

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT,
 IN AND FOR CACHE COUNTY, STATE OF UTAH

IN THE MATTER OF THE DETER-)
 MINATION OF ALL THE RIGHTS)
 TO THE USE OF ALL THE WATER,)
 BOTH SURFACE AND UNDERGROUND,)
 WITHIN THE DRAINAGE AREA OF)
 THE BEAR RIVER AND ALL ITS)
 TRIBUTARIES IN UTAH.)

FINDINGS OF FACT, CONCLUSIONS
 OF LAW AND DECREE

Civil No. 8220

Rich County Division

*File
 Final
 Decree
 on
 Red Book
 - Meadowville*

*NO AMENDMENTS
 MADE ON
 MEADOWVILLE.*

This matter having come before the court for trial on
 the 30th day of August, 1967, with the Honorable Lewis Jones
 presiding, on the protests of Luella N. Adams, Allen Adams,
 Phoebe Peterson, and A. H. Nebeker, represented by A. H. Nebeker;
 Von M. Argyle, Max Buck, Theris Cornia, John Wilson Dean, Francis
 Frazier, Clyde Longhurst, Harold D. Negus, William L. and Vergie
 J. Negus, Ted J. and Dixie Wilson, Jacob Rufi, and William D.
 Rufi, represented by Charles P. Olsen; Alton D. Cook, Donna T.
 Cook, Hattie Y. Sorensen, Mabel C. Rex, Lila C. Darrington, and
 Eleanor R. Cook, represented by Walter G. Mann; Deseret Livestock
 Company, represented by David A. Robinson; Harvey A. Sjostrom and
 Wilford G. Hale, represented by Harvey A. Sjostrom; Wallace J. and
 Connie Schulthess, represented by Fred L. Finlinson; United States
 of America, represented by H. Ralph Klemm, Assistant United States
 Attorney; Woodruff Irrigating Company, represented by Roland R.
 Wright; Utah Water and Power Board now designated as the Board of
 Water Resources, represented by Dallin W. Jensen, Assistant Attorney
 General; J. Winston Alter; Lew W. Cook; William V. Eastman and
 Arlo H. Eastman; Stephen C. Ellis; Grant Lamborn, Howard J. Lamborn
 and Keith Jessop; Moon Bay Company; Ezra Putman; P. H. Rex; LaRue
 M. Roselle; and Raymond R. Saville; representing themselves, and

upon the answers to said protests filed by the State Engineer of Utah, represented by Dallin W. Jensen, Assistant Attorney General, to the Revised Determination of Water Rights in the Bear River Drainage Area, Rich County, Utah, and

The court having ruled on April 10, 1967, that the failure to protest the Original Determination by William D. Rufi, Francis Frazier, John Wilson Dean, Von M. Argyle and Theris Cornia, or their predecessors, did not foreclose said water users from filing protests against the Revised Determination of Water Rights, and

It having been stipulated and agreed that the Revised Determination of Water Rights in the Bear River Drainage Area, Rich County, Utah, shall be amended as follows:

1. LaRue N. Roselle is entitled to the following described stock watering right:

Water Users Claim No. 3307. Source: Bear Lake. Map No. 8c, 8b, priority date: 1882, Diligence right for stockwatering from Jan. 1 to Dec. 31 from Bear Lake from shore of lake where the south line of Lot 4, Sec. 32, T14N, R6E, SLB&M, intersects the lake; thence northerly along lake shore to point where the east line of Lot 1, Sec. 29, T14N, R6E, SLB&M, intersects said lake, for 600 cattle, 3000 sheep, 60 horses.

2. A. H. Nebeker, Luella N. Adams, Allen Adams, and Phoebe Peterson are entitled to the following described stock watering right:

Water Users Claim No. 3306. Source: Bear Lake. Map No. 3a, priority date: 1882. Diligence right for stockwatering from Jan. 1 to Dec. 31 from Bear Lake from a point on the shore of the lake where the South line of Lot 5, Sec. 4, T14N, R6E, SLB&M, intersects said lake; thence northerly along the shore of the lake to a point where the East line of Lot 1, Sec. 33, T15N, R6E, SLB&M, intersects the lake, for 800 cattle, 1200 sheep, 50 horses.

3. The spelling of the name of owner of Water Users Claim No. 157 is corrected to read J. Winston Alter and his address is changed to P. O. Box 6221, Salt Lake City, Utah.

4. Max Buck is the owner of Water Users Claim No. 658 instead of Glen S. and Edith Huffaker as presently shown in the Revised Determination of Water Rights. The point of diversion for said claim is amended to read, S. 310 ft., E. 265 ft., from the NE Cor. of Sec. 28, T9N, R7E, SLB&M, and the number of stock allowed under said claim is 100 cattle and 9 horses.

5. The extent of use under Water Users Claim No. 2263, in the name of Alton D. Cook, is amended to show the irrigation of 1.9 acres in Lot 4, Sec. 5, T14N, R5E. The "Remarks Column" for said claim in the Revised Determination is amended to show a duty of water from all sources combined of 5.7 acre-feet but Water Users Claim No. 2263 is limited to the irrigation requirements of 1 acre.

6. Lew W. Cook is now the owner of Water Users Claims Nos. 42, 175, 176, 177, 178, 179, 180, 181, 627, 634, 640, 1531, 1831, 1834, 1835, 1836, 1871, 1878, 1891, 1996, 1997, 2011, 2016, 2119, 2499, 2530, 2532, 2533, 2535, 2787 and 2794. Said claims were shown in the Revised Determination of Water Rights in the name of Lew Cook estate.

Water Users Claim No. 3329 filed by Lew W. Cook is allowed for a stock watering right from Woodruff Creek with an 1884 priority for 400 cattle, 400 sheep and 2 horses. The period of use is from January 1 to December 31, inclusive, of each year, and the use is directly on stream from a point where Woodruff Creek enters the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 31, T9N, R6E, SLB&M, to

a point where the stream leaves the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 31.

7. Water Users Claims Nos. 963, 964 and 965, in the name of Deseret Live Stock Company, may be used for the irrigation of the following described lands in addition to the lands presently shown for said claims in the Revised Determination:

Township 8 North, Range 7 East, SLB&M

Section 11: 4.7 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$; 4.2 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$;
10.7 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$; 23.7 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$;
32.3 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$; 3.1 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$.

Township 8 North, Range 7 East, SLB&M

Section 13: 11.4 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$; 27.0 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$;
31.2 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$; 4.8 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$;
37.1 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$.

Section 14: 7.5 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$; 4.9 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$;
0.9 acres NE $\frac{1}{4}$ SE $\frac{1}{4}$.

Section 24: 3.8 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$; 27.7 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$;
30.2 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$; 21.8 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$;
23.5 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$; 1.4 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$.

8. William V. and Arlo H. Eastman are entitled to the following described stock watering rights:

Water Users Claim No. 3319 in the name of Wm. V. Eastman - 1/2 int., and Arlo H. Eastman - 1/2 int. Source: Woodruff Creek. Priority: 1890. Nature and period of use: Stockwatering for 50 cattle, 5000 sheep, 6 horses, from Jan. 1 to Dec. 31, incl. Stock water directly on stream at a point S. 660 ft. E. 50 ft. from N $\frac{1}{4}$ Cor. Sec. 27, T9N, R7E, SLB&M.

Water Users Claim No. 3320 in the name of Wm. V. Eastman - 1/2 int., and Arlo H. Eastman - 1/2 int. Source: Cross Creek Spring. Priority: 1870. Nature, period and amount of use: Stockwatering for 50 cattle, 5000 sheep, 6 horses from Jan. 1 to Dec. 31, incl., for 0.005 c.f.s. Point of diversion: N. 590 ft. W., 1220 ft. from SE Cor., Sec. 13, T9N, R6E, SLB&M.

Water Users Claim No. 3321 in the name of Wm. V. Eastman - 1/2 int., and Arlo H. Eastman - 1/2 int. Source: Corral Spring. Priority: 1870. Nature, period and amount of use: Stockwatering for 50 cattle, 5000 sheep, 6 horses from Jan. 1 to Dec. 31, incl., 0.005 c.f.s. Domestic use for 1 family. Point of diversion: N. 1815 ft., W. 760 ft. from SE Cor., Sec. 13, T9N, R6E, SLB&M.

Water Users Claim No. 3322 in the name of Wm. V. Eastman. Source: Joseph Putnam Spring Stream. Priority: 1890. Nature, period and amount of use: Stockwatering for 50 cattle, 5000 sheep, 6 horses, from Jan. 1 to Dec. 31, incl., 0.015 c.f.s. Domestic use for 15 persons. Point of diversion: S. 2190 ft. W. 2620 ft. from NE Cor. Sec. 23, T9N, R7E, SLB&M.

9. Prior to June 1 of each year Grant Lamborn, under Water Users Claims Nos. 2162, 167, 2521, 168, 2522, 2517, 2518 and 1808, Howard J. Lamborn, under Water Users Claims Nos. 2161, 2519, 2520, 2523, 2524, 2170, 2206, 161 and 162, and Keith Jessop under Water Users Claims Nos. 2005, 2120, 163, 164, 165, 170, 1594, 171, 1829, 2163, 169, 1943 and 166 shall have the right to divert 355/2140 of the 42.00 c.f.s. which is a flow of 6.98 c.f.s. After June 1, these water users shall have the right to divert 180/2140 of 42.0 c.f.s. which is a flow of 3.53 c.f.s. under said claims.

10. The protest of Moon Bay Company is withdrawn with the understanding that protestant is not foreclosed from filing an additional application to appropriate water from the well covered by Water Users Claim No. 1457.

11. Ted J. and Dixie Wilson, under Water Users Claim No. 3330, are entitled to a one-half interest in Sutherland Spring for the watering of 1200 sheep, and William L. and Vegie J. Negus, under Water Users Claim No. 336, are entitled to a one-half interest in Sutherland Spring for the watering of 800 sheep, 40 cattle and 30 horses.

Said Spring is located at a point N. 380 feet W. 1600 feet from the E $\frac{1}{4}$ Cor. Sec. 30, T14N, R5E, SLB&M. The flow is .011 cubic-feet per second and the priority of said claim is 1870 and the water is used from Jan. 1 to Dec 31, inclusive.

12. Ezra Putman is entitled to the following described water right:

Water Users Claim No. 3333. Source: Woodruff Creek. Diligence right with a priority of 1884 for the watering of 175 cattle, 8 horses, 25 chickens, and the domestic use of one family. The water is used from Jan. 1 to Dec. 31, inclusive, of each year, and is diverted at a point N. 770 ft., W. 640 ft., from the SE Cor. Sec. 21, T9N, R6E, SLB&M. Diverted through the Putman-Cornia Ditch.

13. The priority of the water right evidenced by Water Users Claim No. 1662 in the name of Willis A. Tingey is changed to July 19, 1960.

14. The period of use for Water Users Claim No. 1465, in the name of Harvey A. Sjostrom, is changed to January 1 to December 31, inclusive, of each year for domestic purposes and May 1 to October 31, inclusive, of each year for irrigation purposes.

15. The address of Hattie Y. Sorensen, Mabel C. Rex, Lila C. Darrington, Eleanor R. Cook, Alton D. Cook, and Donna T. Cook under Water Users Claims Nos. 523, 1284, 1348 and 1349 is changed to Georgetown, Idaho.

The flow under Water Users Claim No. 523 is changed to 3.67 cfs, and the total annual water allowed for said claim shall be 313.50 acre-feet. The water is to be used for irrigation as follows: 20.8 acres in Lot 4, 4.60 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and 23.40 acres in Lot 5, 25.5 acres in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 5, T14N, R5E, SLB&M; 0.1 acre in Lot 1 of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, 21.60 acres in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$; 8.50 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 8, T14N, R5E, SLB&M, or a total of 104.50 acres.

The remarks column for the first category under Water Users Claim No. 523 shall be stricken and the second category under "extent of use" shall be changed from .7 acre to 1.9 acres, and the remarks column for the second category is changed from 2.10 acre-feet to 5.70 acre-feet.

16. The United States of America is entitled to the following water rights in addition to those set forth in the Revised Determination:

Water Users Claim No. 3300. Source: Unnamed Spring. Diligence right with an 1870 priority for the watering of 1266 cattle, 6885 sheep, 69 horses. The water is to be used from Jan. 1 to Dec. 31, incl., with a flow of .011 cfs, and said spring is located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 15, T13N, R7E, SLB&M.

Water Users Claim No. 3301. Source: Unnamed Spring. Diligence right for an 1870 priority for the stockwatering of 2898 cattle, 5160 sheep, 41 horses from Jan. 1 to Dec. 31, incl., of each year. The flow for said claim is .011 cfs, and this spring is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 5, T11N, R6E, SLB&M.

Water Users Claim No. 3302. Source: Unnamed Spring with an 1870 priority for the stockwatering of 1266 cattle, 6885 sheep, 69 horses from Jan. 1 to Dec. 31, incl., with a flow of .011 cfs. This spring is located in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 15, T13N, R7E, SLB&M.

Water Users Claim No. 3303. Source: Unnamed Spring with an 1870 priority for the stockwatering of 1266 cattle, 5885 sheep, 69 horses from Jan. 1 to Dec. 31, incl., with a flow of .011 cfs. This spring is located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 20, T12N, R7E, SLB&M.

Water Users Claim No. 3304. Source: Unnamed stream with an 1870 priority for the stockwatering of 938 cattle, 3035 sheep, 21 horses from Jan. 1 to Dec. 31, incl., of each year. The stream is located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 5, T9N, R7E, SLB&M.

Water Users Claim No. 3305. Source: Unnamed Spring with an 1870 priority, for the stockwatering of 1266 cattle, 6885 sheep, 69 horses from Jan. 1 to Dec. 31, incl., of each year with a flow of .022 cfs. This spring is located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 23, T13N, R6E, SLB&M.

The period of use on the following claims owned by the United States of America is changed as follows:

Rich Unit - Changed to: March 1 to December 31, incl.

| <u>Claim No.</u> |
|------------------|------------------|------------------|------------------|------------------|
| 1480 | 1482 | 2261 | 2651 | |
| 1481 | 1483 | 2649 | 2778 | |

Woodruff Unit - Changed to: March 1 to December 31, incl.

| <u>Claim No.</u> |
|------------------|------------------|------------------|------------------|------------------|
| 787 | 2032 | 2110 | 2271 | 2659 |
| 1497 | 2039 | 2111 | 2655 | 2720 |
| 1499 | 2040 | 2146 | 2656 | 2722 |
| 1500 | 2041 | 2148 | 2657 | 3064 |
| 1722 | 2043 | 2149 | 2658 | 3065 |

Randolph Unit - Changed to: March 1 to December 31, incl.

| <u>Claim No.</u> |
|------------------|------------------|------------------|------------------|------------------|
| 774 | 1717 | 2174 | 2252 | 2707 |
| 791 | 1718 | 2177 | 2254 | 2782 |
| 795 | 1881 | 2179 | 2307 | 2931 |
| 1004 | 1882 | 2180 | 2309 | 2934 |
| 1098 | 1917 | 2183 | 2321 | 2935 |
| 1466 | 1920 | 2186 | 2322 | 2938 |
| 1467 | 2084 | 2195 | 2325 | 2940 |
| 1468 | 2087 | 2197 | 2328 | 2942 |
| 1469 | 2089 | 2199 | 2330 | 2944 |
| 1470 | 2151 | 2201 | 2335 | 2909 |
| 1471 | 2152 | 2205 | 2618 | 1407 |
| 1493 | 2153 | 2212 | 2621 | |
| 1494 | 2154 | 2214 | 2625 | |
| 792 | 2172 | 2216 | 2694 | |

Laketown Round Valley Unit - Changed to: March 1 to December 31, incl.

| <u>Claim No.</u> |
|------------------|------------------|------------------|------------------|------------------|
| 1479 | 2260 | 2650 | 2660 | 2884 |

Deseret Livestock Unit - Changed to: January 1 to December 31, incl.

| <u>Claim No.</u> |
|------------------|------------------|------------------|------------------|------------------|
| 1897 | 1915 | 1977 | 2385 | 2416 |
| 1899 | 1916 | 2025 | 2387 | 2424 |
| 1900 | 1958 | 2051 | 2391 | 2490 |
| 1906 | 1959 | 2053 | 2392 | 2491 |
| 1909 | 1960 | 2054 | 2403 | 2492 |
| 1910 | 1962 | 2055 | 2407 | 2539 |
| 1911 | 1964 | 2056 | 2412 | 2562 |
| 1912 | 1969 | 2380 | 2415 | 2799 |
| 1913 | 1973 | 2382 | | |

Uinta Unit - Changed to: January 1 to December 31, incl.

| <u>Claim No.</u> |
|------------------|------------------|------------------|------------------|------------------|
| 768 | 2060 | 2066 | 2072 | 2240 |
| 770 | 2061 | 2067 | 2073 | 2241 |
| 993 | 2062 | 2068 | 2074 | 2555 |
| 1501 | 2063 | 2069 | 2237 | 2596 |
| 1677 | 2064 | 2070 | 2238 | 2604 |
| 2059 | 2065 | 2071 | 2239 | 2605 |

East Woodruff Unit - Changed to: January 1 to December 31, incl.

| <u>Claim No.</u> |
|------------------|------------------|------------------|------------------|------------------|
| 2050 | 2299 | 2302 | 2597 | |
| 2298 | 2300 | 2541 | 2598 | |

Woodruff Unit - Changed to January 1 to December 1, incl.

| <u>Claim No.</u> |
|------------------|------------------|------------------|------------------|------------------|
| 786 | 1995 | 2014 | 2495 | 2725 |
| 790 | 1999 | 2021 | 2497 | 2930 |
| 1498 | 2001 | 2023 | 2500 | 3196 |
| 1672 | 2002 | 2026 | 2622 | |
| 1673 | 2004 | 2028 | 2626 | |
| 1675 | 2009 | 2112 | 2717 | |
| 1674 | 2013 | 2270 | 2719 | |
| 1976 | | | | |

Rich Unit - Changed to: January 1 to December 31, incl.

| <u>Claim No.</u> |
|------------------|------------------|------------------|------------------|------------------|
| 776 | 1490 | 2981 | 3007 | 3051 |
| 1099 | 1862 | 2990 | 3009 | 3061 |
| 1475 | 1941 | 2991 | 3012 | 3194 |
| 1476 | 2686 | 2992 | 3014 | 3195 |
| 1477 | 2689 | 2993 | 3020 | 3197 |
| 1478 | 2772 | 2994 | 3024 | 3198 |
| 1484 | 2947 | 3000 | 3033 | 3199 |
| 1485 | 2958 | 3001 | 3038 | 3200 |
| 1486 | 2974 | 3002 | 3040 | 1489 |
| 1487 | 2978 | 3003 | 3041 | 2736 |
| 1488 | 2988 | 3004 | 3046 | |

Randolph Unit - Changed to: January 1 to December 31, incl.

| <u>Claim No.</u> |
|------------------|------------------|------------------|------------------|------------------|
| 771 | 1676 | 2207 | 2619 | 2724 |
| 784 | 2083 | 2219 | 2630 | 2797 |
| 1406 | 2159 | 2251 | 2690 | 2932 |
| 1473 | 2167 | 2338 | 2692 | 2933 |
| 1492 | 2168 | 2340 | 2696 | 2936 |
| 1624 | 2188 | 2478 | 2698 | 2959 |
| 1671 | 2190 | 2616 | 2699 | 1267 |
| 1474 | 2203 | 2617 | 2700 | |

The claim by the United States of America to a water right created by the reservation of federal lands in Rich County is hereby reserved and held in abeyance until such time as the court considers the final matters on the entire Bear River System in the State of Utah.

17. Woodruff Irrigating Company is entitled to a diligence right for purposes of stockwatering from January 1 to

December 31, inclusive, of each year for 2500 cattle, 10,000 sheep, and 200 horses from Woodruff Creek. The priority of these claims is 1884 except for Claim No. 1953 which has a priority of 1888. These rights are covered by the following water users claims:

<u>Water Users Claim No.</u>	<u>Source</u>
16	Putnam-Cornia Ditch
423	Melvin Putnam Ditch
427	Eastman Ditch #1
428	Eastman Ditch #2
429	Frazier Ditch #1
432	Peter Putnam Ditch
436	Huffaker Ditch
437	Putnam Ditch
540	Eastman-Frazier Ditch
541	Unnamed Ditch
542	Cornia Ditch #1
543	Smith Ditch
546	Cornia Ditch #2
547	Rideout Ditch (Co-op. Ditch)
548	Unnamed Ditch
549	Hagus Ditch
550	Co-op. Ditch
553	Orson-Cornia Ditch
554	Frazier Ditch #3
558	Cox Ditch
559	Unnamed Ditch
560	Ezra Brown Ditch
561	Dean Ditch
565	Walton Ditch
567	John Cox Ditch
569	Frazier Ditch #2
570	Witherall Ditch
571	Saxon Ditch
573	Putnam-Cornia Ditch
577	Frazier Ditch #4
578	Church Ditch
580	Baxter Ditch
583	Frazier Ditch #5
586	Church Ditch
589	Unnamed Ditch
709	Smith Ditch
710	Cornia Ditch #1
711	Cornia Ditch #2
712	Putnam-Cornia Ditch
713	Eastman-Frazier Ditch
714	Witherall Ditch
715	Saxon Ditch
716	Putnam Ditch (Eastman-Frazier)
783	North Fork Woodruff Creek

<u>Water Users Claim No.</u>	<u>Source</u>
717	Peter Putnam Ditch
718	Huffaker Ditch
719	Saxon Ditch
	(Melvin Putnam Ditch)
720	Eastman Ditch #1
721	Eastman Ditch #2
722	Frazier Ditch #1
723	Frazier Ditch #2
724	Frazier Ditch #3
725	Frazier Ditch #4
731	John Cox Ditch
733	Rideout Ditch
	(Co-op Ditch)
734	Unnamed Ditch
783	Baxter Ditch
1953	Point of Diversion
2595	Unnamed Ditch

The Woodruff Irrigating Company withdraws its protest against the period of use as proposed by the State Engineer for irrigation purposes which is May 1 to October 31, inclusive, of each year; provided, however, that the period of use set for irrigation purposes shall be on an interlocutory basis subject to any interested party petitioning the court to show cause why it should not be increased or decreased.

The "Remarks Column" for Water Users Claim No. 2569 in the name of the Woodruff Irrigating Company is changed to read as follows:

Storage in Birch Creek (Lone Pine #2) Reservoir located in W $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 19, T9N, R6E, SLB&M, Lots #1 & #2, Sec. 24, T9N, R5E, SLB&M, S $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 23, T9N, R5E, SLB&M, Max. Cap. 2256 Ac.-Ft. Total storage under this right is limited to 420.3 Ac.-Ft. of which 126 Ac.-Ft. is to be diverted during the period Nov. 2 to the last day of February. Storage for the remaining 294.3 Ac.-Ft. is to take place during the period March 1 to Nov. 1. All storage and irrigation to be accomplished intermittently under a 10.00 cfs flow right.

18. The "Remarks Column" for Water Users Claim No. 2406 in the name of the Utah Board of Water Resources, formerly the Utah Water and Power Board, is changed to read as follows:

Storage in Birch Creek (Lone Pine #2) Reservoir located in the $W\frac{1}{2}NW\frac{1}{4}$, Sec. 19, T9N, R6E, SLB&M, Lots 1 & 2, Sec. 24, T9N, R5E, SLB&M, $S\frac{1}{2}NE\frac{1}{4}$ Sec. 23, T9N, R5E, SLB&M. Max. Cap. 2256 Ac.-Ft. 1835.7 Ac.-Ft. is to be stored each year under a 55.6 cfs flow right during the period April 1 to Sept. 1. The flow right is covered by Claims 541, 547, 548, 549, 550, 553, 558, 559, 560, 561, 567, 578, 580, 586, 589, 1953, 2595. For additional remarks see W.U.C. No. 2569, Page 187.

19. Water Users Claims Nos. 950, 951, 952, 1615 and 1952 in the name of Wallace J. and Connie Schulthess, as set forth in the Revised Determination are amended as follows:

The first category on Claim 952, the second category on Claim 951 and 1952, and the third category on Claim 950 and 1615 are changed to:

20.0 acres $NE\frac{1}{4}NE\frac{1}{4}$, 16.90 acres $NW\frac{1}{4}NE\frac{1}{4}$
38.40 acres $SW\frac{1}{4}NE\frac{1}{4}$, 40.0 acres $SE\frac{1}{4}NE\frac{1}{4}$
2.70 acres $NE\frac{1}{4}NW\frac{1}{4}$, 33.70 acres $SE\frac{1}{4}NW\frac{1}{4}$
28.90 acres $NE\frac{1}{4}SW\frac{1}{4}$ Sec. 22, T9N, R7E, SLB&M
or a total acreage of 180.60 acres with a
total yearly diversion of 541.80 acre-feet.

The first category on Claims Nos. 951 and 1952, the second category on Claims Nos. 950 and 1615 are changed to:

2.1 acres $NE\frac{1}{4}NE\frac{1}{4}$, 0.2 acres $SE\frac{1}{4}NE\frac{1}{4}$ Sec. 21, T9N, R7E, SLB&M; 3.6 acres $NW\frac{1}{4}NE\frac{1}{4}$, 1.6 acres $SW\frac{1}{4}NE\frac{1}{4}$, 18.3 acres $NE\frac{1}{4}NW\frac{1}{4}$, 23.0 acres $NW\frac{1}{4}NW\frac{1}{4}$, 15.7 acres $SW\frac{1}{4}NW\frac{1}{4}$, 6.3 acres $SE\frac{1}{4}NW\frac{1}{4}$, 0.7 acres $NW\frac{1}{4}SE\frac{1}{4}$ Sec. 22, T9N, R7E, SLB&M, or a total acreage of 71.5 acres with a total yearly diversion of 214.5 acre-feet.

The first category on Claims Nos. 950 and 1615 is changed to:

6.4 acres $SE\frac{1}{4}NE\frac{1}{4}$ Sec. 21, T9N, R7E, SLB&M; 19.8 acres $SW\frac{1}{4}NW\frac{1}{4}$, 21.3 acres $NW\frac{1}{4}SW\frac{1}{4}$, Sec. 22, T9N, R7E, SLB&M, or a total acreage of 47.5 acres with a total yearly diversion of 142.5 acre-feet.

When water is available and can be beneficially used for irrigation purposes diversion can also be made under said claims from April 1 to May 1, inclusive, of each year.

The point of diversion for the division of water between Carter and Osro Cornia and Wally Schulthess from South Woodruff Creek is the South 1310 feet and East 110 feet from the NW $\frac{1}{4}$ Corner of Sec. 22, T9N, R7E, SLB&M.

20. Von M. Argyle is entitled to the use of water under Water Users Claim No. 378 for fish culture and stockwatering in addition to the rights already listed in said claim. The period of use for these purposes shall be from January 1 through December 31, inclusive, of each year. Amount of stock allowed under said claim is 75 cattle, 30 sheep and 5 horses. This claim is supplemental to Water Users Claim No. 2431.

21. Theris Cornia is entitled to a flow of 2.0 cfs under Water Users Claim No. 514 for the purposes set forth in said claim. The remainder of the protest by Theris Cornia, which involves the period of use, is withdrawn.

22. Water Users Claim No. 3318 owned by John Wilson Dean is allowed for irrigation purposes from Dry Creek with a flow of 1 second-foot for the irrigation of 31.3 acres of land located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 15, T9N, R7E, SLB&M. This right has an 1890 priority.

23. Francis Frazier, under Water Users Claim No. 3315; Leslie Frazier, under Water Users Claim No. 3316; and Alton Frazier, under Water Users Claim No. 3317, have a diligence right from Saleratus Creek with an 1890 priority for the irrigation of 5.80 acres of land located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 33, T9N, R7E, SLB&M. The flow under said claim is 0.5 cfs.

24. The revised determination is amended to show that Water Users Claim No. 2290, owned by Raymond R. Saville, and Water Users Claim No. 1670, owned by Lorraine S. Howard Walker,

are not supplemental to one another. Each of said claims may be used for the domestic requirements of two families and the irrigation of .50 acre of land as described in the revised determination.

25. The duty of water is fixed at 3 acre-feet per acre of land for that land which is awarded a water right under the Revised Determination, and the period of use for irrigation purposes is May 1 to October 31, inclusive, of each year. This is to be on an interlocutory basis and subject to any interested party petitioning the court to show why either the duty of water or the period of use should be modified.

In addition to the above stipulations, the State Engineer's Revised Determination of Water Rights and hydrographic survey of the waters of the Bear River, both surface and underground, in Rich County, Utah, having been filed in the above entitled cause, and the court having examined the documentary evidence and heard the testimony of the witnesses called by the parties and being fully advised in the premises, now makes the following:

FINDINGS OF FACT

1. That Jacob Rufi, and his predecessors in interest, irrigated 151.5 acres of land located: 40.2 acs. NE $\frac{1}{4}$ SE $\frac{1}{4}$, 29.5 acs. NW $\frac{1}{4}$ SE $\frac{1}{4}$, 0.8 acs. NE $\frac{1}{4}$ SW $\frac{1}{4}$, 40.1 acs. SE $\frac{1}{4}$ SE $\frac{1}{4}$, 37.3 acs. SW $\frac{1}{4}$ SE $\frac{1}{4}$, 3.6 acs. SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 33, T9N, R7E, SLB&M, from Saleratus Creek. The irrigation of said land was begun in 1884 and has been irrigated every year since that date. Ten cfs, when available under said priority, has been diverted from Saleratus Creek at a point N. 430 ft. E. 1145 ft. from S $\frac{1}{4}$ Cor. Sec. 4, T8N, R7E, SLB&M, and used on the above described land.

2. That the above entitled cause is a proceeding to determine and adjudicate all of the rights to the use of water within the drainage area of the Bear River and its tributaries in Utah pursuant to the provisions of Chapter 4, Title 73, Utah Code Annotated, 1953; that the Rich County Division of said general adjudication covers the uses of water in Rich County, Utah.

3. That the State Engineer of the State of Utah has made the investigations and surveys required by law and received the statements of water users claims as a basis for the preparation of the Revised Determination of Water Rights for Rich County. That the above recited stipulations to said Revised Determination are hereby accepted and approved and said Revised Determination as amended is by reference made a part of these Findings of Fact.

4. With the exception of the right of Jacob Rufi the awards of water rights to the persons and corporations named in said Revised Determination, as amended, are fully supported by the evidence as to the source, type of right, quantity of water, priority dates, nature of use, place of use, and all other elements of such rights as set forth therein.

From the foregoing Findings of Fact, the Court now makes the following:

CONCLUSIONS OF LAW

1. That the Revised Determination of Water Rights incorrectly limits Jacob Rufi, under Water Users Claim No. 651, to the irrigation requirements of 11.35 acres of land. The Revised Determination should be amended to provide for an irrigation right under said claim for the irrigation of the 151.5

acres of land described above. Provided, however, this right shall not create an obligation on upstream users to continue or maintain wasteful irrigation practices in order to make water available to satisfy this water right.

2. That all the remaining protests and objections to the Revised Determination of Water Rights on the Bear River and its tributaries, Rich County Division, as amended by stipulation, should be dismissed and the Revised Determination should be approved and confirmed as amended.

JUDGMENT

IT IS ORDERED, ADJUDGED AND DECREED:

1. That the protest of Jacob Rufi is allowed and the Revised Determination of Water Rights is hereby amended to show the following described water right for irrigation purposes under Water Users Claim No. 651:

Ten cfs from Saleratus Creek at a point N. 430 ft. E. 1145 ft., from S $\frac{1}{4}$ cor., Sec. 4, T8N, R7E, SLB&M, with an 1884 priority for the irrigation of 40.2 acs. NE $\frac{1}{4}$ SE $\frac{1}{4}$, 29.5 acs. NW $\frac{1}{4}$ SE $\frac{1}{4}$, 0.8 acs. NE $\frac{1}{4}$ SW $\frac{1}{4}$, 40.1 acs. SE $\frac{1}{4}$ SE $\frac{1}{4}$, 37.3 acs. SW $\frac{1}{4}$ SE $\frac{1}{4}$, 3.60 acs. SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 33, T9N, R7E, SLBM.

Provided, however, this right shall not create an obligation on upstream users to continue or maintain wasteful irrigation practices in order to make water available to satisfy this water right.

2. That the above recited stipulations to the Revised Determination of Water Rights are accepted and approved and the Revised Determination, as amended, be and it is hereby approved and confirmed as to all water rights set forth therein, except as to Water Users Claim No. 651.

3. That all the remaining protests and objections to the Revised Determination of Water Rights for the Bear River Drainage Area in Rich County, as amended, be and they are hereby dismissed.

Dated this 17 day of November, 1969.

B/

DISTRICT JUDGE