

\* \* \* \* \* it is herein found and determined that water diverted at the rate of one second foot for each 80 acres of land is sufficient for the maximum requirements of the lands irrigated, and that not more than three acre feet per acre shall be applied during the season beginning May 1st and ending Sept. 1st., and that when winter irrigation is practiced the quantity in acre feet of water used shall not be charged against the user delivering his water during the above named four months.

That all claimants herein for water for irrigation shall be entitled to use such water for stock and domestic purposes. That the rights of use for stock and domestic purposes is hereby confirmed, and entitle the owner of such right to divert and use such a quantity of water as is reasonably necessary for his household and stock use, and for stock use the water so diverted and used shall not exceed the rate of one-fortieth of a cubic foot, per second, for each one thousand (1,000) head of stock, and the quantity diverted for irrigation purposes during the irrigation season shall include such an amount as may be reasonably necessary for said stock and domestic purposes, and the right to divert and use the waters of said stream and its tributaries for stock and domestic purposes continues throughout the year.

DUGGER CREEK

Tributary of Pine Creek

Umatilla County

-----0-----

Order Record

	Vol.	Page
Findings of State Water Board, September 29, 1916.....	<u>3</u>	<u>114</u>
Decree of Circuit Court, March 5, 1917.....	3	321

Note: State Water Board's findings confirmed by Circuit Court decree dated March 5, 1917. The findings, therefore, is a complete record of the water rights.

-----0-----

Note: Numbering machine numbers appearing on lower right hand corner of the findings and decree herein, indicate corresponding page numbers in the recorded record.

-----0-----

Certificate numbers 1686 to 1708, inclusive, and 1712 issued, and are shown in "red", on left hand margin of tabulation.

-----0-----

Rights allowed as follows:

Irrigation.....553.35 acres ✓ 4-3-57 - WAC  
Power ..... 1.00 c.f.s. ✓

-----0-----

BEFORE THE STATE WATER BOARD OF THE STATE OF OREGON.

WATER DIVISION NO.2

UMATILLA COUNTY.

IN THE MATTER OF THE DETERMINATION )  
OF THE RELATIVE RIGHTS OF THE VARIOUS )  
CLAIMANTS TO THE WATERS OF DUGGER CREEK, )  
A TRIBUTARY OF PINE CREEK, IN UMATILLA ) FINDINGS OF FACT.  
COUNTY, OREGON. )  
----- )

Now, on this 29th day of September, 1916, the above entitled matter coming on before the State Water Board of the State of Oregon, at a meeting of said Board commenced and held on said date, and it appearing to said Board that all the evidence and testimony taken in the above entitled proceeding has been duly filed in the office of said Board, and the said Board having carefully considered all of the said evidence, proofs and testimony taken, and the information and data gathered by the State Engineer, and being now fully advised in the premises, makes and orders to be entered of record in its office, the following

FINDINGS OF FACT

I.

That on the 9th day of November, 1909, there was filed in the office of the State Water Board of the State of Oregon, a petition signed by Robert Fream and W. C. Gallaher, water users upon said stream, requesting a determination of the relative rights of the various claimants to the waters of said stream, and that said petitioners are now users of the waters of the said Dugger Creek and its tributaries, a tributary of Pine Creek, as appears from the order of determination herein. That thereupon the said State Water Board, after a full investigation and due consideration of said petitions, finding the facts and conditions such as to justify the making of a determination of the relative rights of the various claimants of the waters of said stream and its tributaries thereto, made and entered its order in the records of said office, fixing a time and place for the beginning and making of such an examination of said stream by the State Engineer, as would enable the said Board to determine the rights of the said claimants, and also the time and place for the beginning and taking of testimony by the Superintendent of Water Division No. 2. That the said time and place when said State Engineer or his assistants should begin the examination of said stream was set by said order of said Board, for the 27th day of March, 1915, and the time when the Superintendent of Water Division No. 2, should attend and take the testimony of the various claimants was set by order of said Board on Tuesday the 30th day of March, 1915, at the City Hall in the town of Freewater, Umatilla County, Oregon.

II.

That on the 25rd day of February, 1915, the Superintendent of Water Division No. 2, did send by registered mail, to each person, firm and corporation claiming a right to use the water of said stream, or any tributary thereof, and to each person, firm, and corporation owning or being in possession of land bordering on or having access to said stream or its tributaries, in so far as said claimants, owners, firms or corporations in possession, could be reasonably ascertained, a similar notice to such published notice, setting forth the date when the State Engineer would commence the examination of said stream and its tributaries, and the ditches diverting water therefrom, and the time and place certain when the Superintendent of said Water Division would commence the taking of testimony as to the relative rights of the various claimants to said stream and its tributaries, and the said Superintendent did enclose with each of said notices, a blank form upon which the said claimant or person in possession should present in writing all the particulars necessary for the determination of his rights to the waters of said stream, or a tributary thereof, under oath; that due proof of the sending of said notices by registered mail has been made, and is duly filed and is now a part of the record hereof.

III.

That at the time specified in said original notice, a duly qualified assistant of the State Engineer of the State of Oregon, did proceed to make an examination of the said stream and its tributaries, and all of the ditches diverting water therefrom, and of the lands irrigated and susceptible to irrigation from said ditches and canals, together with the measurements thereof, which observations and the measurements were made a matter of record in the office of the State Engineer, and the State Engineer did prepare a plat and a map on a scale of measurement of 800 feet to one inch, showing with substantial accuracy the course of said stream and its tributaries, and the location of the various ditches diverting water therefrom, and the legal subdivisions of land which had been irrigated or which were susceptible to irrigation from said ditches and canals already constructed, blue prints and copies of said maps and information duly certified to by the State Engineer being now on file herein, and a part of the records hereof.

That statements and proofs of claimants to the use of the waters of said stream and its tributaries were filed with the Superintendent of Water Division No.2, by the following persons, firms and corporations, to-wit:

Mrs. Anna Ferguson, Mrs. R. B. Fream, W. C. Gallaher, Arthur Grimes, Carrie M. Gentry, W. E. Gordon, Virginia F. Hesselstine, Mrs. Hattie Houton, Mary Hoskins, Thos. Hoskins, Mary E. Hodgen, School District #83, Daniel J. Kirk, Alice Lawson, W. P. Leach, J. M. Marlatt, Mrs. M. A. Overman, Valley Presbyterian Church by W. W. Phillips, S. R. Phillips, I. M. Rambo, L. H. Rambo, T. L. Sherod, C. W. Thomas, R. C. Tall.

IV.

That upon the completion of the taking of testimony by the Superintendent of Water Division No. 2, said Superintendent did, on the 16th day of November, 1915 give notice by registered mail to each of the various claimants to the waters of said stream and its tributaries, that at the time and place named in said notice, to-wit, beginning on Monday the 6th day of December, 1915, and ending on Monday the 20th day of December, 1915, (Sundays excepted) from 9 A. M., to 12 M., and from 2 P. M., to 5 P. M., at the following places in Umatilla and Union Counties, State of Oregon, to-wit; at the Commercial Club Rooms in Freewater, Umatilla County, Oregon, from Monday the 6th day of December, 1915, to Wednesday the 8th day of December, 1915, inclusive, and at the office of the Superintendent of Water Division No. 2, in La Grande, Union County, Oregon, from Thursday the 9th day of December, 1915, to Monday the 20th day of December, 1915, inclusive, all of said evidence would be open to inspection to the various claimants and owners, and that said Division Superintendent did keep said evidence open to inspection at said times and places for a period of 13 days, and said notice did also set forth the county in which the determination of the Water Board would be held by the Circuit Court, to-wit: Circuit Court of the State of Oregon, for Umatilla County, due proof of the holding of said inspection and of the sending of said notices by registered mail being filed herein.

V.

That the following contests were duly filed with the Superintendent of Water Division No. 2, within five days after the close of public inspection of the Statements and Proofs of Claimants of the various claimants to the waters of said stream and tributaries.

Contest #1, T. L. Sherrod, contestant, v. Daniel J. Kirk, contestee;  
Contest #2, Gallaher Farm Company, contestant, v. Daniel J. Kirk, Contestee;  
Contest #3, Gallaher Farm Company, contestant, v. W.P. Leach, contestee;  
Contest #4, Gallaher Farm Company, contestant, v. S.R. Phillips, contestee;  
Contest #5, Gallaher Farm Company, contestant, v. W.E. Gordon, contestee;  
Contest #6, Gallaher Farm Company, contestant, v. School District #83, Contestee.

VI.

Contest #1. T. L. Sherrod, contestant, v. Daniel J. Kirk, contestee. This contest involved the right to the use of the waters developed in draining some swamp land belonging to William Hodgen and Mary E. Hodgen; it was stipulated that one miners inch per acre is necessary for the proper irrigation of the lands irrigated by this water; that the contestant, T.L. Sherrod, should have the right to irrigate 29.8 acres of his land,

and that contestee Daniel J. Kirk, should have the right to irrigate 21.2 acres of his lands, and that when the flow of water from said swamp does not furnish one inch per acre for the lands irrigated by said Daniel J. Kirk and said T. L. Sherrod, then the water should be divided between them in proportion to the number of acres irrigated by each as above set forth. It was further stipulated, that the water master in distributing water may arrange such system of rotation between the parties as may be expedient and necessary to secure the best irrigation of the lands. That by said stipulation the dates of priority have been waived as between the parties and the water shall be distributed in accordance therewith.

Contest #2. Gallaher Farm Company, contestant, v. Daniel J. Kirk, contestee. It was stipulated that the rights of the Gallaher Farm Company, contestant, and Daniel J. Kirk, contestee, are as set forth in the tabulation herein. That no water can be transferred from one ditch to another and retain its priority, nor can water be transferred from one piece of land having an earlier priority date to another piece of land having a later priority date, so as to give the land having such priority date an earlier date. That the 5.4 acres of land described as a water right for Daniel J. Kirk under date of 1909 shall be all of that land lying North of the Hudson Bay Co's Ditch, as at present located in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 30, Twp. 6 N. R. 35 E. W. M., and South of Dugger Creek so as to include the land contained between said ditch and said creek. That the 5.4 acres of the water right of Daniel J. Kirk under date of 1903 is located in the Northeast corner of the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 30, Twp. 6 N. R. 35 E. W. M., and that the names of the ditches in the tabulation herein contained are in accordance with the State Engineer's Maps on file in this proceeding. The stipulation<sup>as</sup> above set forth was a full settlement of this contest and the rights of the parties thereto are in accordance with this stipulation.

Contest #3. Gallaher Farm Company, contestant, v. W. P. Leach, contestee. It was stipulated and agreed that as between the parties to this contest, contestee W. P. Leach, shall be entitled to irrigate 22 acres of land described in his statement and proof of claim, under the date of priority of 1901, and that in accordance with said stipulation the rights of said W. P. Leach are as set forth in the tabulation herein. The remaining 8 acres claimed by contestee shall retain the date of priority claimed.

Contest #4. Gallaher Farm Company, contestant, v. S. R. Phillips, contestee. It was stipulated that as between the parties to this contest, contestee, S. R. Phillips, should be entitled to the irrigation of 6 acres of land in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  Sec. 30, Twp. 6 N., R. 35 E. W. M., 1-1/5 acres in the NE $\frac{1}{4}$  SW $\frac{1}{4}$  Sec. 30; 8-1/5 acres in the NW $\frac{1}{4}$  SE $\frac{1}{4}$  Sec. 30, Twp. 6, NR 35 E. W. M., of the date of priority of 1872, and that the rights of the contestee, S. R. Phillips for the irrigation of the remainder of the lands described in his proof of claim

shall be of the year 1906. That in accordance with said stipulation the rights of the parties to this contest are as set forth in the tabulation herein.

Contest #5. Gallaher Farm Company, contestant, v. W. E. Gordon, contestee. It was stipulated and agreed as between the parties to this contest, the contestee W. E. Gordon has the right to irrigate 4 acres of the land described in his statement and proof of claim filed herein, under the date of priority of 1895, and for the remaining 16 acres of land described in his statement and proof of claim, his date of priority shall be of the year 1910. That in accordance with said stipulation the rights of the parties to this contest are as set forth in the tabulation herein.

Contest #6. Gallaher Farm Company, contestant, v. School District #83, contestee. On motion of the contestant, this contest was dismissed.

#### VII.

That Dugger Creek and its tributaries form a perennial stream with well defined bed and banks, rising from numerous springs, sometimes known as Hodgen Springs, in Secs. 29 and 32, Twp. 6 N. R. 35 E. W. M. Many small ditches have been constructed to convey the water of these springs into one channel, and to drain the swamp which was created by the overflow from them. Small springs also rise along the channel at intervals, many of which are probably made by seepage and return flow from the adjacent irrigated lands. Dugger Creek flows in a northwesterly direction a distance of about 3 miles; originally it may have been a tributary of Pine Creek, but for many years past the waters have all been diverted and used for the irrigation of the adjacent lands. The normal flow supplied by the springs is about six second feet at low water time. The flow is fairly constant, varying but little except during rainy seasons.

There are approximately 520 acres of land for which water rights are claimed according to the Statements and Proofs filed herein. The lands irrigated adjoin the stream on both sides, and the soil is generally a clay-loam with occasional gravelly spots. The gravelly lands are coarse and somewhat difficult to irrigate, but in general the requirements of the lands irrigated by Dugger Creek are not exceptional. The crops consist ordinarily of Alfalfa, Clover, other hay crops, Grains, Fruits and Vegetables.

#### VIII.

That considering the character of the soil, kind of crops grown, the length of the irrigating season and the constant water supply, it is herein found and determined that water diverted at the rate of one second foot for each 80 acres of land is sufficient for the maximum requirements of the lands irrigated, and that not more than three acre feet per acre shall be applied during the season beginning May 1st and ending Sept. 1st, and

that when winter irrigation is practiced the quantity in acre feet of water used shall not be charged against the user delivering his water during the above named four months.

IX.

That all claimants herein for water for irrigation shall be entitled to use such water for stock and domestic purposes. That the rights of use for stock and domestic purposes is hereby confirmed, and entitle the owner of such right to divert and use such a quantity of water as is reasonably necessary for his household and stock use, and for stock use the water so diverted and used shall not exceed the rate of one-fortieth of a cubic foot, per second, for each one thousand (1,000) head of stock, and the quantity diverted for irrigation purposes during the irrigation season shall include such an amount as may be reasonably necessary for said stock and domestic purposes, and the right to divert and use the waters of said stream and its tributaries for stock and domestic purposes continues throughout the year.

X.

That the rights of appropriation hereby confirmed are appurtenant to the lands herein described for irrigation purposes, and the rights of use of the waters of said stream and its tributaries by virtue of such right of appropriation are limited and confined to the irrigation of the lands herein described, to the extent of said lands as herein set forth, and the priorities herein confirmed confer no right of use of the waters of said stream and its tributaries on any lands other than those specifically specified tracts to which such rights of appropriation are herein set forth as being appurtenant, and each and every person shall be, and hereby is prohibited, restrained and enjoined from diverting and using water from said stream on such other land, without lawful permit from the State Engineer.

XI.

That the order of the rights of the respective appropriators of the waters of said stream and its tributaries, and the order in which they are entitled to divert and use the said water shall be, and is, according to the date of relative priority of the right as herein set forth and determined, and the first in order of time according to the date of relative priority shall be, and is, the first in order of right, and the next in order of time is the next in order of right, and so on down to the date of the latest priority, and those having prior rights are entitled to divert and use the waters of said stream and its tributaries when necessary for the beneficial irrigation of their respective land or other useful and beneficial purposes for which they are accorded a right of use at all times, as against those having subsequent rights,

without let or hinderance, and whenever water is not required by the appropriator for the purpose for which such water was appropriated, said appropriator may and shall permit it to flow down in the natural channel of the stream as it was wont to flow in its natural course without let or hinderance, or diversion thereof, and those having subsequent rights of appropriation are entitled to use such water and divert the same to the extent of their rights or appropriations, according to the order of their priority date of right, and at all times the water so diverted shall be beneficially, economically and reasonably used without waste by those having the right to do so by reason of their priority date of right, and no rights of appropriation are hereby confirmed to divert a greater quantity of water into the head of the ditch, or ditches having a valid right to divert such water, than such appropriator can beneficially use for the purpose to which the water is to be put, and in no event shall the quantity of water diverted exceed the quantity herein determined as the quantity to which such appropriator is entitled for the proper and beneficial irrigation of his land, and which has actually been put to a beneficial use.

XII.

That the specification of a definite amount of water per acre, in these Findings, shall not be taken as granting that specific amount of water, but shall only be taken as a rule and guide for the water master in distributing a maximum amount of water to any water user, and it shall be in the discretion of such water master to cut down the amount of water given for any particular acreage of land and turn the amount of water to other land, at any time that such land becomes fully irrigated upon a less amount of water, or such water be not economically or beneficially used, and the water master shall have the right in his discretion to cut off the supply of water to any land at any time in the distribution of water, when the date of priority of such land is such that as the water becomes short and scarce, there would not be sufficient water to deliver any to such land.

XIII.

That the amount of water to be used for the lands described in the tabulation herein, is limited to a continuous flow of not to exceed the amount set opposite the name of each user, but that to get a sufficient head of water, the water master of the district in which such water is situated shall arrange such a system or systems of rotation as may be best applicable, either

FIRST, by giving the greater amount of water to an appropriator for a proportionately shorter period of time, provided, that the giving of such greater amount does not infringe upon any of the rights confirmed by this Decree, and provided further,

that the amount of water taken by the appropriator shall not exceed one and one-half acre feet during any 30 day period, or

SECOND, where two or more appropriators agree as between themselves as to the manner of said rotation and use of water, said water master shall distribute water to which they are collectively entitled in accordance with such agreement, provided always, that such arrangement into groups or systems of rotation shall not interfere with the prior right of any appropriator not a member of such group or system, and provided further, that such agreement shall be in writing, and filed by said appropriators with the water master, or

THIRD, in the absence of such agreement between such appropriators arranging for such rotation or manner in which such water shall be used in rotation, the water master shall arrange such appropriators in groups or systems, first giving to one appropriator in such group, a quantity of water equal to the combined appropriation of such appropriators in said group for a number of hours bearing the same ratio to the whole number of hours required to make the complete rotation through the whole group of appropriators, as the amount of the appropriation by such appropriator bears to the amount of the combined appropriations of the appropriators, arranged in such group or system, and so on to the next appropriator until all of the appropriators in said group or system of rotation have been served. The determination of who shall be first served in said group or system of appropriators shall be left to the judgement of the water master.

#### XVI.

That the name and address of such appropriators of water from said DUGGER CREEK and its tributaries, arranged in alphabetical form, together with the date of relative priority of such appropriations, the amount of such appropriation in cubic feet per second of time, the number of acres to which such appropriation applies, and to which such water is appurtenant, the use or uses for which such appropriation was appropriated and is now applied, and to which such is limited, the name of the ditch or ditches through which such appropriation is diverted, the name of the stream or streams from which such appropriation is diverted, the description of the land in the smallest legal subdivision in which such water right is appurtenant, arranged in alphabetical order, and set opposite the name and address of each such appropriator, are as follows, to-wit:

The figure 2 before the No. refers to Val. 2

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
1-1686 Ferguson, Mrs. Anna Rt. 2, Freewater, Ore. T-7452 Δ POD + Pou	1885		2	Irrigation	Private	Dugger Creek	2 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 30 T. 6 N. R. 35 E. W. M.
50923 + 35624 Fream, Mrs. R. B. Rt. 2, Freewater, Ore. T-4673 Δ POD 7 E 20 9 W NW, 7 E 20 SE NW	1891		20	Irrigation	Private Kralman	Dugger Creek	7.5 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ 12.5 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 30 T. 6 N. R. 35 E. W. M.
5482 57377 Gallaher Farm Company By W. C. Gallaher Rt. 2, Freewater, Ore. (See Par. VI, Contests #2, 3, 4, 5, & 6)	1890		25	Irrigation	Gallaher	Dugger Creek	* 8 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; * 17 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;
1894			12	Irrigation	Gallaher	Dugger Creek	12 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;
PC 86-23 (part. NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ ) T-7451 Δ Pou + POD	1908		19	Irrigation	Gallaher	Dugger Creek	4.5 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 11 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 3.5 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;
	1900		69.8	Irrigation	Gallaher	Dugger Creek	22.5 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 4.5 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ ; 17 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 26 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 25 T. 6 N. R. 34 E. W. M.
2-1689 Grimes, Arthur Rt. 2, Freewater, Ore.	1903 1885		1.25 2.	Irrigation	Harold	Dugger Creek	3.25 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 30 T. 6 N. R. 35 E. W. M.
1-1690 Gentry, Carrie M. Freewater, Ore.	1885		0.5	Irrigation	Harold	Dugger Creek	0.5 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 30 T. 6 N. R. 35 E. W. M.
54772 Gordon, W. E. Freewater, Ore. (See Par. IV, VI Contest #5) T-3891 Δ POD for all T-7122 Δ POD for all	1895 1910		4. 16.	Irrigation Irrigation	M.F. and H.B. Co's Ditch	Dugger Creek	20 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 30 T. 6 N. R. 35 E. W. M.
1-1692 Hesseltine, Virginia F. 238 Stahl Ave., Walla Walla, Wash.	1895 1902		4. 3.	Irrigation	Harold	Dugger Creek	7 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 25;
	1899		15.5	Irrigation	Gallaher	Dugger Creek	3 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ 12.5 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 25 T. 6 N. R. 34 E. W. M.
1-1693 Houton, Mrs. Hattie Rt. 2, Freewater, Ore.	1885		0.5	Irrigation	Harold	Dugger Creek	0.5 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 30 T. 6 N. R. 35 E. W. M.

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
2-1694 Hoskins, Mary Rt.2, Freewater, Ore.	1893		9.	Irrigation	Richard Graham	Dugger Creek	9 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 30 T. 6 N. R. 35 E. W. M.
2-1695 Hoskins, Thos. Rt. 2, Freewater, Ore.	1872		19	Irrigation	Richard Graham	Dugger Creek	19 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 30, T.6 N. R. 35 E. W. M.
2-1696 Hodgen, Mary E. Rt.2, Freewater, Ore.	1875 Jan. 1909	1.0		Domestic Power		Dugger Creek Dugger Creek	9/10 H.P., 8' fall, water returned to stream in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 32 T. 6 N. R. 35 E. W. M.
2-1697 School District #83 c/o L. Hodgen Freewater, Ore. (See Par. VI, Contest #6)	1886		1.	Irrigation	Harold	Dugger Creek	1 acre in NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; Sec. 25 T. 6 N. R. 34 E. W. M.
420244 49475 51740+637A 2-1698 Kirk, Daniel J. Freewater, Ore. (See Par. VI, Contest #1 and 2)	1871		22	Irrigation	Kirk #4	Dugger Creek	19.8 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 30 2.2 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 29
T 3501 A part of 1226 sq. mi. S. 29 2-1699 T-5202 A part of 2922 sq. mi. S. 30	1909		3.4	Irrigation	Kirk #4	Dugger Creek	1.4 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; 2 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 30;
	1900		29.5	Irrigation	Kirk #4	Dugger Creek	29.5 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 30
	1906		15.	Irrigation	Kirk #2	Dugger Creek	15 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 29
	1870		23.4	Irrigation	Kirk #3	Dugger Creek	15 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 4 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 29 4.4 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 30
	1900		31	Irrigation	Kirk #5	Dugger Creek	31 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 30
	1903		5.4	Irrigation	Kirk #5	Dugger Creek	5.4 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 30
	1906		21.8	Irrigation	Kirk #1	Spring Branch or Swamp	6 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 15.8 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 29 T. 6 N. R. 35 E. W. M.
2-1699 Lawson, Alice Rt.2, Freewater, Ore.	1885 1904		1.25 1.25	Irrigation	Harold Harold	Dugger Creek	2.5 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 30 T. 6 N. R. 35 E. W. M.

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
2-1700 Leach, W. P. Rt. 2, Freewater, Ore. (See Par. IV, Contest #3)	1904		8.2	Irrigation	Hesseltine-Leach	Dugger Creek	6 acres in: N E $\frac{1}{4}$ NE $\frac{1}{4}$ 2.2 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 25 T. 6 N. R. 34 E. W. M.
	1901		22	Irrigation	Harold	Dugger Creek	16 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ 6 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 25, T. 6 N. R. 34 E. W. M.
2-1701 4402, 3316, 3316 Marlatt, J. M. Rt. 2, Freewater, Ore. 7-3958 A P O *	1899		20.3	Irrigation	Gallaher	Dugger Creek	14.5 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ + 5.8 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 25 T. 6 N. R. 34 E. W. M.
2-1702 5473 Overman, Mrs. M. A. Rt. 2, Freewater, Ore. T-3891 A P O (for all) T-4192 - P O for all	1890		3.5	Irrigation	Gallaher	Dugger Creek	3.5 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 30 T. 6 N. R. 35 E. W. M.
2-1703 Valley Presbyterian Church, by W. W. Phillips, Freewater, Ore.	1886		0.5	Irrigation	Harold	Dugger Creek	0.5 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 30 T. 6 N. R. 35 E. W. M.
2-1704 41766 Phillips, S. R. Freewater, Ore. (See Par. VI, Contest #4)	1872		15 $\frac{2}{5}$	Irrigation	Richard Graham	Dugger Creek	6 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 1-1/5 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ ; 8-1/5 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 30 Ch. Pt. of Div. 5, P. O. V. 12, 446 75234
	1906		24	Irrigation	Richard Graham and a Private Ditch	Dugger Creek	4 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; 10 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; 10 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; Sec. 30 T. 6 N. R. 35 E. W. M. Ch. Pt. of Div. 5, P. O. V. 12, 446 75234
2-1706 Rambo, I. M. Rt. 2, Freewater, Ore.	1895		1.9	Irrigation	Harold	Dugger Creek	1.9 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 30 T. 6 N. R. 35 E. W. M.
2-1707 Rambo, L. H. Rt. 2, Freewater, Ore.	1885 1903		2 8	Irrigation	Private Harold	Dugger Creek	2 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; 8 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 30 T. 6 N. R. 35 E. W. M.
46233, 53664 Sherod, T. L. Rt. 2, Freewater, Ore. (See Par. VI, Contest #1) T-3958 A P O *	June 19, 1911 1900		29.9 10.2	Irrigation Irrigation	Hodgen Gallaher	Dugger Creek Dugger Creek	+29.8 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; 10.2 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; Sec. 30 T. 6 N. R. 35 E. W. M. (Supplemented by water from swamp certificate of water right 908)
2-1705 Thomas, C. W. Milton, Ore.	1891		13.5	Irrigation	Thomas	Spring Branch of Dugger Creek	13.5 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 32 T. 6 N. R. 35 E. W. M.

Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
<del>50924 &amp; 55625</del> Tull, R. C. Rt. 2, Freewater, Ore.	1904		3.5	Irrigation	Tull	Dugger Creek	16.5 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ ; Sec. 50 T. 6 N. R. 35 E. W. M.
	1905		3		Kralman		
	1872		7		Richard Graham		
	1907		3		Richard Graham		
T-4673 Δ POD 2	E 2C SEHW		(1872)				

And the State Water Board being fully advised in the premises, it is hereby CONSIDERED and ORDERED, that the relative rights to the use of the waters of DUGGER CREEK and its tributaries be, and the same are hereby adjudicated, determined and settled, in accordance with the foregoing Findings.

It is further CONSIDERED and ORDERED, that each and every appropriator holding Permits from the State Engineer of Oregon, for the appropriation of water from Dugger Creek and its tributaries, shall have such water right thereunder as is provided by law, and the rights of such appropriators shall be established in the manner provided by law for the issuing of water right certificates in such cases.

(sgd) JOHN H. LEWIS,  
John H. Lewis,  
State Engineer, and President of State  
Water Board.

(SEAL of the State  
Water Board of Oregon)

(sgd) JAMES T. CHINNOCK,  
James T. Chinnock,  
Superintendent of Water Division No. 1.

ATTEST.

(sgd) GEO. T. COCHRAN  
Geo. T. Cochran,  
Superintendent of Water Division No. 2.

M. F. MERS (SGD) M. F. Mers  
Secretary of State Water Board.

STATE OF OREGON, )  
County of Marion )ss.

I, CHAS. E. STRICKLIN, State Engineer of Oregon, do hereby certify that the foregoing copy of FINDINGS OF FACT of the State Water Board of Oregon in the matter of the determination of the relative rights of the various claimants to the waters of DUGGER CREEK, a tributary of Pine Creek, in Umatilla County, Oregon, has been by me compared with the original, and that it is a true and correct copy therefrom, and of the whole thereof, as the same appears of record in my office and custody.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of  
May, 1933.

*Chas. E. Stricklin*  
State Engineer of Oregon.

T O W N S H I P I N D E X

SECTION	TOWNSHIP	RANGE	PARAGRAPH NO.	FINDINGS PAGE NO.	TABULATION PAGE NO.
Township 6 North					
25	6 N	34 E	6	3	9
25	6 N	34 E			9
25	6 N	34 E	6	4	10
25	6 N	34 E	6	3	11
25	6 N	34 E			11
29	6 N	35 E	6	3	10
30	6 N	35 E			9
30	6 N	35 E	6	4	9
30	6 N	35 E			9
30	6 N	35 E			10
30	6 N	35 E	6	3	10
30	6 N	35 E			10
30	6 N	35 E			11
30	6 N	35 E	6	4	11
30	6 N	35 E			11
30	6 N	35 E	6	3	11
30	6 N	35 E			12
32	6 N	35 E			10
32	6 N	35 E			11

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR UMATILLA COUNTY

IN THE MATTER OF THE DETERMINATION )  
OF THE RELATIVE RIGHTS OF THE VARIOUS )  
CLAIMANTS TO THE USE OF THE WATERS OF )  
DUGGER CREEK, AND ITS TRIBUTARIES, A )  
TRIBUTARY OF PINE CREEK, IN UMATILLA )  
COUNTY, OREGON. )  
----- )

Now at this time, this matter came on for hearing and it appearing to the Court that no exceptions have been filed to the Findings of the State Water Board by any of the claimants to the waters of said stream, and the court being fully advised in the premises, it is hereby CONSIDERED, ORDERED AND DECREED that the Findings of the State Water Board in all matters be, and they are hereby confirmed.

March 5, 1917

Gilbert W. Phelps  
Circuit Judge.

STATE OF OREGON )  
County of Umatilla. ) ss

I, R. T. Brown, County Clerk in and for the said County and State, and ex-officio Clerk of the Circuit Court of the State of Oregon for Umatilla County, do hereby certify that the foregoing copy of DECREE has been by me compared with the original, and that it is a correct transcript therefrom, and of the whole of such original as the same appears of record and on file at my office and in my custody.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 16th day of April, 1917.

R. T. Brown, Clerk  
By E. O. Draper, Deputy.

STATE OF OREGON )  
County of Marion. ) ss

I, M. F. MERS, Secretary of the State Water Board of the State of Oregon, do hereby certify that the above copy of Decree of the Circuit Court of the State of Oregon for Umatilla County, was received in the office of the State Water Board and entered of record herein on the 18th day of April, 1917.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the State Water Board of Oregon, this 18th day of April, 1917.

(SEAL of the State  
Water Board)

M. F. MERS,  
Secretary of State Water Board.

T 43M # 5

# Oregon

### INTEROFFICE MEMO

TO: TRANSFER SECTION

DATE: 12/12/95

WATER  
RESOURCES  
DEPARTMENT

FROM: WATERMASTER, DISTRICT # 5  
GROUNDWATER SECTION  
(SIGNATURE) [Signature]

DEC 18 1995

SUBJECT: WATER RIGHT TRANSFER # 7451

WATER RESOURCES DEPT.  
SALEM, OREGON

A change in POU POD POA USE of water.

In the name(s) of William L. & Anne C. Givens.

In my opinion (assuming the right is valid), the proposed change MAY BE MADE WITHOUT INJURY WOULD RESULT IN INJURY\* to an existing water right.

\*The approval of this transfer application would result in injury to other water rights because See Duggan Creek decree  
Contest #2 stipulated agreement that water  
rights (allaker) could not be transferred from one  
ditch to another + priority dates could not be exchanged.  
\* CURE MAP DOES NOT REPRESENT CURRENT DITCH LOCATIONS OR POD'S

The existing right may not be valid because \_\_\_\_\_

Headgate notices HAVE HAVE NOT been issued for diversion from the source(s) which serve(s) this right.

If for change in point of diversion, is there any intervening point(s) for diversion between the authorized and proposed points of diversion? (yes or no) yes

In my opinion, the order approving the subject transfer application should include the following in regard to the appropriator installing suitable measuring devices in the diversion works:

- (1) PRIOR to the diverting of water at the new point of diversion....
- X   (2) WHEN IN the judgement of the watermaster it becomes necessary....

The enclosed copy of the transfer application and map(s) is for your records.

