

RIGHTS ON SOUTH FORK.

Priority 1. BLUE MTN. RIGHT.

A. Description.

This is the right of the Blue Mountain Irrigation Co., which was instituted upon the settlement of Monticello in 1887, and which has been enlarged ~~several times~~, but before the intervention of any junior right; At said date the predecessors of the Blue Mountain Irrigation Co. built a canal from South Fork to North Fork, which latter stream was insufficient for their needs.

Included with the right to South Fork water at the point of diversion of so-called Blue Mtn. Ditch No. 2, is a right to the of Soldiers Spring.

(See the Description of Priority 1 on North Fork).

In addition there is the small area of 1.4 acres, irrigated solely from South Fork by Blue Mtn. Ditch No. 2, belonging to W. A. Frost.

B. Opinion.

(1) Refer to North Fork, Priority 1 Opinion, Paragraphs numbered 2,4,5,6.

(2) Measurement of the water diverted from South Fork shall be made near the place of diversion, and of the flow of Soldier Spring at its point of entrance to the canal, and the allowance of 0.5 sec. ft. made for seepage losses on the way to North Fork.

Or, if it be impracticable to maintain measuring stations at these points, measurement shall be made near the place of delivery to North Fork, as at present, and no allowance for seepage shall be made.

(3) Claimant must maintain diversion works and canal so that no unreasonable loss will occur from them.

(4) If Monticello town be unable to draw the amount of water it actually needs for municipal purposes in the non-irrigation season (Sept. 1st to April 30th) from North Fork (see Paragraph No. 6 on page 104), it may draw additional water from South Fork, but not

to exceed 2 sec.ft. from both forks. The seepage allowance would apply here, as in the irrigation season.

(5) Aside from the seepage allowance, the flow for irrigation shall be ordinarily 2.2 sec.ft. from May 1st to 31st, incl.; 5.0 sec.ft. from June 1st of 15th; 7.0 sec.ft. from June 16th to August 31st; if available.

If North Fork be unable to furnish its two-thirds share, this is the greatest amount to be drawn on South Fork, not including said seepage allowance: 6.5 sec.ft. May 1st to 31st, incl.; 15 sec.ft. June 1st to August 31st, incl.

#### C. Remarks.

(1) See Priority 1. Remarks, of North Fork Rights (page 4).

(2) Ordinarily, one third of the water in Blue Mtn. Ditch.No.1 comes from North Fork, and two-thirds from South Fork. The place of application for South Fork water has been on the fields listed under Blue Mtn. Ditch No. 1. The acreage of water rights is 648. acres.

(3) The capacity of Blue Mtn. Ditch No. 2 in 1914, was not over 15 sec.ft. near its place of delivery, which limits its right to 15 sec.ft.

(4) The statement in Water Users Claim Temp. No. 58, that one-half the supply from South Fork later in the season is interpreted to mean that North Fork is reduced to the size of South Fork, except during freshlets.

#### D. References.

Water Users Claims Temp. No. 11,31F,39,50,55,56,58,115,116,117, et alia. See also Priority 1 on North Fork.

#### E. Fields.

(See Fields, Paragraph No. 2, Blue Mtn.Ditch No.1, of Priority 1, North Fork Rights. (Page6)

In addition to the above area are Fields No.179,180,181, total area 1.4 acres, which are irrigated from South Fork only.

#### F. Canals.

Blue Mountain Ditch No. 2, which sometimes is called No.1 extension, and Blue Mtn. Ditch No. 1 and its branches.

Priority 2. John Bailey Rights.

A. Description.

Instituted by construction work and irrigation in 1894, and by a filing with the County Recorder in 1896.

B. Opinion.

Measurement shall be made at the headgate, and a system of rotation with other rights may be enforced. The rate of flow shall be from May 1st to 31st, incl.; 0.04 sec/ft.; from June 1st to 15th, incl.; 0.07 sec.ft.; June 16th to August 31st, 0.11 sec.ft./

C. Remarks.

This right really intervenes between early and later rights of the Blue Mountain Irrigation Co. which later rights were acquired only by enlarging canals. During the low water there is no doubt about Bailey's right being junior and unavailing because there will not be half the water needed by Priority 1-, or Blue Mtn. Right. During highwater there is plenty for both. The period between high and low water, when half the Blue Mtn. right would get water, and the other half, not, but Bailey's right should, does not exceed a day, and possibly is only an hour or two long, South Fork drops so rapidly.

It is considered that the facts show abandonment of water rights for any other areas than the fields accepted.

D. Referennes.

Water User's Claims Temp. No.48, et alia.

E. Fields.

(See Tabulation of Fields, and Sheley Map of Monticello Area).

Includes fields No. 182 and 183, total 6.5 acres of water rights.

F. Canals.

Ditch No. 183, or as it may be called John Bailey Ditch.

Priority 3. APPLICATION NO. 984.

A. Description.

Sometimes known as the Pioneer irrigation system.

This is the highest diversion on South Fork. The right was instituted on July 23rd, 1906, by a filing with the State Engineer; on May 3rd, 1911, a filing No. 92 for change of place of use was made; on November 21st, 1911, the proof of completion of construction and of beneficial use was presented; after many corrections were made in said proof, on January 11th, 1913, the final certificate of appropriation, No. 98B., was issued.

This right includes only such lands as were really irrigated before or in 1914, as shown by the Sheley surveys, and also were described by both the application as amended by change No. 92, and the final certificate.

The certificate was issued to Geo. A. Adams, F. J. Adams, C. R. Christensen, and E. B. Hyde; a flow of 10 sec. ft. was granted to irrigate 862 acres of land, from April 1st to September 30th, incl., and of 0.25 sec. ft. for domestic purposes the rest of the year.

B. Opinion.

(1) The proof of construction of works and application of water to beneficial use are made under oath and are supposed to represent the existing facts and not intentions; but if the facts vary widely from such proof, applicants surely can not be allowed to profit by such errors of its surveyors.

(2) Therefore only lands irrigated in 1914, or which had been irrigated without doubt, go to make up this acreage for rights, namely 365.2 acres.

(3) Claimants are given the benefit of the doubt by the assumption that lands so included which were fallow that is, not irrigated<sup>in 1914</sup> as used throughout this report, were irrigated in 1911 or earlier, and that the flow has been diverted from them to other lands. This amount, to-wit 59.7 acres, will be subtracted from later "Pioneer" rights.

(4) It is not within the province of this work to establish or decide upon titles to land or water rights, but only to ascertain as thoroughly as possible and so express just what such water rights may justly be considered to be. There is no case, fortunately, where the ownership of land or water seems to affect any priority or extent of water right.

Therefore it appears that it is no question to be decided by the writer whether the Pehrsons and others' own interests, also, in this water and lack of mention of their names is without prejudice to them.

(5) If, however, the use of the water has been transferred to other lands, by claimants of record or otherwise, such has been done only by the loss of right of lands described as justly of this priority, to the extent of the change of place of use. The excess acreage of rights erroneously granted by the State, can not be said to have existed, or to exist, and therefor is not transferable.

(6) Claimants request for a flow of water for domestic and stock watering purposes in the irrigation season, even if such grant would injure prior rights for irrigation solely, is denied.

(7) The grant of 0.25 sec.ft. for domestic purposes is invalid in fact, since such a small flow could not possibly reach lands seven miles away unless piped.

(8) In addition to the flow of water, about to be described, which is deemed necessary for irrigation, claimant is entitled to two (2) sec.ft. for the purpose of overcoming exceptional seepage losses resulting from claimants ditch being much longer than common. This shall be during the irrigation season only.

(9) For the 365.2 acres of water rights, this shall be the approximate flow to each acre of land: May 1st to 15th, 1/200 of a sec.ft.; May 16th to 31st, 1/120 of a sec.ft. or 2,3,4, and 6 sec.ft. respectively, for the entire right.

(10) A system of rotation may be adopted for all rights using the Pioneer Ditch, or required.

(11) Measurement shall be made at the point of diversion from the creek, unless it be found impracticable on account of the isolation of said point from the residence of any possible gage-observer; or it may be made at the place hitherto used, namely the place of subdivision of Pioneer Ditch into laterals, in which case only 1 sec.ft shall be allowed for unusual seepage losses in the branches, the other being considered consumed already.

C. Remarks.

Appropriators had much trouble with getting correct surveys of their land and canals.

The grant of water given by the State for domestic purposes, when there is no other water in the canal, would entirely sink into the ground near the head, or freeze up solid. See the discussion upon water for domestic purposes in General Remarks.

The presumption must be that all areas reclaimed by the end of the 1911 irrigation season were shown on the map.

D. References.

Water Users Claims Temp. No.2-10, incl.; 106.219 et alia. Files of State Engineer for Application No.984, Change No. 92. Certificate No. 98B. See later Pioneer rights.

E. Fields.

Area of each field is given in the Tabulation of Fields; area and crop are shown on Sheley maps, Adams, Half-way-Hollow, and Monticello Areas.

Includes Fields No. 103, 106-109, incl.; 111,118,119; 121 to 129, incl.; 132, 134, 135,136.151,152,157-162,incl.; 176,177,178, and 123a,130a,132a,138a, 141a,149a, all of which were irrigated in 1914, a total of 305.5. acres.

Fallow in 1914, but having formerly had rights. Fields No.110 and 174, total 59.7 acres. Grand total 365.2 acres.

F. Canals.

"Pioneer Ditch and its laterals.

Priority 4. PIONEER 1908 RIGHTS.

A. Description.

This embraces lands irrigated through the Pioneer ditch, but not entitled to this priority. This is based solely upon construction of irrigation works, and reclamation of land. Priority 7, of Pioneer 1912 Right is a companion to this and describes the same fields.

Claimants are J, T. and H. E, Pehrson, W. A. Frost, F. P. and Hohn H. Jones, W. B. Hyde, Hanson Bayles, C. R. Christensen, Geo. A. Adams, et alia.

B. Opinion.

- (1) Pioneer Rights of 1908 and 1912, describe the same fields aggregating 274.8 acres of irrigated land. From this amount is to be subtracted 59.7 acres for lands irrigated at the expense of other lands or Priority 3, which latter have not forfeited their priority. The balance, 215.1 acres is divided equally into 107.6 acres of 1908 Right, and 107.5 acres of 1912 Right.
- (2) Both 1908 and 1912 Rights will apply to the same lands, unless the parties interested within 30 days after this report, or opinion or decision, is made public at Monticello, file statements with the general committee of the water users association, segregating 1908 and 1912 rights upon specifically named fields. Except that Fields No. 117, 120, 138, 164., 165, and 175 belong to the 1912 right.
- (3) The duty of water., or acreage to be irrigated per second foot, shall be the same as for Application No. 984, namely from May 1st to 15th, 200 acres; May 16th to 31st, 120 acres; June 1st to 15th, 90 acres; June 16th to August 31st, 160 acres; Expressed in sec.ft., for 107.6 acres, this means 0.5, 0.9, 1.2, and 1.8 sec.ft., respectively, whenever available.
- (4) Fields coming in legal subdivisions of Application No. 4294 are assumed to belong to that right entirely.
- (5) Fields named in Application No. 4835 are also to be watered by Verdure Creek, and if they receive a greater quantity of water than that assigned in this right, it may be considered an abandonment

of this right,

(6) Measurement shall be made at the place of measurement for Priority 3.

C. Remarks.

Fields No. 117, 120 & ( see Paragraph No. 2 of Opinion) are areas named in the application, but omitted from the proof. Their absence from the latter is presumed to mean that they were not irrigated before the season of 1912.

Fields No. 101, 153, 154, 155, 156a, and 170 are excluded because there is no doubt that they were not irrigated until 1914, if then. Fields No. 141, &, which are included in Application No. 4835 were irrigated by South Fork water in 1914, and obtained no water from Verfure Creek.

D. References.

Water Users Claims Pemp. No. 1 to 10 incl.; 106, et alia.

E. Fields.

(The area of each field may be seen in the Tabulation of Fields, or on Sheley maps Adams, Half-way-Hollow, and Monticello Areas.)  
107.6 acres or rights.

Includes Fields No. 102, 104, 104a, 105, 130, 131, 133, 137, 139, 143, 156, 163; 166 to 169, incl.; 173, irrigated in 1914, and belonging either to 1908 or to 1912 rights.

And Fields No. 141, 147, 148, 149, 150, and 151-a (52.4 acres) which are named also in Application No. 4835. These were irrigated in 1914 by South Fork water alone.

And fields No. 140, 171, and 172, total area of 18.3 acres, which had been irrigated in previous years but were fallow in 1914. (These do not constitute anything more than alternative places of use of 1908 and 1912 rights.)

F. Canals.

Pioneer Ditch in tis laterals.

Priority 5. APPLICATION NO. 4294.

A. Description.

This is a filing made with the State on June 28, 1911, By C. R. Christensen and Geo. A. Adams, Jr. Application was approved May 5th, 1913, and final proof will be due October 30th, 1917.

Enlargement will be made of the irrigation structures of Priority 3. Applies for 10 sec.ft. to irrigate 880 acres, from April 1 to October 31st, and 500 acre-feet to be stored at any time in the year for the same area. Storage will be in sections 30 and 31, with center of impounding dam 225 ft. East, 1190 ft North from West 1/4 Cor. of Sec. 30 (making an impossible description) Area of lake to be 10 acres. Land to be irrigated in Secs. 19, 20, 31, 32, in T. 34 S., R. 24 E.

B. Opinion.

Irrigation is not deemed necessary before mid-April, unless water is unavailable later. The intention to cover certain lands is not sufficient, but the application must describe them correctly or must be amended so as to describe them. This application is in the hands of the State Engineer, but it is suggested that for such land as may be reclaimed finally the rate of flow, or number of acres to each sec.ft., be from May 1-15th, 120 acres; May 16th to 31st, 90 acres; June 1st to August 31st, 60 acres. Measurement shall be made at the place of measurement of Priority 3. (See Remarks.)

The apportionment of water each year will be on the basis of the area cultivated and irrigated each year, until proof of completion of work be made.

This Right will share in the benefit of the 2 sec.ft. allowance given to Pioneer Ditch on account of unusual seepage losses. The reservoir must be full as soon as possible after the close of the irrigation season.

C. Remarks.

It is stated that the intention of claimants was to irrigate land in Sess. 29 and 30, instead of 30 and 31. The storage dam was under construction in 1914 at a place not corresponding to the location given in the application.

The duty of water is suggested with the knowledge that the reservoir site will not store more than 100 acre-feet, and will command only parts of the area; that the Half-way-Hollow section appears somewhat warmer than Monticello and will need water earlier; remembering what the measurements of 1914 and 1915 have shown to be available in South Fork and the prior rights. (Also for the purpose of estimating the water available for later rights, it is assumed that the acreage finally reclaimed will not exceed 400 acres).

Undisputed testimony at the "Hearing" in January, February, 1915, stated that Fields No. 113 and 1914 were irrigated at a date latter in the season than when they were surveyed by Sheley in 1914.

D. References.

Water Users Claims Temp. No. 201, et alia; Application No. 984; this application in the files of the State Engineer.

E. Fields.

(Area of fields irrigated in 1914 may be obtained from Tabulation of Fields, and from Sheley maps, Adams Area. Includes in 1914: Fields No. 112 to 116, incl.; total 80.5 acres.

F. Canals.

Pioneer. Ditch.

Priority 6, APPLICATION NO. 4312.

A. Description.

A filing made by Alpha B. Barton on June 28, 1911, with the State, upon the flows of North and South Forks below their confluence, that is on North Montezuma Creek. It is more fully described under North Priority 9, Application No. 4312.

B. Opinion.

(See North Fork Priority 9-Appl. No. 4312).

C. Remarks.

See North Fork Priority 9)

For the purpose of roughly estimation the prospective surplus of water for junior rights to this one, we assume that one-half of only of the acreage will be reclaimed finally, and one-half of this water must come from South Fork.

D. References.

See North Fork Priority 9.

E. Fields.

See North Fork Priority 9.

F. Canals.

Christensen Ditch.

The relative priorities of South Fork and North Fork rights which are later than this right upon both streams are as follows:

The 1912 part of Priority 6 of South Fork is equal in priority, to Priority 10 of North Fork. Then comes the 1913 part of priority 6 of South Fork as of equal priority to Priority 14 of North Fork. Then come Priorities 15, 16, and 17 of North Fork, in the order named and the 1914 part of Priority 6 of South Fork.

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Priority 7. PIONEER 1912 RIGHT.

A. Description.

This is the later half of the rights acquired by J.T. Pehrson et al, and described in Priority 4, Pioneer 1908 Right.

B. Opinion.

- (1) (See Pioneer 1908 Right, Opinion, paragraphs 1, 2, 4, and 5)
- (2) Of the 107.5 acres of water rights, acquired as shown in

Priority 4, a half or 54 acres supposed to have been irrigated first in 1912, at the same time as Priority 10 of North Fork; and the other half, 53.5 acres, in 1913 at the same time as Priority 14 of North Fork.

(3) Included in this Priority there are certain fields, which were irrigated first in 1914, by South Fork water, and without the benefit of any filing with the State, except No. 154, whose area totals 100.6 acres.

(4) The duty of water, or number of acres for each second foot flow shall be 90 acres from April 16th to May 15th, and 60 acres May 16th to August 31st. Or for a total of 107.5 plus 100.6 acres or 208.1 acres: 2.3 sec.ft. in April and early May, and 3.5 sec.ft. thenceforth whenever available. Measurement shall be made at the same place as for Priority 3, Application No. 984.

(5) In addition to said supply, claimants under this priority shall be allowed a quantity of water to overcome the excessive seepage losses, before the seepage allowance of Priority 3 starts; that is 2 sec.ft. from April 16th to 31st, if the place of measurement be near the head of Pioneer Ditch, or 1 sec.ft. if measurement be made at the place of division on said ditch.

(6) Claimants may agree to segregate 1912 and 1913 rights upon definite fields, if they care to do so.

C. Remarks.

So far as South Fork is concerned, all developments of 1912, 1913, and 1914 could stand together, but there is a possibility that the needs of Application No. 4312 will require their separation.

The claims of various owners to this priority are made together and therefore treated together.

D. References.

Water Users Claim Temp. No. 1 to 10, incl.; 106, et alia.

E. Fields.

Area of every field may be obtained from Tabulation of Fields, or Sheley maps.

(1) See Priority 4. Fields No. 102, 104, 104a, 105, 130, 131, 133, 137, 139, 143, 156, 163; 166 to 169, incl.; 173, irrigated in 1914.

And Fields No. 141, 147, 148, 149, 150, and 151-a (52.4 acres) which are named also in Appl. No. 4835 to be irrigated from Verdure Creek. See Priority 4 South Opinion. And Fields No. 140, 171, and 172, total area of 18.3 acres, which had been irrigated in previous years but were fallow in 1914 and constitute alternative places of use.

(1) All preceding may belong to either 1908 or 1912 rights.

(2) Certainly belonging to 1912 Right:

Fields No. 117, 120, 138, 164, 165, 175, of 45.5 acres and certain fields irrigated first in 1914, is No. 101, 153, 154, 155, 166a, 170 total area 58.0 acres, plus Field No. 154, which has rights under Application No. 4835 upon Verdure Creed, of 42.6 acres, totaling 100.6 acres.

F. Canals.

Pioneer Ditch and laterals.

Priority 8. APPLICATION NO. 5790.

A. Description.

A A filing with the State Engineer bearing the priority date of October 12, 1914, made by F. P. Jones, and calling for 5 sec.ft. to irrigate 160 acres, "in the early Apring and in Autumn", altho April 1-December 31st is named. The diversion point is that of Pioneer Ditch and it is supposed that it is to be enlarged.

B, Opinion.

This application must follow the regulations of the State Engineer. A duty of water of 1 sec.ft. to 60 acres from April 16th to August 31st should yield sufficient water foe a summer crop.

C. The use of this water on fields possessing full title to a senoir priority upon the same stream should be considered a waste and non-beneficial.

C. Remarks.

A senior right is supposed to be satisfied according to its needs of the time being before any water is diverted through a junior right: Therefore it is waste to put water from a junior

right upon land amply irrigated by a prior right.

D. References.

Water Users Temp. Claim No. 207 and Application No. 5790 in files of State Engineer.

E. Fields.

To cover the  $N\frac{1}{2}$  of Sec. 1 T. 34 S., R 23 E. S.E.M.

F. Canals.

Pioneer Ditch?