

NEVADA

EXHIBIT NO. _____

IDEN. _____ ADM. _____

COPY OF DECREE

"In the Matter of the Determination of the
Relative Rights in and to the Waters of the
Muddy River and Its Tributaries in Clark
County, State of Nevada

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK.

MUDDY VALLEY IRRIGATION COMPANY, a
corporation, NEVADA LAND & LIVESTOCK
COMPANY, a corporation, SAMUEL H. WELLS,
JOHN F. PERKINS and ELLEN C. PERKINS,
his wife,

Plaintiffs

Vs.

MOAPA & SALT LAKE PRODUCE COMPANY, a
corporation, GEORGE BALDWIN and ALETHA
L. BALDWIN, his wife, ISALAH COX and ANNA
M. COX, his wife, JOSEPH PERKINS and
KATHRYN PERKINS, his wife, D. H. LIVINGSTON
and RICHARD SMITH, G. S. HOLMES and JULIA
MAY KNOX, W. J. POWERS and MARY A. POWERS,
his wife, SADIE GEORGE, LOS ANGELES & SALT
LAKE RAILROAD COMPANY, a corporation, and
WALKER D. HINES, as Director General of
Railroads, and JACOB BLOEDEL.

Defendants.

AND

IN THE MATTER OF THE DETERMINATION OF THE RELATIVE
RIGHTS IN AND TO THE WATERS OF THE MUDDY RIVER
AND ITS TRIBUTARIES IN CLARK COUNTY, STATE OF
NEVADA

) -----000----- (

JUDGMENT AND DECREE.

The above entitled action and the above entitled matter
having come on for hearing before the Court on the 10th day
of March, 1920, all of the parties to said action, appearing and
being represented in court by their respective attorneys, and
J. G. Scrugham, the State Engineer of the State of Nevada,
appearing in person, and after hearing and the taking of testimony
and evidence, and the making of an order for a further determination
by the State Engineer, as hereinafter set forth in the said action and

1 matter having been continued for further hearing and determination
2 and have now come on for hearing this 12 th day of March, 1920,
3 all of the parties to the above entitled action appearing and being
4 represented in open court by their respective attorneys;

5 And it appearing that on the 23rd day of April, 1919,
6 a stipulation was made and filed herein by and on behalf of all of
7 the parties who had then appeared in said action, signed by their
8 respective attorneys, which said stipulation, after the title of the
9 court and cause was in words and figures following to-wit:

10 **STIPULATION**

11
12 The parties to the above entitled action, by their re-
13 spective attorneys, for the purpose of settling and determining as
14 between themselves the issues in said action, do hereby stipulate
15 and agree as follows:

16 1. That the defendants in this paragraph named, their grantors
17 and predecessors in interest, have diverted and appropriated from
18 the Muddy River, its head waters, sources of supply and tributaries,
19 for use upon the lands herein described or referred to, and that
20 said defendants are respectively entitled to divert to their said
21 lands for use thereon, the respective amounts of water herein speci-
22 fied.

23 The defendants, George Baldwin, and Aletha L. Baldwin,
24 his wife, for use on the lands described in their Amended and
25 Supplemental Answer, other than those described in their original
26 answer, $16/70$ of one cubic foot of water per second.

27 The defendant, Moapa and Salt Lake Produce Company, for
28 use on the lands described in its separate Answer, 2 and $15/70$
29 cubic feet of water per second.

30 The defendants, D. H. Livingston and Richard Smith, for
31 use upon the said lands described in their separate Answer, 2 and
32 $20/70$ cubic feet of water per second.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

The defendants, Joseph Perkins and Kathryn Perkins, his wife, for use upon the lands described in their separate Answer, 30/70 of a cubic foot of water per second.

The defendants, G. S. Holmes and Julia May Knox, for use upon the lands described in their separate Answer, 1 and 25/70 of a cubic foot of water per second.

The defendants, Isalah Cox and Annie Cox, his wife, for use on ten acres of land described in their separate Answer, 10/70 of a cubic foot of water per second. Provided, that if the State Engineer in his adjudication shall find that because of the situation of said land, and the small stream or small head of water diverted, or other causes, said defendants need more than said amount to properly irrigate said land, the said defendants shall be entitled to divert such amount of water as the State Engineer may find necessary for said purpose.

The defendants, W. J. Powers and Mary Powers, his wife, for use on the land described in their separate Answer, and for 2 and 8/10 acres situate in the NW 1/4 of the SE 1/4 and the N. E. 1/4 of the S. W. 1/4, of Section 27, Township 14 South, Range 65 East, 29/70 of a cubic foot of water per second. Provided, however, that if the State Engineer in his adjudication shall find that because of the situation and character of said lands, the length of the ditch, or other causes, said defendants need more than said amount to properly irrigate, twenty-nine acres of said lands, being the lands heretofore irrigated, said defendants shall be entitled to divert such amount of water as the State Engineer may find necessary for said purposes.

The defendant, Sadie George, for use on 2.1 acres of land situate in the West side of the S. E. 1/4 of the N. E. 1/4, of Section 1, Township 15, South, Range 65 East, 21/700 of a cubic foot of water per second.

The defendants, Los Angeles and Salt Lake Railway and Walker D. Hines, as Director General of Railroads, are entitled

1 to take from the Muddy River, by the pumping plant of said Railroad
2 at Moapa, such amount of water as the State Engineer may find has
3 by said Railroad been lawfully appropriated for any beneficial use
4 at Moapa. Subject, however, to contest by any party hereto and to
5 an appeal from such finding and review thereof by the Court.

6 The above volumes or amounts of water to which it is
7 agreed the respective parties are entitled shall be understood
8 to include and define the amount of all the waters now or hereto-
9 before rightfully used on said lands, whether diverted directly from
10 said Muddy River, or from its tributaries, springs, head waters or
11 other sources of supply, including the waters claimed to have been
12 developed heretofore by any of the said parties. All measurements
13 of amounts diverted are to be made at the places of diversion, or
14 as near thereto as practicable or convenient, as the State Engineer
15 or Water Commissioner may select or approve.

16 2. That the waters now and heretofore used by defendants,
17 George Baldwin and Aletha L. Baldwin, his wife, upon the lands des-
18 cribed in their original separate Answer, are waters which have been
19 developed and appropriated by said defendants in the manner and by
20 the means alleged in their said Answer, and that such development
21 and use has not and does not diminish the flow or volume of the
22 Muddy River, or interfere with the rights of any of the other parties
23 to this action.

24 The said defendants Baldwin shall during the present 1919
25 irrigating season permit the plaintiffs, or any agent or agents of
26 plaintiffs, to enter upon the said lands of said defendants and
27 make measurements of the cultivated areas and of the waters now
28 developed or used thereon. The said defendants Baldwin shall not
29 make any attempt to develop any additional water upon said land
30 before October 1, 1919, and thereafter no further development of
31 water, or additional use of water, shall be made on or for said
32 lands which in any way diminishes the flow of the waters of the
Muddy River, or impairs the rights therein or thereto of the other

parties to this action.

1 3. The Indian Reservation, situated above Moapa, and the
2 inhabitants thereof, are entitled to divert from the waters of
3 said Muddy River, and to use upon lands on said reservation, 1.25
4 of a cubic foot of water per second, and no more, measured at
5 place of diversion or such place as the State Engineer or Water
6 Commissioner may select.

7 4. That the Plaintiff, Muddy Valley Irrigation Company, and
8 the Plaintiffs John F. Perkins, and Ellen C. Perkins, his wife and
9 their grantors and predecessors in interest, have diverted and
10 appropriated from the Muddy River, its head waters, sources of
11 supply and tributaries, for use on the lands hereinafter described
12 or referred to, all of the waters flowing therein or therefrom,
13 save and except the several amounts specified in paragraph 1 and
14 3 hereof. The said plaintiffs Perkins are entitled to water for
15 the irrigation of two acres of ground at or near St. Thomas, in
16 the N. E 1/4 of the S. E. 1/4, of Section 10, Township 17 South,
17 Range 68 East, which water is diverted from the River and
18 conveyed to their land by said Muddy Valley Irrigation Company.

19 The said Muddy Valley Irrigation Company is and at the
20 time of the commencement of this action was the legal owner of
21 the rights to divert, convey and use all of said waters of said
22 River, its head waters, sources of supply and tributaries, save
23 and except the rights hereinbefore specified and described, and to
24 divert said waters, convey and distribute the same to its present
25 stockholders, and future stockholders, and other persons who may
26 have acquired or who may acquire temporary or permanent rights
27 through said Company, for the various purposes described in the
28 Complaint, and upon the land situated as stated in the Complaint;
29 and that its stockholders are the equitable owners of rights to
30 use said waters in accordance with its articles and amended
31 Articles of Incorporation, and its By Laws, and the accepted uses
32 and practices of said corporation.

5. That the parties named in paragraphs 1 and 3 of this Stipulation shall not be required to take or use the waters of said River in continuous flow, but may cumulate the same or any part thereof in rotation and in turn periods, with the approval of the Water Commissioner, and subject to his control and direction, and under such rules and regulations as may be prescribed by the State Engineer and the statutes of the State of Nevada. The whole amount of water diverted from the River at any one time by all of the parties named in paragraph 1 shall not exceed in the aggregate the total of the amounts of water awarded to the several parties named in said paragraph 1. Below the lowest diversion of the defendants Holmes and Knox the flow in the stream shall be maintained substantially constant, subject to seasonal variations, but only in so far as the parties named in paragraph 1 can be held to be responsible for the fluctuations of said stream. The whole of said River system shall be under the supervision, rules and regulations of the State Engineer, and the direction and control of the Water Commissioner, to be appointed as hereafter provided or as provided by law, as a fully adjudicated stream; but it is the intention hereof that so far as practicable the stream shall be treated as divided into two parts, that above and that below the lowest diversion of the ranch now belonging to the defendants Holmes and Knox; and the Muddy Valley Irrigation Company, although under the supervision and control of the State Engineer and Water Commissioner, will, subject to said supervision and general control, distribute and control the distribution of the waters diverted and conveyed by its works to its stockholders and other persons obtaining water by means thereof. Such head gates, measuring devices, etc., as the State Engineer or Water Commissioner may order shall be installed by all who divert or use the waters of said stream system.

6. The owners of land on the upper part of said River, as in the last paragraph defined, shall keep the channels through their respective lands clear of all ordinary obstructions, but

1 In case of extraordinary obstruction, such as the formation of
2 lime beds or deposits, in the channel of the stream, the same shall
3 be removed under the direction of the Water Commissioner, and the
4 expense thereof paid as he or the State Engineer may assess the
5 same.

6 7. All the water rights hereinbefore specified shall be
7 deemed and held to be vested rights, acquired by valid appropria-
8 tion and beneficial use prior to March 1, 1905, and by continued,
9 uninterrupted use since said date, and shall be considered as
10 equal in rank, without one having any priority over any other.
11 This stipulation shall apply to and include whatever rights are
12 held or possessed by the Muddy Valley Irrigation Company under
13 the certificates of appropriation issued to the plaintiff, Nevada
14 Land and Live Stock Company, as set forth in paragraph twelve of
15 the Complaint herein.

16 8. All abnormal losses from the flow of said stream shall
17 be pro rated and shared among the parties hereto. Abnormal losses
18 shall include such as any substantial loss from the permanent flow
19 of the stream, caused by some cataclysm of nature, as a cloud-
20 burst, destroying or obstructing the channel thereof, or as the
21 opening up of a fissure in the bed of the stream, or in one of the
22 courses of supply, and the disappearance therein of a substantial
23 amount of the waters, thereby causing a substantial diminution
24 in the flow available for appropriation by any of the parties. Any
25 diversion of water by the Indian Reservation, or the inhabitants
26 thereof, in excess of the 1.25 cubic foot per second, specified
27 in paragraph 3, or any award by the State Engineer to or for the
28 lands of the Indian Reservation in excess of said 1.25 cubic foot
29 per second, and any water in excess of such amount, which in any
30 suit or action may be awarded or decreed to or for the lands on
31 said Indian Reservation, or any water which in the final adjudicat-
32 ion of this action or any other may be awarded or decreed to any
party not a party to this action, shall also be deemed an abnormal
loss from the stream.

If any such abnormal loss occur at any time the pro-rata share of such loss to be borne by each party shall be as follows:

The defendants Baldwin and wife shall bear 16/3169 of such loss.

The defendant, Moapa and Salt Lake Produce Company, 155/3169 thereof.

The defendants, Livingston and Smith, 160/3169 thereof.

The defendants, Perkins and wife, 30/3169 thereof.

The defendants Holmes and Knox 95/3169 thereof.

The defendants, Cox and wife, 10/3169 thereof.

The defendants, Powers and wife, 29/3169 thereof.

The defendant, Sadie George, 2/3169 thereof.

And the Plaintiff, Muddy Valley Irrigation Company 2672/3169 of such loss.

9. An order may be entered by the Court referring this suit to the State Engineer for an adjudication of the water rights on the Muddy River, in accordance with the provision of Chapter 140 of the Statutes of Nevada, of 1913, approved March 22, 1913, and all acts amendatory thereof. The order shall direct that said State Engineer in making such adjudication shall as between the parties to this Stipulation, and in determining their relative rights as between themselves, be bound by and give effect to the terms and conditions of this Stipulation, and the division of the waters which said parties have made between themselves.

And the parties further stipulate and agree that any final Decree entered herein shall, in determining the relative rights of the parties hereto, follow and give effect to the terms and conditions of this Stipulation.

10. Pending the final adjudication of said River, and final Decree in this action, and the legal organization of a Water District embracing the Muddy River Valley, and the legal appointment of a Water Commissioner, therefor, the parties themselves shall select and employ a Water Commissioner to act under the terms of this

1 Stipulation, subject to the supervision of the State Engineer,
2 and such rules and regulations as he may prescribe not inconsis-
3 ent with this Stipulation. Said Water Commissioner shall be selected
4 by a representative of the Muddy Valley Irrigation Company and a
5 representative chosen by a majority in interest of the defendants,
6 and if such representatives cannot agree then the State Engineer
7 shall have the selection and appointment of the Water Commissioner.
8 The salary and expenses of such Water Commissioner shall be borne
9 by the parties hereto in the same proportion as fixed in paragraph
10 eight hereof for the sharing of losses. The representatives of
11 the respective parties who are to select the Water Commissioner
12 shall agree on the time and manner and person through whom each
13 party shall pay his share of such salary and expenses, and such
14 agreement shall be binding on each party and become a legal obligat-
15 ion.

16 11. An Order shall also be entered, binding on all of the
17 parties hereto, modifying the terms of the temporary injunction
18 heretofore made and granted, in accordance with the terms of this
19 Stipulation, so that during the pendency of this action and until
20 the final adjudication and final Decree each party shall be in-
21 joined from interfering with or impairing any right given by this
22 Stipulation to any other party and from violating any of the terms
23 and conditions and agreements of this Stipulation, or any part there-
24 of.

25 12. Each party shall pay its or his own costs in this action,
26 but the costs and expenses of the adjudication of the State Engineer,
27 including any surveys or maps made by him, shall be borne by the
28 respective parties, in accordance with the Statutes of this State.
29 But in determining the Water Right and acreage against which such
30 expense shall be assessed the numerators in the fractions in
31 paragraph eight shall as between these parties be deemed to be the
32 number of acres to be irrigated by the respective parties.

Dated this 23rd day of April, A. D., 1919.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

A. S. Henderson,
Brown & Belford

Attorneys for Plaintiffs.

F. R. McNamee and
Leo A. McNamee

Attorneys for all defendants,
except W. J. Powers and Mary
Powers.

C. D. Breeze

Attorney for Defendants,
W. J. Powers and Mary Powers.

That on the said 23rd day of April, 1919, an order was made and entered by the Court in the above entitled action referring to the State Engineer of the State of Nevada the said action for an adjudication of the water rights of the Muddy River, its head waters and tributaries and providing that the said State Engineer in making such adjudication should, as between the parties to said Stipulation, in determining their relative rights, as between themselves, be bound by, and give affect to, the terms and conditions of said stipulation and the division of the waters which said parties have made between themselves. That a copy of said Order of reference, duly certified, was delivered to said State Engineer and thereupon the said State Engineer proceeded in accordance with said order and with the provisions of the Statutes of the State of Nevada to make an adjudication of said Muddy River; that the various notices as required by Statute were given by said State Engineer and that claims were filed by various claimants for the use of water on said river and proofs taken and used by said State Engineer in accordance with the provisions of said Statute. That thereafter and on the 21st day of January 1920, said State Engineer made his order of determination entitled "In the matter of the determination of the relative rights in and to the waters of the Muddy River and its tributaries in Clark County, State of Nevada."

That on the 26th day of January, 1920, a copy of the said Order of Determination, duly certified by the State Engineer

1 was filed with the Clerk of the above entitled court and an
2 order made and entered by the Judge of said Court appointing the
3 10th day of March, 1920, 10 o'clock A. M. of said day, as the
4 time for hearing the matter of said determination and that a
5 certified copy of such order and a notice of such hearing was
6 duly published and served as required by law and that there-
7 after, and within the time provided by law, various parties to
8 the above entitled action, claimants of water rights in said
9 Muddy River, duly filed with the clerk of said court and served
10 upon the State Engineer their exceptions to the said order of
11 determination.

12 That on the 10th day of March, 1920, the defendant
13 Jacob Bloedel, a claimant of a water right on said river who
14 had not theretobefore been a party to said action, was by stip-
15 ulation made a party defendant thereto and duly appeared by
16 his attorneys and it was stipulated that he should be deemed
17 to have made a claim for water right in said Muddy River without
18 further pleading; and also on said date it was stipulated that
19 the defendants Isaiah Cox and Anna Cox his wife, who appeared
20 to the satisfaction of the court to have become the owners of
21 and entitled to land and water rights of J. H. Mitchell, should
22 be deemed to have made a claim in said action for the water rights
23 for said land so acquired by them without further pleading. That
24 on the said 10th day of March, 1920 there was made and filed in
25 said action a stipulation supplemental to said stipulation of
26 April 23rd, 1919 which said stipulation after the entitlement of
27 the court and cause is in words and figures following, to-wit:

28 STIPULATION SUPPLEMENTAL TO STIPULATION OF
29 APRIL 23, 1919.

30 WHEREAS, since the making and filing of a stipulation
31 by all of the parties to the above entitled action, who has then
32 appeared therein under date of April 23rd, 1919, Jacob Bloedel
has been made a party defendant to said action and has duly
appeared therein by F. R. McNamee and Leo A. McNamee, his attorneys;

1 AND, WHEREAS, since the making of said stipulation the
2 rights of J. H. Mitchell, and the lands belonging to him have been
3 sold and conveyed to Isaiah Cox and Annie M. Cox, his wife, two of
4 said defendants, and whereas a stipulation has been filed herein
5 providing and allowing water rights in behalf of the land so sold
6 by Mitchell to Cox and wife, and providing that the same may be
7 considered as having been made in this action without further
8 pleading,

9 AND WHEREAS, in view of the foregoing premises it is
10 deemed desirable to supplement and amend the said stipulation of
11 April 23rd, 1919.

12 The parties to the above entitled action by their respect-
13 ive attorneys do hereby agree and stipulate as follows:

14 1. The said defendant, Jacob Bloedel, and the said
15 defendants, Isaiah Cox and Anna M. Cox, his wife, in behalf of the land
16 and water rights so acquired from Mitchell, do hereby assent to and
17 make themselves parties in all respects to the said stipulation of
18 April 23rd, 1919, except as the same is changed and amended here-
19 inafter.

20 2. The said defendant, Jacob Bloedel, his grantors and pre-
21 decessors in interest have diverted and appropriated from the Muddy
22 River, its headwaters, sources of supply and tributaries, and the
23 said defendant, Bloedel, is entitled to divert from said river 2/70
24 of one cubic foot of water per second, for use upon the NE 1/4 of
25 the NE 1/4 of Sec. 21, T. 14 S. R. 65 E. M. D. B. & M.

26 The defendants, Isaiah Cox and Anna M. Cox, his wife,
27 their grantors and predecessors in interest have diverted and
28 appropriated from the said Muddy River, its headwaters, tributaries
29 and sources of supply and are entitled to divert, in addition to the
30 quantity of water described in the said original stipulation of
31 April 23rd, 1919, 3/70 of one cubic foot of water per second for
32 use upon said land in the N.W1/4 of the NE 1/4 of the N. E.
1/4 of Section 16 T. 14 S. R. 65 E. M. D. B. & M., the same being

the land acquired by said defendants Cox and wife from J. H. Mitchell.

1 3. Paragraph 3 of said stipulation of April 23rd, 1919, is
2 amended to read as follows:

3 ""the Indian Reservation, situate above Moapa, and
4 the inhabitants thereof, are entitled to divert from the waters
5 of said Muddy River, and to use upon said land on said Reservation
6 1.242 of a cubic foot of water per second, and no more, measured
7 at the place of diversion, or such place as the State Engineer or
8 Water Commissioner, may select."

9 4. That portion of Paragraph 8 of said stipulation of April
10 23rd, 1919, fixing the pro rata share of any abnormal loss to be
11 borne by each party, is amended to read as follows:

12 "If any such abnormal loss occurs at any time the pro-
13 rata share of such loss to be borne by each party shall be as
14 follows:

15 The defendants, Baldwin and Wife, shall bear 16/3169 of
16 such loss;

17 The defendant Moapa and Salt Lake Produce Company
18 155/3169 thereof;

19 The defendants Livingston & Smith 160/3169 thereof;

20 The defendants Perkins and wife 30/3169 thereof;

21 The defendants Knox and Holmes 95/3169 thereof;

22 The defendants Cox and wife 13/3169 thereof;

23 The defendants Powers and wife 29/3169 thereof;

24 The defendant Sadie George 2/3169 thereof;

25 The defendant Jacob Bloedel 2/3169 thereof; and

26 The Plaintiff Muddy Valley Irrigation Company 2667/3169
27 thereof."

28 5. In Paragraph 8 of said stipulation of April 23rd, 1919,
29 is amended, so that the definition of abnormal losses from the flow
30 of said stream wherever the figures 1.25 occur, the same shall be
31 struck out and the figures 1.242 substituted therefor. The parties
32 hereto do not admit or recognize any rights to the use of the

1 Muddy River by or for the Indian Reservation and the inhabit-
2 ants thereof, except the amount awarded and found to belong to
3 such reservation by the State Engineer. The parties have in-
4 cluded in their definition of abnormal losses a possible diversion
5 of a greater amount by said reservation or possible acquisition
6 of an increase right, only as a measure of security against a
7 possible contingency which might arise through the uncertainty
8 of litigation.

9 6. Paragraph 7 of said stipulation of April 23rd, 1919,
10 is amended to read as follows:

11 "All of the water rights hereinbefore specified shall
12 be deemed and held to be vested rights acquired by valid appropria-
13 tion and beneficial use prior to March 1, 1905, and by continued
14 and uninterrupted use since said date, and shall be considered as
15 equal in right, without one having any priority over any other.
16 This stipulation shall apply to and include whatever rights are
17 held or possessed by the Muddy Valley Irrigation Company under
18 the certificates of appropriation issued to the plaintiff Nevada
19 Land & Live Stock Company as set forth in paragraph twelve of the
20 amended complaint herein and under any certificate of appropriation
21 which may be issued to the Muddy Valley Irrigation Company under
22 its application to the State Engineer numbered 1611.

23 7. The amount of water awarded in the said stipulation of
24 April 23rd, 1919, and in this stipulation to the respective parties
25 shall be deemed a continuous right during the entire year, it being
26 understood that the minimum duty of water during the summer season
27 shall be one cubic foot per second for 70 acres of land;
28 during the winter season, one cubic foot per second for 100 acres
29 of land, and that by the summer season is meant the period between
30 and including the first day of May of each year up to and including
31 the 30th day of September of each year, and by the winter season is
32 meant the period from and including the 1st day of October to and
including the following 30th day of April.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

8. It is understood and agreed that the amounts of water awarded by this stipulation to the respective parties and to the Indian Reservation absorbs and exhausts all of the flow of the said stream, its sources of supply, headwaters and tributaries during the entire year.

9. The order of determination of the State Engineer and any further or supplemental order of determination made by him under order of the court shall give effect to the terms and conditions of said stipulation of April 23rd, 1919 and of this supplemental stipulation as said order of determination may define or effect the rights of the parties to the above entitled action and any final decree entered herein shall, in determining the relative rights of the parties hereto follow and give effect to the terms of the said new stipulation.

DATED this 10th day of March, 1920.

A. S. Henderson
Brown & Belford

Attorneys for Plaintiff

F. R. McNamee &
Leo A. McNamee

Attorneys for Defendants other
than W. J. and Mary Powers.

C. D. Breeze

Attorney for W. J. and Mary
Powers.

That the said exceptions of the respective parties to the order of determination came regularly on for hearing on said 10th day of March, 1920 and witnesses were sworn and testified for and on behalf of the said excepting parties and documentary and other evidence was introduced in support of said exceptions and thereupon the court made and entered an order requiring the State Engineer to make a further determination of the waters of the said Muddy River and its tributaries, subject to instructions of the court which were embodied in such order and thereafter, to-wit, on the 11th day of March, 1920 said State Engineer did make and file in his office a further and supplemental order of determination and has filed a duly certified

copy thereof with the Clerk of this Court.

1 And the above entitled action and the above entitled
2 matter and the said original and said further and supplemental
3 order of determination of the State Engineer in said matter
4 having now come on for hearing and the Court having considered
5 the pleadings of the parties, the oral and documentay evidence
6 heretofore taken herein, and the stipulations of the parties
7 filed herein, and written findings having been waived by attorneys
8 for the respective parties, thereupon, upon motion of the
9 attorneys for plaintiffs and defendants,

10 It is by the Court ORDERED, ADJUDGED AND DECREED

11 as follows:

12 First: That the said order of determination of the
13 State Engineer in the matter of the determination of the relative
14 rights in and to the waters of the Muddy River and tributaries
15 in Clark County, State of Nevada, as amended and modified by the
16 said further and supplemental order of determination, and the said
17 further and supplemental order of determination be and the same
18 hereby are affirmed and confirmed. Wherever the said further and
19 supplemental order of determination differs from, changes, modifies,
20 or is in conflict with the original order of determination, the
21 said original order of determination is and shall be deemed to
22 be modified by the said further and supplemental order of
23 determination and by the order and decree of this court and the same
24 as so modified is hereby affirmed. A copy of said original order
25 of determination marked "Exhibit "A" and a copy of said further
26 and supplemental order of determination marked "Exhibit "B" are
27 annexed to this decree and are made parts hereof as if set forth
28 at length hereinafter in this decree whenever the order
29 of determination is referred to it shall, unless otherwise specif-
30 ied, be understood to include both the original order of determin-
31 ation and the further and supplemental order of determination and
32 the former as amended, changed and modified by the latter. Said

1 order of determination shall and does define the rights of the
2 parties named therein except as hereinafter in this decree provided.

3 Second: That the parties to the above entitled action,
4 their grantors and predecessors in interest have diverted and
5 appropriated from the Muddy River, its headwaters, sources of
6 supply and tributaries for use upon the lands described in their
7 several answers and specifically described in the order of deter-
8 mination and the said parties are respectively entitled to divert
9 to said lands for use in the irrigation thereof, the respective
10 amounts of water herein setforth:

11 The defendants George Baldwin and Aletha Baldwin his wife,
12 .2286 of one cubic foot of water per second.

13 The defendant Moapa and Salt Lake Produce Company 2.215
14 cubic feet per second.

15 The defendants D. H. Livingston and Richard Smith,
16 2,286 cubic feet per second.

17 The defendants Joseph Perkins and Kathryn Perkins, his
18 wife, .428 cubic feet per second.

19 The defendants G. S. Holmes and Julia May Knox, 1.357
20 cubic feet per second.

21 The defendants Isaiah Cox and Anna Cox his wife for
22 use on 10 acres of land described in their separate answer .143 of
23 a cubic foot per second.

24 The defendants Isaiah Cox and Anna Cox his wife for use
25 upon the lands formerly belonging to J. H. Mitchell, described in
26 the order of determination .043 of a cubic foot per second.

27 The defendants, W. J. Powers and Mary Powers his wife,
28 .4143 of a cubic foot per second.

29 The defendant, Sadie George for use on the land described
30 in the order of determination, .03 of a cubic foot per second.

31 The defendant, Los Angeles & Salt Lake Railroad Company
32 for the use specified in the order of determination, .04646 of a
cubic foot per second.

1 The defendant, Jacob Bloedel for use upon the land
2 described in the order of determination, .0286 of a cubic foot
3 per second.

4 The plaintiff, John F. Perkins, .0286 of a cubic foot
5 per second.

6 The plaintiff, Muddy Valley Irrigation Company, for
7 use during the summer season, as hereinafter defined and as
8 defined in said order of determination, upon the lands described
9 in said order of determination, 36.2588 cubic feet per second,
10 which said amount includes the amount of water for summer use
11 allowed by State Engineer's certificate No. 59. Said company is
12 also the owner of the right to and entitled to divert during the
13 winter season for use upon the lands described in said order of
14 determination and in State Engineer's Certificate Nos. 58, 59
15 and 60, and also upon the lands described in any certificate or
16 permit granted or issued by said State Engineer upon said Company's
17 application No. 1611 - the several amounts of water allowed by said
18 certificate or permits for winter use.

19 Third: That the Moapa Indian Reservation has diverted
20 and appropriated from the said Muddy River for use upon the lands
21 of said reservation and is entitled to divert upon said lands
22 for use thereon 1,242 cubic feet per second during the summer
23 season and .87 of a cubic foot per second during the winter season.

24 Fourth: That all of the defendants to the above entitled
25 action and the plaintiff John F. Perkins are and shall be entitled
26 to use the several amounts of water which they have appropriated
27 as aforesaid during both the summer and winter seasons.

28 Fifth: That the duty of water allowed for all land
29 in the Muddy Valley except on the Moapa Indian Reservation shall
30 be one cubic foot per second of flow to 70 acres for the summer
31 irrigation season which is defined as extending from May 1st to
32 October 1st, and one cubic foot per second flow to 100 acres for
the winter irrigation season which is defined as extending from
October 1st to May 1st. On said Indian Reservation the duty of

1 water allowed is 1 cubic foot per second flow to 70 acres for
2 the summer irrigation season which is defined as from April 1st
3 to October 1st, and one cubic foot per second flow to 100 acres
4 for the winter irrigation season which is defined as from October
5 1st to April 1st.

6 The volumes or amounts of water awarded and allotted
7 by this decree to the parties hereinbefore named and to which they
8 are entitled shall be understood to include and define the amount
9 of all the waters now or heretofore rightfully used on the lands
10 given in the tabulation in the original order of determination
11 whether diverted directly from said Muddy River or from its trib-
12 utaries, springs, head waters or other sources of supply, including
13 waters claimed to have been developed heretofore by any of the said
14 parties. All measurements of amounts to which the said several
15 parties are entitled except that awarded to the Moapa Indian Reser-
16 vation shall be made at the places of diversion or as near thereto
17 as practicable or convenient, as the State Engineer or Water
18 Commissioner may select or approve. On said Indian Reservation
19 all measurements of amounts diverted are to be made at the point
20 where the main ditch enters or becomes adjacent to the land
21 irrigated or as near thereto as practicable as the State Engineer
22 or Water Commissioner may select or approve.

23 Sixth: That the waters now and heretofore used by the
24 defendants George Baldwin and Aletha Baldwin his wife, upon the
25 lands described in their original separate answer, and which are
26 the waters of what is known as the George Baldwin Spring, the
27 maximum flow of which is found to be .3298 of a cubic foot per
28 second of water are waters which have been developed and approp-
29 riated by the defendants in the manner and by the means alleged
30 in their said answer; and that such development and use has not and
31 does not diminish the flow or volume of the Muddy River or interfere
32 with the rights of any of the other parties to the above entitled
action or the Moapa Indian Reservation.

1 . Seventh: That as between the parties to the above
2 entitled action, the Muddy Valley Irrigation Company is declared
3 and decreed to have acquired by valid appropriations and bene-
4 ficial use and to be entitled to divert and use upon the lands
5 described in the amended complaint and more particularly described
6 in the order of determination, all the waters of said Muddy River,
7 its head waters, sources of supply and tributaries, save and
8 except the several amounts and rights hereinbefore specified
9 and described as awarded and decreed to the other parties to this
10 action and to the Moapa Indian Reservation, and said Company is
11 to divert said waters, convey and distribute the same to its
12 present stockholders and to its future stockholders and to other
13 persons who have acquired or who may hereafter acquire temporary or
14 permanent rights from said Company, for the various purposes
15 described in the complaint and upon the lands situated as stated
16 in the complaint and specifically designated in the order of deter-
17 mination and that the stock holders of said Company are the
18 equitable owners of rights to use said waters in this decree and
19 by the order of determination allotted and decreed to said
20 Company, in accordance with its articles and amended articles of
21 incorporation, or its by-laws or the accepted uses and practices of
22 said corporation.

23 Eighth: As between the parties to this action and except
24 against the rights awarded the Indian Reservation and the Inhabit-
25 ants thereof, all of the water rights enumerated as belonging to
26 the parties to the action shall be deemed and held to be and are
27 hereby decreed to be vested rights acquired by valid appropriation
28 and beneficial use prior to March 1st, 1905, and by continued un-
29 interrupted use since said date and shall be considered as equal
30 in rank without anyone having any priority over another and that
31 this shall apply to and include the rights held by the Muddy Valley
32 Irrigation Company as grantee or assignee of Nevada Land & Live
Stock Company under the State Engineer's certificates, 58, 59 and
60, and under such permit or certificate as may hereafter be

1 granted by the State Engineer to the Muddy Valley Irrigation
2 Company under its application No. 1611. That, as against the
3 water right granted and allotted to the said Indian Reservation,
4 the water rights held by the Muddy Valley Irrigation Company
5 under said certificates or permits shall be deemed to be sub-
6 sequent to the water rights allotted and decreed the said Indian
7 Reservation. The water right allotted and decreed the Indian
8 Reservation shall be deemed and held to be vested rights acquired
9 by valid appropriation prior to March 1st, 1905 and by uninter-
10 rupted use thereafter and shall, to the extent decreed and allotted,
11 rank, as equal in priority with all the other rights, allotted,
12 awarded and decreed to the said several parties, except those
13 granted by the said certificates or permits.

14 Ninth: That the defendants in said action shall not be
15 required to take or use the waters in said river in continuous
16 flow, but may cumulate the same or any part thereof in rotation
17 and turn periods, with the approval of the Water Commissioner, and
18 subject to his control and direction and under such rules and
19 regulations as may be prescribed by the State Engineer and the
20 statutes of the State of Nevada. That the whole amount of water
21 diverted from said river at any one time by all of the defendants
22 shall not exceed in the aggregate the total of the amounts of
23 water awarded to the said defendants. Below the lowest diversion
24 of the defendants Holmes and Knox, the flow in the stream shall be
25 maintained substantially constant, subject to seasonal variations,
26 only, however, in so far as the defendants can be held to be
27 responsible for the fluctuations of the stream. The whole of said
28 river system shall be under the supervision, rules and regulations
29 of the State Engineer, and the direction and control of the water
30 commissioner to be appointed as provided by law, as a fully
31 adjudicated stream; but it is the intention hereof, and it is hereby
32 decreed that, so far as practicable, the stream shall be treated
as divided into two parts, that above and that below the lowest
diversion on the ranch now belonging to Knox and Holmes. The
Muddy Valley Irrigation Company, although under the supervision

1 and control of the state engineer and water commissioner, shall,
2 subject to said supervision and general control, distribute and
3 control the distribution of the waters diverted and conveyed by
4 its works to its stockholders and other persons obtaining water
5 by means thereof. Substantial headgates, weirs or other measur-
6 ing devices and sand boxes, as the State Engineer, through the
7 water commissioner may direct or require, shall be installed and
8 maintained in good order by all who divert or use the waters of
9 said stream system.

10 Tenth: That the owners of land on the upper part of said
11 river as in the last paragraph defined, and defined in the said
12 order of determination, as that part of said river above the
13 "narrows", shall keep the channel through their respective lands
14 cleared, of all ordinary obstructions, but in case of extra-
15 ordinary obstructions, such as the formation of lime beds or
16 deposits in the channel of the stream, the same shall be removed
17 under the direction of the water commissioner and the expenses there-
18 of paid pro rata by all parties to the determination in proportion
19 to the acreage owned or controlled by them as defined in said order
20 of determination.

21 Eleventh: That all abnormal losses from the flow of the
22 stream shall be pro rated and shared among the parties holding water
23 rights on the stream, but as between the parties to the above entit-
24 led action, abnormal losses shall be defined as in paragraph 8 of
25 said stipulation of April 23rd, 1919, as amended by paragraph 5 of
26 the stipulation supplemental thereto, and, as between the parties
27 to said action, such abnormal losses shall be borne by the parties
28 to said action, pro rata in the proportions named and set forth
29 in paragraph 4 of said supplemental stipulation.

30 Twelfth: That the aggregate volume of the several
31 amounts and quantities of water awarded and allotted to the parties named
32 in said order of determination, which include all of the parties to said
action and the said Moapa Indian Reservation, is the total available
flow of the said Muddy River and consumes and

exhausts all of the available flow of the said Muddy River, its head waters, sources of supply and tributaries.

1 Thirteenth: That the salary and the expenses of any
2 water commissioner, who may be appointed to supervise, control
3 and regulate the distribution of the waters of said Muddy River
4 in accordance with the provisions of said order of determination
5 and this decree, shall be paid pro-rata by the parties to the said
6 stipulation supplemental to the stipulation of April 23rd, 1919,
7 in the same proportion as for the sharing of abnormal losses set
8 forth in paragraph 4 of said supplemental stipulation. If in the
9 opinion of the State Engineer a suitable and competent water
10 commissioner cannot be employed at the salary fixed by statute,
11 the State Engineer is authorized to fix the salary of the Water
12 Commissioner in such amount as he may determine to be reasonable,
13 subject, in case of objection by any of the water users, to the
14 approval of the Judge of the above entitled Court. The State
15 Engineer may also allow such expenses of such water commissioner as
16 he may deem necessary or proper to be incurred in the performance
17 of the duties of such water commissioner, subject, also, in case of
18 objection, to the approval of the Judge of said Court.

19 That any money due or which may hereafter become due
20 from any party for his, her or its pro rata share of such salary
21 or such expenses of the water commissioner shall be paid by the
22 party at the times and in the manner provided by law for the pay-
23 ment of the salary of the water commissioner, and any neglect or
24 failure of any party to make any such payment shall be deemed a
25 violation of this decree and a contempt of Court, and shall be
26 punished accordingly, or the same may be deemed a debt and collect-
27 ed by civil process.

28 Fourteenth: That each of the parties to this action his,
29 her or its grantees and successors in interest and every person
30 acting under his, her or its direction or control be and hereby
31 is perpetually restrained and enjoined from in any way interfer-
32 ing with or in any way impalring any right given or awarded or

1 decreed by this decree to any other party and from violating
2 any of the provisions of this decree, and is also perpetually
3 restrained and enjoined from opening, closing, changing or
4 interfering with any headgate or water box established by or
5 under the order of the State Engineer or Water Commissioner,
6 without the authority of said State Engineer or Water Commissioner,
7 and also from using water or conducting water into or through his,
8 her or its ditch which has not been awarded to such party by this
9 decree.

10 Fifteenth: Each party shall pay his or its own
11 costs in this action, but the costs and expenses of the adjudicat-
12 ion by the State Engineer, including any surveys or maps made by
13 him, shall be borne by the respective parties in accordance with
14 the Statutes of this State. But in determining the water right
15 and acreage, against which said expense shall be assessed the
16 numerators in the fractions in said paragraph 4 of said supple-
17 mental stipulation, shall, as between said parties, be deemed to be
18 the number of acres to be irrigated by the said respective parties.

19 Done in open Court this 12th day of March, A. D. 1920.

20
21 /s/ Wm. E. Orr
22 District Judge.
23
24
25
26
27
28
29
30
31
32