915 particularly with respect to culture is so at variance with my own observation that I am inclined to accept the statement that

the four ditches as surveyed by McClellan in 1904 were the four constructed by Gamble since both witnesses agree on that point and that Ditch No. 3 was constructed at a later date without a compliance with Law. My own observations along this ditch warrant such a conclusion.

In addition to the irrigation rights listed in the following table, one-half cubic foot of water per second for stock and domestic purposes during the non-irrigation periods may be diverted and allowed to flow through Ditch No. 14 as far as its intersection with the West line of Section 1, T. 46 N. R. 68 E. M.D. B, & M. or to the S.E. corner of the Garden Patch in the N.E.  $\frac{1}{4}$  SE  $\frac{1}{4}$  Section 2, 46 N.R. 68 E. Provision must be made to return to the Main stream the amount not actually consumed since it is evident one-half cubic foot per second will not be required for the above named purposes but allowed to be diverted so as to produce a substantially clear flow in the ditch at all times.

On the Wine Cup, Horse Creek and Little Goose Creek fields, live stock can apparently obtain water from the natural channel as easily as from the ditches and inasmuch there is no need of domestic supply for household and barnyard purposes no rights need be considered or allowed for that purpose.

On Spring Creek one-fortieth cubic foot of water per second may be utilized for stock and domestic purposes when necessary, through Ditch No. 1 or such other channel as may now be used and which is to be designated before the certificate of water right issued.

It is intended that during the regular irrigation periods domestic and stock water will be obtained from the supply allotted for irrigation purposes and from the ditches above mentioned, without any appreciable diminution thereof.

Name	Main stream or tributary	Ditch No.	Priority	Acres	Sec- tion	Subdivi- sion	Ap-N	H-E	Culture	Ch. Ft. per Sec.	Acres Ft. per season	Irrigation Period
Vineyard and took Corn- ery	Goose Creek	Ditch No. 1.	1883	11.70 1.80 40.70 11.70 34.80 60.30 30.00 26.70 4.20	26 26 35 35 35 35 2 2 11	SWE SWE SWE SWE SWE SWE SWE SWE SWE	47 47 47 47 47 47 46 46 46	68 68 68 68 68 68 68 68 68	Meadow Meadow Meadow Meadow Meadow Meadow Meadow Meadow Meadow			
Vineyard and took Corn- ery	Goose Creek	Ditch No. 2.	1875	19.30 3.50 12.30 3.40 47.08 13.62 16.10 6.90 121.80	13 13 13 13 13 13 24 24 24	NWE NWE NWE SWE SWE SWE SWE SWE SWE	46 46 46 46 46 46 46 46 46	68 68 68 68 68 68 68 68 68	Meadow Grain Meadow Meadow Meadow Meadow Grain Meadow Pasture	1.19 0.071	424.00 13.00	Apr. 1-Oct. 1 Apr. 1-May 1
Vineyard and took Corn- ery	Goose Creek	Ditch No. 1.	1875	2.10 11.00 6.20 28.20 10.70 22.00 7.30 7.50 9.30 13.30 8.70	13 13 13 13 24 24 24 12 12 12 12	NWE NWE NWE SWE SWE SWE SWE SWE SWE SWE SWE	46 46 46 46 46 46 46 46 46 46 46	68 68 68 68 68 68 68 68 68 68 68	Meadow Meadow Meadow Meadow Meadow Meadow Meadow Meadow Meadow Meadow Meadow	0.540 0.284	136.00 51.00	Apr. 1-Oct 1 Apr. 1-July 1
Vineyard and took Corn- ery	Goose Creek	Ditch No. 1.	1886	0.70 07.30 45.70 2.30 2.20 30.00	35 35 35 1 1 11	SWE SWE SWE SWE SWE SWE	47 46 46 46 46 46	68 68 68 68 68 68	Meadow Meadow Meadow Meadow Meadow Meadow	1.854	661.00	Apr. 1-Oct. 1

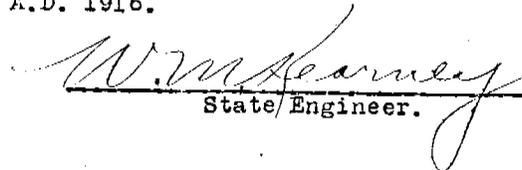
Name	Main Stream or Tributary	Ditch	Priority	Acres	Section	Subdivision	Tp-N	R-E	Culture	Cu. Ft. per Sec.	Acre Ft. per season	Irrigation Period
Inyard and lock Company	Goose Creek	Ditch No. 14. (Cont'd.)	1886	7.40 1.80 17.60 28.50 21.70 <u>54.00</u>	2 2 1 12 11	SE 1/4 SE 1/4 SW 1/4 NW 1/4 NE 1/4	46 46 46 46 46	68 68 68 68 68	Meadow Garden Meadow Meadow Meadow	0.680	242.00	Apr. 1-Oct. 1
Inyard and lock Company	Goose Creek	Ditch No. 1E.	1883	8.10 46.20 26.40 <u>80.70</u>	26 35 35	SE 1/4 NE 1/4 SE 1/4	47 47 47	68 68 68	Meadow Meadow Meadow	1.016	362.00	Apr. 1-Oct. 1
Inyard and lock Company	Spring Creek	East Side Ditch No. 1.	1904	26.25 7.27 11.65 11.05 5.80 <u>60.00</u>	23 23 23 23 22	SW 1/4 NW 1/4 NW 1/4 SW 1/4 NE 1/4	46 46 46 46 46	69 69 69 69 69	Meadow Meadow Pasture Pasture Pasture	0.492	180.00	Apr. 1-Oct. 1
Inyard and lock Company	Spring Creek	East Side Ditch No. 5 1/2	1904	1E.30 1.30 1.00 1.00	23 23 22 22	SW 1/4 NW 1/4 NW 1/4 NW 1/4	46 46 46 46	69 69 69 69	Pasture Pasture Pasture Meadow	0.219	89.00	Apr. 1-July 1
Inyard and lock Company	West Spring Creek	Ditch No. 5 1/2 & No. 4 1/2	1904	22.30 26.70 20.60 70.60	23 23 23 23	SW 1/4 NW 1/4 NW 1/4 NW 1/4	46 46 46 46	69 69 69 69	Meadow Meadow Pasture Pasture	0.65	225.00	Apr. 1-Oct. 1
Inyard and lock Company	Spring at head of Horse Creek	Ditch No. 1.	1886	6.00 16.51 <u>22.51</u>	14 14	SW 1/4 SW 1/4 SW 1/4	46 46 46	68 68 68	Meadow Pasture Pasture	0.084	30.00	Apr. 1-Oct. 1



STATE OF NEVADA  
STATE ENGINEER'S OFFICE  
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I, W. M. Kearney, State Engineer of the State of Nevada, duly appointed and qualified, having charge of the records and files of the office of the State Engineer, do hereby certify that the foregoing is a full, complete and true copy of the Order of Determination of the Relative Rights in and to the Waters of Goose Creek and its Tributaries in Elko County, Nevada, prepared and filed in said office on the eighteenth day of September, 1916, as appears by the records and files of the office of the State Engineer of Nevada, and nothing more or less.

In Witness Whereof, I have hereunto set my hand and affixed my seal of office at the City of Carson, State of Nevada, this nineteenth day of September, A.D. 1916.

  
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State Engineer.