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OCT 5 1948
DEPARTMENT
OF
ATTORNEY GENERAL

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

In the Matter of the Determination of the Relative Rights in and to the Waters of RODEO CREEK and Its Tributaries in Washoe County, State of Nevada.	No. 118,190, Dept. No. 2

FILED
Oct 4 1 48 PM '48
CLERK
BY J. Morand
DEPUTY

FINDINGS OF FACT

AND

CONCLUSIONS OF LAW

This matter came on regularly to be heard in the Courtroom of the above-named Court in the Courthouse of Washoe County, Nevada, at Reno, Nevada, before Hon. A. J. Maestretti, Judge of said Court, at 10:30 o'clock A.M. on Monday, the 2nd day of August, 1948.

The applicant appeared in person by Hugh A. Shamberger, Assistant State Engineer of the State of Nevada, and by Hon. Alan Bible, Attorney General of Nevada, his attorney, by and through Homer Mooney, Deputy Attorney General.

The State Engineer's order of determination together with the data and map required to be assembled, which were filed June 10, 1948, with the Clerk of this Court and made a part of the record pursuant to Section 34 of the Water Law, were before the Court as if exhibits herein.

No other person, party, claimant, water user or objector appeared at the hearing or herein either by personal appearance, by attorney or by any pleading or document filed.

Evidence, oral and documentary, was offered and adduced before the Court on behalf of the applicant and in support of the application and no evidence was adduced or offered to the contrary.

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Whereupon the evidence being closed and the arguments being heard the Court in consideration of the evidence and the premises and free and clear of all objection as to the competency, relevancy and materiality of the evidence adduced does now make, enter and sign its Findings of Fact and Conclusions of Law herein, that is to say:

FINDINGS OF FACT

The Court finds as aforesaid:

1. That this Court has jurisdiction of and over the subject matter of this proceeding and the parties thereto.

2. That all notices, orders and process required by law in the above-entitled matter, whether before the State Engineer or this Court, have been duly given, made and served pursuant to law or have been duly waived.

3. That a certified copy of the Order of Determination of the State Engineer, together with the original evidence and transcript of testimony filed with or taken before the State Engineer and duly certified by him was duly and regularly filed with the Clerk of the above-entitled Court, being the clerk of the county in which said stream system is situated, which said Order of Determination was duly and regularly made as required by law.

4. That upon the filing of the certified copy of said order, evidence and transcript with the Clerk of this Court as aforesaid, the State Engineer procured an order from this Court setting the time for hearing of this matter before this Court for Monday, August 2, 1948, at 10:30 o'clock in the forenoon of said day.

5. That the State Engineer immediately mailed a copy of a certified copy of said order setting the time for hearing, by registered mail addressed to each and every party in interest

in these proceedings at his last known place of residence and caused the same to be published at least once a week for four (4) consecutive weeks in a newspaper of general circulation published in Washoe County, State of Nevada, which said county is the only county in which Rodeo Creek and its tributaries or any part thereof is located and the State Engineer has filed with the Clerk of this Court proof of such service by registered mail and by publication.

6. That Rodeo Creek and its tributaries is a stream system situate entirely within the County of Washoe, State of Nevada.

7. That all matters of fact set forth in the affidavit of Hugh A. Shamberger, Assistant State Engineer, sworn to the 27th day of July, 1948, which was filed in this Court and cause and received in evidence at said hearing are true and are supported by the evidence taken herein and are not denied and no such matter is denied.

8. That no objection was made or exists in point of fact or at all to the Order of Determination of the State Engineer in the above-entitled proceedings; that the same is true and correct and is not denied or objected or excepted to and is supported by the evidence admitted herein; and

The Court, in consideration of the premises and of the foregoing Findings of Fact and in consideration of the law of the State of Nevada in such case made and provided, makes, signs and enters the following:

CONCLUSIONS OF LAW

1. That this Court has jurisdiction of the subject matter and the parties in this proceeding.

2. That all notices, orders and process required by law

in the above-entitled matter whether before the State Engineer or this Court have been duly given, made and served, pursuant to law or have been duly waived.

3. That the Order of Determination by the State Engineer in the above-entitled matter as made by him and as filed with and presented to this Court for establishment, approval, confirmation, affirmation and adoption and for the decree of this Court thereon ought to be established, approved, confirmed, affirmed and adopted without modification or change and that the judgment and decree of this Court ought to be entered herein to that effect.

Let judgment be entered accordingly.

Signed, entered and filed this 2nd day of Oct 1948.

C. J. Maestretti

DISTRICT JUDGE

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IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

In the Matter of the Determination of the Relative Rights in and to the Waters of RODEO CREEK and Its Tributaries in Washoe County, State of Nevada.	No. 118, 190 Dept. No. 2

FILED

Oct 4 1948 PM '48

E. ROBERTS CREEK

BY J. Moran

JUDGMENT AND DECREE

The above-entitled matter came before the Court on the 2nd day of August, 1948, at 10:30 o'clock in the forenoon of said day, having been regularly set down for hearing at that time.

Hugh A. Shamberger, Assistant State Engineer, appeared in person for the State Engineer of Nevada, the applicant herein, and was represented by Alan Bible, Attorney General of the State of Nevada, his attorney, by and through Homer Mooney, Deputy Attorney General. No other person or party appeared in person or by attorney or by any written appearance, pleading, objection, exception or other paper, filed in these proceedings, or at all.

Thereupon evidence, both oral and documentary, was adduced before the Court by and on behalf of the applicant and no evidence was adduced or offered on behalf of any respondent or objector, or any other person whatever.

Whereupon, the said evidence being closed, the matter was submitted to the Court for its order and decision on the facts and the law applicable thereto.

Counsel for applicant as such and as Attorney General waived in open Court all notice and any further notice of the Findings of Fact, Conclusions of Law or Judgment and Decree herein and consented that they may be signed, entered and filed forthwith

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and without any further or other notice to him either as attorney for applicant or as Attorney General.

Whereupon, on the motion of the said applicant, by and through his said attorney, this Court orally pronounced and entered its decision and order that the said Order of Determination of the State Engineer in the above-entitled matter and proceedings be and the same is established, approved, adopted, affirmed and confirmed without any modification or change thereof or therein.

Thereafter, and on the ____ day of _____, 1948, the Court made, signed, entered and caused to be filed herein its Findings of Fact and Conclusions of Law in the premises.

Therefore, in consideration of the premises and the law in such cases made and provided, it is hereby

ORDERED, ADJUDGED AND DECREED that this matter came on regularly to be heard on August 2, 1948, and that this Court has jurisdiction of the subject matter and the parties to this proceeding and that all notices, orders and process required by law in this matter, whether before the State Engineer or this Court have been duly given, made and served pursuant to law or have been duly waived; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that the Order of Determination of the State Engineer in the above-entitled matter and proceedings be and the same hereby is established, approved, adopted, affirmed and confirmed by this Court without any modification thereof or change therein.

For the sake of certainty the words and figures of said Order of Determination are here set out, as follows, to wit:

"IN THE OFFICE OF THE STATE ENGINEER

OF THE STATE OF NEVADA

IN THE MATTER OF THE DETERMINATION)
OF THE RELATIVE RIGHTS IN AND TO THE : SS.
WATERS OF RODEO CREEK AND ITS TRIBU- :
TARIES IN WASHOE COUNTY, NEVADA.)

ORDER OF DETERMINATION

The State Engineer of the State of Nevada upon petition of Ira G. Blundell, a water user on the Rodeo Creek stream system, hereinafter described, requesting the determination of the relative rights to the waters of said stream system, made an investigation on December 11, 1946 under and pursuant to Section 18 of Chapter 140 of the statutes of Nevada of 1913 and acts amendatory and supplementary thereto and found that the facts and conditions justified such determination, and on February 24th, 1947, entered an order granting said petition.

The State Engineer received and filed in his records maps and statements of claim to the use of water from said stream system required under the provisions of said Chapter 140, Statutes of 1913 and acts amendatory thereof and supplementary thereto. There being only one claimant upon said stream system and it waived in writing the provisions of said Chapter 140, Statutes of 1913, and acts amendatory thereof and supplementary thereto, with reference to notices and the service and publication thereof.

NOW, THEREFORE, in accordance with the provisions of Chapter 140, Statutes of Nevada of 1913 and acts amendatory thereof and supplementary thereto, the State Engineer hereby makes and files and caused to be entered of record in his office, this Order of Determination, defining the right of the claimant to the waters of said Rodeo Creek and tributaries, as hereinafter defined.

CLAIMANT

As a result of the field investigation above referred to, the State Engineer hereby finds that the normal flow during the

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irrigation season of the waters from Rodeo Creek, as hereinafter defined, since prior to 1893, has been and now is placed to beneficial use by Ira G. Blundell and his predecessors in interest and that there is now only one appropriator, namely, Ira G. Blundell that is using the flow of said Rodeo Creek stream system for irrigation and domestic purposes. All of these waters are being used under a claim of vested right. Abstract of claims and title insurance of record in this office, together with other data, show that the present claimant and appropriator, Ira G. Blundell, is the successor in interest to the vested rights initiated in 1892.

Ira G. Blundell is the sole successor of the vested rights to the use of water from Rodeo Creek and tributaries as hereinafter defined, and now owns all the lands on which the waters have been placed to beneficial use for irrigation purposes. In addition, claimant owns certain lands upstream from the ranch through which Rodeo Creek runs and which are used for grazing purposes. Claimant Blundell has a grazing permit from the Bureau of Land Management to graze 150 head of cattle in common with others on the public domain in this area.

SOURCE

The words "Rodeo Creek and tributaries" as used in this Order shall be interpreted as including Rodeo Creek situated westerly from the southern end of Pyramid Lake in Washoe County, Nevada, on the easterly slope of the Pah Rah range of mountains, flowing in a northerly direction, together with all its tributaries and all springs located on the ranch of claimant, Ira G. Blundell.

IRRIGATION

Season:

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The irrigation season is herein fixed as being from March 1st to October 1st of each year.

Duty of Water:

The duty of water is the amount of water in acre feet per season required to be placed on an acre of land in a manner consistent with good irrigation practice to yield adequate crop returns. On this particular stream, like so many others of a similar type, the flow varies with the amount of snow and rain that falls on its drainage basin. This amount varies from year to year and it is usually the case that when the waters are placed to beneficial use for the irrigation of land over a large period of time, that the amount of land so irrigated represents the total amount of land that can be successfully irrigated. Such is the case on Rodeo Creek and without the installation of storage reservoirs, it is felt that claimant Blundell is making a full use of the waters of Rodeo Creek for the irrigation of his 58.36 acres of land.

The irrigated land is all on rather excessive slopes, varying from about 2% to 10% and naturally requires large applications of water in order to fill the subsoil to a point which will produce crops. The duty of water is therefore justifiably low.

The State Engineer hereby sets the duty of water to be 8.0 acre feet per acre of land during the irrigation season of March 1st to October 1st of each year.

It is further provided herein that claimant Ira G. Blundell or his successors in interest, in order to take advantage of excess water during the spring run-off, may increase the rate of direct flow diversion; provided that the total diversion during any one calendar month shall not exceed 2.5 acre-feet for each

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acre of land granted a water right, and provided further that the total diversion during the irrigation season shall not exceed the duty of water in acre-feet as set in this Order.

EXTENT OF RIGHTS OF CLAIMANT, IRA G. BLUNDELL

The State Engineer hereby determines that Ira G. Blundell is the lawful successor in interest to, and the owner of, the vested right to the use of the waters of said Rodeo Creek and tributaries for irrigation and domestic purposes, and to water at said creek livestock from his property and from the public domain readily available thereto, in a number equal to his permitted right to range on the public domain and the State Engineer hereby determines the source of water supply, the location of points of diversion, the year of priority, the cultural acreage, the legal subdivisions, section, township and range and duty of water for claimant as set forth in the following tabulation:

Claimant: Ira G. Blundell — Proof No. 02336 Amended

Source: Rodeo Creek and tributaries

Points of Diversion: From Creek in Lot 2, Sec. 28, T. 23 N., R. 22 E. or N. 79° 20' W., 845' from S¼ corner of said Section 28.

From Creek in Lot 2, Sec. 28, T. 23 N., R. 22 E., or N. 59° 05' W., 940' from S¼ corner of said Section 28.

From Spring No. 2 in SW¼ SW¼ Sec. 28, T. 23 N., R. 22 E., or N. 51° 05' W., 1885' from S¼ corner said Sec. 28.

From Spring No. 1 in Lot 4, Sec. 28, T. 23 N., R. 22 E., or N. 17° 45' W., 1870' from S¼ corner said Section 28.

From Creek in Lot 7, Sec. 28, T. 23 N., R. 22 E., or N. 84° 30' E., 2080' from W¼ corner said Sec. 28.

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Year of Priority	Cultural Acres	Location Sub-div.	Sec.	T.	N.	R. E.	Cultural	Duty of Water Cont. flow	ac.ft.
1892	1.98	Lot 1	28	23		22	Alfalfa	0.037	15.84
"	2.33	Lot 2	28	23		22	"	0.044	18.64
"	25.68	Lot 4	28	23		22	"	0.485	205.44
"	1.01	Lot 4	28	23		22	Garden Orchard	0.019	8.08
"	3.99	Lot 5	28	23		22	Alfalfa	0.075	31.92
"	18.51	Lot 6	28	23		22	"	0.349	148.08
"	1.94	SW SW	28	23		22	"	0.036	15.52
"	1.76	Lot 7	28	23		22	"	0.033	14.08
"	1.16	Lot 8	28	23		22	"	0.022	9.28
Total	58.36 acres							1.10 c.f.s.	466.88 A.F.

STOCKWATERING

The claimant, Ira G. Blundell, claims a vested right for stockwatering purposes.

The ranching operations at the Blundell ranch have from their inception been stock raising operations. At the present time, Mr. Blundell has a permitted right from the Bureau of Land Management to graze 150 head of cattle in common with others in the area which is serviced from Rodeo Creek. In addition, Mr. Blundell owns certain grazing lands southerly from his ranch property and through which Rodeo Creek runs.

It is hereby ordered that claimant, Ira G. Blundell, be and is hereby entitled to use the waters of Rodeo Creek for stockwatering purposes, in an amount sufficient to water all of the stock which he is permitted to graze on the public domain within the service area of Rodeo Creek, with the year of priority of 1892.

CHANGE OF PLACE OF USE

All waters allocated under this Order shall be appurtenant to the lands designated herein. In the event the water user, under this Order, desires to change the place of use of any of the waters herein allocated, to new lands, such water user must make

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