IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF COLUMBIA

IN THE MATTER OF THE DETERMINATION OF THE RIGHTS TO THE USE OF THE WATERS OF THE TOUCHET RIVER AND ITS TRIBUTARIES IN WALLA WALLA AND COLUMBIA COUNTIES, WASHINGTON, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 117 OF THE SESSION LAWS OF 1917 OF THE STATE OF WASHINGTON AND AMENDMENTS THERETO.	NO. 22066
THE STATE OF WASHINGTON, Plaintiff, vs. WEST END IRRIGATION DISTRICT NO. 5, a corporation, et al., Defendants.	D E C R E E

This cause having heretofore come on regularly before the Court for hearing on the 18th day of June, 1929, upon the original report of the State Supervisor of Hydraulics by his deputy, Chas. J. Bartholet, referee herein, dated the 8th day of March, 1929 and filed on or about the 4th day of April, 1929, and upon the supplemental reports and recommendations of the referee dated and filed respectively as follows: dated the 28th day of May, 1929, filed the 31st day of May, 1929; dated the 20th day of June, 1929, filed on the 22nd day of June, 1929; pursuant to notice duly given as required by law, and certain exceptions having been filed to said report of the referee, and the parties filing said exceptions having appeared before the Court by their attorneys, and the Court having heard the argument on said exceptions, and being fully advised in the premises,

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1.

That is appears to the Court from the records and files in this case that all the defendants herein have been duly and regularly served, personally or by publication, with summons in this action in

That the several exceptions filed herein to the report of the referee be and they hereby are overruled except as the same or any of them, may be allowed or partially allowed by the provisions of this decree.

3.

That the findings of fact and conclusions of law made by the referee in his report be and they hereby are adopted and confirmed as the findings of fact and conclusions of this Court, except as in this decree specifically modified.

4.

That the Touchet River with its tributaries is a non-navigable natural water course tributary to the Walla Walla River; that said stream and the lands irrigated therefrom are situated in Walla Walla and Columbia counties, Washington.

5.

That water rights were initiated on date of appropriation.

6.

That the parties hereto and their successors in interest be and they hereby are entitled to divert from the Touchet River and its tributaries the quantity of water specified in the classification hereinafter set forth, for beneficial use upon their several lands described herein; that the rights and priorities of such described lands be and they hereby are as set forth in said classification and all persons claiming by or through them be and they hereby are perpetually enjoined from interfering with the diversion and use upon said tracts of the quantities of water in said classification specified.

7.

That the number of acres which the owners are entitled to irrigate,

ANNIE MARTIN (Continued)

Note: This right is for domestic use from spring branch and is not subject to other water rights involved in this case.

ROSA JOHNSON				Spring Branch
63-A	1.0	0.013	0.67	Lot 8 in Block "D" of Guernsey's Addition to Dayton, Washington.

Note: This right is for domestic use and is not subject to other water rights involved in this case.

GEORGIA MAY MORAN				Spring Branch
63-B	1.0	0.013	0.67	Lot 6 in Block "D" of Guernsey's Addition to Dayton, Washington.

Note; This right is for domestic use and is not subject to other water rights involved in this case.

THE BOARD OF TRUSTEES OF WHITMAN COLLEGE, a corporation

200				Sec. 16, Twp. 9 N., R. 37 E. W. M.

Note: Claimant is also entitled to benefits in the use of water diverted from the Touchet River and conveyed to Coppei Creek by the City of Waitsburg under terms of the decree in the case of the City of Waitsburg vs. George M. Lloyd, et al., Case No. 13601 records of Superior Court for Walla Walla County, Washington.

8.

That the date of the initiation of the water rights, number of acres which the owner is entitled to irrigate, amount of water to which the owner is entitled, description of the lands to which the water right is appurtenant, together with its classification of priority and the name of the stream from which the water is diverted, which are heretofore shown in this decree in conjunction with the name of each claimant, are hereby fixed and determined.

water equal to the rate allotted to other lands herein by complying with the provisions of Chapter 117 of the Session Laws of 1917 of the state of Washington and amendments thereto and the rules and regulations of the office of the State Supervisor of Hydraulics.

10.

That subject to priority set forth in the appended schedule of rights, water can be diverted from April 1st to September 15th of each year to the lands irrigated from the Touchet River by the aforesaid claimants at a rate not to exceed 1 cubic foot per second for each 75 acres for lands east of the township line between ranges 34 and 35 east of the Willamette Meridian, and 1 cubic foot per second for each 65 acres for lands lying west of that line: PROVIDED that during that period there is more water than is required to fill all the rights at the above specified rate, such excess may be diverted by the claimants in the order of scheduled priority in amounts sufficient to increase the rate to a maximum delivery of 1 cubic foot per second for each fifty acres of land. The diversion rate from September 15th to April 1st shall not exceed 1 cubic foot per second for each fifty acres of land in the scheduled priority, and the total diversion for any given tract of land shall not exceed 6 acre feet per acre for any one year beginning September 15th.

This allotment of water is subject to a rotation schedule fixed by the State Supervisor of Hydraulics or by the water master for the districts involved when it is deemed advisable to rotate the water for obtaining a greater benefit from the supply available.

11.

Rights in a higher class shall be fully satisfied before water is given to those of a subordinate class, and in case of failure of

to a given class, the amount remaining for said class shall be apportioned to the appropriators in said class in the proportion which the number of cubic feet per second awarded to each person bears to the total number of cubic feet per second awarded to such class, subject to use by rotation.

12.

That all natural springs and spring branches which contribute to the flow of the Touchet River are tributary to and form a part of the water supply of said river.

13.

That subject to the total amount of water set forth in the appended schedule, all water of the Touchet River and its tributaries belongs to the public and is subject to appropriation.

14.

That any person taking water from the Touchet River or its tributaries shall provide and maintain, at his own expense, proper diversion works and measuring device, as required by statute, Section 37, Chapter 117, Laws of 1917 and amendments thereto.

15.

That the Clerk of the above entitled Court be and he is hereby directed to transmit forthwith to the State Supervisor of Hydraulics a certified copy of this decree.

16.

That upon receipt of such certified copy the State Supervisor of Hydraulics shall prepare and file with the Clerk of the above entitled Court a statement of the expense incurred by him in this determination, showing the total expense of the determination and apportioning such expense to the various rights as determined by the Court in this decree in proportion to the amount of such rights.

That the State Supervisor of Hydraulics be and he hereby is directed to issue to the persons entitled thereto certificates of water right in accordance with the provisions of this decree, as provided in Section 26, Chapter 117 of the Session Laws of Washington for the year 1917 and subsequent amendments, provided said persons shall have first paid the amount of the expense apportioned against their lands as provided in Section 16 of this decree.

Done in open Court this 19th day of September, 1929.

John L. Shepstein
Judge.