

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

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4 ---c0o---

Certified Copy
J.F.S.

5
6 In the Matter of the Determination)
7 of the relative rights in and to the)
8 water of Overland Creek Stream Sys-)
9 tem, in Elko County, State of Nevada.)
.....)

DECREE

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11 This matter came on regularly for hearing the 27th day
12 of July, 1925, at the hour of ten o'clock, the users of said waters,
13 Samuel T. Wines and J.F. Short, being present in court with their
14 counsel, Griswold and Reinhart, the Crystal Land Company being re-
15 presented by its counsel, Baat and Dysart, and the State Engineer
16 being represented by M.A. Diskin, Attorney General of the State of
17 Nevada, and W.T. Mathews, District Attorney in and for Elko County,
18 State of Nevada, the United States Indian Service not being present
19 or represented in court, and the court having duly considered the
20 matter as above entitled and being fully advised in the premises
21 and the court's decision having been heretofore filed, it is

22
23 ORDERED, ADJUDGED AND DECREED:

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25 1. That the extent and relative rights of parties in
26 and to the waters of Overland Creek Stream System in Elko County,
27 State of Nevada, are defined as follows:
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29 LANDS OF IRA D. WINES.

PROOF NO. 01454

PRIORITY	CULTURE ACRES			LOCATION			LENGTH OF SEASON	C. F. S.	ACRE-FEET	
	Harvest	Meadow Pasture	Willow and Sage Pasture	Swamp and Overflow	Subdivision	Section Township Range				
1860	5.24				SE $\frac{1}{4}$ SW $\frac{1}{4}$	25 30	58Apr.1-Oct.1	0.042	15.72	
1865	86.85				NE $\frac{1}{4}$	36 30	58Apr.1-Oct.1	0.712	240.56	
1870	150.34				SW $\frac{1}{4}$	31 30	59Apr.1-Oct.1	1.512	451.02	
1870	110.27				(S $\frac{1}{2}$ NE $\frac{1}{4}$)					
1875				80.00	(SW $\frac{1}{4}$ NW $\frac{1}{4}$)	31 30	59Apr.1-Oct.1	0.942	330.81	
1865	140.00				NE $\frac{1}{4}$ NW $\frac{1}{4}$	6 29	59Apr.1-May15	0.556	60.00	
1870	28.6				SE $\frac{1}{4}$	36 30	58Apr.1-Oct.1	1.148	420.00	
1870	17.7				NW $\frac{1}{4}$ NW $\frac{1}{4}$	31 30	59Apr.1-Oct.1	0.233	85.8	
1870	28.4				NE $\frac{1}{4}$ NW $\frac{1}{4}$	31 30	59Apr.1-Oct.1	0.145	53.1	
1870					SE $\frac{1}{4}$ NW $\frac{1}{4}$	31 30	59Apr.1-Oct.1	0.235	85.2	
1860	2.92				W $\frac{1}{2}$ SW $\frac{1}{4}$	25 30	58Apr.1-Oct.1	0.023	8.72	
1860			22.44		W $\frac{1}{2}$ SW $\frac{1}{4}$	25 30	58Apr.1-May15	0.184	16.82	
1870	100.00				SW $\frac{1}{4}$	36 30	58Apr.1-Oct.1	0.820	300.00	
1870	151.76				NW $\frac{1}{4}$	36 30	58Apr.1-Oct.1	1.244	455.24	
1870			8.10		NW $\frac{1}{4}$	36 30	58Apr.1-May15	0.066	6.07	
<u>LANDS OF U.S. INDIAN SERVICE.</u>							<u>PROOF NO. 01722</u>			
1880	33.68				NE $\frac{1}{4}$ NE $\frac{1}{4}$	25 30	58Apr.1-Oct.1	0.270	101.04	
1880				4.02	NE $\frac{1}{4}$ NE $\frac{1}{4}$	25 30	58Apr.1-May15	0.033	3.01	
<u>LANDS OF CRYSTAL LAND CO.</u>							<u>PROOF NO. 01724</u>			
1880	3.70				E $\frac{1}{2}$ SW $\frac{1}{4}$	19 30	59Apr.1-Oct.1	0.030	11.10	
1880		15.00			E $\frac{1}{2}$ SW $\frac{1}{4}$	19 30	59Apr.1-July1	0.123	22.50	
1880	29.00				(NE $\frac{1}{4}$ SW $\frac{1}{4}$)					
					(NW $\frac{1}{4}$ SE $\frac{1}{4}$)	19 30	59Apr.1-Oct.1	0.238	87.00	
<u>LANDS OF J. F. SHORT.</u>							<u>PROOF NO. 01748</u>			
1861	3.30				NE $\frac{1}{4}$ NE $\frac{1}{4}$	35 30	58Apr.1-Oct.1	0.027	9.90	
1865	6.00				NE $\frac{1}{4}$ NE $\frac{1}{4}$	35 30	58Apr.1-Oct.1	0.049	18.00	
1893	1.00				SE $\frac{1}{4}$ NE $\frac{1}{4}$	35 30	58Apr.1-Oct.1	0.008	3.00	
1865	39.00				SE $\frac{1}{4}$ NE $\frac{1}{4}$	35 30	58Apr.1-Oct.1	0.320	117.00	
1893	1.25				SW $\frac{1}{4}$ NE $\frac{1}{4}$	35 30	58Apr.1-Oct.1	0.010	3.75	
1865	5.50				SW $\frac{1}{4}$ NE $\frac{1}{4}$	35 30	58Apr.1-Oct.1	0.045	16.50	
1865	5.00				NW $\frac{1}{4}$ SE $\frac{1}{4}$	35 30	58Apr.1-Oct.1	0.041	15.00	
1865	40.00				NE $\frac{1}{4}$ SE $\frac{1}{4}$	35 30	58Apr.1-Oct.1	0.328	120.00	
1865	2.00				SW $\frac{1}{4}$ SE $\frac{1}{4}$	35 30	58Apr.1-Oct.1	0.016	6.00	
1865	18.00				SE $\frac{1}{4}$ SE $\frac{1}{4}$	35 30	58Apr.1-Oct.1	0.147	54.00	
1865		18.00			SE $\frac{1}{4}$ SE $\frac{1}{4}$	35 30	58Apr.1-July1	0.147	27.00	
1865	32.00				SW $\frac{1}{4}$ SW $\frac{1}{4}$	36 30	58Apr.1-Oct.1	0.252	96.00	
1865				3.25	SW $\frac{1}{4}$ SW $\frac{1}{4}$	36 30	58Apr.1-May15	0.026	2.42	
1865	14.50				SE $\frac{1}{4}$ SW $\frac{1}{4}$	36 30	58Apr.1-Oct.1	0.119	43.50	
1865	8.00				SE $\frac{1}{4}$ SW $\frac{1}{4}$	36 30	58Apr.1-Oct.1	0.065	24.00	
1865				0.50	SE $\frac{1}{4}$ SW $\frac{1}{4}$	36 30	58Apr.1-May15	0.004	0.37	
1865				*1.50	SE $\frac{1}{4}$ SW $\frac{1}{4}$	36 30	58Apr.1-May15	0.012	1.12	
1865				*4.00	SW $\frac{1}{4}$ SE $\frac{1}{4}$	36 30	58Apr.1-May15	0.033	3.00	
1865	*10.00				SW $\frac{1}{4}$ SE $\frac{1}{4}$	36 30	58Apr.1-Oct.1	0.082	30.00	
1865	*5.00				SE $\frac{1}{4}$ SE $\frac{1}{4}$	36 30	58Apr.1-Oct.1	0.041	15.00	
1865	19.50				NW $\frac{1}{4}$ NW $\frac{1}{4}$	1 29	58Apr.1-Oct.1	0.160	58.50	
1865	31.00				NE $\frac{1}{4}$ NW $\frac{1}{4}$	1 29	58Apr.1-Oct.1	0.254	93.00	
1865				9.00	NE $\frac{1}{4}$ NW $\frac{1}{4}$	1 29	58Apr.1-May15	0.074	6.75	
1865	21.50				SE $\frac{1}{4}$ NW $\frac{1}{4}$	1 29	58Apr.1-Oct.1	0.176	64.50	
1865				6.00	SE $\frac{1}{4}$ NW $\frac{1}{4}$	1 29	58Apr.1-May15	0.049	4.50	
1865				6.00	NW $\frac{1}{4}$ NE $\frac{1}{4}$	1 29	58Apr.1-May15	0.066	6.00	
1865	10.00				NW $\frac{1}{4}$ NE $\frac{1}{4}$	1 29	58Apr.1-Oct.1	0.082	30.00	
1865	*22.00				NW $\frac{1}{4}$ NE $\frac{1}{4}$	1 29	58Apr.1-Oct.1	0.180	66.00	
1865	*39.60				NE $\frac{1}{4}$ NE $\frac{1}{4}$	1 29	58Apr.1-Oct.1	0.325	118.80	
1865				0.40	NE $\frac{1}{4}$ NE $\frac{1}{4}$	1 29	58Apr.1-May15	0.003	0.30	
1865	8.00				SW $\frac{1}{4}$ NE $\frac{1}{4}$	1 29	58Apr.1-Oct.1	0.066	24.00	
1865	*3.00				SW $\frac{1}{4}$ NE $\frac{1}{4}$	1 29	58Apr.1-Oct.1	0.025	9.00	
1865				*29.00	SW $\frac{1}{4}$ NE $\frac{1}{4}$	1 29	58Apr.1-May15	0.259	21.75	
1865				*32.50	SE $\frac{1}{4}$ NE $\frac{1}{4}$	1 29	58Apr.1-May15	0.266	24.37	
1865	*7.00				SE $\frac{1}{4}$ NE $\frac{1}{4}$	1 29	58Apr.1-Oct.1	0.057	21.00	
1865	0.50				SE $\frac{1}{4}$ NE $\frac{1}{4}$	1 29	58Apr.1-Oct.1	0.004	1.50	
1865				*1.00	Lot 3	6 29	58Apr.1-May15	0.008	0.750	

PRIORITY	CULTURE ACRES			LOCATION			LENGTH OF SEASON	C. F. S.	ACRE-FEET		
	Harvest	Meadow Pasture	Willow and Sage Pasture	Swamp and Overflow	Subdivision	Section				Township	Range
1865	39.00				Lot 3	6	29	58	Apr. 1-Oct. 1	0.320	117.00
1865	21.00				Lot 5	6	29	58	Apr. 1-Oct. 1	0.172	63.00
1865			40.00		SW 1/4	1	29	58	Apr. 1-May 15	.3279	30.0
1865			40.00		SW 1/4	1	29	58	Apr. 1-May 15	.3279	30.0
1865			40.00		NE 1/4	1	29	58	Apr. 1-May 15	.3279	30.0
1865			28.0		Lot 5	1	29	58	Apr. 1-May 15	.2295	21.0
1865			27.0		Lot 5	6	29	58	Apr. 1-May 15	.2213	20.25

*Irrigated by overflow from wine field and ditches.

1 2. That the relative priority or rank of said several
2 rights of Ira T. Wines, J.F. Short, Crystal Land Company and United
3 States of America Indian Service, users of water from Overland
4 Creek Stream System, as listed in paragraph 1, is and shall be recog-
5 nized as being in the order of the dates of the several appropria-
6 tions, and no one holding a subsequent appropriation shall be en-
7 titled to receive any water until all prior appropriations have
8 been fully satisfied.

9 3. That each of the parties hereto, together with its
10 agents, servants and employees and those claiming by, through or
11 under it, is perpetually enjoined from using any of the waters of
12 said stream system in excess of its several rights as the same are
13 hereinbefore defined, and from using the water at such time, or in
14 such manner, or in such amount as will infringe upon any right of
15 another party, as such right is hereinbefore defined.

16 4. That all water diverted from said Overland Creek be
17 measured at a point where the main ditch enters or becomes adjacent
18 to the land to be irrigated, or as near thereto as practicable, the
19 location of the point of measurement to be selected, or if not
20 selected, to be approved by the State Engineer.

21 5. That each water user shall install and maintain sub-
22 stantial headgates, works of control and weirs in his ditch, or
23 ditches, of such construction as will be approved by the State En-
24 gineer, or duly appointed Water Commissioner.

25 6. That, in addition to water used during the irrigating
26 season, each user shall be entitled to divert sufficient water for
27 stock and domestic purposes, the amount diverted not to exceed a
28 flow of 0.025 c.f.s., such diversion to be made during the non-
29 irrigating season and subject to the provisions of paragraph 2.
30 The point of measurement of stock water shall be at the same point

1 as selected and approved by the State Engineer for the measurement
2 of irrigation water.

3 7. That the parties as listed in paragraph one, or
4 their successors in interest, shall not be required to take or use
5 the amount of water allotted to them in a continuous flow but may
6 accumulate same, or any part thereof, in rotation or periodic term
7 within the seasonal limits, with the approval of the Water Commis-
8 sioner subject to the control and direction of the State Engineer.

9 8. That the State Engineer, or any party or adjudicated
10 claimant upon the Overland Creek Stream System affected by this de-
11 cree, may, at any time within three years from the entry thereof,
12 apply to this court for a modification of this decree, insofar only
13 as this decree fixes the duty of water, and upon the hearing of such
14 motion this court may modify its decree increasing or decreasing the
15 duty of water, consistent with good husbandry and consistent with
16 the principle that actual and beneficial use shall be the measure
17 and limit of the right.

18 9. That the beginning and end of the irrigation season
19 shall be as defined in this decree except when climatic conditions
20 are such that irrigation is not in accordance with good husbandry
21 and actual beneficial use of water; the State Engineer shall then
22 determine by examination the beginning of the irrigation season and
23 shall set the date giving due notice to all parties concerned. The
24 setting of this date shall be for the sole purpose of administering
25 and distributing the water of Overland Creek Stream System in ac-
26 cordance with this decree.

27 J. M. McNAMARA
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DISTRICT JUDGE.
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ENDORSED:

In the District Court of the Fourth Judicial District of the State of Nevada, in and for the County of Elko.

In the Matter of the Determination of the relative rights in and to the water of Overland Creek System in Elko County, State of Nevada.

DECREE

Filed October 5, 1928
M. J. KEITH,
Clerk.

STATE OF NEVADA, { ss.
COUNTY OF ELKO.

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 DECREE In the Matter of the Determination of the relative rights in and to the water of Overland Creek Stream System, in Elko County, State of Nevada,

as the same appears on file and of record in my office.

WITNESS my hand and the seal of said Court affixed, this
10 day of August A. D., 1928.

Mae E. Caine Clerk
By _____ Deputy Clerk.