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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,
IN AND FOR THE COUNTY OF MODOC.

SAN FRANCISCO CATTLE LOAN COMPANY, a corporation,)
S. B. STRIEF, JEDUTHAN BROWN, F. S. HEARD, MRS.)
A. HEARD, G. K. HEARD and MINNIE HEARD, his wife,)
GEORGE S. STINER, GEORGE W. TONEY, and MARY J.)
TONEY, his wife, and E. P. STRIEF,)

Plaintiffs,

-vs-

C. M. CRAMPTON, L. M. WARRENS, JOHN STREET and)
MARY STREET, his wife, SARAH J. WAMACK, as the)
Administratrix of the Estate of BEN WAMACK, de-)
ceased, JOHN C. SHARP and HATTIE SHARP, his wife,)
FRANCIS WANDLING, GEORGE R. McMULLEN, ENOCH)
REYNOLDS, CHARLIE ATKINSON, O. C. CRAMPTON, E. E.)
TYEHYAR, JOHN DOE and RICHARD ROE,)

Defendants.

263.45

No. 2405

DECREE

The above entitled cause came on regularly for trial before the
above entitled Court on the 26th day of June, 1922,
Honorable F. M. JAMISON, Judge of said Court presiding, plaintiffs appear-
ing in person and by and through their attorneys, Messrs. Robnett and Wylie,
and the defendants appearing in person and by and through their attorneys,
Messrs. N. J. Barry and J. T. Sharp, and evidence, both oral and documentary,
having been adduced and presented on behalf of all of the parties to said ac-
tion, and thereafter the said cause having been duly submitted to the Court
for its consideration and decision, and thereafter the Court having referred
the said matter to the Division of Water Rights of the Department of Public Works
of the State of California as a special referee for the determination of the
water supply of Soldier Creek and the water requirements of the lands involved
in said action, and the said Division of Water Rights having made its investi-
gation and having reported back to the Court thereon, and the Court having
adopted the said report of said referee filed herein, and thereafter the par-
ties to said action having entered into a written stipulation and agreement of
adjudication, dated the 11th day of December, 1926, and filed with the papers
in said action, and some of the plaintiffs having entered into a supplemental

1 agreement among themselves, which agreement is dated March 26, 1927, and is
2 filed in the above entitled action, in which said stipulations and agreements
3 all of the parties to said action stipulated and agreed to the entry herein of
4 a decree in accordance with the terms of said stipulation and the terms of said
5 supplemental stipulation, and waiving findings of fact herein, and said stipula-
6 tions having been approved and executed and signed by the respective counsel for
7 the respective parties, and the Court being advised in the premises, IT IS HEREBY
8 DECREED AS FOLLOWS:

9 (1st) That since the commencement of said action and since the trial
10 and submission of said cause, the plaintiffs Jeduthan Brown and S. B. Strief
11 have sold, transferred and disposed of their interests in the property involved
12 in said action to one Simon Bennett, and said Simon Bennett is now the real party
13 in interest in lieu of said Jeduthan Brown and S. B. Strief.

14 (2nd) That since the trial of said action and the submission thereof,
15 the estate of E. P. Strief has sold and disposed of its interest in said action
16 and in the property involved in said action to Mervin R. Toney.

17 (3rd) That since the trial of said action and the submission thereof,
18 the plaintiff, Mrs. A. Heard, has sold, transferred and disposed of her interest
19 in the property involved in said action to G. K. Heard, and said G. K. Heard
20 is now the real party in interest in lieu of said Mrs. A. Heard.

21 (4th) That since the commencement of said action and since the trial
22 and submission of said cause, defendant C. M. Crampton, has sold and disposed
23 of his interest in the property involved in said action to O. C. Crampton, and
24 said O. C. Crampton is now the real party in interest in lieu of said C. M.
25 Crampton.

26 (5th) That since the commencement of said action and since the trial
27 and submission of said cause, defendant Francis Wandling has sold and disposed
28 of his interest in the property involved in said action to George R. McMullen,
29 and said George R. McMullen is now the real party in interest in lieu of said
30 Francis Wandling.

31 (6th) That the true name of the defendant herein sued as L. M. Warrens

1 is GEORGE M. WARRENS, and he has appeared herein under his true name.

2 (7th) That defendants Sarah J. Wamack, as the Administratrix of the
3 Estate of Ben Wamack, deceased, and E. R. Tyeryar were each duly served with a
4 copy of the summons and complaint in this action but failed to appear or answer
5 said action, and the default of said defendants for such failure to appear has
6 been duly entered of record herein.

7 (8th) That the true name of the defendant sued herein as Charlie Atkins
8 is CHARLIE ATKINSON, and he has appeared in said action under his true name.

9 (9th) That Cyrus Daniels and Celia Daniels were served with summons
10 and complaint in said action and duly appeared in said action under their true
11 names, but since the trial of said action said Cyrus Daniels has transferred all
12 of his right, title and interest in said action and in the properties involved
13 therein to F. E. Daniels, and said F. E. Daniels is now the real party in inter-
14 est in lieu of said Cyrus Daniels.

15 (10th) That on motion of plaintiffs' counsel, said action was dismissed
16 as to all fictitious defendants.

17 (11th) That there is in said Modoc County a natural stream of water
18 known as and called "Soldier Creek", which said creek arises on the eastern slope
19 of the Warner Range of Mountains in said Modoc County, State of California, and
20 flows thence in a general easterly direction between well defined banks in a
21 well defined channel to, upon, over and across some of the lands of some of the
22 parties to this action, which lands are hereinafter described, and has so flown
23 since the memory of man.

24 (12th) That in accordance with said stipulations, the various parties
25 to the same and to whom rights are, by this decree, adjudged, have diverted and
26 used water and are entitled to divert and use water in accordance with the terms
27 and provisions contained in said stipulations and in this decree set forth,
28 through various and sundry ditches which said ditches are referred to by name and
29 the points of diversion of each are hereby adjudged and decreed to be as follows,
30 to-wit:
31

- 1 COMPANY DITCH - Point of diversion;
2 S. 47° 30' W. 1150 ft. from N.E. corner of Section 13,
3 T 43 N, R 15 E, M.D.M.
- 4 WARRENS FLOOD DITCH - Point of diversion;
5 S. 47° 30' W. 1090 ft. from N.E. corner of Section 13,
6 T 43 N, R 15 E, M.D.M.
- 7 DANIELS DITCH - Point of diversion;
8 S. 52° 30' W. 800 ft. from N.E. corner of Section 13,
9 T 43 N, R 15 E, M.D.M.
- 10 CRAMPTON UPPER DITCH - Point of diversion;
11 S. 49° 30' W. 760 ft. from N.E. corner of Section 13,
12 T 43 N, R 15 E, M.D.M.
- 13 ATKINSON DITCH - Point of diversion;
14 S. 52° 30' W. 740 ft. from N.E. corner of Section 13,
15 T 43 N, R 15 E, M.D.M.
- 16 CRAMPTON DITCH - Point of diversion;
17 N. 35° 30' E. 170 ft. from S.W. corner of Section 7,
18 T 43 N, R 16 E, M.D.M.
- 19 CRAMPTON DITCH - Point of Diversion;
20 N. 19° 30' E. 640 ft. from S.W. corner of Section 7,
21 T 43 N, R 16 E, M.D.M.
- 22 CRAMPTON DITCH - Point of diversion;
23 N. 56° 00' E. 1120 ft. from S.W. corner of Section 7,
24 T 43 N, R 16 E, M.D.M.
- 25 REYNOLDS DITCH - Point of diversion;
26 N. 46° 30' W. 1400 ft. from South quarter corner
27 Section 6, T 43 N, R 16 E, M.D.M.
- 28 TONEX STRIEF DITCH - Point of diversion;
29 S. 64° 30' W. 1360 ft. from the East quarter corner
30 Section 6, T 43 N, R 16 E, M.D.M.
- 31 TONEX DITCH - Point of diversion;
S. 81° 00' E. 1510 ft. from N.W. corner of Section 6,
T 43 N, R 16 E, M.D.M.
- SPINER-HEARD EAST DITCH - Point of diversion;
N. 10° 00' E. 1270 ft. from S.W. corner of Section 32,
T 44 N, R 16 E, M.D.M.

1 STINER-HEARD WEST DITCH - Point of diversion:
2 N. 10° 00' E. 1510 ft. from S.W. corner of Section 32,
3 T 44 N, R 16 E, M.D.M.

4 BROWN DITCH - Point of diversion:
5 S. 90° 00' E. 2070 ft. from the West quarter corner
6 Section 31, T 44 N, R 16 E, M.D.M.

7 SAN FRANCISCO CATTLE LOAN COMPANY DITCH - Point of diversion:
8 N. 89° 00' E. 900 ft. from S.W. corner of Section 29,
9 T 44 N, R 16 E, M.D.M.

10 DANIELS SIMPSON CANYON - Point of diversion:
11 N. 84° 00' W. 940 ft. from the East quarter corner
12 Section 12, T 43 N, R 15 E, M.D.M.

13 DANIELS DANIELS CANYON - Point of Diversion:
14 S. 80° 00' W. 1540 ft. from N.E. corner of Section 12,
15 T 43 N, R 15 E, M.D.M.

16 STRIEF DITCH - Point of diversion:
17 N. 89° 00' W. 1330 ft. from S.E. corner of Section 30,
18 T 44 N, R 16 E, M.D.M.

19 HEAD OF EAST FORK OF SOLDIER CREEK:
20 N. 84° 30' W. 250 ft. from the S.E. corner of Section 12,
21 T 43 N, R 15 E, M.D.M.

22 (13th) That in accordance with the said stipulations and agreements,
23 it is hereby ORDERED, ADJUDGED AND DECREED That the following named parties to
24 said action, respectively the owners of the respective parcels of land herein-
25 after described, reasonably require and have used and are the owners of and en-
26 titled to the use of the quantity of water hereinafter set opposite their re-
27 spective names for domestic purposes, through the ditch named after their re-
28 spective names, to-wit;

	<u>NAME</u>	<u>DITCH</u>	<u>NO. CUBIC FEET PER SECOND</u>
27	F. E. and CELIA DANIELS	DANIELS	0.30
28	J. C. SHARP	COMPANY	0.25
29	JOHN STREET	COMPANY	0.25
30	G. M. WARRENS	COMPANY	0.25
31	G. R. McMULLEN	COMPANY	0.25
	OLIVER CRAMPTON	UPPER CRAMPTON	0.30
	C. E. ATKINSON	ATKINSON	0.30

1 That each and all of the foregoing rights and allotments are first
2 rights to the use of water from said creek and are on an equality as to point
3 of time and priority, and are continuous rights throughout the entire year and
4 are superior to all other rights hereinafter adjudicated, and if, at any time,
5 the aggregate flow of water in Soldier Creek is less than the aggregate of the
6 foregoing allotments, then during such times the said owners of said first rights
7 shall pro-rate the water flowing in said stream in accordance with their respec-
8 tive allotments above specified, and in the proportion that their respective
9 allotments bear to the total amount of all of their allotments as such first
10 right-owners.

11 That each of the allotments in this paragraph decreed as "First Rights"
12 is to be measured at the point of diversion from the said stream of the ditch
13 through which the same is to be carried as hereinbefore named.

14 (14th) That the said stream, after entering the valley in which said
15 lands are situated and at a distance of about one-quarter of a mile east of the
16 mouth of Soldier Creek Canyon, divides and forms two distinct channels; one known
17 as the "West Fork of Soldier Creek" and the other as the "East Fork of Soldier
18 Creek"; and that in the said West Fork of Soldier Creek and in the channel
19 thereof there are certain perennial springs;

20 That the defendant Enoch Reynolds has, for many years prior to the com-
21 mencement of this action, diverted and used, and is the owner of the first right
22 to divert and use, from the waters so flowing from said springs at all seasons
23 of the year, 0.30 cubic feet per second, through the Reynolds Ditch, upon the
24 following described land, situated in said Modoc County, California, to-wit:

25 Northeast quarter (NE $\frac{1}{4}$) of the Southwest quarter (SW $\frac{1}{4}$)
26 of Section six (6), Township forty-three (43) north, Range
 sixteen (16) east, M.D.M.

27 said water being used for domestic and irrigation purposes, and that said Enoch
28 Reynolds has no other right, title, interest or estate in or to any of the
29 waters of said creek.

30 (15th) That in accordance with said stipulations, it is hereby ORDERED,
31 ADJUDGED AND DECREED that the general irrigation period for the lands and rights

1 involved in this action is adjudged to be from six a.m. March 19th of each year
2 to six a.m. of June 19th of each year; and it is further ORDERED, ADJUDGED AND
3 DECREED that the most efficient use can be secured from the waters of said
4 stream on the lands involved in this action by rotating in the use of the same,
5 and the following rotation periods are hereby adjudged and decreed for such ro-
6 tation use, to-wit:

- 7 First rotation period -- 6 a.m. March 19th to 6 a.m. April 1st; 10
8 Second rotation period -- 6 a.m. April 1st to 6 a.m. April 11th; 10
9 Third rotation period -- 6 a.m. April 11th to 6 a.m. April 24th; 10
10 Fourth rotation period -- 6 a.m. April 24th to 6 a.m. May 4th; 10
11 Fifth rotation period -- 6 a.m. May 4th to 6 a.m. May 17th; 10
12 Sixth rotation period -- 6 a.m. May 17th to 6 a.m. May 27th; 10
13 Seventh rotation period-- 6 a.m. May 27th to 6 a.m. June 9th; 13
14 Eighth rotation period -- 6 a.m. June 9th to 6 a.m. June 19th. 10

15 (16th) That at the time of the commencement of this action, Jeduthan
16 Brown was the owner of, in the possession of, and entitled to the possession of
17 the following described lands, and that now one Simon Bennett is the owner of, in
18 the possession of and entitled to the possession of said lands, situated in the
19 County of Modoc, State of California, particularly described as follows, to-wit:

20 Southeast quarter ($SE\frac{1}{4}$) of Northwest quarter ($NW\frac{1}{4}$),
21 Southwest quarter ($SW\frac{1}{4}$) of the Northeast quarter ($NE\frac{1}{4}$),
22 Northwest quarter ($NW\frac{1}{4}$) of the Northeast quarter ($NE\frac{1}{4}$),
23 and Northeast quarter ($NE\frac{1}{4}$) of the Northwest quarter ($NW\frac{1}{4}$),
all in Section thirty-one (31), Township forty-four (44)
North, Range sixteen (16) East M.D.M.

24 That for more than forty years prior to the commencement of this action,
25 said Brown and his predecessors in interest have used water upon sixty-seven and
26 six-tenths (67.6) acres of said land, as follows:

27 Twenty-seven and one-tenth (27.1) acres in said Southeast
28 quarter ($SE\frac{1}{4}$) of the Northwest quarter ($NW\frac{1}{4}$);

29 Seven (7) acres in said Southwest quarter of the Northeast
30 quarter ($SW\frac{1}{4}$ of $NE\frac{1}{4}$);

31 Twenty and eight-tenths (20.8) acres in said Northwest quarter
of the Northeast quarter ($NW\frac{1}{4}$ of $NE\frac{1}{4}$); and

Twelve and seven-tenths (12.7) acres in said Northeast quarter
of the Northwest quarter ($NE\frac{1}{4}$ of $NW\frac{1}{4}$).

1 That, subject to the first and prior rights hereinbefore decreed, said
2 Simon Bennett, as successor and grantee of said Jeduthan Brown, is the owner of
3 the second right in and to the waters of said stream to the extent of one and
4 fifty-five hundredths (1.55) cubic feet per second during the first, third/^{fifth} and
5 seventh rotation periods hereinbefore set forth, for the irrigation of said sixty-
6 seven and six-tenths (67.6) acres of land, and that said right is subject to
7 the rights hereinbefore decreed but during said rotation periods in this para-
8 graph named is superior to and prior to all rights hereinafter decreed, and that
9 the said allotment in this paragraph decreed shall be measured at the point of
10 diversion of the Toney Ditch from said stream.

11 (17th) That at the time of the commencement of this action, G. W. Toney
12 was the owner, in the possession of and entitled to the possession of, and for
13 more than forty years prior to the commencement of this action he and his grantors
14 and predecessors in interest had been the owners, in the possession and entitled
15 to the possession, and he is now the owner and in the possession of the follow-
16 ing described land situated in said Modoc County, California, to-wit:

17 Northwest quarter of the Southeast quarter (NW $\frac{1}{4}$ of SE $\frac{1}{4}$),
18 the Northeast quarter of the Southeast quarter (NE $\frac{1}{4}$ of SE $\frac{1}{4}$),
19 and the Northeast quarter of the Southwest quarter (NE $\frac{1}{4}$ of SW $\frac{1}{4}$),
20 all in Section thirty-one (31), Township forty-four (44) North,
21 Range sixteen (16) East, M.D.M.

22 Also, the Northwest quarter of the Southwest quarter
23 (NW $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section thirty-two (32), Township forty-four
24 (44) North, Range sixteen (16) East, M.D.M.

25 and that during all of said times, said G. W. Toney and his grantors and prede-
26 cessors in interest have diverted and used water from said creek for the irriga-
27 tion of all of said North half of the Southeast quarter (N $\frac{1}{2}$ of SE $\frac{1}{4}$) of said
28 Section thirty-one (31), and thirty-five (35) acres in the said Northeast quar-
29 ter of the Southwest quarter (NE $\frac{1}{4}$ of SW $\frac{1}{4}$) of said Section thirty-one (31).

30 (18th) That at the time of the commencement of this action, E. P. Strief
31 was the owner, and for more than forty years prior to the commencement of this
action he and his grantors and predecessors in interest had been the owners, and
Mervin Toney, as grantee, is now the owner, of the following described land,
situated in said Modoc County, California, to-wit:

1 The South half of the Southeast quarter ($S\frac{1}{2}$ of $SE\frac{1}{4}$), and
2 the Southeast quarter of the Southwest quarter ($SE\frac{1}{4}$ of $SW\frac{1}{4}$),
3 all in Section thirty-one (31), Township forty-four (44)
4 North, Range sixteen (16) East, M.D.M.

5 Also, the Southwest quarter of the Southwest quarter ($SW\frac{1}{4}$
6 of $SW\frac{1}{4}$) of Section Thirty-two (32), Township forty-four (44)
7 North, Range sixteen (16) East, M.D.M.

8 and that during all of said times, said owners and predecessors have irrigated,
9 with the water from said Soldier Creek, all of said South half of the Southeast
10 quarter ($S\frac{1}{2}$ of $SE\frac{1}{4}$) and twenty-three and nine-tenths (23.9) acres in the said
11 Southeast quarter of the Southwest quarter ($SE\frac{1}{4}$ of $SW\frac{1}{4}$) of said Section thirty-
12 one (31.)

13 (19th) That at the time of the commencement of this action, Cyrus
14 Daniels was the owner, in the possession and entitled to the possession, and
15 for more than forty years prior to the commencement of this action, he and his
16 grantors and predecessors in interest, had been the owners, in the possession
17 and entitled to the possession, and F. E. Daniels is now the owner, in the posses-
18 sion, of the following described land, situated in said Modoc County, California,
19 to-wit;

20 Lots six (6) and seven (7) of Section six (6), Township forty-
21 three (43) north, Range sixteen (16) east, M.D.M.

22 and that during all of said times, said owner and his predecessors in interest
23 have irrigated from the waters of said Soldier Creek eighteen and three tenths
24 (18.3) acres of said lot seven (7), and ten (10) acres of said lot six (6).

25 (20th) That at the time of the commencement of this action, Gelia Daniels
26 was the owner and is now the owner, in the possession and entitled to the pos-
27 session, and for more than forty years prior thereto, she and her grantors had
28 been the owners, in the possession and entitled to the possession, of the fol-
29 lowing described lands, situated in said Modoc County, California, to-wit;

30 The North half of the Northeast quarter ($N\frac{1}{2}$ of $NE\frac{1}{4}$),
31 and the Southeast quarter of the Northeast quarter ($SE\frac{1}{4}$ of
32 $NE\frac{1}{4}$), all in Section twelve (12), Township forty-three (43)
33 north, Range fifteen (15) east, M.D.M.

34 Also, the Northwest quarter of the Northwest quarter
35 ($NW\frac{1}{4}$ of $NW\frac{1}{4}$), and the West half of the Southwest quarter of
36 the Northwest quarter ($W\frac{1}{2}$ of $SW\frac{1}{4}$ of $NW\frac{1}{4}$), all in Section seven
37 (7), Township forty-three (43) north, Range sixteen (16) east,
38 M.D.M.

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Also, the Southeast quarter of the Southeast quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$) of Section one (1), Township forty-three (43) north, Range fifteen (15) east, M.D.M.

and that during all of said times, said owner and her grantors and predecessors in interest have diverted and used water from said Soldier Creek for the irrigation of two (2) acres in said Northwest quarter of the Northeast quarter (NW $\frac{1}{4}$ of NE $\frac{1}{4}$), twenty-three and one-tenth (23.1) acres in said Northeast quarter of the Northeast quarter (NE $\frac{1}{4}$ of NE $\frac{1}{4}$), and twenty-five and four-tenths (25.4) acres in said Southeast quarter of the Northeast quarter (SE $\frac{1}{4}$ of NE $\frac{1}{4}$), all in said Section twelve (12); thirty-three and seven-tenths (33.7) acres in said Northwest quarter of the Northwest quarter (NW $\frac{1}{4}$ of NW $\frac{1}{4}$) and twenty (20) acres in the West half of the Southwest quarter of the Northwest quarter (W $\frac{1}{2}$ of SW $\frac{1}{4}$ of NW $\frac{1}{4}$), all in said Section seven (7); and all of the Southeast quarter of the Southeast quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$) of said Section one (1).

(21st) That subject to the rights hereinbefore adjudged and decreed, said G. W. Toney, Mervin Toney, as successor to E. P. Strief, Celia Daniels and F. E. Daniels, as successor to Cyrus Daniels, are the owners of the third rights in and to the waters of said Soldier Creek, and in and to the use thereof during the first, third, fifth and seventh rotation periods hereinbefore decreed, in the respective amounts hereinafter set opposite their respective names, for use upon their said lands so heretofore irrigated and hereinabove described, to be diverted and used through the respective ditches hereinafter set opposite their respective names, to-wit:

<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
G. W. TONEY	TONY-STRIEF	1.25
MERVIN TONEY	TONY-STRIEF	1.25
CELIA DANIELS	DANIELS	1.05
F. E. DANIELS	DANIELS	0.23

That said rights in this paragraph decreed are subject to and inferior to all rights hereinbefore in this decree adjudged and decreed, but are superior to all rights hereinafter decreed for the rotation periods in this paragraph named; and that said rights of the said parties in this paragraph named are, as between

1 said parties in this paragraph named, on an equality as to point of priority and
2 superiority for the particular rotation periods enumerated herein, and that if,
3 during any of said periods of time in this paragraph named, the quantity of water
4 flowing in said stream be insufficient to supply all prior rights hereinbefore
5 decreed and to also fully supply the rights in this paragraph decreed to the par-
6 ties in this paragraph named, that then and during any such time or times, the
7 said parties in this paragraph named shall pro-rate the water that may be flowing
8 in said stream in excess of all prior rights hereinbefore adjudged and decreed,
9 such pro-ration to be on the basis that the right of each of the parties in this
10 paragraph named and by the terms of this paragraph adjudged and decreed, bears
11 to the total or aggregate of their joint rights in this paragraph decreed.

12 That the said allotments in this paragraph adjudged to Celia Daniels
13 and F. E. Daniels are to be measured at the point of the diversion of the Daniels
14 ditch from the channel of said creek, and the said allotments in this paragraph
15 decreed to G. W. Toney and Mervin Toney shall be measured at the head of the East
16 Fork of Soldier Creek the point of which has hereinbefore been adjudged and
17 decreed.

18 It is further ordered, adjudged and decreed that, as shown by the re-
19 port of said referee, there is an appreciable channel loss of water between the
20 point of the head of the East Fork of said creek and the head of the said Toney-
21 Strief Ditch, or the point where said ditch diverts from said East Fork, and the
22 allotments in this paragraph decreed to G. W. Toney and Mervin Toney have been
23 increased for the purpose of allowing for said channel loss, and the allotments
24 herein decreed to said G. W. Toney and Mervin Toney are in excess of the amount
25 actually required for the irrigation of their said lands, and it is, therefore,
26 ordered, adjudged and decreed that said G. W. Toney and Mervin Toney shall, dur-
27 ing said rotation periods hereinbefore in this paragraph named, be entitled to
28 divert from said creek at the head or point of diversion of the Toney-Strief
29 Ditch, through which they so divert said water, the following quantity each, and
30 no more, to-wit:

- 31 G. W. TONEY 0.73 cubic feet per second
MERVIN TONEY..... 0.73 cubic feet per second

1 (22nd) That George S. Stiner is now, and at the time of the commencement
2 of this action was, the owner and in possession and entitled to the possession,
3 and for more than forty years prior to the commencement of this action, his
4 grantors and predecessors in interest were the owners, in the possession and en-
5 titled to the possession, of the following described land, situated in said Modoc
6 County, California, to-wit;

7 The South half of the Northwest quarter ($S\frac{1}{2}$ of $NW\frac{1}{4}$),
8 and Southwest quarter of the Northeast quarter ($SW\frac{1}{4}$ of $NE\frac{1}{4}$)
9 all in Section thirty-two (32), Township forty-four (44)
north, Range sixteen (16) east, M.D.M.

10 and that during all of said times, he and his grantors have irrigated, from the
11 waters of said Soldier Creek, thirty-six (36) acres in said Southwest quarter
12 of the Northwest quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$), and thirty-eight and one-tenth (38.1)
13 acres in the said Southeast quarter of the Northwest quarter ($SE\frac{1}{4}$ of $NW\frac{1}{4}$), and
14 all of said Southwest quarter of the Northeast quarter ($SW\frac{1}{4}$ of $NE\frac{1}{4}$) in said
15 Section thirty-two (32).

16 (23rd) That G. K. Heard and Minnie Heard, his wife, are, and at the
17 time of the commencement of this action were, the owners, in the possession and
18 entitled to the possession, and for more than forty years prior to the commencement
19 of this action, they and their grantors had been the owners, in the possession
20 and entitled to the possession, of the following described lands situated in said
21 Modoc County, California, to-wit;

22 The South half of the North half of the Northwest quarter
23 ($S\frac{1}{2}$ of $N\frac{1}{2}$ of $NW\frac{1}{4}$), and the South half of the Northwest quarter
24 of the Northeast quarter ($S\frac{1}{2}$ of $NW\frac{1}{4}$ of $NE\frac{1}{4}$), all in Sec-
tion thirty-two (32), Township forty-four (44) north, Range
sixteen (16) east, M.D.M.

25 and that during all of said times, they and their grantors have irrigated all of
26 said lands from the waters of said Soldier Creek.

27 (24th) That G. K. Heard is now the owner, and at the time of the com-
28 mencement of this action Mrs. A. Heard was the owner, and for more than forty
29 years prior to the commencement of this action she and her grantors and prede-
30 cessors in interest were the owners, in the possession and entitled to the posses-
31 sion of the following described lands situated in said Modoc County, California,
to-wit;

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<u>NAME</u>	<u>CUBIC FT. PER SECOND</u>
G.S. STINER	1.75
G. K. HEARD and MINNIE HEARD	0.90
G. K. HEARD	1.00
F. S. HEARD	1.25

and that said parties in this paragraph named, subject to all said prior rights in this decree adjudged, and during said rotation periods in this paragraph named, are entitled to divert from said East Fork of said Soldier Creek, through the respective ditches set opposite their respective names, the respective quantity of water hereinafter set opposite their respective names, and no more, to-wit;

<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
G. S. STINER	Stiner-Heard, east or west	1.03
G. K. HEARD and MINNIE HEARD	Stiner-Heard, east or west	0.53
G. K. HEARD	Stiner-Heard, east or west	0.71
F. S. HEARD	Stiner-Heard, west	0.73

That the rights in this paragraph adjudged and decreed are subject to and inferior to the rights in this decree hereinbefore adjudged, but are superior, for the rotation periods hereinbefore named, 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 during the said rotation periods during which the parties named in this paragraph are entitled to divert and use water, 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 times the parties in this paragraph named shall pro-rate the water, if any, which may be flowing in said stream 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.

(27th) That Simon Bennett is now the owner, and at the time of the commencement of this action his grantor, S. B. Strief, was the owner and for more

1 than forty years prior thereto he and his grantors had been the owners, in the
2 possession and entitled to the possession, of the following described lands,
3 situated in said Modoc County, California, to-wit:

4 The Southeast quarter ($SE\frac{1}{4}$) of Section thirty (30),
5 Township forty-four (44) north, Range sixteen (16) east,
6 M.D.M.

7 and that the following portions of said land have, during all of said times,
8 been irrigated from the waters of said creek, to-wit:

9 Eight and nine-tenths (8.9) acres in the Southwest quarter
10 of said Southeast quarter ($SW\frac{1}{4}$ of $SE\frac{1}{4}$)p twenty-two and nine-
11 tenths (22.9) acres in the Southeast quarter of said Southeast
12 quarter ($SE\frac{1}{4}$ of $SE\frac{1}{4}$); and all of the Northeast quarter of said
13 Southeast quarter ($NE\frac{1}{4}$ of $SE\frac{1}{4}$); and twenty-nine and two-tenths
14 (29.2) acres in the Northwest quarter of said Southeast quar-
15 ter ($NW\frac{1}{4}$ of $SE\frac{1}{4}$).

16 (28th) That at the time of the commencement of this action SAN
17 FRANCISCO CATTLE LOAN CO., a corporation, was the owner, in the possession and
18 entitled to the possession, and for more than forty years prior to the commence-
19 ment of this action said corporation and its grantors and predecessors in inter-
20 est, had been the owners, in the possession and entitled to the possession, and

21 is now the owner, in the possession, and entitled to the possession, of the fol-
22 lowing described land, situated in said Modoc County, California, to-wit:

23 All of fractional Section twenty-nine (29), in Township
24 forty-four (44) north, Range sixteen (16) east, M.D.M.

25 and that during all of said times the following portion of said land has been
26 irrigated from the waters of said creek, to-wit:

27 One hundred and seventy-four and seven-tenths (174.7)
28 acres in said fractional Section twenty-nine (29).

29 (29th) That subject to all of the rights hereinbefore adjudged and
30 decreed, the following named parties to said action are the owners of the fifth
31 rights to divert and use the respective quantities of water hereinafter set
opposite their respective names during the first, third, fifth and seventh rota-
tion periods for irrigation and use upon their respective lands hereinbefore
described, and through the ditches set opposite their respective names, to-wit:

	<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
1			
2	SAN FRANCISCO CATTLE LOAN CO.	S.F. Cattle Loan	3.60
3	G. W. TONEY	Toney	0.80
4	MERVIN TONEY	Toney	0.55
5	SIMON BENNETT	Strief	2.25

6 That the said allotment to the San Francisco Cattle Loan Company shall
7 be measured at the head of the East Fork of said creek, and that the allotment
8 to each of the other parties named in this paragraph shall be at their respective
9 points of diversion from the channel of said creek.

10 That the rights in this paragraph adjudged and decreed are subject to
11 and inferior to the rights in this decree hereinbefore adjudged, but are superior,
12 for the rotation periods hereinbefore named, to all rights hereinafter adjudged
13 and decreed, and the said rights in this paragraph adjudged and decreed are on
14 an equality as to point of time and priority and superiority and if, at any
15 time during the said rotation periods during which the parties named in this
16 paragraph are entitled to divert and use water, there is insufficient water to
17 supply all prior rights hereinbefore adjudged and decreed and to fully supply the
18 rights in this paragraph adjudged and decreed, that then and at such time the
19 parties in this paragraph named shall pro-rate the water, if any, which may be
20 flowing in said stream in excess of all prior rights, and such pro-ration shall
21 be on the basis that their respective rights bear to the aggregate of their joint
22 rights in this paragraph decreed.

23 (30th) That subject to the rights hereinbefore adjudged and decreed,
24 F. E. Daniels as successor in interest to Cyrus Daniels, is the owner of the sixth
25 right in and to the waters of said Soldier Creek and in and to the use thereof,
26 during the first, third, fifth and seventh rotation periods hereinbefore defined,
27 in the amount of 0.13 cubic foot per second, for use upon his lands so heretofore
28 irrigated and hereinbefore described, to be diverted and used through the Daniels
29 Ditch, which said right is inferior to all rights hereinbefore in this decree ad-
30 judged and decreed, but is superior to all rights hereinafter decreed, for the
31 rotation periods in this paragraph named.

1 (31st) That subject to the rights hereinbefore adjudged and decreed,
2 Celis Daniels is the owner of the seventh right in and to the waters of said
3 Soldier Creek and in and to the use thereof, during the first, third, fifth,
4 and seventh rotation periods hereinbefore defined, in the amount of 0.39 cubic
5 foot per second, for use upon her lands as heretofore irrigated and hereinbefore
6 described, to be diverted and used through the Daniels Ditch, which said right
7 is inferior to all rights hereinbefore in this decree adjudged and decreed.

8 (32nd) That at the time of the commencement of this action, John C.
9 Sharp was the owner, in the possession and entitled to the possession of, and
10 for more than forty years prior to the commencement of this action, he and his
11 grantors and predecessors in interest were the owners, in the possession and
12 entitled to the possession, of the following described lands situated in said
13 Modoc County, California, to-wit:

14 Northwest quarter of the Northwest quarter ($\frac{NW}{4}$ of $\frac{NW}{4}$)
15 of Section twenty-one (21); North one-half of the South one-
16 half of the Northeast quarter ($\frac{N}{2}$ of $\frac{S}{2}$ of $\frac{NE}{4}$), and the North
17 one-half of the northeast quarter ($\frac{N}{2}$ of $\frac{NE}{4}$) of Section twenty
18 (20); and the South one-half of the Southeast quarter ($\frac{S}{2}$ of
19 $\frac{SE}{4}$) and the Northwest quarter of the Southeast quarter ($\frac{NW}{4}$
20 of $\frac{SE}{4}$) of Section seventeen (17), all in Township forty-three
21 (43) North, Range sixteen (16) East, M.D.M.

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

24 Seventeen (17) acres in said Northwest quarter of the
25 Northwest quarter ($\frac{NW}{4}$ of $\frac{NW}{4}$) of Section twenty-one (21);
26 Thirty-three and one-tenth (33.1) acres in said Northeast
27 quarter of the Northeast quarter ($\frac{NE}{4}$ of $\frac{NE}{4}$) of Section
28 twenty (20); and all of said Northwest quarter of the North-
29 east quarter ($\frac{NW}{4}$ of $\frac{NE}{4}$) of Section twenty (20); and seven
30 (7) acres in said Southeast quarter of the Southeast quarter
31 ($\frac{SE}{4}$ of $\frac{SE}{4}$), thirty-eight and nine-tenths (38.9) acres in
said Southwest quarter of the Southeast quarter ($\frac{SW}{4}$ of $\frac{SE}{4}$),
and twenty-four and one-tenth (24.1) acres in said Northwest
quarter of the Southeast quarter ($\frac{NW}{4}$ of $\frac{SE}{4}$), all in Section
seventeen (17); and all of North one-half of South one-half
of Northeast quarter ($\frac{N}{2}$ of $\frac{S}{2}$ of $\frac{NE}{4}$) of Section twenty (20).

(33rd) That at the commencement of this action, John Street was the
owner, in the possession and entitled to the possession of, and for more than
forty years prior to the commencement of this action, 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,

1 California, to-wit;

2 The West one-half of the Northeast quarter ($\frac{1}{2}$ of $NE\frac{1}{4}$),
3 and all of the Northwest quarter ($NW\frac{1}{4}$), of Section seventeen
4 (17), Township forty-three (43) North, Range sixteen (16)
5 east, M.D.M.

6 and that during all of said times, he and his grantors have irrigated the follow-
7 ing portions of said land from the waters of said Soldier Creek, to-wit:

8 All of the Southwest quarter of the Northeast quarter
9 ($SW\frac{1}{4}$ of $NE\frac{1}{4}$) and thirty-four (34) acres in the Northwest
10 quarter of said Northeast quarter ($NW\frac{1}{4}$ of $NE\frac{1}{4}$); all of the
11 Southeast quarter of said Northwest quarter ($SE\frac{1}{4}$ of $NW\frac{1}{4}$),
12 sixteen (16) acres in the Northeast quarter of said North-
13 west quarter ($NE\frac{1}{4}$ of $NW\frac{1}{4}$), five and four-tenths (5.4) acres
14 in the Northwest quarter of said Northwest quarter ($NW\frac{1}{4}$ of
15 $NW\frac{1}{4}$), and seven and two-tenths (7.2) acres in the Southwest
16 quarter of said Northwest quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$), all in said
17 Section seventeen (17).

18 (34th) That at the time of the commencement of this action, George M.
19 Warrens was the owner, in the possession and entitled to the possession of, and
20 for more than forty years prior to the commencement of this action, he and his
21 grantors and predecessors in interest were the owners, in the possession and en-
22 titled to the possession, of the following described lands situated in said
23 Modoc County, California, to-wit:

24 The Northeast quarter of the Northeast quarter ($NE\frac{1}{4}$ of
25 $NE\frac{1}{4}$) of Section thirteen (13), Township forty-three (43)
26 north, Range fifteen (15) east, M.D.M., in which an undi-
27 vided interest is owned with J. C. Sharp, J. Street and
28 G. E. McMillen;

29 Also, the North half of the Northwest quarter ($N\frac{1}{2}$ of $NW\frac{1}{4}$),
30 and all of the Northeast quarter ($NE\frac{1}{4}$) of Section eighteen (18),
31 Township forty-three (43) north, Range sixteen (16) east, M.D.M.

and that during all of said times, he and his grantors have irrigated the follow-
ing portions of said land from the waters of said Soldier Creek, to-wit;

One and four-tenths (1.4) acres of the Northeast quarter
of said Northeast quarter ($NE\frac{1}{4}$ of $NE\frac{1}{4}$) of said Section thir-
teen (13);

Thirty and seven-tenths (30.7) acres in the Northwest
quarter of said Northwest quarter ($NW\frac{1}{4}$ of $NW\frac{1}{4}$), and all of
the Northeast quarter of said Northwest quarter ($NE\frac{1}{4}$ of $NW\frac{1}{4}$),
Thirty-nine and four-tenths (39.4) acres in the Northwest
quarter of said Northeast quarter ($NW\frac{1}{4}$ of $NE\frac{1}{4}$), Five and
eight-tenths (5.8) acres in the Northeast quarter of said
Northeast quarter ($NE\frac{1}{4}$ of $NE\frac{1}{4}$), one (1) acre in the South-
east quarter of said Northeast quarter ($SE\frac{1}{4}$ of $NE\frac{1}{4}$), and
Seventeen and five-tenths (17.5) acres in the Southwest
quarter of said Northeast quarter ($SW\frac{1}{4}$ of $NE\frac{1}{4}$), all in
said Section eighteen (18).

1 (35th) That at the time of the commencement of this action, Francis
2 Wandling was the owner of, in the possession and entitled to the possession of the
3 following described lands, and that now one George H. Mofkullen is the owner of,
4 in the possession and entitled to the possession of said lands, situated in said
5 Modoc County, California, to-wit;

6 The Southeast quarter of the Northeast quarter ($SE\frac{1}{4}$ of $NE\frac{1}{4}$)
7 of Section thirteen (13), Township forty-three (43) north, Range
8 fifteen (15) east, M.D.M., and the South one-half of the North-
west quarter ($S\frac{1}{2}$ of $NW\frac{1}{4}$) of Section eighteen (18), Township
9 forty-three (43) north, Range sixteen (16) east, M.D.M.

10 and that for more than forty years prior to the commencement of this action,
11 said Wandling and his predecessors in interest have used water from said Soldier
12 Creek for irrigation upon said lands as follows, to-wit;

13 One and one-tenth (1.1) acres in the Southeast quarter of
14 said Northeast quarter ($SE\frac{1}{4}$ of $NE\frac{1}{4}$) of said Section thirteen
15 (13); and thirty-seven and eight-tenths (37.8) acres in the
16 Southeast quarter of said Northwest quarter ($SE\frac{1}{4}$ of $NW\frac{1}{4}$) and
17 nineteen and five-tenths (19.5) acres in the Southwest quarter
18 of said Northwest quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$) of said Section eighteen
19 (18).

20 (36th) That at the time of the commencement of this action, C. M.
21 Crampton was the owner of, in the possession and entitled to the possession of,
22 and for more than forty years prior thereto, he and his grantors and prede-
23 cessors in interest were the owners, in the possession and entitled to the pos-
24 session, of the following described lands, and that now one Oliver Crampton is
25 the owner of, in the possession and entitled to the possession of said lands,
26 situated in said Modoc County, California, to-wit;

27 The South half of the Southwest quarter ($S\frac{1}{2}$ of $SW\frac{1}{4}$), the
28 South half of the Southeast quarter ($S\frac{1}{2}$ of $SE\frac{1}{4}$), and the north-
29 east quarter of the Southeast quarter ($NE\frac{1}{4}$ of $SE\frac{1}{4}$), all in Sec-
30 tion seven (7), Township forty-three (43) north, Range sixteen
31 (16) east, M.D.M.

and that for more than forty years prior to the commencement of this action,
said C. M. Crampton and his predecessors in interest have used water from said
Soldier Creek for irrigation upon said lands as follows, to-wit;

Eight and four-tenths (8.4) acres in the Southwest
quarter of said Southwest quarter ($SW\frac{1}{4}$ of $SW\frac{1}{4}$); thirty-
nine and one-tenth (39.1) acres in the Southeast quarter
of said Southwest quarter ($SE\frac{1}{4}$ of $SW\frac{1}{4}$); all of the South-
west quarter of said Southeast quarter ($SW\frac{1}{4}$ of $SE\frac{1}{4}$); all

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of the Southeast quarter of said Southeast quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$); and all of the Northeast quarter of said Southeast quarter (NE $\frac{1}{4}$ of SE $\frac{1}{4}$), all in said Section seven (7).

(37th) That at the time of the commencement of this action, Charles E. Atkinson was the owner, in the possession and entitled to the possession of, and for more than forty years prior to the commencement of this action, he and his grantors and predecessors in interest were the owners, in the possession and entitled to the possession, of the following described lands in said Modoc County, California, to-wit;

The East half of the Southeast quarter (E $\frac{1}{2}$ of SE $\frac{1}{4}$) of Section twelve (12), Township forty-three (43) north, Range fifteen (15) east, M.D.M., and the North half of the Southwest quarter (N $\frac{1}{2}$ of SW $\frac{1}{4}$) of Section seven (7), Township Forty-three (43) north, Range sixteen (16) east, M.D.M.

and that during all of said times, he and his grantors and predecessors in interest have irrigated the following portions of said land from the waters of said Soldier Creek, to-wit;

Twenty-nine (29) acres in the Northeast quarter of said Southeast quarter (NE $\frac{1}{4}$ of SE $\frac{1}{4}$), and eight (8) acres in the Southeast quarter of the said Southeast quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$) of said Section twelve (12); thirty-six (36) acres in the Northwest quarter of said Southwest quarter (NW $\frac{1}{4}$ of SW $\frac{1}{4}$), and sixteen and two-tenths (16.2) acres in the Northeast quarter of said Southwest quarter (NE $\frac{1}{4}$ of SW $\frac{1}{4}$) of said Section seven (7).

(38th) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, subject to the rights herein above decreed, and particularly subject to the domestic rights in paragraph (13th) hereinabove decreed, the following named defendants, to-wit; F. E. Daniels as successor in interest to Cyrus Daniels, Celia Daniels and J. C. Sharp, are the owners of the second rights to divert and use the quantity or quantities of water set opposite their respective names, through the ditch or ditches set opposite their respective names, during the second, fourth, sixth and eighth rotation periods hereinbefore decreed, for use upon their lands so heretofore irrigated and hereinabove described, to-wit;

<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
F. E. DANIELS	Daniels	0.25
CELIA DANIELS	Daniels	1.05
J. C. SHARP	Company	4.35

1 That said rights in this paragraph decreed are subject to and inferior
2 to all rights hereinbefore in this decree adjudged and decreed, but are superior
3 to all rights hereinafter decreed, for the rotation periods in this paragraph
4 named; and that said rights of the said parties in this paragraph named are, as
5 between said parties in this paragraph named, on an equality as to point of
6 priority and superiority for the particular rotation periods enumerated herein,
7 and that if, during any of said periods of time in this paragraph named, the
8 quantity of water flowing in said stream be insufficient to supply all prior
9 rights hereinbefore decreed and to also fully supply the rights in this paragraph
10 decreed to the parties in this paragraph named, that then and during any such time
11 or times, the said parties in this paragraph named shall pro-rate the water that
12 may be flowing in said stream in excess of all prior rights hereinbefore adjudged
13 and decreed, such pro-ration to be on the basis that the right of each of the
14 parties in this paragraph named and by the terms of this paragraph adjudged and
15 decreed, bears to the total or aggregate of their joint rights in this paragraph
16 decreed.

17 (39th) That subject to the rights hereinbefore decreed, the defendant
18 F. E. Daniels as successor in interest to Cyrus Daniels is the owner of and en-
19 titled to divert and use waters from the said Soldier Creek, for use upon his
20 lands so heretofore irrigated and hereinbefore described, through the Daniels
21 Ditch during the second, fourth, sixth and eighth rotation periods hereinbefore
22 defined, to the extent of 0.13 cubic feet per second, which said right is herein
23 designated to be the third right for such rotation periods, and said right is
24 subject and inferior to all rights hereinbefore in this decree adjudged and
25 decreed, but is superior to all rights hereinafter decreed, for the rotation
26 periods in this paragraph named.

27 (40th) That subject to the rights hereinbefore decreed, the defendants
28 hereinafter named are respectively the owners of the right to divert and use
29 waters from said Soldier Creek in the amounts and through the ditches herein-
30 after set opposite their respective names, for use upon their lands so hereto-
31 fore irrigated and hereinbefore described, during the second, fourth, sixth and

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eight rotation periods hereinbefore decreed, to-wit:

<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
JOHN STREET	Company	3.45
G. M. WARRENS	Company or Warrens Flood	1.30
G. R. McMULLEN	Company	1.00
OLIVER CRAMPTON	Crampton (4 ditches)	2.10
C. E. ATKINSON	Atkinson	0.80

That the said rights in this paragraph decreed are the fourth rights for the said rotation periods hereinbefore named, and are superior to all rights hereinafter, but are subordinate and inferior to all rights hereinbefore decreed, and that said rights of the said parties in this paragraph named are, as between said parties, in this paragraph named, on an equality as to point of priority and superiority for the particular rotation periods enumerated herein, and that if, during any of said periods of time in this paragraph named, the quantity of water flowing in said stream be insufficient to supply all prior rights hereinbefore decreed and to also fully supply the rights in this paragraph decreed to the parties in this paragraph named, that then and during any such time or times, the said parties in this paragraph named shall pro-rate the water that may be flowing in said stream in excess of all prior rights hereinbefore adjudged and decreed, such pro-ration to be on the basis that the right of each of the parties in this paragraph named and by the terms of this paragraph adjudged and decreed, bears to the total or aggregate of their joint rights in this paragraph decreed.

(41st) That subject to the rights hereinbefore decreed, C. E. ATKINSON, J. C. SHARP, G. M. WARRENS, G. R. McMULLEN and OLIVER CRAMPTON are the owners of the fifth rights in and to the waters of said Soldier Creek, and in and to the use thereof, during the second, fourth, sixth and eighth rotation periods hereinbefore decreed, in the respective amounts hereinafter set opposite their respective names for use upon their said respective lands so heretofore irrigated and hereinbefore described, to be diverted and used through the respective ditches hereinafter set opposite their respective names, to-wit:

	<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
1			
2	G. E. ATKINSON	Atkinson	0.35
3	J. C. SHARP	Company	0.20
4	G. M. WARRENS	Company or Warrens Flood	0.20
5	G. R. McMULLEN	Company	0.20
6	OLIVER CRAMPTON	Crampton (4 ditches)	0.20

7 That said rights in this paragraph decreed are subject to an inferior
8 to all rights hereinbefore in this decree adjudged and decreed, but are superior
9 to all rights hereinafter decreed, for the rotation periods in this paragraph
10 named; and that said rights of the said parties in this paragraph named are, as
11 between said parties in this paragraph named, on an equality as to point of
12 priority and superiority for the particular rotation periods enumerated herein,
13 and that if, during any of said periods of time in this paragraph named, the
14 quantity of water flowing in said stream be insufficient to supply all prior
15 rights hereinbefore decreed and to also fully supply the rights in this para-
16 graph decreed to the parties in this paragraph named, that then and during any
17 such time or times, the said parties in this paragraph named shall pro-rate the
18 water that may be flowing in said stream in excess of all prior rights herein-
19 before adjudged and decreed, such pro-ration to be on the basis that the right
20 of each of the parties in this paragraph named and by the terms of this para-
21 graph adjudged and decreed, bears to the total or aggregate of their joint rights
22 in this paragraph decreed.

23 (42nd) That subject to the rights hereinbefore adjudged and decreed,
24 Celia Daniels is the owner of the sixth right in and to the waters of said
25 Soldier Creek, and in and to the use thereof, during the second, fourth, sixth
26 and eighth rotation periods hereinbefore defined, in the amount hereinafter set
27 opposite her name, for use upon her said lands so heretofore irrigated and herein-
28 before described, to be diverted and used through the ditch set opposite her
29 name, to-wit:

30	CELIA DANIELS	Daniels Ditch	0.39 cubic feet per second
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31 That said right to said Celia Daniels in this paragraph adjudged and

1 decreed is subject and inferior to all rights hereinbefore in this decree adjudged
2 and decreed, but is superior to all rights hereinafter decreed, for the rotation
3 periods in this paragraph named.

4 (43rd) That subject to the rights hereinbefore adjudged and decreed,
5 G. M. WARRENS and OLIVER CRAMPTON are the owners of the seventh rights in and
6 to the waters of said Soldier Creek and in and to the use thereof, during the
7 second, fourth, sixth and eighth rotation periods hereinbefore defined, in the
8 respective amounts hereinafter set opposite their respective names, for use upon
9 their said lands so heretofore irrigated and hereinbefore described, to be di-
10 verted and used through the respective ditches hereinafter set opposite their
11 respective names, to-wit:

<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
G. M. WARRENS	Company	1.25
OLIVER CRAMPTON	Crampton Upper	1.70

15 That said rights in this paragraph decreed are subject to and inferior
16 to all rights hereinbefore in this decree adjudged and decreed, but are superior
17 to all rights hereinafter decreed, for the rotation periods in this paragraph
18 named; and that said rights of the said parties in this paragraph named are, as
19 between said parties, on an equality as to point of priority and superiority for
20 the rotation periods enumerated herein, and that if, during any of said periods
21 of time in this paragraph named, the quantity of water flowing in said stream
22 be insufficient to supply all prior rights hereinbefore decreed and to also
23 fully supply the rights in this paragraph decreed to the parties in this para-
24 graph named, that then and during any such time or times, the said parties in
25 this paragraph named shall pro-rate the water that may be flowing in said stream
26 in excess of all prior rights hereinbefore adjudged and decreed, such pro-ration
27 to be on the basis that the right of each of the parties in this paragraph named
28 and by the terms of this paragraph adjudged and decreed, bears to the total or
29 aggregate of their joint rights in this paragraph decreed.

30 (44th) That subject to the rights hereinbefore adjudged and decreed,
31 C. E. Atkinson is the owner of the eighth right in and to the waters of said

1 Soldier Creek and in and to the use thereof, during the second, fourth, sixth and
2 eighth rotation periods hereinbefore defined, in the amount of 0.75 cubic feet
3 per second, for use upon his said lands so heretofore irrigated and hereinbefore
4 described, to be diverted and used through the Atkinson ditch, which said right
5 is subject and inferior to all rights hereinbefore in this decree adjudged and
6 decreed, but is superior to all rights hereinafter decreed, for the rotation
7 periods in this paragraph named.

8 (45th) IT IS HEREBY ADJUDGED AND DECREED that the period of time from
9 six o'clock a.m., June 19th of each year, to the hour of six o'clock a.m., of the
10 19th day of the following March is hereby ordered, adjudged and decreed to be the
11 season outside of the season of general irrigation for the lands involved in this
12 action, and IT IS HEREBY ORDERED, ADJUDGED and DECREED, that during said season,
13 last above described and hereinafter referred to as the season outside of the sea-
14 son of general irrigation, the waters that may be flowing in said Soldier Creek
15 shall be owned, diverted and used by the parties to this action subject to the
16 domestic rights hereinbefore in paragraph (13th) decreed, in the order of priority
17 and in the amounts hereinafter decreed.

18 (46th) IT IS ORDERED, ADJUDGED AND DECREED that, subject to the domestic
19 rights defined in paragraph (13th) hereof, F. E. DANIELS as successor in interest
20 to CYRUS DANIELS, CELIA DANIELS AND J. C. SHARP are the owners of the second
21 rights and entitled to divert and use from said Soldier Creek, during the said
22 season outside of the general irrigation season, the respective quantities of
23 water set opposite their respective names, through the ditches set opposite their
24 respective names, upon their lands heretofore irrigated and hereinbefore described,
25 to-wit:

26	<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
27	F.E. DANIELS	Daniels	0.25
28	CELIA DANIELS	Daniels	1.05
29	J. C. SHARP	Company	1.88

30 That said right in this paragraph decreed is subject and inferior to
31 all rights hereinbefore in this decree adjudged and decreed, but is superior to

1 all rights hereinafter decreed, for the said season in this paragraph named; and
 2 that said right of the said parties in this paragraph named are, as between said
 3 parties on an equality as to point of priority and superiority for the period in
 4 this paragraph named, and that if, during said time in this paragraph named, the
 5 quantity of water flowing in said stream be insufficient to supply all prior
 6 rights hereinbefore decreed and to also fully supply the rights in this paragraph
 7 decreed to the parties in this paragraph named, that then and during any such time
 8 or times, the said parties in this paragraph named shall pro-rate the water that
 9 may be flowing in said stream in excess of all prior rights hereinbefore adjudged
 10 and decreed, such pro-ration to be on the basis that the right of each of the
 11 parties in this paragraph named and by the terms of this paragraph adjudged and
 12 decreed, bears to the total or aggregate of their joint rights in this paragraph
 13 decreed.

14 (47th) That subject to the rights hereinbefore decreed, F. E. Daniels
 15 as successor in interest to Cyrus Daniels is the owner of the third right and
 16 entitled to divert and use, through the Daniels Ditch, 0.13 cubic feet per
 17 second, of the waters of said Soldier Creek, for use upon his said land herein-
 18 before described, during the season outside of the general irrigation season as
 19 hereinbefore defined; that said right is inferior and subject to all rights
 20 hereinbefore adjudged and decreed, but is superior to all rights hereinafter
 21 decreed, for the said period in this paragraph named.

22 (48th) That subject to the rights hereinbefore decreed, JOHN STREET,
 23 G. M. WARRENS, G. R. McMULLEN, OLIVER CRAMPTON and C. E. ATKINSON are the owners
 24 of the fourth rights in and to the waters of said Soldier Creek, and in and to
 25 the use thereof during the season outside of the season of general irrigation,
 26 in the respective amounts hereinafter set opposite their respective names,
 27 through the ditches set opposite their respective names, for use upon their
 28 respective lands so heretofore irrigated and hereinbefore described, to-wit:

	<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
30	JOHN STREET	Company	1.50
31	G. M. WARRENS	Company	0.56

	<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
1			
2	G. R. McMullen	Company	0.43
3	OLIVER CRAMPTON	Crampton Upper	0.91
4	C. E. ATKINSON	Atkinson	0.36

5 That said rights in this paragraph decreed are subject and inferior to
6 all rights hereinbefore in this decree adjudged and decreed, but are superior to
7 all rights hereinafter decreed, for the said season in this paragraph named; and
8 that said rights of the said parties in this paragraph named are, as between
9 said parties, on an equality as to point of priority and superiority for the
10 period in this paragraph named, and that if, during said period, the quantity
11 of water flowing in said stream be insufficient to supply all prior rights here-
12 inbefore decreed and to also fully supply the rights in this paragraph decreed
13 to the parties in this paragraph named, that then and during any such time or
14 times, the said parties in this paragraph named shall pro-rate the water that
15 may be flowing in said stream in excess of all prior rights hereinbefore adjudged
16 and decreed, such pro-ration to be on the basis that the right of each of the
17 parties in this paragraph named and by the terms of this paragraph adjudged and
18 decreed, bears to the total or aggregate of their joint rights in this paragraph
19 decreed.

20 (49th) That subject to the rights hereinbefore decreed, C. E. ATKINSON,
21 JOHN C. SHARP, G. M. WARRENS, G. R. McMULLEN and OLIVER CRAMPTON, are the owners
22 of the fifth rights in and to the waters of said Soldier Creek, and in and to
23 the use thereof during the season outside of the season of general irrigation,
24 in the respective amounts hereinafter set opposite their respective names,
25 through the ditches hereinafter set opposite their respective names, for use upon
26 their said lands so heretofore irrigated and hereinbefore described, to-wit;

	<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
27			
28	C. E. ATKINSON	Atkinson	0.14
29	J. C. SHARP	Company	0.09
30	G. M. WARRENS	Company	0.09
31	G. R. McMULLEN	Company	0.09
	OLIVER CRAMPTON	Crampton Upper	0.09

1 That said rights in this paragraph decreed are subject and inferior to
 2 all rights hereinbefore in this decree adjudged and decreed, but are superior to
 3 all rights hereinafter decreed, for the said season in this paragraph named; and
 4 that said rights of the said parties in this paragraph named are, as between said
 5 parties, on an equality as to point of priority and superiority for the period in
 6 this paragraph named, and that if, during said period, the quantity of water flow-
 7 ing in said stream be insufficient to supply all prior rights hereinbefore decreed
 8 and to also fully supply the rights in this paragraph decreed to the parties in
 9 this paragraph named, that then and during any such time or times, the said parties
 10 in this paragraph named shall pro-rate the water that may be flowing in said
 11 stream in excess of all prior rights hereinbefore adjudged and decreed, such pro-
 12 ration to be on the basis that the right of each of the parties in this paragraph
 13 named and by the terms of this paragraph adjudged and decreed, bears to the total
 14 or aggregate of their joint rights in this paragraph decreed.

15 (50th) That subject to the rights hereinbefore decreed, CELIA DANIELS
 16 is the owner of the sixth right and entitled to divert and use, through the Daniels
 17 Ditch, 0.39 cubic feet per second, of the waters of said Soldier Creek, for use
 18 upon her said land so heretofore irrigated and hereinbefore described, during the
 19 season outside of the general irrigation season as hereinbefore defined; and that
 20 said right is inferior and subject to all rights hereinbefore adjudged and decreed,
 21 but is superior to all rights hereinafter decreed, for the said season in this
 22 paragraph named.

23 (51st) That subject to the rights hereinbefore decreed, G. M. WARRENS,
 24 and OLIVER CRAMPTON are the owners of the seventh rights in and to the waters of
 25 said Soldier Creek, and in and to the use thereof during the season outside of
 26 the season of general irrigation, in the respective amounts hereinafter set oppo-
 27 site their respective names, through the ditches hereinafter set opposite their
 28 respective names, for use upon their said lands so heretofore irrigated and herein-
 29 before described, to-wit:

<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
G. M. WARRENS	Company	0.54
OLIVER CRAMPTON	Crampton Upper	0.74

1 That said rights in this paragraph decreed are subject and inferior to
2 all rights hereinbefore in this decree adjudged and decreed, but are superior to
3 all rights hereinafter decreed, for the said season in this paragraph named; and
4 that said rights of the said parties in this paragraph named are, as between said
5 parties, on an equality as to point of priority and superiority for the period in
6 this paragraph named, and that if, during said period, the quantity of water flow-
7 ing in said stream be insufficient to supply all prior rights hereinbefore de-
8 creed and to also fully supply the rights in this paragraph decreed to the parties
9 in this paragraph named, that then and during any such time or times, the said
10 parties in this paragraph named shall pro-rate the water that may be flowing in
11 said stream in excess of all prior rights hereinbefore adjudged and decreed, such
12 pro-ration to be on the basis that the right of each of the parties in this para-
13 graph named and by the terms of this paragraph adjudged and decreed, bears to the
14 total or aggregate of their joint rights in this paragraph decreed.

15 (52nd) That subject to the rights hereinbefore decreed, C. E. ATKINSON
16 is the owner of the eighth right and entitled to divert and use, through the
17 Atkinson Ditch, 0.33 cubic feet per second, of the waters of said Soldier Creek,
18 for use upon his said land so heretofore irrigated and hereinbefore described,
19 during the season outside of the general irrigation season as hereinbefore defined;
20 and that said right is inferior and subject to all rights hereinbefore adjudged
21 and decreed, but is superior to all rights hereinafter decreed, for the said sea-
22 son in this paragraph named.

23 (53rd) That subject to the rights hereinbefore decreed, SIMON BENNETT
24 is the owner of the ninth right and entitled to divert and use, through the Toney
25 Ditch, 0.87 cubic feet per second, of the waters of said Soldier Creek, for use
26 upon his said land so heretofore irrigated and hereinbefore described, during the
27 season outside of the general irrigation season as hereinbefore defined; and that
28 said right is inferior and subject to all rights hereinbefore adjudged and decreed,
29 but is superior to all rights hereinafter decreed, for the said season in this para-
30 graph named.

31 (54th) That subject to the rights hereinbefore decreed, G. W. TONEY
and MERVIN R. TONEY are the owners of the tenth rights in and to the waters of said

1 Soldier Creek, and in and to the use thereof during the season outside of the sea-
 2 son of general irrigation as hereinbefore defined, in the respective amounts here-
 3 inafter set opposite their respective names, for use upon their said lands so
 4 heretofore irrigated and hereinbefore described, through the ditches hereinafter
 5 set opposite their respective names, to-wit;

6	<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
7	G. W. TONEY	Toney-Strief	0.70
8	MERVIN E. TONEY	Toney-Strief	0.70

9 That said rights in this paragraph decreed are subject and inferior to
 10 all rights hereinbefore in this decree adjudged and decreed, but are superior to
 11 all rights hereinafter decreed, for the said season in this paragraph named; and
 12 that said rights of the said parties in this paragraph named are, as between said
 13 parties, on an equality as to point of priority and superiority for the period in
 14 this paragraph named, and that if, during said period, the quantity of water flow-
 15 ing in said stream be insufficient to supply all prior rights hereinbefore decreed
 16 and to also fully supply the rights in this paragraph decreed to the parties in
 17 this paragraph named, that then and during any such time or times, the said par-
 18 ties in this paragraph named shall pro-rate the water that may be flowing in said
 19 stream in excess of all prior rights hereinbefore adjudged and decreed, such pro-
 20 ration to be on the basis that the right of each of the parties in this paragraph
 21 named and by the terms of this paragraph adjudged and decreed, bears to the total
 22 or aggregate of their joint rights in this paragraph decreed.

23 (55th) That subject to the rights hereinbefore decreed, G. S. STINER,
 24 G. K. HEARD and F. S. HEARD are the owners of the eleventh rights in and to the
 25 waters of said Soldier Creek, and in and to the use thereof during the season
 26 outside of the season of general irrigation as hereinbefore defined, in the re-
 27 spective amounts hereinafter set opposite their respective names, for use upon
 28 their said lands so heretofore irrigated and hereinbefore described, through
 29 the ditches hereinafter set opposite their respective names, to-wit;

30	<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
31	G. S. STINER	Stiner-Heard (East or West)	0.99
	G. K. HEARD	Stiner-Heard (East or West)	1.09
	F. S. HEARD	Stiner-Heard (West)	0.70

1 That said rights in this paragraph decreed are subject and inferior to
 2 all rights hereinbefore in this decree adjudged and decreed, but are superior to
 3 all rights hereinafter decreed, for the said season in this paragraph named; and
 4 that said rights of the said parties in this paragraph named are, as between said
 5 parties, on an equality as to point of priority and superiority for the period in
 6 this paragraph named, and that if, during said period, the quantity of water flow-
 7 ing in said stream be insufficient to supply all prior rights hereinbefore de-
 8 creed and to also fully supply the rights in this paragraph decreed to the parties
 9 in this paragraph named, that then and during any such time or times, the said
 10 parties in this paragraph named shall pro-rate the water that may be flowing in
 11 said stream in excess of all prior rights hereinbefore adjudged and decreed, such
 12 pro-ration to be on the basis that the right of each of the parties in this para-
 13 graph named and by the terms of this paragraph adjudged and decreed, bears to the
 14 total or aggregate of their joint rights in this paragraph decreed.

15 (56th) That subject to the rights hereinbefore decreed, SAN FRANCISCO
 16 CATTLE LOAN COMPANY, G. W. TONEY, MERVIN R. TONEY and SIMON BENNETT are the owners
 17 of the twelfth rights in and to the waters of said Soldier Creek, and in and to
 18 the use thereof during the season outside of the season of general irrigation as
 19 hereinbefore defined, in the respective amounts hereinafter set opposite their
 20 respective names, for use upon their said lands so heretofore irrigated and here-
 21 inbefore described, through the ditches hereinafter set opposite their respective
 22 names, to-wit:

23	<u>NAME</u>	<u>DITCH</u>	<u>CUBIC FEET PER SECOND</u>
24	S. F. CATTLE LOAN CO.	S. F. Cattle Loan Co.	2.04
25	G. W. TONEY	Toney	0.45
26	MERVIN R. TONEY	Toney	0.30
27	SIMON BENNETT	Strief	1.29

28 That said rights in this paragraph decreed are subject and inferior to
 29 all rights hereinbefore in this decree adjudged and decreed, and that said rights
 30 of the said parties in this paragraph named are, as between said parties, on an
 31 equality as to point of priority and superiority for the period in this paragraph

1 named, and that if, during said period, the quantity of water flowing in said
2 stream be insufficient to supply all prior rights hereinbefore decreed and to also
3 fully supply the rights in this paragraph decreed to the parties in this paragraph
4 named, that then and during any such time or times, the said parties in this para-
5 graph named shall pro-rate the water that may be flowing in said stream in excess
6 of all prior rights hereinbefore adjudged and decreed, such pro-ration to be on
7 the basis that the right of each of the parties in this paragraph named and by
8 the terms of this paragraph adjudged and decreed, bears to the total or aggregate
9 of their joint rights in this paragraph decreed.

10 (57th) IT IS FURTHER ORDERED, ADJUDGED and DECREED, that saving and
11 excepting the SAN FRANCISCO CATTLE LOAN COMPANY, the rights and allotments herein-
12 before adjudged and decreed to the various parties to this action are the full
13 and complete rights, allotments and rates of diversion and times of diversion of
14 water from said Soldier Creek of each and all of the parties to this action, and
15 are the maximum rates of diversion and the specific and only times of diversion
16 which the respective parties are entitled to divert and use water from said stream,
17 and if, during any of said time or times, there is flowing in said Soldier Creek
18 any water in excess of the amounts required to supply all allotments hereinbefore
19 allotted or decreed for such time or times, that then and during such time or
20 times as there is flowing in said stream an excess of water over and above the
21 aggregate of all allotments for such time or times, the said parties to this action
22 shall permit and allow all such excess water to flow down the said channel of said
23 creek unretarded and unmolested, without obstruction and interference to the lands
24 of the said San Francisco Cattle Loan Company, a corporation, or its grantees,
25 and said San Francisco Cattle Loan Company, or its grantees, shall be the owners
26 of and have the right to divert and use all such excess water that may so flow
27 in said stream at any such time or times, such use to be upon their said lands
28 hereinbefore described.

29 (58th) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that no party herein
30 adjudged and decreed a right to divert water shall divert, at any time, a quantity
31 of water in excess of that necessary and being put to beneficial use.

1 (59th) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that water to satisfy
2 all irrigation allotments to Celia Daniels and to F. E. Daniels as successor in
3 interest to Cyrus Daniels hereinabove provided in paragraphs 21, 30, 31, 38, 39,
4 42, 45, 47, and 50 shall first be taken from Daniels Canyon and Simpson Canyon,
5 and any deficiency, in the flows available in said canyons below said irrigation
6 allotments to said parties, shall then be made up by diversion from Soldier Creek.

7 (60th) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each and every
8 party to this action, his or her agents, successors, grantees and assigns, be,
9 and they are hereby perpetually enjoined and restrained from doing anything in
10 violation of the terms or provisions of this decree, and particularly from di-
11 verting any water in excess of the amount awarded or decreed to said person, or
12 diverting any water at any time in violation of the terms hereof, or from doing
13 anything that will obstruct or interfere with any other right in this decree
14 adjudged and decreed.

15 (61st) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the users of
16 each ditch through which water is diverted from Soldier Creek as herein provided,
17 shall install, prior to July 1, 1928 or such later date as may be ordered by the
18 court, such permanent headgates and measuring devices as shall be required and
19 approved by the Division of Water Rights of the Department of Public Works of
20 the State of California. The costs of said installations to be borne by the
21 respective ditch users in proportion to the amounts of water herein allotted
22 to them through their said respective ditches.

23 (62nd) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Division
24 of Water Rights of the Department of Public Works of the State of California,
25 as now or hereafter constituted or its successor in the administration of the
26 water Commission Act shall act as water-master during the season of general ir-
27 rigation whenever necessity for such water-master service is found to exist by
28 said Division and that all costs and expenses of such water-master service shall
29 be borne by the parties hereto in proportion to the amount of water herein al-
30 lotted to said parties.

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(33rd) FINALLY IT IS ORDERED, ADJUDGED AND DECREED that the parties hereto shall pay the costs incurred by the Division of Water Rights in acting as referees in the above entitled action in the proportion which their respective water rights as herein adjudged bear to the total water rights herein decreed, said costs being so apportioned among the several parties in the report of referees on file in this action.

Done in open court this 28th day of November, 1928.

F.M. Jamison
Judge of said Superior Court

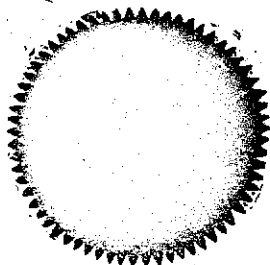
Filed Nov 28, 1928.
L. S. Smith, Clerk
Book 5, Page 419-439

STATE OF CALIFORNIA, }
County of Modoc. } ss.

Office of County Clerk

I, L. S. SMITH, County Clerk of the County of Modoc, and ex-officio Clerk of the Superior Court thereof, do hereby certify that I have compared the foregoing copy of "Deed"

Case No. 2405 - J. F. Gault & Co. v. Estate of C. M. Brewster, et al.



and the endorsements thereon with the original of the same now on file in my office, and that the same is a full, true and correct copy of the said original and the whole thereof.

WITNESS, my hand and the seal of said Superior Court, this 28th day of November, A. D. 1928.

L. S. Smith
County Clerk and Ex-officio Clerk of said Superior Court