IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR DAGGETT COUNTY

STATE OF UTAH

IN THE MATTER OF THE GENERAL DETERMINATION OF ALL THE RIGHTS TO THE USE OF WATER, BOTH SURFACE AND UNDERGROUND, WITHIN THE DRAINAGE AREA OF THE GREEN RIVER ABOVE THE CONFLUENCE OF, BUT INCLUDING POT CREEK, IN DAGGETT, SUMMIT AND UINTAH COUNTIES, UTAH.	INTERLOCUTORY JUDGMENT AND DECREE

Be it remembered that this matter came on regularly for hearing on the 31st day of October, 1958, on the objections and protest filed by Zelph S. Calder to the Proposed Determination of Water Rights submitted by the Utah State Engineer as to Pot Creek, a water source within the above adjudication, and upon the answers to said protest filed by said State Engineer, by William Allen as the successor in interest to Lee C. and Eva Dean Watson, and by M. Clark Feltch, individually and as executor of the Estate of Joel Evans, deceased; and the Court, having heard the evidence offered by the respective parties and being fully satisfied in the premises, finds that the judgment and decree entered by the United States District Court for the District of Utah on June 21, 1944, in the case of Calder v. Crouse, Civil No. 356, is binding upon the parties herein named, and that by said decree Crouse, and his successors in interest were given the right to the use of 5 second feet of the natural flow of Pot Creek, a tributary of the Green River, to be diverted at any time a natural flow of water is available in Pot Creek at the Matt Warner Dam from January 1st to December 31st inclusive of each year; and the Court further finds and concludes that all necessary parties are before it and that the subject matter of this cause is proper for consideration by this Court and that the State Engineer, both by statute and the prior order of this Court, had proper authorization to proceed with a general adjudication of the waters of Pot Creek;

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now, therefore, by virtue of the law and the findings aforesaid, the Court orders that judgment be entered as follows:

1. That this Court has full jurisdiction to hear and determine all matters connected with this adjudication and general determination proceeding.

2. That the Proposed Determination of Water Rights for Pot Creek, heretofore submitted by the Utah State Engineer, shall be modified and amended in the following respects:

(a) That Claims Nos. 1022, 1032, 1037, 1226 and 1227 ~~shall be supplemental and~~, as far as the protestant Zelph S. Calder is concerned, shall be satisfied by and shall be entitled to use the first 5.0 second feet of the natural flow of Pot Creek, measured at the Matt Warner Dam, during the irrigation season from May 1 to October 31 of each year; provided, however, that in the distribution of water under this order, the State Engineer may in his discretion retain the said first 5.0 second feet in the Matt Warner Reservoir during any period when release therefrom would be impossible or inconvenient and may thereafter release the same to satisfy the above numbered rights and claims as soon as it is possible and convenient.

(b) That Claim No. 1019 shall be entitled, as far as the protestant Zelph S. Calder is concerned, to storage only during the period from October 31 of one year to May 1 of the year following and during said period is entitled to the first 5.0 second feet of the natural flow of Pot Creek measured at the Matt Warner Dam; provided, however, that, in the distribution of water under this order, the State Engineer may order the installation of such measuring devices as may be necessary and may in his discretion retain the said 5.0 second feet in the Matt Warner Reservoir during any part of the period from October 1 of one year to May 1 of the year following and may release the same as soon thereafter as is possible and convenient.

(c) That if the said Matt Warner Reservoir fills and spills, all water spilled shall be first charged with satisfying the rights hereinabove mentioned in this paragraph two during their respective period of use.

(d) That as to Claims No. 1022, 1032, 1037, 1226 and 1227, the Court reserves jurisdiction to determine the amounts and flows of water to be awarded the respective claimants after issues have been raised by responsive pleadings. Now decide

(e) That in all other respects not herein otherwise expressly stated the said Proposed Determination of Water Rights is upheld and affirmed.

3. That as to the rights noted in said Proposed Determination as Colorado rights this Court disclaims any jurisdiction and the said protest is dismissed for lack of jurisdiction as it pertains to said rights. Now distribute

Dated this _____ day of _____, 1959.

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DISTRICT JUDGE