

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MODOC

C. E. CUMMINS AND LILY V. CUMMINS, his wife,)
J. W. HERYFORD AND SARAH HERYFORD, his wife,)
FANNIE P. ENNIS AND JOHN C. ENNIS, her husband,)
FANNIE D. McCLINTOCK AND FRANK McCLINTOCK, her)
husband, and FRANKIE H. McCLINTOCK, T. D. CUMMINS,)
MAY C. WORLEY, LOU WEST, LEONORA CALDWELL, and)
ADA McCULLOUGH,)

Plaintiffs.)

vs.)

DECREE

WILEY ALLEN AND MAMIE ALLEN, his wife, R. E. ALLEN,)
JOEL C. ALLEN, JUNIOR, and ANNIE ALLEN, his wife,)
WILEY ALLEN, administrator of the Estate of)
J. C. Allen, deceased, said administrator being)
substituted herein for and instead of J. C. Allen,)
deceased, and BERTHA ALLEN, surviving Wife of)
J. C. Allen, deceased, SYLVESTER ALLEN AND GRACE)
ALLEN, his wife, MILDRED M. ALLEN, surviving wife)
of James Ira Allen, deceased, MILDRED M. ALLEN, as)
guardian of the person and estate of Rollen E. Allen,)
a minor, H. D. COOK, and H. D. COOK, as administrator)
of the estate of Roy Cook, deceased, and H. D. COOK,)
as guardian of the persons and estates of FERNE COOK,)
NEAL COOK, CAROL COOK, ELMER COOK, MADGE COOK, and)
LYLE COOK, minors, HENRY STINER and JESSIE H. STINER,)
his wife, J. M. REEDER and CAROLINE C. REEDER, his)
wife, JENNIE ARRECHE, and JENNIE ARRECHE, as guardian)
of the persons and estates of George, Peter, and)
John B. Laxague, minors, WILLIAM ST. JOHN and)
ELSIE ST. JOHN, his wife, JOHN DOE, RICHARD ROE,)
HIRAM MOE, FRANK POE, JAMES DOE, JACK POE,)
MARY POE and FANNIE DOE,)

Defendants.)

The above entitled cause came on regularly for trial before the
above entitled court on the 26th day of June, 1922, Honorable H. D.
Burroughs, Judge of said court presiding, plaintiffs appearing by and
through their attorneys, Messrs. Robnett and Wylie, the defendant
Jessie H. Stiner appearing by and through her attorney C. E. McLaughlin,
Esq., the defendants J. M. Reeder and Caroline C. Reeder appearing by
and through their attorney C. S. Baldwin, Esq., and all of the remaining

defendants except, Wm. St. John and Elsie St. John, appearing by and through their attorneys Messrs. N. J. Barry and E. B. Robinson, and evidence both oral and documentary having been adduced and presented on behalf of all the parties to said action and the same having been submitted to the court for its consideration and decision, and the court having filed its opinion and order for findings and judgment, and the parties to this action having thereafter stipulated and agreed that the court shall have authority to enter a judgment and decree herein which shall be competent to adjudicate the entire water right of each and every party subscribed with like effect as if the pleadings in said suit embraced issues of the relative rights of all parties and of each and every party irrespective of status as plaintiffs or defendants, and that the court shall have authority to enter a judgment and decree based upon the provisions so stipulated and agreed to and said stipulation being comprised of five identical documents each of said documents being signed by different parties and said stipulation being annexed hereto as Exhibit "A" and said documents comprising said stipulation being marked Part 1, Part 2, Part 3, Part 4, and Part 5 respectively, and said stipulation being made a part hereof, and findings of fact and conclusions of law being waived by said stipulation and it further appearing that said stipulation is signed by all of the parties who have appeared in this action or by their successors in interest and also by their counsel and that said parties who have signed said stipulation are the owners of the rights as agreed upon and set forth in said stipulation, and it further appearing as follows:

(1) That Fannie D. McClintock and Frank McClintock, her husband, and Frankie H. McClintock have sold, transferred and disposed of their interests in the property involved in said action to John C. Ennis and Fannie P. Ennis and that said Ennis' are now the real parties in interest in lieu of said McClintocks;

(2) That the interests of Lou West, deceased, in the property involved in this action have been distributed to her heirs, to wit,

J. P. West, Jackson C. West and Nevada Loraine Huston;

(3) That the rights set forth in the stipulation hereinabove referred to and annexed hereto and made a part hereof, as belonging to the Cummins estate are owned by C. E. Cummins, T. D. Cummins, Mae C. Worley, Leonora Caldwell, Ada McCullough, J. P. West, Jackson C. West, and Nevada Loraine Huston;

(4) That R. E. Allen is one and the same person as Rollen E. Allen, a minor;

(5) That the interests of J. C. Allen, deceased, in the $\frac{1}{2}$ of the $\frac{1}{2}$ of Sec. 34, Tp. 41 N, R 16 E, M.D.M. have been acquired by Walter Malitz through decree of distribution to the heirs and deeds from said heirs.

(6) That the interests of J. C. Allen, deceased, in all rights involved in this action other than those acquired by Walter Malitz have been distributed to and are owned by W. I. Allen, sometimes known as Wiley Allen.

(7) That Bertha Allen, surviving wife of J. C. Allen, deceased, has no interest in any of the rights involved in this action.

(8) That Sylvester Allen and Grace Allen, his wife, have disposed of their interests in all rights involved in this action to W. I. Allen, and Mayme F. Allen, his wife.

(9) That Mildred M. Allen, formerly the wife of James Ira Allen, deceased, has married C. A. Larimore and is now Mildred M. Larimore.

(10) That Rollen E. Allen, a minor, hereinabove referred to as R. E. Allen, is the son of James Ira Allen, deceased, and Mildred M. Larimore;

(11) That the interest of Mildred M. Larimore and her son Rollen E. Allen, a minor, in the estate of J. C. Allen, deceased, have been

acquired by W. I. Allon and have been transferred by W. I. Allon to Walter Malitz;

(12) That H. D. Cook has died since the commencement of this action and that by decrees of distribution and conveyances made the rights of said H. D. Cook, deceased, and Roy Cook, deceased, involved in this action have become vested in and are now owned by Lyle Cook, now of age; Ferne Cook Rowe, formerly Ferne Cook and now married and of age; Madge Cook Dorris, formerly Madge Cook and now married and of age; and Carol Cook, Elmer Cook, and Neal Cook, who are minors under the care and guardianship of Lyle Cook;

(13) That Henry Stiner is dead and that his surviving wife, Jessie H. Stiner is the owner of the rights set forth under her name in said stipulation;

(14) And that Jennie Arreche was formerly Jennie Laxague and is the owner of the rights set forth under her name in said stipulation;

NOW THEREFORE IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

(1st) That there is in said Modoc County a natural stream of water known as and called "Owl Creek", which said creek arises on the eastern slope of the Warner Range of Mountains in said Modoc County, State of California, and flows thence in a general easterly direction between well defined banks in a well defined channel to, upon, and across some of the lands of some of the parties to this action which lands are hereinafter described, and has so flowed since the memory of man.

(2nd) That in accordance with the stipulation hereinabove referred to and annexed hereto and made a part hereof, the various parties to the same and to whom rights are, by this decree, adjudged, have

diverted and used water and are entitled to divert and use water in accordance with the terms and provisions contained in said stipulation and in this decree set forth, through various and sundry ditches, which said ditches are referred to by name, and the points of diversion of each are hereby adjudged and decreed to be as follows, to-wit:

ALLEN-ARRECHE DITCH

At a point which bears approximately S 31° 30' W, approximately 2070 feet distant from the northeast corner of Section 33, T 41 N, R 16 E, M. D. B. & M., being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 33.

ENNIS-ARRECHE DITCH

At a point which bears approximately S 27° 00' E, approximately 1750 feet distant from the northwest corner of Section 34, T 41 N, R 16 E, M. D. B. and M., being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34.

DALTON DITCH

At a point which bears approximately S 31° 00' E, approximately 1790 feet distant from the northwest corner of Section 34, T 41 N, R 16 E, M.D. B. & M., being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34.

REEDER DITCH

At a point which bears approximately S 41° 30' E, approximately 1970 feet distant from the northwest corner of Section 34, T 41 N, R 16 E, M. D. B. & M., being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34.

COOK DITCH

At a point which bears approximately S 45° 30' E, approximately 2130 feet distant from the northwest corner of Section 34, T 41 N, R 16 E, M. D. B. & M., being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34.

WADE DITCH

At a point which bears approximately S 47° 00' E, approximately 2090 feet distant from the northwest corner of Section 34, T 41 N, R 16 E, M. D. B. & M., being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34.

STINER DITCH

At a point which bears approximately S 49° 30' E, approximately 2210 feet distant from the northwest corner of Section 34, T 41 N, R 16 E, M. D. B. & M., being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34.

McCLINTOCK DITCH

At a point which bears approximately S 51° 30' E, approximately 2250 feet distant from the northwest corner of Section 34, T 41 N, R 16 E, M. D. B. & M., being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34.

CHASE DITCH

At a point which bears approximately S 54° 00' E., approximately 2250 feet distant from the northwest corner of Section 34, T 41 N, R 16 E, M. D. B. & M., being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34.

ALLEN (PRICE) DITCH

At a point which bears approximately S 60° 30' E., approximately 2350 feet distant from the northwest corner of Section 34, T 41 N, R 16 E, M. D. B. & M., being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34.

HERYFOED DITCH

At a point which bears approximately S 62° 00' E, approximately 2370 feet distant from the northwest corner of Section 34, T 41 N, R 16 E, M. D. B. & M., being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34.

CUMMINS UPPER SOUTH DITCH

At a point which bears approximately S 61° 00' E., approximately 2440 feet distant from the northwest corner of Section 34, T 41 N, R 16 E, M. D. B. & M., being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 34.

CUMMINS LOWER SOUTH DITCH

At a point which bears approximately N 70° 00' E, approximately 1060 feet distant from the west quarter corner of Section 35, T 41 N, R 16 E, M. D. B. & M., being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 35.

CUMMINS NORTH DITCH

At a point which bears approximately N 76° 00' E., approximately 1300 feet distant from the west quarter corner of Section 35, T 41 N, R 16 E, M. D. B. & M., being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 35.

OLD CHANNEL

At a point which bears approximately N. 59° 00' W, approximately 1400 feet distant from the southeast corner of Section 35, T 41 N, R 16 E, M. D. B. & M., being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 35.

KING DITCH

At a point which bears approximately N 78° 30' W., approximately 940 feet distant from the southeast corner of Section 35, T 41 N, R 16 E, M. D. B. & M., being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 35.

WILLIAMS DITCH

At a point which bears approximately N 83° 30' W, approximately 1010 feet distant from the southeast corner of Section 35, T 41 N, R 16 E, M. D. B. & M., being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 35.

(3rd) That at the time of the commencement of this action, Fannie D. McClintock and Frank McClintock, her husband, and Frankie H. McClintock were the owners, in the possession and entitled to the possession, and for more than forty years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession and entitled to the possession of the following described lands, and that now John C. Ennis and Fannie P. Ennis are the owners, in the possession and entitled to the possession of said lands, situated in said Modoc County, California, to-wit:

Southwest quarter of the Northeast quarter ($SW\frac{1}{4} NE\frac{1}{4}$), and all of the Northwest quarter ($NW\frac{1}{4}$) of Section one (1); Southeast quarter of the Northeast quarter ($SE\frac{1}{4} NE\frac{1}{4}$), and the North one-half of the Northeast quarter ($N\frac{1}{2} NE\frac{1}{4}$) of Section two (2); all in Township forty (40) North, Range sixteen (16) East, M. D. B. & M.; Southwest quarter of the Southeast quarter ($SW\frac{1}{4} SE\frac{1}{4}$), and the South one-half of the Southwest quarter ($S\frac{1}{2} SW\frac{1}{4}$) of Section thirty-five (35), Township forty-one (41), North, Range sixteen (16) East, M. D. B. & M.

and that during all of said times they and their grantors have irrigated from the waters of Owl Creek, the following portions of said land, to-wit:

All of said North one-half of the Northwest quarter ($N\frac{1}{2} NW\frac{1}{4}$), thirty-eight and eight tenths (38.8) acres in said Southwest quarter of the Northwest quarter ($SW\frac{1}{4} NW\frac{1}{4}$), all of said Southeast quarter of the Northwest quarter ($SE\frac{1}{4} NW\frac{1}{4}$), all of said Southwest quarter of the Northeast quarter ($SW\frac{1}{4} NE\frac{1}{4}$) of said Section one (1); thirty-nine and two tenths (39.2) acres in said Northeast quarter of the Northeast quarter ($NE\frac{1}{4} NE\frac{1}{4}$) eleven and three tenths (11.3) acres in said Northwest quarter of the Northeast quarter ($NW\frac{1}{4} NE\frac{1}{4}$); and twenty three and seven tenths (23.7) acres in said Southeast quarter of the Northeast quarter ($SE\frac{1}{4} NE\frac{1}{4}$) of said Section two (2); all of said Southwest quarter of the Southeast quarter ($SW\frac{1}{4} SE\frac{1}{4}$), and all of said South one-half of the Southwest quarter ($S\frac{1}{2} SW\frac{1}{4}$) of said Section thirty-five (35).

(4th) That at the time of the commencement of this action, John C. Ennis and Fannie P. Ennis were the owners, in the possession and entitled to the possession of, and for more than forty years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession and entitled to the possession, of the following described lands situated in said Modoc County, California, to-wit:

West one-half of the Southwest quarter ($W\frac{1}{2} SW\frac{1}{4}$) of Section twenty-five (25); East one-half of the Southeast quarter ($E\frac{1}{2} SE\frac{1}{4}$), Northwest quarter of the Southeast quarter ($NW\frac{1}{4} SE\frac{1}{4}$), West one-half of the Southwest quarter ($W\frac{1}{2} SW\frac{1}{4}$), and the Northeast quarter, of the Southwest quarter ($NE\frac{1}{4} SW\frac{1}{4}$) of Section twenty-six (26), all in Township forty-one (41) North, Range sixteen (16) East, M.D.B. & M.

and that during all of said times they and their grantors have irrigated from the waters of Owl Creek, the following portions of said land, to-wit:

Thirty-nine (39.0) acres in said Northwest quarter of the Southwest quarter ($NW\frac{1}{4} SW\frac{1}{4}$), and thirty-five and five tenths (35.5) acres in said Southwest quarter of the Southwest quarter ($SW\frac{1}{4} SW\frac{1}{4}$) of said Section twenty-five (25); all of said East one-half of the Southeast quarter ($E\frac{1}{2} SE\frac{1}{4}$), twenty-four and five tenths (24.5) acres in said Northwest quarter of the Southeast quarter, six and four tenths (6.4) acres in said Southwest quarter of the Southwest quarter ($SW\frac{1}{4} SW\frac{1}{4}$) thirty and three tenths (30.3) acres in said Northwest quarter of the Southwest quarter ($NW\frac{1}{4} SW\frac{1}{4}$), and twenty and eight tenths (20.8) acres in said Northeast quarter of the Southwest quarter, all in said Section twenty-six (26).

(5th) That at the time of the commencement of this action, J. W. Heryford and Sarah B. Heryford were the owners, in the possession and entitled to the possession of, and for more than forty years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession and entitled to the possession, of the following described lands situated in said Modoc County, California, to-wit:

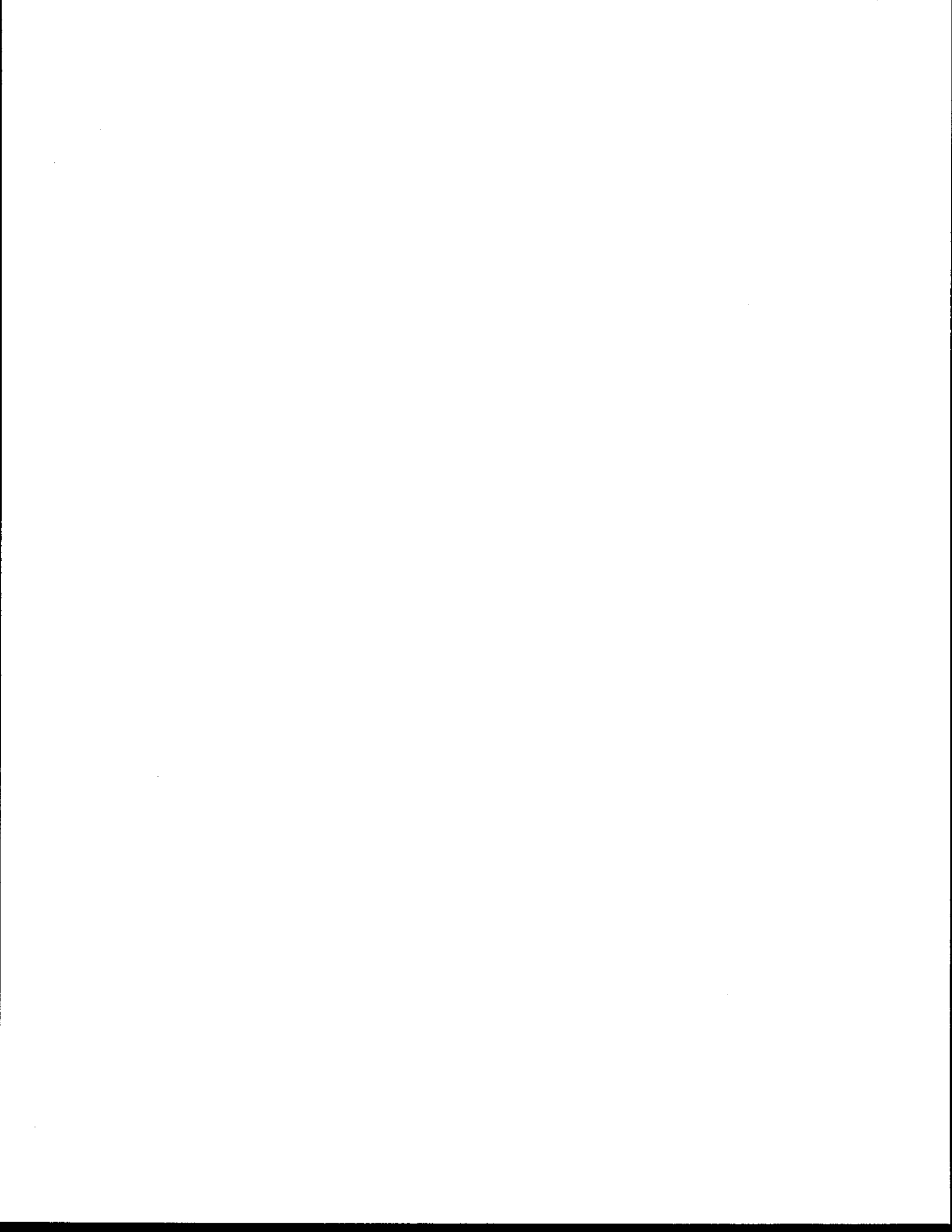
Southeast quarter of the Southwest quarter ($SE\frac{1}{4} SW\frac{1}{4}$), and the Southwest quarter of the Southeast quarter ($SW\frac{1}{4} SE\frac{1}{4}$) of Section twenty-six (26); East one-half of the Northwest quarter ($E\frac{1}{2} NW\frac{1}{4}$), the Northwest quarter of the Northwest quarter ($NW\frac{1}{4} NW\frac{1}{4}$), and all of the northeast quarter ($NE\frac{1}{4}$) of Section thirty-five (35); West one-half of the Northwest quarter ($W\frac{1}{2} NW\frac{1}{4}$), and the West one-half of the Southwest quarter ($W\frac{1}{2} SW\frac{1}{4}$) of Section thirty-six (36), all in Township forty-one (41) North, Range sixteen (16) East, M. D. B. and M.,

and that during all of said times they and their grantors have irrigated from the waters of Owl Creek, the following portions of said land, to-wit:

Fourteen (14.0) acres in said Southeast quarter of the Southwest quarter ($SE\frac{1}{4} SW\frac{1}{4}$) and thirty-five and six tenths (35.6) acres in said Southwest quarter of the Southeast quarter ($SW\frac{1}{4} SE\frac{1}{4}$) of said Section twenty-six (26); thirty-one and two tenths (31.2) acres in said Northeast quarter of the Northwest quarter ($NE\frac{1}{4} NW\frac{1}{4}$), twenty-nine and two tenths (29.2) acres in said Southeast quarter of the Northwest quarter ($SE\frac{1}{4} NW\frac{1}{4}$), thirty-three and eight tenths (33.8) acres in said Northwest quarter of the Northeast quarter ($NW\frac{1}{4} NE\frac{1}{4}$), thirty and two tenths (30.2) acres in said Southwest quarter of the Northeast quarter ($SW\frac{1}{4} NE\frac{1}{4}$), all of said Northeast quarter of the Northeast quarter ($NE\frac{1}{4} NE\frac{1}{4}$), forty and nine tenths (40.9) acres in said Southeast quarter of the Northeast quarter ($SE\frac{1}{4} NE\frac{1}{4}$) and thirty-six and five tenths (36.5) acres in said Northwest quarter of the Northwest quarter ($NW\frac{1}{4} NW\frac{1}{4}$), all in said Section thirty-five (35); thirty-five and five tenths (35.5) acres in said Northwest quarter of the Northwest quarter ($NW\frac{1}{4} NW\frac{1}{4}$) twenty-four and two tenths (24.2) acres in said Southwest quarter of the Northwest quarter ($SW\frac{1}{4} NW\frac{1}{4}$), thirteen and three tenths (13.3) acres in said Northwest quarter of the Southwest quarter ($NW\frac{1}{4} SW\frac{1}{4}$), and twenty-four and six tenths (24.6) acres in said Southwest quarter of the Southwest quarter ($SW\frac{1}{4} SW\frac{1}{4}$) all in said Section thirty-six (36).

(6th) That at the time of the commencement of this action, G. E. Cummins and Lily V. Cummins were the owners, in the possession and entitled to the possession of, and for more than forty years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession and entitled to the possession, of the following described lands situated in said Modoc County, California, to-wit:

Northeast quarter of the Southwest quarter ($NE\frac{1}{4} SW\frac{1}{4}$), the Northwest quarter of the Southeast quarter ($NW\frac{1}{4} SE\frac{1}{4}$) and the East one-half of the Southeast quarter ($E\frac{1}{2} SE\frac{1}{4}$), all in Section



thirty-five (35), Township forty-one (41) North, Range sixteen (16) East, M. D. B. & M.; and Lot two (2) of Section one (1), Township forty (40) North, Range sixteen (16) East, M.D.B. & M.,

and that during all of said times they and their grantors have irrigated from the waters of Owl Creek, all of said land.

(7th) That at the time of the commencement of this action C. E. Cummins, T. D. Cummins, Mae C. Worley, Leonora Caldwell, Ada McCullough, and Lou West were the owners, in the possession and entitled to the possession of, and for more than forty years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession and entitled to the possession of and that now C. E. Cummins, T. D. Cummins, May C. Worley, Leonora Caldwell, Ada McCullough, J. P. West, Jackson C. West, and Nevada Loraine Huston are the owners in the possession and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

Southeast quarter of the Northwest quarter ($SE\frac{1}{4}NW\frac{1}{4}$), East one-half of the Southwest quarter ($E\frac{1}{2}SW\frac{1}{4}$), Lot two (2), Lot three (3), and Lot four (4), all in Section thirty-six (36) Township forty-one (41) North, Range sixteen (16) East, M.D.B. & M., Lot one (1), Southeast quarter of the Northeast quarter ($SE\frac{1}{4}NE\frac{1}{4}$), and the Northeast quarter of the Southeast quarter ($NE\frac{1}{4}SE\frac{1}{4}$), all in Section one (1); Lot one (1), Lot two (2), Lot three (3), and Lot four (4), all in Section six (6), Township forty (40) North, Range seventeen (17) East, M. D. B. and M.

and that during all of said times, said owners and their grantors have irrigated from the waters of Owl Creek, the following portions of said land, to-wit:

Three and three tenths (3.3) acres in said Southeast quarter of the Northwest quarter ($SE\frac{1}{4}NW\frac{1}{4}$), thirty and seven tenths (30.7) acres in said Northeast quarter of the Southwest quarter ($NE\frac{1}{4}SW\frac{1}{4}$), all of said Southeast quarter of the Southwest quarter ($SE\frac{1}{4}SW$), two and eight tenths (2.8) acres in said Lot two (2), forty-six and three tenths (46.3) acres in said Lot three (3), and thirty-one and four tenths (31.4) acres in said Lot four (4), all in said Section thirty-six (36); thirty-nine (39.0) acres in said Lot one (1), all of said Southeast quarter of the Northeast quarter ($SE\frac{1}{4}NE\frac{1}{4}$), and all of said Northeast quarter of the Southeast quarter ($NE\frac{1}{4}SE\frac{1}{4}$), all in said Section one (1); ninety-two and three tenths (92.3) acres in said Lot one (1), eighty-four and seven tenths (84.7) acres in said Lot two (2), seventy-one and eight tenths (71.8) acres in said Lot three (3), and twenty-eight and two tenths (28.2) acres in said Lot four (4), all in said Section six (6).

(8th) That at the time of the commencement of this action, Jennie Arreche, formerly known as Jennie Laxague, was the owner of, in the possession and entitled to the possession, and for more than forty years prior thereto, she and her grantors and predecessors in interest were the owners, in the possession and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

Northwest quarter (NW $\frac{1}{4}$) of Section twenty-six (26); Southeast quarter of the Southeast quarter (SE $\frac{1}{2}$ SE $\frac{1}{4}$) of Section twenty-two (22); Northeast quarter of the Northeast quarter (NE $\frac{1}{2}$ NE $\frac{1}{4}$) of Section twenty-seven (27); and the Southwest quarter of the Southwest quarter (SW $\frac{1}{2}$ SW $\frac{1}{4}$) of Section twenty-three (23), all in Township forty-one (41) North, Range sixteen (16) East, M.D.B. & M.,

and that during all of said times she and her grantors have irrigated from the waters of Owl Creek, the following portions of said land, to-wit:

All of said North one-half of the Northwest quarter (N $\frac{1}{2}$ NW $\frac{1}{4}$), twenty-nine and seven tenths (29.7) acres in said Southwest quarter of the Northwest quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$), and thirty-eight (38.0) acres in said Southeast quarter of the Northwest quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$), all in said Section twenty-six (26); twenty and one tenth (20.1) acres in said Southeast quarter of the Southeast quarter (SE $\frac{1}{2}$ SE $\frac{1}{4}$) of said Section twenty-two (22); twenty-five and four tenths (25.4) acres in said Northeast quarter of the Northeast quarter (NE $\frac{1}{4}$ NE $\frac{1}{2}$) of said Section twenty-seven (27); and twenty-four and seven tenths (24.7) acres in said Southwest quarter of the Southwest quarter (SW $\frac{1}{2}$ SW $\frac{1}{4}$) of said Section twenty-three (23).

(9th) That at the time of the commencement of this action, J. C. Allen, Jr., was the owner, in the possession and entitled to the possession of, and for more than forty years prior thereto, he and his grantors and predecessors in interest were the owners, in the possession and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

West one-half of the Northwest quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$), and the North one-half of the Northeast quarter of the Northwest quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section twenty-five (25), Township forty-one (41) North, Range sixteen (16) East, M.D.B. and M.

and that during all of said times, he and his grantors have irrigated from the waters of Owl Creek, the following portions of said land, to-wit:

Thirty and two tenths (30.2) acres in said Southwest quarter of the Northwest quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$), twenty and three tenths (20.3) acres in said Northwest quarter of the Northwest quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$), and all of said North one-half of the Northeast quarter of the Northwest quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of said Section twenty-five (25).

(10th) That at the time of the commencement of this action, C. A. Larimore and Mildred M. Larimore were the owners, in the possession and entitled to the possession, and for more than forty years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

now Perry
H. K. Perry

South one-half of the Northeast quarter of the Northwest quarter ($S\frac{1}{2} NE\frac{1}{4} NW\frac{1}{4}$), Southeast quarter of the Northwest quarter ($SE\frac{1}{4} NW\frac{1}{4}$), and the Southwest quarter of the Northeast quarter ($SW\frac{1}{4} NE\frac{1}{4}$) of Section twenty-five (25), Township forty-one (41) North, Range sixteen (16) East, M. D. B. & M.

and that during all of said times, they and their grantors have irrigated from the waters of Owl Creek, the following portions of said land, to-wit:

All of said South one-half of the Northeast quarter of the Northwest quarter ($S\frac{1}{2} NE\frac{1}{4} NW\frac{1}{4}$), thirty-eight (38.0) acres in said Southeast quarter of the Northwest quarter ($SE\frac{1}{4} NW\frac{1}{4}$), and thirty-one and two tenths (31.2) acres in said Southwest quarter of the Northeast quarter ($SW\frac{1}{4} NE\frac{1}{4}$), all in said Section twenty-five (25).

(11th) That Jessie H. Stiner is now the owner, in the possession and entitled to the possession, and for more than forty years prior to the commencement of this action she and her grantors and predecessors in interest were the owners, in the possession and entitled to the possession of the following described lands, to-wit:

Southeast quarter of the Northeast quarter ($SE\frac{1}{4} NE\frac{1}{4}$) of Section thirty-four (34); Southwest quarter of the Northwest quarter ($SW\frac{1}{4} NW\frac{1}{4}$) and the Northwest quarter of the Southwest quarter ($NW\frac{1}{4} SW\frac{1}{4}$), of Section thirty-five (35), all in Township forty-one (41) North, Range Sixteen (16) East, M.D.B. and M.

and that during all of said time, she and her grantors have irrigated from the waters of Owl Creek, the following portions of said land, to-wit:

Twenty-five and five tenths (25.5) acres in said Southeast quarter of the Northeast quarter ($SE\frac{1}{4} NE\frac{1}{4}$) of said Section thirty-four (34); ten and three tenths (10.3) acres in said Southwest quarter of the Northwest quarter ($SW\frac{1}{4} NW\frac{1}{4}$), and thirty and seven tenths (30.7) acres in said Northwest quarter of the Southwest quarter ($NW\frac{1}{4} SW\frac{1}{4}$) of said Section thirty-five (35).

(12th) That at the time of the commencement of this action, the heirs of J. C. Allen, deceased, were the owners, in the possession and entitled to the possession, and for more than thirty-five years prior thereto, said heirs and their grantors and predecessors in interest were the owners, in the possession and entitled to the possession of the following described lands, and that now Walter Malitz is the owner, in the possession and entitled to the possession of said lands situated in said Modoc County, California, to-wit:

North one-half of the Northeast quarter ($N\frac{1}{2} NE\frac{1}{4}$) of Section thirty-four (34), Township forty-one (41) North, Range sixteen (16) East, M. D. B. and M.,

and that during all of said times, he and his grantors have irrigated from the waters of Owl Creek, the following portions of said land, to-wit:

Fifteen and two tenths (15.2) acres in said Northwest quarter of the Northeast quarter ($NW\frac{1}{4} NE\frac{1}{4}$), and twenty-two and three tenths (22.3) acres in said Northeast quarter of the Northeast quarter ($NE\frac{1}{4} NE\frac{1}{4}$) of said Section thirty-four (34).

(13th) That at the time of the commencement of this action, W. I. Allen and Mayme F. Allen, his wife, and Sylvester Allen and Grace Allen, his wife, were the owners, in the possession and entitled to the possession, and for more than thirty-five years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession and entitled to the possession of, and that now W. I. Allen and Mayme F. Allen, his wife, are the owners, in the possession and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

Southeast quarter of the Northwest quarter ($SE\frac{1}{4} NW\frac{1}{4}$), East one-half of the Southwest quarter ($E\frac{1}{2} SW\frac{1}{4}$), and the Southeast quarter ($SE\frac{1}{4}$), all in Section twenty-four (24), Township forty-one (41) North, Range sixteen (16) East, M.D.B. & M.

and that during all of said times, they and their grantors have irrigated from the waters of Owl Creek, the following portions of said land, to-wit:

Ten and six tenths (10.6) acres in said Southeast quarter of the Northwest quarter ($SE\frac{1}{4} NW\frac{1}{4}$), thirty-eight and seven tenths (38.7) acres in said Northeast quarter of the Southwest quarter ($NE\frac{1}{4} SW\frac{1}{4}$), twenty-five and nine tenths (25.9) acres in said Northwest quarter of the Southeast quarter ($NW\frac{1}{4} SE\frac{1}{4}$), six and three tenths (6.3) acres in said Northeast quarter of the Southeast quarter ($NE\frac{1}{4} SE\frac{1}{4}$), thirty-nine and five tenths (39.5) acres in said Southeast quarter of the Southwest quarter ($SE\frac{1}{4} SW\frac{1}{4}$) all of said Southwest quarter of the Southeast quarter ($SW\frac{1}{4} SE\frac{1}{4}$), and fourteen and two tenths (14.2) acres in said Southeast quarter of the Southeast quarter ($SE\frac{1}{4} SE\frac{1}{4}$), all in said Section twenty-four (24).

(14th) That at the time of the commencement of this action H. D. Cook, deceased, and the heirs of Roy Cook, deceased were the owners, in the possession and entitled to the possession, and for more than thirty-five years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession and entitled to the possession of the following described lands, and that now Lyle Cook, Ferne Cook Rowe, Madge Cook Dorris, Carol Cook, Elmer Cook, and Neal Cook are the owners, in the possession and entitled to the possession of said lands situated in said Modoc County, California, to-wit:

Southeast quarter of the Northwest quarter ($SE\frac{1}{4} NW\frac{1}{4}$), Southwest quarter of the Northeast quarter ($SW\frac{1}{4} NE\frac{1}{4}$), Northwest quarter

of the Southeast quarter ($NW\frac{1}{4} SE\frac{1}{4}$), and the East one-half of the Southeast quarter ($E\frac{1}{2} SE\frac{1}{4}$), all in Section thirty-four (34), Township forty-one (41) North, Range sixteen (16) East, M.D.B. and M., Southeast quarter ($SE\frac{1}{4}$) of Section two (2); Southwest quarter ($SW\frac{1}{4}$), West one-half of the Southeast quarter ($W\frac{1}{2} SE\frac{1}{4}$), and the Southeast quarter of the Southeast quarter ($SE\frac{1}{4} SE\frac{1}{4}$) of Section one (1), all in Township forty (40) North, Range sixteen (16) East, M. D. B. & M.

and that during all of said time said owners and their grantors irrigated from the waters of Owl Creek, the following portions of said land, to-wit:

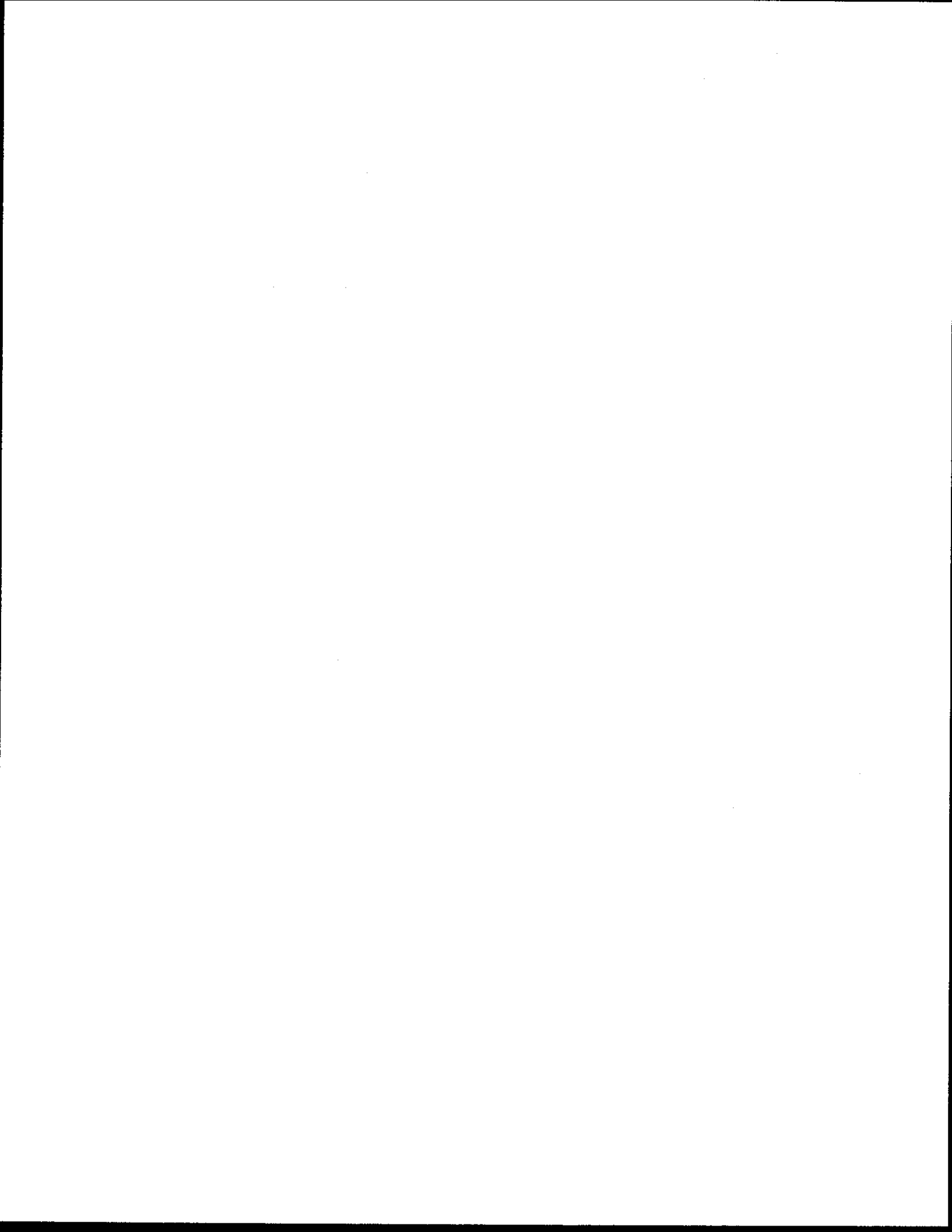
One (1.0) acre in said Southeast quarter of the Northwest quarter ($SE\frac{1}{4} NW\frac{1}{4}$), nineteen and five tenths (19.5) acres in said Southwest quarter of the Northeast quarter ($SW\frac{1}{4} NE\frac{1}{4}$) thirty-five and four tenths (35.4) acres in said Northwest quarter of the Southeast quarter ($NW\frac{1}{4} SE\frac{1}{4}$), thirty-eight and four tenths (38.4) acres in said Northeast quarter of the Southeast quarter ($NE\frac{1}{4} SE\frac{1}{4}$), and thirty-two and seven tenths (32.7) acres in said Southeast quarter of the Southeast quarter ($SE\frac{1}{4} SE\frac{1}{4}$), all in said Section thirty-four (34); thirty-one and five tenths (31.5) acres in said Northwest quarter of the Southeast quarter ($NW\frac{1}{4} SE\frac{1}{4}$) eight tenths (0.8) acre in said Southwest quarter of the Southeast quarter ($SW\frac{1}{4} SE\frac{1}{4}$), all of said Northeast quarter of the Southeast quarter ($NE\frac{1}{4} SE\frac{1}{4}$), and eighteen and three tenths (18.3) acres in the Southeast quarter of the Southeast quarter ($SE\frac{1}{4} SE\frac{1}{4}$), all in said Section two (2); thirty and two tenths (30.2) acres in said Northwest quarter of the Southwest quarter ($NW\frac{1}{4} SW\frac{1}{4}$), thirty-six and seven tenths (36.7) acres in said Southwest quarter of the Southwest quarter ($SW\frac{1}{4} SW\frac{1}{4}$) all of said East one-half of the Southwest quarter ($E\frac{1}{2} SW\frac{1}{4}$), all of said West one-half of the Southeast quarter ($W\frac{1}{2} SE\frac{1}{4}$), and twenty (20.0) acres in said Southeast quarter of the Southeast quarter ($SE\frac{1}{4} SE\frac{1}{4}$), all in said Section one (1).

(15th) That at the time of the commencement of this action, J. M. Reeder and Caroline C. Reeder were the owners, in the possession and entitled to the possession, and for more than thirty-five years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

East one-half of the Southeast quarter ($E\frac{1}{2} SE\frac{1}{4}$) of Section twenty-seven (27), Township forty-one (41) North, Range sixteen (16) East, M. D. B. & M.

and that during all of said times, they and their grantors have irrigated from the waters of Owl Creek, the following portions of said land, to-wit:

Twenty-seven and eight tenths (27.8) acres in said Southeast quarter of the Southeast quarter ($SE\frac{1}{4} SE\frac{1}{4}$), and seven tenths (0.7) acre in said Northeast quarter of the Southeast quarter ($NE\frac{1}{4} SE\frac{1}{4}$), all in said Section twenty-seven (27).



(16th) It is FURTHER ORDERED, ADJUDGED AND DECREED that John C. Ennis and Fannie P. Ennis, jointly, are the owners of the first right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the amount of 0.52 cubic foot per second, for use upon their lands so heretofore irrigated and hereinbefore described, to be diverted and used through the McClintock Ditch, which said right is superior to all rights hereinafter adjudged and decreed.

(17th) That subject to the right hereinbefore adjudged and decreed, J. W. Heryford and Sarah B. Heryford, jointly, are the owners of the second right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the amount of 0.52 cubic foot per second, for use upon their lands so heretofore irrigated and hereinbefore described, to be diverted and used through the Heryford Ditch, which said right is inferior to the right hereinbefore in this decree adjudged and decreed, but is superior to all rights hereinafter decreed.

(18th) That subject to the rights hereinbefore adjudged and decreed, C. E. Cummins and Lily V. Cummins, jointly, are the owners of the third right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the amount of 0.52 cubic foot per second, for use upon their lands so heretofore irrigated and hereinbefore described, to be diverted and used through the Cummins Upper Ditch, which said right is inferior to all right hereinbefore in this decree adjudged and decreed, but is superior to all rights hereinafter decreed.

(19th) That subject to the rights hereinbefore adjudged and decreed John C. Ennis and Fannie P. Ennis, jointly, and Jennie Arreche, are the owners of the fourth rights in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the respective amounts

of water set opposite their names, through the respective ditches set opposite their respective names, for use upon their respective lands so heretofore irrigated and hereinbefore described, to-wit:

<u>Name</u>	<u>Ditch</u>	<u>Cubic Feet per Second</u>
John C. Ennis & Fannie P. Ennis	Ennis-Arreche	0.43
Jennie Arreche	Ennis-Arreche	0.43

That said rights in this paragraph adjudged and decreed are subject to and inferior to all rights in this decree hereinbefore adjudged and decreed, but are superior to all rights hereinafter adjudged and decreed, and the said rights in this paragraph adjudged and decreed are on an equality as to point of time and priority and superiority and if, at any time, there is insufficient water to supply all prior rights hereinbefore adjudged and decreed and to fully supply the rights in this paragraph adjudged and decreed, that then and at such time the parties in this paragraph named shall pro-rate the water, if any, which may be flowing in said Owl Creek in excess of all prior rights, and such pro-ration shall be on the basis that their respective rights bear to the aggregate of their joint rights in this paragraph decreed.

(20th) That subject to the rights hereinbefore adjudged and decreed, Jessie H. Stiner is the owner of the fifth right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the amount of 0.43 cubic foot per second, for use upon her lands so heretofore irrigated and hereinbefore described, to be diverted and used through the Stiner Ditch, which said right is inferior to all rights hereinbefore in this decree adjudged and decreed, but is superior to all rights hereinafter decreed.

(21st) That subject to the rights hereinbefore adjudged and decreed, Walter Maultz is the owner of the sixth right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in

the amount of 0.43 cubic foot per second, for use upon his lands so heretofore irrigated and hereinbefore described, to be diverted and used through the Price Ditch, which said right is inferior to all rights hereinbefore in this decree adjudged and decreed, but is superior to all rights hereinafter decreed.

(22nd) That subject to the rights hereinbefore adjudged and decreed, J. M. Reeder and Caroline C. Reeder, jointly, are the owners of the seventh right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive of each and every year, in the amount of 0.43 cubic foot per second, for use upon their lands so heretofore irrigated and hereinbefore described, to be diverted and used through the Reeder Ditch, which said right is inferior to all rights hereinbefore in this decree adjudged and decreed, but is superior to all rights hereinafter decreed.

(23rd) That subject to the rights hereinbefore adjudged and decreed, Jennie Arreche is the owner of the eighth right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from July eighth to July fifteenth inclusive, of each and every year, in the amount of 1.00 cubic foot per second for use upon her lands so heretofore irrigated and hereinbefore described, to be diverted and used through the Allen-Arreche Ditch, which said right is inferior to all rights hereinbefore in this decree adjudged and decreed, but is superior to all rights hereinafter decreed, for the period in this paragraph named.

(24th) That subject to the rights hereinbefore adjudged and decreed, Jessie H. Stiner is the owner of the eighth right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from July twenty-fourth to July thirty-first, inclusive, of each and every year, in the amount of 0.51 cubic foot per second, for use upon her lands so heretofore irrigated and hereinbefore described, to be diverted and used through the Stiner Ditch, which said right is inferior to all rights in this decree hereinbefore adjudged and decreed, but is superior to all rights hereinafter decreed, for the period in this paragraph named.

(25th) That subject to the rights hereinbefore adjudged and decreed, Lyle Cook, Ferne Cook Rowe, Madge Cook Dorris, Carol Cook, Elmer Cook, and Neal Cook are the owners of the eighth right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from August first to August eighth, inclusive, of each and every year, in the amount of 0.44 cubic foot per second, for use upon the lands of said owners so heretofore irrigated and hereinbefore described, to be diverted and used through the Cook Ditch, which said right is inferior to all rights in this decree hereinbefore adjudged and decreed, but is superior to all rights hereinafter decreed, for the period of this paragraph named.

(26th) That subject to the rights hereinbefore adjudged and decreed, John C. Ennis and Fannie P. Ennis, jointly, are the owners of the ninth right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the amount of 3.95 cubic feet per second, for use upon their lands so heretofore irrigated and hereinbefore described, to be diverted and used through either the McClintock Ditch or the Old Channel, or in part through both of said conduits, which said right is inferior to all rights in this decree hereinbefore adjudged and decreed, but is superior to all rights hereinafter decreed.

(27th) That subject to the rights hereinbefore adjudged and decreed John C. Ennis and Fannie P. Ennis, jointly, are the owners of the tenth right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the amount of 2.18 cubic feet per second, for use upon their lands so heretofore irrigated and hereinbefore described, to be diverted and used through the Dalton Ditch, which said right is inferior to all rights in this decree hereinbefore adjudged and decreed, but is superior to all rights hereinafter decreed.

(28th) That subject to the rights hereinbefore adjudged and decreed, J. W. Heryford and Sarah B. Heryford, jointly, are the owners of the eleventh right in and to the waters of said Owl Creek, and in and to the use thereof,

during the period from January first to December thirty-first, inclusive, of each and every year, in the amount of 3.07 cubic feet per second, for use upon their lands so heretofore irrigated and hereinabove described, to be diverted and used through the Heryford Ditch, which said right is inferior to all rights in this decree hereinbefore adjudged and decreed, but is superior to all rights hereinafter decreed.

(29th) That subject to the rights hereinbefore adjudged and decreed, C. E. Cummins and Lily V. Cummins, jointly are the owners of the twelfth right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the amount of 1.74 cubic feet per second, for use upon their lands so heretofore irrigated and hereinabove described, to be diverted and used through either the Cummins Upper Ditch, the Cummins Lower South Ditch, or the Cummins North Ditch, or in part through each of said ditches, which said right is inferior to all rights in this decree hereinbefore adjudged and decreed, but is superior to all rights hereinafter decreed.

(30th) That subject to the rights hereinbefore adjudged and decreed, C. E. Cummins and Lily V. Cummins, jointly, and C. E. Cummins, T. D. Cummins, Mae C. Worley, Leonora Caldwell, Ada McCullough, J. P. West, Jackson C. West, and Nevada Loraine Huston are the owners of the thirteenth rights in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the respective amounts of water set opposite their names, through the respective ditches set opposite their respective names, for use upon their respective lands so heretofore irrigated and hereinabove described, to-wit:

<u>Name</u>	<u>Ditch</u>	<u>Cubic Feet Per Second</u>
C. E. Cummins & Lily V. Cummins	Williams	0.56
C. E. Cummins, T. D. Cummins, Mae C. Worley, Leonora Caldwell, Ada McCullough, J. P. West, Jackson C. West, Nevada Loraine Huston	King, or Old Channel	3.85

That said rights in this paragraph adjudged and decreed are subject to and inferior to all rights in this decree hereinbefore adjudged and decreed, but are superior to all rights hereinafter adjudged and decreed, and the said

rights in this paragraph adjudged and decreed are on an equality as to point of time and priority and superiority and if, at any time, there is insufficient water to supply all prior rights hereinbefore adjudged and decreed and to fully supply the rights in this paragraph adjudged and decreed, that then and at such time the parties in this paragraph named shall prorate the water, if any, which may be flowing in said Owl Creek in excess of all prior rights, and such pro-ration shall be on the basis that their respective rights bear to the aggregate of their joint rights in this paragraph decreed. That use under said right in this paragraph adjudged and decreed to C. E. Cummins, T. D. Cummins, Mae C. Worley, Leonora Caldwell, Ada McCullough, J. P. West, Jackson C. West and Nevada Loraine Huston through the King, or Old Channel Ditch shall be further limited to such times during each and every year when the total flow of said Owl Creek, measured above all diversions therefrom is 20.00 cubic feet per second or more.

(51st) That subject to the rights hereinbefore adjudged and decreed, John C. Ennis and Fannie P. Ennis, jointly, and Jennie Arreche are the owners of the fourteenth rights in and to the waters of said Owl Creek, and in and to the use thereof, during the period between January first and December thirty-first, inclusive, of each and every year, in the respective amounts of water set opposite their names, through the respective ditches set opposite their respective names, for use upon their respective lands so heretofore irrigated and hereinbefore described, to-wit:

<u>Name</u>	<u>Ditch</u>	<u>Cubic Feet Per Second</u>
John C. Ennis and Fannie P. Ennis	Ennis - Arreche	0.73
Jennie Arreche	Ennis - Arreche	0.82

That said rights in this paragraph adjudged and decreed are subject to and inferior to all rights in this decree hereinbefore adjudged and decreed, but are superior to all rights hereinafter adjudged and decreed, and the said rights in this paragraph adjudged and decreed are on an equality as to point of time and priority and superiority and if, at any time, there is insufficient water to supply all prior rights hereinbefore adjudged and decreed and to fully supply the rights in this paragraph adjudged and decreed, that

then and at such time the parties in this paragraph named shall pro-rate the water, if any, which may be flowing in said Owl Creek in excess of all prior rights, and such pro-ration shall be on the basis that their respective rights bear to the aggregate of their joint rights in this paragraph decreed.

(32nd) That subject to the rights hereinbefore adjudged and decreed, C. A. Larimore and Mildred M. Larimore, jointly, and J. C. Allen, Jr., are the owners of the fifteenth rights in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the respective amounts of water set opposite their names, through the respective ditches set opposite their respective names, for use upon their respective lands so heretofore irrigated and hereinbefore described, to-wit:

<u>Name</u>	<u>Ditch</u>	<u>Cubic Feet Per Second</u>
C. A. Larimore and Mildred M. Larimore	Chase	1.26
J. C. Allen, Jr.	Chase	0.99

That said rights in this paragraph adjudged and decreed are subject to and inferior to all rights in this decree hereinbefore adjudged and decreed, but are superior to all rights hereinafter adjudged and decreed, and the said rights in this paragraph adjudged and decreed are on an equality as to point of time and priority and superiority and if, at any time, there is insufficient water to supply all prior rights hereinbefore adjudged and decreed and to fully supply the rights in this paragraph adjudged and decreed, that then and at such time the parties in this paragraph named shall pro-rate the water, if any, which may be flowing in said Owl Creek in excess of all prior rights, and such pro-ration shall be on the basis that their respective rights bear to the aggregate of their joint rights in this paragraph decreed.

(33rd) That subject to the rights hereinbefore adjudged and decreed, J. W. Heryford and Sarah B. Heryford, jointly, and C. E. Cummins, T. D. Cummins, Mae C. Worley, Leonora Caldwell, Ada McCullough, J. P. West, Jackson C. West and Nevada Loraine Huston are the owners of the sixteenth rights in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January

first to December thirty-first, inclusive, of each and every year, in the respective amounts of water set opposite their names, through the respective ditches set opposite their respective names, for use upon their respective lands so heretofore irrigated and hereinbefore described, to-wit:

<u>Name</u>	<u>Ditch</u>	<u>Cubic Feet Per Second</u>
J. W. Heryford & Sarah Heryford	Heryford	0.51
C. E. Cummins, T.D. Cummins, Mae C. Worley, Leonora Caldwell, Ada McCullough, J. P. West, Jackson C. West, and Nevada Loraine Huston	King, or Old Channel	2.26

That said rights in this paragraph adjudged and decreed are subject to and inferior to all rights in this decree hereinbefore adjudged and decreed, but are superior to all rights hereinafter adjudged and decreed, and the said rights in this paragraph adjudged and decreed are on an equality as to point of time and priority and superiority and if, at any time, there is insufficient water to supply all prior rights hereinbefore adjudged and decreed and to fully supply the rights in this paragraph adjudged and decreed, that then and at such time the parties in this paragraph named shall pro-rate the water, if any, which may be flowing in said Owl Creek in excess of all prior rights, and such pro-ration shall be on the basis that their respective rights bear to the aggregate of their joint rights in this paragraph decreed.

(34th) That subject to the rights hereinbefore adjudged and decreed, J. W. Heryford and Sarah B. Heryford, jointly, are the owners of the seventeenth right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the amount of 1.38 cubic feet per second, for use upon their lands so heretofore irrigated and hereinbefore described, to be diverted and used through the Heryford Ditch, which said right is inferior to all rights hereinbefore in this decree adjudged and decreed, but is superior to all rights hereinafter decreed.

(35th) That subject to the rights hereinbefore adjudged and decreed, Jessie H. Stinor is the owner of the eighteenth right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from

January first to December thirty-first, inclusive, of each and every year, in the amount of 0.51 cubic foot per second, for use upon her lands so heretofore irrigated and hereinbefore described, to be diverted and used through the Stiner Ditch, which said right is inferior to all rights hereinbefore in this decree adjudged and decreed, but is superior to all rights hereinafter decreed.

(36th) That subject to the rights hereinbefore adjudged and decreed, Walter Malitz is the owner of the nineteenth right in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the amount of 0.10 cubic foot per second, for use upon his lands so heretofore irrigated and hereinbefore described, to be diverted and used through the Price Ditch, which said right is inferior to all rights hereinbefore in this decree adjudged and decreed, but is superior to all rights hereinafter decreed.

(37th) That subject to the rights hereinbefore adjudged and decreed, W. I. Allen and Mayme F. Allen, his wife, Jennie Arreche, and Lyle Cook, Ferno Cook Rowe, Madge Cook Dorris, Carol Cook, Elmer Cook, and Neal Cook are the owners of the twentieth rights in and to the waters of said Owl Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the respective amounts of water set opposite their names, through the respective ditches set opposite their names, for use upon their respective lands so heretofore irrigated and hereinbefore described, to-wit:

<u>Name</u>	<u>Ditch</u>	<u>Cubic Feet Per Second</u>
W. I. Allen and Mayme F. Allen	Allen-Arreche	2.47
Jennie Arreche	Allen-Arreche	1.81
Lyle Cook, Ferno Cook Rowe, Madge Cook Dorris, Carol Cook, Elmer Cook and Neal Cook	Cook	4.98

That said rights in this paragraph adjudged and decreed are subject to and inferior to all rights in this decree hereinbefore adjudged and decreed, but are superior to all rights hereinafter adjudged and decreed, and the said

rights in this paragraph adjudged and decreed are on an equality as to point of time and priority and superiority and if, at any time, there is insufficient water to supply all prior rights hereinbefore adjudged and decreed and to fully supply the rights in this paragraph adjudged and decreed, that then and at such time the parties in this paragraph named shall pro-rate the water, if any, which may be flowing in said Owl Creek in excess of all prior rights, and such pro-ration shall be on the basis that their respective rights bear to the aggregate of their joint rights in this paragraph decreed.

(38th) That subject to the rights hereinbefore adjudged and decreed, John C. Ennis and Fannie P. Ennis, jointly, are the owners of the twenty-first right in and to the waters of said Owl Creek, and in and to the use thereof during the period from January first to December thirty-first, inclusive, of each and every year, in the amount of 1.06 cubic feet per second, for use upon their lands so heretofore irrigated and hereinbefore described, to be diverted and used through either the McClintock Ditch or the Old Channel, or in part through both of said conduits, which said right is inferior to all rights in this decree hereinbefore adjudged and decreed.

(39th) IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the points of measurement of all allotments in this decree adjudged and decreed shall be at the respective points of diversion from said Owl Creek.

(40th) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that no party herein adjudged and decreed a right to divert water shall divert from said Owl Creek at any time, a quantity of water in excess of the quantity reasonably necessary for his requirements and being put to beneficial use by said party.

(41st) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each and every party to this action, his or her agents, successors, grantees and assigns, be, and they are hereby perpetually enjoined and restrained from doing anything in violation of the terms or provisions of this decree, and particularly from diverting any water from said Owl Creek in excess of the amount or amounts awarded or decreed to said person, or diverting any water

from said Owl Creek at any time in violation of the terms hereof, or from doing anything that will obstruct or interfere with any other right in this decree adjudged and decreed.

(42nd) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the owners of every ditch through which water is diverted from Owl Creek as herein provided, shall install in or for their respective ditches, prior to July 1, 1929, or such later date as may be ordered by this court, such permanent headgates and measuring devices as shall be required and approved by the Division of Water Rights of the Department of Public Works of the State of California, and that said ditch owners shall furnish all materials and labor necessary for such installations in or for their respective ditches and that all costs and expenses incurred by said Division of Water Rights, in supervising such installations shall be borne by the respective ditch owners in proportion to the amounts of water herein allotted to them through their said respective ditches.

(43rd) Finally, it is ORDERED, ADJUDGED AND DECREED that the Division of Water Rights of the Department of Public Works of the State of California, as said Division of Water Rights is now or may hereafter be constituted, or the successor of said Division of Water Rights that may hereafter be vested with the power of administration of the Water Commission Act, shall administer the diversions of water from said Owl Creek whenever, and at all times when in the judgment of said Division of Water Rights such administration may be necessary in order to insure strict adherence to the provisions of this decree, and that in exercising such administration of said diversions said Division of Water Rights may appoint and employ a properly qualified water master to control and regulate said diversions as an employee and under the general supervision and control of said Division of Water Rights, and that such water master when so appointed and employed shall have the power and authority to apportion the waters of said Owl Creek among the various conduits to which water is herein adjudged and decreed, in accordance with the provisions of this decree, and to so adjust, regulate, or close the headgates

or controlling works of said conduits as may be necessary to insure a distribution of the waters of said Owl Creek in accordance with the provisions of this decree; and that all costs and expenses incurred by said Division of Water Rights in administering diversions from said Owl Creek as in this paragraph provided, shall be borne by the parties hereto in the proportions that the respective total quantities of water herein allotted and decreed to each bear to the total of all quantities of water herein allotted and decreed.

Done in open court this 29th day of April, 1929.

H. D. BURROUGHS

Judge of said Superior Court.