

No. 1596

In the
Second Judicial District Court
of the
State of Nevada
in and for the
County of Humboldt

PACIFIC LIVE STOCK COMPANY
(a corporation),

Plaintiff,

vs.

ELLISON RANCHING COMPANY
(a corporation) et al.,

Defendants.

DECREE

EDWARD F. TREADWELL
ATTORNEY AT LAW
1023 MERCHANTS EXCHANGE BUILDING
SAN FRANCISCO, CALIFORNIA

Number filed
April 11, 1919
J. W. Dancy clerk
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J. W. Dancy
Clerk

P.L.S. Co. E.R. Co. 1596
No. 1-
Dec 6 J.W. Dancy
in reon contempt proceedings-

IN THE
Second Judicial District Court of the State of Nevada
IN AND FOR THE
County of Humboldt

PACIFIC LIVE STOCK COMPANY (a corporation),

Plaintiff,

vs.

ELLISON RANCHING COMPANY (a corporation), (substituted as defendant in the place of Humboldt Cattle Company, a corporation), LIZZIE J. ANDERSON DUNN (substituted as defendant for Anderson Land & Stock Company, a corporation, Lizzie J. Anderson Dunn, B. F. Shaw, C. H. Wilson, W. P. Henry, J. W. Dorsey and W. E. Cashman, trustees of Anderson Land & Stock Company, a corporation), MILPITAS LAND & LIVE STOCK COMPANY (a corporation), ABEL & CURTNER LIVE STOCK COMPANY (a corporation), (added as defendant with Milpitas Land & Live Stock Company, a corporation), LIZZIE J. ANDERSON DUNN (substituted in the place of the defendants, Thomas McConnell, as executor of the last will and testament of Charles McConnell, deceased, Mary M. McConnell, Thomas McConnell, Charles McConnell, Clara Anderson, B. F. Anderson, husband of Clara Anderson); LIZZIE J. ANDERSON and JAMES P. ANDERSON, Jr., as executrix and executor of the last will and testament of James P. Anderson, deceased (substituted in the place of James P. Anderson), DOMINGO BENGUA, AMBROSE D. CALLAGHAN, JUAN M. LEGARZA (substituted as defendant in the place of Luciana Coscotosa), CHARLES CLUTE, J. B. CRANDALL, MATHEW DANGLERMAIER, KATHERINE DANGLERMAIER, A. L. DELONG, W. M. DELONG, ELIZABETH FLOYD, I. B. ENGLISH, MARTIN ECHAVE, JUAN ERQUIAGA, H. N. FULGHAM, JERRY HEARN, MARGARET HEARN, GUADALUPE HURTADO, E. LANDASABEL, C. L. LOWERY, T. A. MAGOR, W. H. MINOR, PHILOMA M. MINOR, J. D. MINOR, JR., H. H. MCCOLLEY, ADELAIDE MULLANEY SULLIVAN, REGINA MULLANEY, through her guardian *ad litem*, Adelaide Mullaney Sullivan, FRANK P. SNAPP, JOHN N. VANCE, THOMAS SCOTT (sued as First Doe), LENA SCOTT (sued as Second Doe), VICTOR RUBIANES (sued as Third Doe), THOMAS F. MINOR (sued as Fourth Doe), FIFTH DOE, SIXTH DOE, SEVENTH DOE, EIGHTH DOE, NINTH DOE and TENTH DOE,

Defendants.

ELLISON RANCHING COMPANY (a corporation) and
LIZZIE J. ANDERSON DUNN,

Cross-Complainants.

No. 1596

DECREE.

In the above-entitled action the defendant, Humboldt Cattle Company (a corporation), duly appeared and answered the plaintiff's complaint by Mr. H. Warren, its attorney, and thereafter the defendant, Ellison Ranching Company (a corporation), was duly substituted as defendant in the place and stead of the said Humboldt Cattle Company (a corporation), and it duly appeared by its attorney, Mr. J. D. Skeen, and the said plaintiff and the defendants, duly answered the said cross-complaint.

The defendant, Anderson Land & Stock Company (a corporation), duly appeared and answered the plaintiff's complaint by Mr. J. W. Dorsey, its attorney, and thereafter the defendants, Lizzie J. Anderson Dunn, B. F. Shaw, C. H. Wilson, W. P. Henry, J. W. Dorsey and W. E. Cashman, trustees of the Anderson Land & Stock Company, a corporation, were by consent of the parties added as additional parties to the said action, and they thereupon duly appeared by Mr. J. W. Dorsey, their attorney. Thereafter the defendant, Lizzie J. Anderson Dunn succeeded to all of the rights of the Anderson Land & Stock Company (a corporation), and its trustees, and was substituted as a party defendant, and appeared by Messrs. J. W. Dorsey and W. E. Cashman, her attorneys, and filed an answer and a cross-complaint against the plaintiff, and the plaintiff duly answered the said cross-complaint.

The defendant, Milpitas Land & Live Stock Company (a corporation), duly appeared by its attorney, Mr. Edward A. Ducker, and filed an answer herein, and thereafter the said company conveyed a portion of the lands owned by it situated in the State of Oregon to Abel & Curtner Live Stock Company (a corporation), and thereupon the said Abel & Curtner Live Stock Company (a corporation), was made a party to the said suit, and together with the said Milpitas Land Live Stock Company (a corporation), entered its appearance therein by its attorney Mr. J. A. Callahan.

The defendants, Thomas McConnell (as executor of the last will and testament of Charles McConnell), Thomas McConnell, Mary M. McConnell, Charles McConnell, Clara Anderson and B. F. Anderson (husband of Clara Anderson), duly appeared by Mr. H. Warren, their attorney, and answered plaintiff's complaint. Thereafter the rights of all of the said defendants were transferred to Lizzie J. Anderson Dunn, and she was duly substituted as a party defendant to the said cause in the place and stead of said defendants, and appeared by Messrs. J. W. Dorsey and W. E. Cashman, her attorneys, and filed an answer and a cross-complaint against the plaintiff herein, which cross-complaint was duly answered by the plaintiff.

The defendant, James P. Anderson, duly appeared by Mr. J. W. Dorsey, his attorney, and answered the plaintiff's complaint, and thereafter the said James P. Anderson died, and his executors, Lizzie J. Anderson and James P. Anderson, Jr., were substituted as parties defendant in his place. No evidence was offered on the trial in support of the rights of the said James P. Anderson to the waters of Ten Mile Creek, a tributary of Quin River, situated in the State of Oregon.

The defendant, Domingo Bengoa, duly appeared and filed an answer by his attorney, Mr. H. Warren, setting up a plea to the jurisdiction of the court on the ground that the defendant was a resident of the County of Malheur, in the State of Oregon, and that the cause of action set up in plaintiff's complaint arose out of the jurisdiction of the court in the County of Malheur, State of Oregon. A demurrer to this answer having been interposed by plaintiff was sustained, and no amended answer having been filed default of the said defendant was duly entered. Upon the trial of the cause it appeared that the said defendant at the time of the commencement of the action had owned certain land in the State of Nevada which had been conveyed to the defendant, Juan M. Legarza, and it was stipulated that any rights acquired by the said defendant, Juan M. Legarza, might be set up and adjudicated to him notwithstanding the default of the said defendant, Domingo Bengoa.

The defendant, Ambrose D. Callaghan, was never served with process on the original complaint or on the cross-complaint of the Ellison Ranching Company, and by consent of

all parties was dismissed from the suit, his rights having prior to the commencement of the action passed to the defendant, J. D. Minor.

The defendant, Luciana Coscorosa, duly appeared by Mr. William S. Bonnifield, her attorney, and filed an answer herein. Thereafter the said defendant died and the defendant, Juan M. Legarza, was substituted in the place and stead of the said Luciana Coscorosa, and the said defendant duly appeared by his attorney, Mr. L. G. Campbell.

The defendant, Charles Clute, duly appeared by Mr. H. Warren, his attorney, and filed an answer herein, but upon the trial no evidence was introduced in support of the rights of the said defendant.

The defendant, J. B. Crandall, duly appeared and answered the complaint by Mr. Edward A. Ducker, his attorney.

The defendants, Matthew Danglemaier and Katherine Danglemaier, duly appeared and answered plaintiff's complaint by Mr. H. Warren, their attorney.

The defendants, A. L. DeLong and W. M. DeLong, duly appeared by Mr. C. E. Robins, their attorney, and answered plaintiff's complaint, and thereafter the said defendants conveyed their interest in the subject matter to Elizabeth Floyd, and she was by stipulation joined as a party defendant, and appeared by Mr. C. E. Robins, her attorney.

The defendant, I. B. English, duly appeared by Mr. William S. Bonnifield, his attorney, and answered the plaintiff's complaint, but upon the trial no evidence was introduced in support of his rights set up therein.

The defendant, Martin Echave, was never served with process either under the complaint or cross-complaint, and by consent of all parties was dismissed from the case.

The defendant, Juan Erquiaga, duly appeared by Mr. William S. Bonnifield, his attorney, and answered the plaintiff's complaint, and thereafter said defendant conveyed all of his rights to the defendant, Juan M. Legarza, who was substituted in his place and stead and appeared by his attorney, Mr. L. G. Campbell.

The defendant, H. N. Fulgham, was duly served with summons and failed to appear or answer within the time allowed by law, and his default in that regard was duly entered.

The defendant, Jerry Hearn, duly appeared and answered by his attorney, Mr. Edward A. Ducker, and thereafter Margaret Hearn was joined as a defendant in the said action, and the said Jerry Hearn and Margaret Hearn duly appeared by their attorney, Mr. J. A. Callahan.

The defendant, Guadalupe Hurtado, appeared in propria persona and answered plaintiff's complaint, and on the trial Mr. L. G. Campbell entered his appearance for the said defendant.

The defendant, E. Landasabel, appeared in propria persona and filed a demurrer to the complaint, and the said demurrer was overruled with leave to answer, and the said defendant not having answered within the time allowed by law his default in that particular was duly entered.

The defendant, C. L. Lowery, was duly served with summons, but failed to appear or answer, and his default in that regard was duly entered.

The defendant, T. A. Magor, conveyed all of his interest in the premises to Guadalupe Hurtado, and said Guadalupe Hurtado was duly substituted as a defendant in the place and

stead of the defendant, T. A. Magor, and appeared herein by his attorney, Mr. L. G. Campbell.

The defendant, W. H. Minor, duly appeared in propria persona, and thereafter Philoma M. Minor was joined as a party defendant with the said W. H. Minor, and Mr. T. A. Brandon duly entered an appearance for both of said defendants.

The defendant, J. D. Minor, appeared in propria persona and filed an answer herein, and thereafter Mr. T. A. Brandon entered an appearance for the said defendant.

The defendant, H. H. McColley, having sold the property owned by him and situated on Willow Creek to the defendants, Thomas Scott and Lena Scott, was dismissed from the action by consent of all parties, and the defendant, Thomas Scott (sued as First Doe), and the defendant, Lena Scott (sued as Second Doe), duly appeared and answered by Mr. William S. Bonnifield, their attorney, and thereafter a stipulation was entered into between the said Thomas Scott and Lena Scott and the other parties to the said action in the words and figures following, to wit:

*In the Sixth Judicial District Court of the State of Nevada,
in and for the County of Humboldt*

Pacific Live Stock Company, a corporation, vs. Humboldt Cattle Company, a corporation, et al.,	Plaintiff, Defendants.
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The defendants, Mr. and Mrs. Thomas Scott, expressly disclaim any and all right, to the use of any of the waters mentioned and described in the complaint or any of the pleadings herein, except that they claim a right to the use of a portion of the waters of Willow Creek; at the time of the commencement of this action, and at the time of the service of the summons on said Mr. and Mrs. Thomas Scott, said defendants, herein, they owned some lands, in Malheur County, Oregon, through which ran McDermitt Creek, which is a tributary of the Quinn River mentioned in said complaint and other pleadings herein, and at that time they had diverted water from said McDermitt Creek for the irrigation of said lands of theirs in Malheur County, Oregon; after the commencement of this action, and after the service on them of said summons herein, they sold, conveyed by written deed of conveyance, duly acknowledged, the said lands in Malheur County, Oregon, and all thereof, to Randall Sage, and since so selling and conveying to Randall Sage, all of their said lands in Malheur County, Oregon, they have not had, and have not claimed, and they do not have and do not claim, any right to the use of any of the waters mentioned in the complaint or in any of the pleadings herein, except that they claim a right to the use of a portion of the waters of said Willow Creek, to irrigate their lands situated on said Willow Creek, and which lands, are about five or six miles from the channel of said Quinn River, and are the same lands on which their present dwelling house is situated; now it is stipulated, consented and agreed that, in so far as relates to the waters of said Willow Creek, and so far as relates to the right to the use of those waters by said defendants, Mr. and Mrs. Thomas Scott, the above entitled action may be, and the same hereby is, dismissed as to those two defendants; but nothing herein contained shall be deemed to be a dismissal of the said action, as to those two defendants, so far as relates to any of the waters named in said pleadings, or complaint, or so far as relates to a right to the use of any waters mentioned in said complaint or in any of the pleadings herein, except as to the waters of said Willow Creek, and the right

to the use of the latter waters, by said defendants, Mr. and Mrs. Thomas Scott; such dismissal is to be without costs to either party.

October 14th, 1913.

EDWARD F. TREADWELL,
Attorney for Plaintiff.

WM. S. BONNIFIELD,
Attorney for Defendants, Mr. and Mrs.
Thomas Scott,

WARREN & HAWKINS,
By H. WARREN,
Attorney for Certain Defendants,

J. D. SKEEN,
Attorney for Ellison Ranching Com-
pany, but without prejudice to any
rights to waters of Willow Creek,

L. G. CAMPBELL,
Attorney for Legarza,

J. W. DORSEY &
WM. E. CASHMAN,
Attorneys for the Andersons,

C. E. ROBINS,
Attorney for Wm. and A. L. DeLong,

T. A. BRANDON,
Attorney for Certain Defendants,

J. A. CALLAHAN,
Attorney for Defendants, J. E. Hearn,
J. B. Crandall, Abel & Curtner Live
Stock Company, Adeline Mullaney and
Regina Mullaney.

Upon the trial no evidence was introduced as to the rights of the said defendants or of said Randall Sage in or to the waters of Quin River and its tributaries in Malheur County, State of Oregon, or any rights in or to the waters of McDermitt Creek.

The defendants, Adelaide Mullaney (now Adelaide Mullaney Sullivan) and Regina Mullaney (sued herein as John Doe Mullaney) duly appeared by Mr. Edward A. Ducker, their attorney, and answered the complaint of plaintiff herein.

The defendant, Frank P. Snapp, duly appeared by Mr. William S. Bonnifield, his attorney, and filed an answer herein and set up certain rights in or to the waters of Rebel Creek, but disclaimed all rights in or to the waters of Quin River, and by consent of all the parties was thereupon dismissed from the action.

The defendant, John N. Vance, residing in the State of Oregon, and being out of the jurisdiction of the court, and not having been served with summons was dismissed as a party defendant by the plaintiff.

The defendant, Thomas F. Minor, (sued herein as Fourth Doe), duly appeared and demurred to plaintiff's complaint, and said demurrer having been overruled and the defendant having failed to answer within the time required by law, his default in that regard was duly entered.

The defendants, Fifth Doe, Sixth Doe, Seventh Doe, Eighth Doe, Ninth Doe and Tenth Doe, were not served with summons and an order was duly made dismissing them from the action.

The cause came on regularly for trial before the court, Honorable E. J. L. Taber acting district judge presiding. Mr. Edward F. Treadwell appeared for the plaintiff, Messrs. J. W.

Dorsey and W. E. Cashman, Mr. J. D. Skeen, Messrs. Warren & Hawkins, Mr. J. A. Callahan, Mr. T. A. Brandon, Mr. L. G. Campbell, Mr. C. E. Robins and Mr. William S. Bonfield appearing as attorneys for the defendants. Thereupon evidence oral and documentary was introduced and the cause argued by counsel and submitted to the court for decision, and the court having thereafter filed its decision, findings of fact and conclusions of law, and the court being now fully advised in the premises, now therefore, by reason of the law and the findings aforesaid, it is by the court here considered, ordered, adjudged and decreed as follows, to wit:

I.

That the defendants, Lizzie J. Anderson Dunn and James P. Anderson, Jr., substituted herein as defendants in the place and stead of James P. Anderson, deceased, are entitled to no part of the water of Ten Mile Creek, a tributary of Quin River, in the State of Oregon, and are not entitled to take, divert or use the said water of said creek.

II.

That the defendants, Domingo Bengoa, Charles Clute, I. B. English, H. N. Fulgham, E. Landasabel, C. L. Lowery, Victor Rubianes (sued as Third Doe) and Thomas F. Minor (sued as Fourth Doe), have no right in or to the waters of Quin River, or any of the branches or tributaries thereof, and the said defendants and each of them, and their and each of their agents, and all persons claiming, by, through or under them be and they hereby are forever enjoined and restrained from taking, diverting or using, or from in any way interfering with, the flow of the water of Quin River and its branches and tributaries so as to in any way interfere with the rights of the plaintiff as hereinafter fixed and adjudged, and until the said plaintiff has received at its points of diversion the quantity of water so adjudged to it.

III.

That the defendants, Thomas Scott (sued herein as First Doe) and Lena Scott, also called Mrs. Thomas Scott, (sued herein as Second Doe), have no right in or to the waters of McDermitt Creek, a tributary of the said Quin River, situated in Malheur County, Oregon, upon the property owned by them at the time of the measurement of the said action and thereafter conveyed to one Randall Sage, and the said defendants, and each of them, and their agents and servants, and all persons acting by, through or under them, and their and each of their successors and assigns of the water rights and land of the said defendants referred to in their answer, and situated on the said McDermitt Creek, in Malheur County, State of Oregon, be and they are hereby forever enjoined and restrained from taking, diverting or using or interfering with the flow of the water of Quin River so as to in any way interfere with the appropriation, diversion and use by plaintiff of the waters hereinafter adjudged to it, or until the said plaintiff has received at its points of diversion the quantities of water so adjudged to it.

IV.

That the parties plaintiff and defendant herein other than the defendants last above named, or their grantors or predecessors in interest, through whom they derived title, have severally and at divers times appropriated certain of the waters of Quin River, and, or, of its tributaries, and the parties hereto are severally the owners of certain rights acquired by appropriation in and to the waters of said Quin River, and, or, of its tributaries; and the amount of water so appropriated as aforesaid, the dates of appropriations fixing priorities, and the particular stream from which each appropriation was made are set forth in

this decree by the following table in which there is separately set forth in columns reading from left to right in horizontal progression and under appropriate headings, to wit:

- (a) The name of the present owner of an existing water right.
- (b) The date when such right originally accrued under the heading "Date of relative priority".
- (c) The amount of water expressed in cubic feet per second to the use of which such owner is entitled at the point of diversion under the heading "Amount in cubic feet per second".
- (d) The number of acres irrigated by such water under the heading "Number of Acres irrigated".
- (e) The name of the stream from which the appropriation was made and from which the owner derived his right under the heading "Name of Stream".
- (f) The place where the appropriation is made under the heading "Place of appropriation".

Name	Date Relative Priority	Amount in Cubic Feet Per Second	Number of Acres Irrigated	Name of Stream	Place of Appropriation
Lizzie J. Anderson Dunn	1868	0.10	6.77	Eight Mile Creek	Upper Eight Mile Creek Ranch
Lizzie J. Anderson Dunn	1871	0.71	50	Flat Creek	Upper Flat Creek Ranch
(a) Milpitas Land & Live Stock Company	1872	6.23	436	McDermitt Creek	Hat Field and House Field
(b) Lizzie J. Anderson Dunn	"	0.71	50	Flat Creek	Upper Flat Creek Ranch
(c) Jerry Hearn and Margaret Hearn	"	0.57	40	East Fork	Upper Hearn Ranch
(a) Jerry Hearn and Margaret Hearn	1874	8.29	580	East Fork	Lower Hearn Ranch
(b) Lizzie J. Anderson Dunn	"	8.69	608.33	Eight Mile Creek and Eight Mile Slough	Hoppin Ranch
(c) Adelaide Mullaney Sullivan and Re- gina Mullaney	"	8.57	600	McDermitt Creek	Malheur County, Oregon
(d) Pacific Live Stock Company	"	16.44	1150.9	Quin River	Quin River Cross- ing Ranch
(e) Ellison Ranching Company	"	9.64	674.61	Quin River	Home Ranch
(e) Ellison Ranching Company	"	3.37	236.10	Crowley Creek	Crowley Creek Ranch
Lizzie J. Anderson Dunn	1875	6.57	459.65	Quin River and Beef Corral Slough	Hoppin Ranch
Lizzie J. Anderson Dunn	1876	0.36	25	Flat Creek	Lower Flat Creek Ranch
Lizzie J. Anderson Dunn	"	26.71	1870	Beef Corral and Eight Mile Sloughs	McConnell Ranch
Lizzie J. Anderson Dunn	1877	4.43	310.14	Twelve Mile Creek	Hoppin Ranch

Name	Date Relative Priority	Amount in Cubic Feet Per Second	Number of Acres Irrigated	Name of Stream	Place of Appropriation
(a) Jerry Hearn and Margaret Hearn	1878	4.57	320	East Fork	Lower Hearn Ranch
(b) Lizzie J. Anderson Dunn	"	8.39	587.5	Pole and Canyon Creeks	Hoppin Ranch
Lizzie J. Anderson Dunn	1879	1.07	75	Flat Creek	Lower Flat Creek Ranch
Jerry Hearn and Margaret Hearn	1880	0.86	60	East Fork	Upper Hearn Ranch
(a) Ellison Ranching Company	1883	1.20	83.90	Crowley Creek	Crowley Creek Ranch
(b) Milpitas Land & Live Stock Company	"	0.71	50	McDermitt Creek	Pasture east of Hat Field
(c) Jerry Hearn and Margaret Hearn	"	3.06	214	East Fork	Upper Hearn Ranch
Jerry Hearn and Margaret Hearn	1885	0.29	20	East Fork	Upper Hearn Ranch
Abel & Curtner Live Stock Company	1886	7.07	495	McDermitt Creek	Bowling Field
(a) Ellison Ranching Company	1887	8.57	600	Quin River	Home Ranch
(b) Pacific Live Stock Company	"	6.29	440	Quin River	Quin River Crossing Ranch
(c) Adelaide Mullaney Sullivan and Regina Mullaney	"	5.00	350	McDermitt Creek	Malheur County, Oregon
(a) Jerry Hearn and Margaret Hearn	1888	4.72	330.3	East Fork	Lower Hearn Ranch
(b) Juan M. Legarza	"	1.00	70	Quin River	Marks Ranch
(c) Matthew Danglemaier and Katherine Danglemaier	"	2.29	160	Quin River	Sod House Ranch
Guadalupe Hurtado	1889	0.43	30	Quin River	Hurtado Ranch
Guadalupe Hurtado	1890	0.71	50	Quin River	Hurtado Ranch
(a) J. D. Minor	1892	3.28	229.75	Quin River	Shaik and McAnish lands.
(b) W. H. Minor and Philoma M. Minor	"	5.14	360	Quin River	Quin River Ranch
(a) J. D. Minor	1893	4.57	320	Quin River	Cirio and Hurtado places
(a) " "	"	0.36	25	Quin River	SE $\frac{1}{4}$ SW $\frac{1}{4}$, sec. 6
(b) Pacific Live Stock Company	"	2.11	148.1	McDermitt Creek	Coburn Ranch
(a) J. D. Minor	1894	2.00	140	Quin River	Hodges place
(b) W. H. Minor and Philoma M. Minor	"	0.18	12.5	Washburn Creek	Washburn Creek Ranch
(c) Guadalupe Hurtado	"	1.43	100	Quin River	Hurtado Ranch
(d) A. L. DeLong, W. M. DeLong and Elizabeth Floyd	"	0.86	60	Happy Creek	Happy Creek Ranch

Name	Date Relative Priority	Amount in Cubic Feet Per Second	Number of Acres Irrigated	Name of Stream	Place of Appropriation
(a) J. B. Crandall	1895	1.26	88	East Fork	Crandall Ranch
(b) Ellison Ranching Company	"	19.63	1373.99	Quin River	Lower Snapp Field
(b) Ellison Ranching Company	"	10.42	729.64	Quin River	Magor Field
(c) Milpitas Land & Live Stock Company	"	0.71	50	McDermitt Creek	Pasture east of Hat Field
(c) Milpitas Land & Live Stock Company	"	5.55	388.5	McDermitt Creek	Reservation Field
X Juan M. Legarza	1896	0.44	30.67	Quin River	Marks Ranch
W. H. Minor and Philoma M. Minor	1897	0.16	11.4	Washburn Creek	Washburn Creek Ranch
(c) Pacific Live Stock Company	1901	5.36	375	Quin River	Hog John Ranch
(a) J. D. Minor	1902	2.29	160	Quin River	Callaghan place
(a) " "	"	1.71	120	Quin River	W. H. Minor land
(a) " "	"	.57	40	Quin River	Thomas place
(b) Lizzie J. Anderson Dunn	1902	1.42	100	Flat Creek	Upper Flat Creek Ranch
(b) Lizzie J. Anderson Dunn	"	1.26	88.5	Flat Creek	Lower Flat Creek Ranch
(a) W. M. DeLong, A. L. DeLong and Elizabeth Floyd	1903	0.43	30	McDermitt Creek	Happy Creek Ranch
(b) Lizzie J. Anderson Dunn	"	1.14	80	Twelve Mile Creek	Upper Twelve Mile Creek Ranch
X Juan M. Legarza	1904	1.00	70	Quin River	Magor Ranch
" " "	"	1.44	101	Quin River	Bengoa Ranch
W. H. Minor and Philoma M. Minor	1906	0.36	25.2	Washburn Creek	Washburn Creek Ranch
(a) J. D. Minor	1907	0.57	40	Quin River	W. H. Minor place
(a) " " "	"	0.57	40	Quin River	Hewitt place
(b) Lizzie J. Anderson Dunn	"	3.23	225.85	Flat Creek	Lower Flat Creek Ranch
(c) J. B. Crandall	"	0.11	7.5	East Fork	Crandall Ranch
J. D. Minor	1908	0.21	15	Quin River	SE $\frac{1}{4}$ SW $\frac{1}{4}$ sec. 6
" " "	"	1.71	120	Quin River	Thomas Ranch
" " "	"	0.43	30	Quin River	Lots 1 and 7
(a) Ellison Ranching Company	1909	5.65	395.52	Crowley Creek	Crowley Creek Ranch
(b) Juan M. Legarza	"	0.93	65.39	Quin River	Magor Ranch
(a) Guadalupe Hurtado	1912	0.63	43.83	Quin River	Hurtado Ranch
(b) Lizzie J. Anderson Dunn	"	1.74	121.6	Flat Creek	Upper Flat Creek Ranch
W. H. Minor and Philoma M. Minor	1913	0.23	16.2	Washburn Creek	Washburn Creek Ranch

V.

Each of the parties above named are hereby adjudged to be the owner of the flow and use of the several amounts of water appropriated by them respectively as above set forth from the stream or streams as therein set forth, and are entitled to take, divert and use the waters of said river, or the branches or tributaries thereof, as the case may be, for the irrigation of land, the watering of stock and domestic purposes subject to and in accordance with the priorities set forth. Wherever two or more persons are given a priority as of the same year such priorities are hereby adjudged to be in accordance with the order in which the same are above set forth, the one set forth first in each instance being first in time and superior in right to the other rights set forth in the same year; those being marked (a) in any one year being first in right and first in priority, those being marked (b) in any one year being second in right and second in priority, those being marked (c) in any one year being third in right and third in priority, those being marked (d) in any one year being fourth in right and fourth in priority, and those being marked (e) in any one year being fifth in right and fifth in priority.

VI.

The title of each of the parties above named to the rights above set forth is hereby quieted.

VII.

That the rights of the plaintiff as above set forth, and with the priorities therein set forth, are hereby quieted as against all of the defendants.

VIII.

That the title of defendant, Ellison Ranching Company, a corporation, to the several rights adjudicated to it as above set forth, and with the priorities therein set forth, are hereby quieted as against the plaintiff and against the defendants named in its cross-complaint and served with process or appearing herein, to wit: Lizzie J. Anderson Dunn (substituted for Anderson Land & Stock Company, a corporation, Lizzie J. Anderson Dunn, B. F. Shaw, C. H. Wilson, W. P. Henry, J. W. Dorsey, W. E. Cashman, trustees of Anderson Land & Stock Company (a corporation); Abel & Curtner Live Stock Company, a corporation (added as a defendant with Milpitas Land & Live Stock Company, a corporation), Lizzie J. Anderson Dunn (substituted for Thomas McConnell, as executor of the last will and testament of Charles McConnell, deceased, Mary M. McConnell, Thomas McConnell, Charles McConnell, Clara Anderson, B. F. Anderson, husband of Clara Anderson), Luciana Coscorosa, Charles Clute, J. B. Crandall, A. L. DeLong, W. M. DeLong, Elizabeth Floyd, I. B. English, Martin Echave, Juan Erquiaga, H. N. Fulgham, Jerry Hearn, Margaret Hearn, Guadalupe Hurtado, E. Landasabel, C. L. Lowery, T. A. Magor, W. H. Minor, Philoma M. Minor, J. D. Minor, Jr., Adelaide Mullaney Sullivan, Regina Mullaney, Thomas Scott (sued as First Doe), Lena Scott (sued as Second Doe), Victor Rubianes (sued as Third Doe) and Thomas F. Minor (sued as Fourth Doe).

IX.

That each of the defendants herein, and their agents, servants and attorneys, and all persons acting by, through or under them with respect to the water rights and lands claimed and owned by them be and they and each of them hereby are forever enjoined and restrained from in any way taking, diverting or using the waters of Quin River, or its tributaries, or from in any way damming, impeding or otherwise interfering with the flow of the said Quin River and its tributaries so as to in any way interfere with the rights of the above named

plaintiff adjudicated to it herein, and so as to in any way interfere with the right of the plaintiff to appropriate, divert and use the said water so adjudicated to it, but this injunction shall not apply to the right of the defendants having rights adjudicated hereby prior and superior to the plaintiff from taking, diverting and using the quantities of water so adjudged to them, and being adjudged to be prior in right to the rights of the plaintiff herein.

X.

And it is further ordered, adjudged and decreed that all of the defendants herein other than the defendants, Lizzie J. Anderson Dunn, Milpitas Land & Live Stock Company, Jerry Hearn, Margaret Hearn, Adelaide Mullaney Sullivan and Regina Mullaney be and they hereby are enjoined and restrained from taking, diverting or using any of the water of Quin River, or its tributaries, or from damming or otherwise interfering with or retarding the flow of the waters of the said river so as to in any way interfere with the right of the plaintiff to appropriate, divert and use 16.44 second feet of water above adjudicated to it, and from taking, diverting or using any of the water of the said river, or from in any way damming or otherwise interfering with or retarding the flow of the water of the said river and its tributaries so as to prevent the plaintiff from receiving said 16.44 second feet of water so appropriated by it at its point of diversion at Quin River Crossing near the center of section thirty (30), township forty-three (43) north, range thirty-one (31) east, Mount Diablo Base and Meridian.

XI.

And it is further ordered, adjudged and decreed that the defendants, Lizzie J. Anderson Dunn, Milpitas Land & Live Stock Company (a corporation), Jerry Hearn, Margaret Hearn, Adelaide Mullaney Sullivan and Regina Mullaney, and their agents, servants and attorneys, and all persons claiming by, through or under them, with respect to the water rights and lands claimed and owned by them, be and they hereby are forever enjoined and restrained from taking, diverting and using any of the waters of Quin River, or its tributaries, or from damming, interfering with or otherwise impeding the flow of the waters thereof so as to interfere with the right of the plaintiff to take, divert and use said 16.44 second feet of water so adjudged to it, and from taking, diverting and using any of the water of the said Quin River, or its tributaries, or from damming, interfering with or otherwise retarding the flow of the waters thereof so as to prevent the plaintiff from receiving at Quin River Crossing near the center of section thirty (30), township forty (43) north, range thirty-one (31) east, Mount Diablo Base and Meridian, the said 16.44 second feet of water, except that nothing herein contained shall be deemed to in any way interfere with the prior right of the defendant, Milpitas Land & Live Stock Company (a corporation), to appropriate, take, divert, and use from McDermitt Creek the 6.23 second feet of water to which it is adjudged to have a prior right, nor with the right of Lizzie J. Anderson Dunn to divert and appropriate from Flat Creek 1.42 second feet, from Eight Mile Creek and Eight Mile Slough 8.69 second feet, and from Eight Mile Creek .10 second feet, to which she is adjudged to have a prior right, or with the right of Jerry Hearn and Margaret Hearn to divert from the East Fork of Quin River .57 second feet and 8.29 second feet to which they are adjudged to have a prior right, or with the right of Adelaide Mullaney Sullivan and Regina Mullaney to take, divert and use 8.57 second feet of water from McDermitt Creek to which they have been adjudged to have a prior right.

XII.

That all of the defendants herein, with the exception of the defendants, Abel & Curtner Live Stock Company (a corporation), Milpitas Land & Live Stock Company (a corpora-

tion), Lizzie J. Anderson Dunn, Jerry Hearn, Margaret Hearn, Adelaide Mullaney Sullivan, Regina Mullaney and Ellison Ranching Company (a corporation), and all their servants, agents and attorneys, and all persons acting by, through or under them with respect to the water rights and lands claimed or owned by them be and they hereby are forever restrained and enjoined from taking, diverting and using any of the waters of the said Quin River, or its tributaries, or from damming, interfering with or retarding the flow of the waters thereof so as to interfere with the right of the plaintiff to take, appropriate and divert the 6.29 second feet of water adjudged to it, or so as to prevent the plaintiff from receiving said 6.29 second feet of water at its point of diversion at Quin River Crossing near the center of section thirty (30), township forty-three (43) north, range thirty-one (31) east, Mount Diablo Base and Meridian.

XIII.

That all of the defendants, and their agents, servants and attorneys, and all persons acting by, through or under them with respect to the water rights and lands claimed and owned by them be and they are forever enjoined and restrained from taking, diverting or using any of the waters of the said Quin River, or its tributaries so as to interfere with the right of plaintiff to take, divert and use the said 6.29 second feet of water adjudged to it, or so as to prevent the plaintiff from receiving the said 6.29 second feet of water at its point of diversion at Quin River Crossing near the center of section thirty (30), township forty-three (43) north, range thirty-one (31) east, Mount Diablo Base and Meridian, except that nothing herein contained shall prevent the said parties from diverting, taking and using the amounts of water to which they are adjudged to have a prior right.

XIV.

That the defendants herein, and their agents, servants and attorneys, and all persons acting by, through or under them, be and they hereby are restrained and enjoined from taking, using or diverting any of the water of Quin River, or its tributaries, or from damming, interfering with or retarding the flow of said Quin River or its tributaries so as to interfere with the right of the plaintiff to divert, appropriate and use the 5.36 second feet of water adjudged to it, or so as to prevent the plaintiff from receiving at its point of diversion on what is known as the "Hog John Place" in the northeast quarter of section twenty (20), township forty-two (42) north, range thirty-four (34) east, Mount Diablo Base and Meridian, said 5.36 second feet of water, except that nothing herein contained shall be deemed to interfere with the right of the several defendants herein who have been adjudged to have rights prior to the said right of plaintiff to take, divert and use the several amounts so adjudged to them in priority to the said right of plaintiff herein.

XV.

That the defendants, Thomas Scott and Lena Scott, their agents, servants and attorneys, and all persons acting by, through or under them, and each of their successors and assigns, with respect to the lands owned by them at the time of the commencement of this action in Malheur County, Oregon, and conveyed by them to the said Randall Sage, be and they hereby are forever enjoined and restrained from taking, diverting or using any of the waters of said Quin River or its tributaries, or of McDermitt Creek, or from damming, interfering with or retarding the flow thereof so as to interfere with the right of the plaintiff to divert, appropriate and use the said 16.44 second feet at Quin River Crossing, 6.29 second feet at Quin River Crossing and 5.36 second feet at the Hog John Place, or so as to prevent the plaintiff from receiving at said points of diversion said respective amounts of water.

XVI.

That the defendants named in the cross-complaint of the Ellison Ranching Company (a corporation), to wit: Lizzie J. Anderson Dunn (substituted for Anderson Land & Stock Company, a corporation, Lizzie J. Anderson Dunn, B. F. Shaw, C. H. Wilson, W. P. Henry, J. W. Dorsey, W. E. Cashman, trustees of Anderson Land & Stock Company, a corporation), Milpitas Land & Live Stock Company (a corporation), Abel & Curtner Live Stock Company (a corporation), (added as defendant with Milpitas Land & Live Stock Company, a corporation), Lizzie J. Anderson Dunn (as successor in interest of Thomas McConnell, as executor of the last will and testament of Charles McConnell, deceased, Mary M. McConnell, Thomas McConnell, Charles McConnell, Clara Anderson, B. F. Anderson), Juan M. Legarza (successor of Luciana Coscorosa), Charles Clute, J. B. Crandall, I. B. English, Juan M. Legarza (successor of Juan Erquiaga), H. N. Fulgham, Jerry Hearn, Margaret Hearn, Guadalupe Hurtado, E. Landasabel, C. L. Lowery, Guadalupe Hurtado (successor to T. A. Magor), W. H. Minor, Philoma M. Minor, J. D. Minor, Jr., Adelaide Mullaney Sullivan, Regina Mullaney, Thomas Scott (sued as First Doe), Lena Scott (sued as Second Doe), Victor Rubianes (sued as Third Doe) and Thomas F. Minor (sued as Fourth Doe), be and each of them hereby are, and each and all of their servants, agents and attorneys, and all persons acting by, through or under them, with respect to the water rights and lands claimed or owned by them be and they hereby are forever enjoined and restrained from taking, diverting or using any of the waters of Quin River, or its tributaries or branches, or from damming, interfering with or retarding the flow of any of the waters thereof so as to interfere with the right of the said Ellison Ranching Company (a corporation), to take, divert and use the quantities of water above adjudged to it, or so as to prevent the said Ellison Ranching Company (a corporation), from receiving at its places of diversion the respective quantities of water so adjudged to it, except that nothing herein shall be construed to interfere with the rights of the several defendants who have been adjudged to have rights superior to the several rights of the said defendant, Ellison Ranching Company, to take, divert and use the quantities of water so adjudged to them respectively, and so adjudged to be superior to the respective rights of the said Ellison Ranching Company.

XV.

That the defendants, Jerry Hearn and Margaret Hearn, be and they hereby are commanded to drain the lakes and swamps on the Lower Hearn Ranch within as short a time as is reasonably possible, and to keep the same drained to the end that the lower owners may have the benefit of the waters collecting in such lakes or swamps after the same has been used for the irrigation of the property of the said defendants.

XVI.

Each of the defendants herein is enjoined and restrained from maintaining any dam, ditch, levee or other works which shall in any way interfere with the right of plaintiff to receive the several quantities of water adjudged to it, having due regard to the rights adjudged to the defendants herein, or which shall in any way interfere with the right of the cross-complainant, Ellison Ranching Company, to receive the several quantities of water adjudged to it, having due regard to the relative rights adjudged to such defendants, and the said defendants are enjoined and commanded to so open or remove the said dams or so close or otherwise regulate the said ditches so as to permit the water of said river to flow to the lands and points of diversion of the said plaintiff and of the said cross-complainant, Ellison Ranching Company, at all times when the said plaintiff and the said cross-complain-

ant are respectively entitled to water under the provisions of this decree, having due regard to the rights and priorities adjudged to the defendants herein.

XVII.

In the event of an occasional season so unusually and extremely dry that the waters of Quin River and its tributaries would not reach plaintiff's lower properties in any useful quantity, even if allowed to remain in the stream unobstructed and not diverted (except by parties prior in right to plaintiff), then parties subsequent in right to plaintiff may use such waters in the order of their priorities, provided they shall not infringe any other rights established by this decree.

And in the event of an occasional season so unusually and extremely dry that the waters of any tributary or tributaries of Quin River would not reach said river even if allowed to remain in the stream unobstructed and not diverted (except by parties prior in right to the plaintiff), then parties subsequent in right to plaintiff may use the waters of such tributary or tributaries, provided no other rights herein established be interfered with.

√But in any proceedings the burden shall be on such junior appropriators to show by a preponderance of the evidence that the waters of said river and its tributaries would not reach the lower properties of plaintiff, or that the waters of such tributary or tributaries would not reach the said river, as the case may be.

XVIII.

The parties to this action shall pay their own costs and disbursements therein incurred.

Done in open Court this 9th day of April, 1919.

E. J. L. TABER,
Acting District Judge.