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8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF LASSEN

10 In the Matter of the )  
Determination of the Rights )  
11 of the Various Claimants )  
to the Waters of ) No. 16291  
12 HALLETT CREEK STREAM SYSTEM, )  
13 Lassen County, California. )  
14

15 The above-entitled cause having come on regularly for  
16 hearing, trial and determination on January 30, 1984, before this  
17 Court sitting without a jury; all parties in interest in said  
18 proceeding having been duly and regularly notified of said hearing,  
19 trial, and determination; the State Water Resources Control Board  
20 (hereinafter referred to as the "Board") having filed with the  
21 clerk of this court a certified copy of the Order of Determination  
22 together with the original evidence filed with or taken before the  
23 Board and certified by it; the United States Forest Service having  
24 filed an exception and the Sierra Club having filed a motion to  
25 intervene; the Court having entered a tentative decision and  
26 proposed statement of decision on June 4, 1984 granting the motion  
27 of Sierra Club to intervene in this proceeding and sustaining the  
28 United States' claim of a riparian right on its reserved lands in

1 the Hallett Creek Stream System; the Court now affirms said Order  
2 of Determination, except to the extent that it is modified herein,  
3 and renders this decree determining the rights of all parties  
4 involved in this proceeding as follows:

5 IT IS ORDERED ADJUDGED AND DECREED that the several  
6 rights of all existing claimants in and to the use of water of  
7 Hallett Creek Stream System, in Lassen County, California, are  
8 determined and established to be as hereinafter set forth:

9 1. Intervention by Sierra Club

10 The motion of Sierra Club to intervene in this proceeding  
11 is granted.

12 DEFINITIONS

13 2. Water Code

14 "Water Code" means the State of California Water Code.

15 3. Stream System

16 "Stream System" means the Hallett Creek Stream System.  
17 It includes Hallett Creek and its tributaries from their headwaters  
18 to the outflow into Honey Lake in Lassen County, California, and  
19 water in subterranean streams which flow in known and definite  
20 channels and which contribute to the Hallett Creek Stream System.

21 4. Claimant

22 "Claimant" means a party who has filed a proof of claim  
23 of water right in and to the use of water of Hallett Creek Stream  
24 System, or who, having failed or refused to file such a proof of  
25 claim properly, has had his right determined pursuant to provisions  
26 of Water Code Section 2577.

27 5. Directly Apply to Beneficial Use

28 "Directly apply to beneficial use" means the direct

1 conveyance and application of water diverted to beneficial use  
2 without intermediate storage, except such reasonable regulatory  
3 storage as may be practiced for the purpose of creating a  
4 convenient head for irrigation or other beneficial use allowed  
5 herein.

6 6. Natural Flow

7 "Natural flow" means such flow as will occur at the point  
8 in a stream from the runoff of the watershed which it drains, from  
9 springs and seepage which naturally contribute to the stream, and  
10 from waste and return flow from dams, conduits, and irrigated  
11 lands, as distinguished from water released directly from storage  
12 for rediversion and use, or water imported from another watershed  
13 which is released directly to the natural channel for conveyance to  
14 the place of beneficial use.

15 7. Watershed

16 "Watershed" means the drainage area or region which  
17 contributes to the water supply of a stream or lake.

18 8. State Water Resources Control Board Map

19 The State Water Resources Control Board map (hereinafter  
20 referred to as "SWRCB map") was prepared by the Board from surveys  
21 made in 1978 and 1979. It is entitled "Hallett Creek System,  
22 Showing Properties and Irrigated Lands, Lassen County, California,  
23 dated 1983" and is on file in this proceeding. The SWRCB map,  
24 comprising one sheet, is incorporated herein and attached hereto as  
25 a part of this decree.

26 GENERAL ENTITLEMENT

27 9. Diversion and Use of Water

28 The claimants in this proceeding are entitled to divert

1 water from the Hallett Creek Stream System from points of diversion  
2 described in Schedule 1 for use on their lands described under  
3 their respective names in Schedule 2. The parcels and the  
4 diversion points are also shown on the SWRCB map. The amounts  
5 allotted for each use by each claimant are set forth with their  
6 respective priorities in Schedule 3. The paragraph entitled  
7 "Seasons of Use" sets forth the periods of time during which each  
8 use of water may be exercised. Amounts allotted to irrigation are  
9 set forth in Schedule 3 in gallons per minute. The points of  
10 measurement of the amounts of water allotted shall be at the points  
11 of diversion from the stream system unless otherwise specified.  
12 Nothing herein contained shall, or shall be construed to, allocate  
13 to any claimant a right to divert from Hallett Creek Stream System,  
14 at any time, a quantity of water in excess of an amount reasonably  
15 necessary for his beneficial use, nor to permit him to exercise his  
16 right in such a manner as to unreasonably impair quality of the  
17 natural flow.

18 10. Priority Classes

19           The term "priority class" when used herein means a class  
20 of rights each of which is equal in priority and correlative in  
21 rights with all other rights of the same class appearing within the  
22 schedule, so that if sufficient water is available to supply only  
23 part of the entitlement of any specific priority class, said  
24 available supply shall be prorated in accordance with allotments in  
25 that priority class. No priority class is entitled to the use of  
26 any water until all rights of all priority classes with lower  
27 numbers have been fully satisfied. Thus, within the same schedule,  
28 all rights of the Second Priority Class are inferior in priority

1 and subordinate to all rights of the First Priority Class, but are  
2 superior in priority and entitled to full satisfaction ahead of the  
3 Third Priority Class. Subject to compliance with Paragraph 19  
4 hereof, claimants of rights for dormant riparian land are entitled  
5 to divert allotments under an appropriate priority class junior to  
6 previously defined rights, to their places of use through such  
7 points of diversion as may be specified in the future. No change  
8 in or addition of a point of diversion shall interfere with  
9 superior rights.

10 11. Pre-1914 Appropriations

11 George L. Bailey, Sr., and George L. Bailey, Jr., claim  
12 rights to water from Bootsole and Thompson Creeks, tributaries to  
13 the Feather River drainage, under a pre-1914 appropriation. Water  
14 is diverted by check dams and ditches (Diversion Points 5a and 5b,  
15 SWRCB map) into the head of Hallett Creek (Measurement Point 5).  
16 The Hallett Creek channel serves as the conveyance system to a  
17 point about 800 feet upstream from the U.S. Highway 395 crossing at  
18 Diversion Point 5c where a weir diverts the flow which originates  
19 in Thompson and Bootsole Creeks into a ditch for irrigation of 200  
20 acres. George L. Bailey, Sr., and George L. Bailey, Jr., are  
21 entitled to use all of the water from Bootsole and Thompson Creek  
22 which enters Hallett Creek, less the conveyance losses. This does  
23 not constitute a determination of the validity of the right of  
24 George L. Bailey, Sr., and George L. Bailey, Jr., to divert water  
25 from Bootsole and Thompson Creeks.

26 George L. Bailey, Sr., and George L. Bailey, Jr., shall  
27 install and maintain a measuring device at the head of Hallett  
28 Creek where the imported water is discharged into the Hallett Creek

1 Stream System at approximately the same location as Measuring  
2 Point 5 which is shown on the SWRCB Map. They shall also install a  
3 measuring device at Diversion Point 5c to measure water diverted  
4 from the Hallett Creek channel. The amount of water diverted at  
5 Diversion Point 5c should not exceed the amount passing through the  
6 upper measuring device.

7 12. Season of Use

8 Allotments for all purposes shall be for continuous use  
9 throughout the year.

10 13. Domestic Use

11 Domestic use is limited to water applied exclusively for  
12 household purposes, watering of domestic animals and irrigation of  
13 up to one-half acre of yard, garden and/or family orchard. All  
14 allotments in First Priority Class in Schedule 3 are solely for  
15 domestic purposes.

16 13. Irrigation and Stockwatering Use

17 Irrigation use is limited to the application of water for  
18 the purpose of meeting moisture requirements of growing crops. Use  
19 for stockwatering is limited to water required by commercial  
20 livestock. All allotments for present irrigation of riparian  
21 lands, or for irrigation of riparian lands where diversion  
22 facilities have been installed for such irrigation, and allotments  
23 for non-domestic (commercial) stockwatering are in Second Priority  
24 Class. Allotments for dormant riparian lands have not been  
25 quantified at this time; however, paragraph 19 provides for future  
26 allocation. Stockwatering shall be accomplished by the livestock  
27 drinking directly from the stream except that watering troughs may  
28 be used if they are equipped with conduits to allow any surplus

1 water diverted to return to the stream or if pumping installations  
2 are equipped with automatic turn-off devices.

3 15. Industrial Use

4 Industrial use is limited to the application of water in  
5 the culture and harvesting of timber including incidental domestic  
6 use, the building and maintenance of roads, sprinkling to allay  
7 dust, fire protection, operation of portable or semi-portable  
8 sawmills including operation and maintenance of appurtenant logging  
9 ponds, chippers and debarkers and the initial irrigation of timber  
10 plantings including Christmas tree stock. Holding ponds should be  
11 designed and constructed to prevent waste. The ponds should not  
12 collect water except during those periods when water is required  
13 for actual use.

14 SPECIAL PROVISIONS

15 16. Priority of Domestic Uses

16 In Schedule 3 all uses of water for domestic purposes are  
17 allotted first priority rights in accordance with Water Code  
18 Section 106.

19 17. Place of Use of Water Diverted at Point 8

20 George Bailey, Sr., and George Bailey, Jr., are entitled  
21 to divert the entire natural flow of Hallett Creek at Diversion  
22 Point 8. When the amount diverted exceeds 409 gallons per minute  
23 all flow in excess of 409 gallons per minute shall be used on lands  
24 which readily drain toward Blickenstaff's Diversion Point 9.

25 18. Reasonable Use of Water

26 Section 2, Article X of the California Constitution  
27 prohibits unreasonable use, unreasonable method of use or  
28 unreasonable method of diversion of water. Future use of water

1 under unexercised riparian rights is unreasonable when supply is  
2 inadequate to satisfy the rights set forth in this decree and in  
3 any supplemental decree, and use shall be allowed only when water  
4 is surplus to the decreed rights. The use of unnecessarily large  
5 regulation ponds is an unreasonable method of diversion, and is  
6 prohibited.

7 19. Unexercised Riparian Rights

8 (a) All claimants and other persons not named in this  
9 decree owning land riparian to streams in the Hallett Creek Stream  
10 System upon which they do not presently exercise riparian rights to  
11 the use of water, or upon which they do not exercise riparian  
12 rights to the extent planned for the future, have unexercised  
13 riparian rights to the use of water. However, any right that is  
14 not defined in this decree shall be defined and exercised only in  
15 accordance with the provisions of this paragraph.

16 (b) Any person identified in subparagraph (a) above may  
17 apply to the court under paragraph 22 or to the Board under  
18 paragraph 20 for definition of a riparian right which is not  
19 defined in this decree or in any supplemental decree. If the court  
20 finds that such person proposes to exercise such right diligently,  
21 reasonably and beneficially, the court shall define the right in  
22 terms consistent with such proposed reasonable beneficial use. Any  
23 riparian right defined pursuant to this paragraph shall be the  
24 subject of a supplemental decree and shall possess a priority as of  
25 the date of application to the court or to the Board, as the case  
26 may be.

27 (c) Riparian rights defined pursuant to this paragraph  
28 shall be subject (1) to all rights which are defined in this



1 decree, including any supplemental decree, as said decree exists on  
2 the date of application to the court or to the Board by a riparian  
3 claimant, and (2) to any appropriative right initiated by  
4 application, in accordance with Part 2 (commencing with  
5 Section 1200) of Division 2 of Water Code, prior to the date of  
6 application to the court or to the Board by a riparian claimant.

7 20. Changes in the Exercise of Rights

8           Any party who wishes to change or modify the exercise of  
9 his rights set forth in the decree may request the Board to  
10 investigate said change or modification. If the Board investigates  
11 a change or modification it shall notify all affected parties of  
12 its investigation and give them an opportunity to object to the  
13 proposed change. If any affected party objects to the proposed  
14 change or modification, the Board shall hold a hearing or other  
15 proceedings in lieu of hearing. After investigating, the Board  
16 shall file its report. The report shall determine whether the  
17 proposed change or modification is in accordance with applicable  
18 law and shall make a recommendation regarding change or  
19 modifications of the decree. The court shall, after reviewing and  
20 approving any changes or modifications of the decree recommended by  
21 the Board, enter such changes or modifications as a supplement to  
22 its decree. The Board shall be reimbursed for its expenses of such  
23 investigation. Proceedings on the apportionment of the expense  
24 shall closely conform with the provisions of Article 13, Chapter 3,  
25 Part 3, Division 2 of the Water Code, commencing with  
26 Section 2850. Nothing in this paragraph shall restrict any right  
27 which any person may have under any statute or common law to change  
28 or modify the exercise of his rights set forth in the decree.

1 21. Water Rights Disputes in Watermaster Service Area

2           When a watermaster service area is created in accordance  
3 with applicable laws, the watermaster shall distribute the water in  
4 accordance with the decree. If a water right dispute arises  
5 between users, the watermaster shall regulate those diversions as  
6 set forth in the decree and as necessary to settle the dispute.  
7 Any party who alleges that the watermaster is not regulating his  
8 water right in accordance with the decree may apply to the Board to  
9 investigate said allegations. The Board shall notify all affected  
10 parties of its investigation and give them an opportunity to  
11 respond to the allegations. If any affected party requests a  
12 hearing or other proceedings in lieu of hearing, the Board shall  
13 duly notice and schedule a hearing or other proceedings in lieu of  
14 hearing. Following its investigation, the Board shall file a  
15 report with the court. The report shall explain whether the  
16 watermaster has regulated the water right in accordance with the  
17 decree and shall set forth the Board's recommendation to the court  
18 for any change, modification, or clarification of the decree. Any  
19 change, modification, or clarification of the decree recommended by  
20 the Board shall be entered subject to court review and approval, as  
21 a supplemental decree. The Board shall be reimbursed for its  
22 expenses in connection with this paragraph. Proceedings on the  
23 apportionment of expenses shall closely conform with the provisions  
24 of Article 13, Chapter 3, Part 3, Division 2 of the Water Code  
25 commencing with Section 2850. Nothing in this paragraph shall  
26 restrict any right which any person may have under any statute or  
27 common law to seek enforcement of this decree or to seek any other  
28 relief.

1 22. Reserved Jurisdiction

2           This court reserves continuing jurisdiction to review its  
3 decree and to change or modify the same as the interests of justice  
4 may require. The court, in its discretion, shall exercise its  
5 continuing jurisdiction upon application of any party hereto, or  
6 successor in interest thereto, or upon its own motion or the motion  
7 of the State Water Resources Control Board.

8 23. Effect of the Decree

9           Each and every claimant, his or her agents, successors,  
10 grantees and assigns, are hereby perpetually enjoined and  
11 restrained from doing anything in violation of the terms or  
12 provisions of this decree, and from diverting any water from the  
13 Hallett Creek Stream System as defined herein at any time in excess  
14 of a quantity reasonably necessary for, and actually applied to,  
15 reasonable beneficial use, under and by reasonable methods of  
16 diversion and use, and from doing anything, directly or indirectly,  
17 that will obstruct or interfere with any right of another adjudged  
18 and decreed herein.

19           This decree is conclusive and determines all existing  
20 rights in the Hallett Creek Stream System as defined herein.

21           This decree supersedes and modifies all inconsistent  
22 former judgments and decrees as to the rights to the flow of the  
23 Hallett Creek Stream System. However, this decree does not  
24 supersede rotation or ditch agreements consistent herewith.

25           Permits or licenses to use water in the Hallett Creek  
26 Stream System initiated by application under provisions of the  
27 Water Commission Act or the Water Code shall continue to be  
28 administered by the Board as in other cases. If the Board revokes

1 or approves changes in any permit or license pursuant to Chapter 10  
2 (commencing with Section 1700), Part 2, of Division 2 of the Water  
3 Code and court review of such action is sought, the court shall in  
4 its discretion upon motion of any party to the Board's proceeding,  
5 enter a supplemental decree confirming the Board's action.

6 Any claimant who has failed to appear and submit proof of  
7 his claim as provided in Chapter 3, Part 3, Division 2 of the Water  
8 Code, shall be barred and estopped from subsequently asserting any  
9 rights heretofore acquired upon the Hallett Creek Stream System as  
10 defined herein, and has forfeited all rights to water heretofore  
11 claimed by him on said stream system other than as provided in the  
12 decree, unless entitled to relief under the laws of this State.

13 24. Statements of Water Diversion and Use

14 Unless excepted, all persons diverting water under water  
15 rights other than appropriative water rights initiated after  
16 December 19, 1914, are required to file Statements of Diversion and  
17 Use in accordance with Part 5.1 of Division 2 of the Water Code  
18 commencing with Section 5100. Exceptions include springs that do  
19 not flow off the property and stream systems which are regulated by  
20 a watermaster who files reports which meet the description set  
21 forth in Water Code Section 5100(g).

22 25. Riparian Right of the United States Forest Service

23 The United States Forest Service has an unexercised  
24 riparian right on its reserved lands in the watershed of the

25 -----  
26 -----  
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1 Hallett Creek Stream System. This right may be defined and  
2 exercised in accordance with the provisions set forth in  
3 paragraph 19 hereof.

4 Dated: JUL 30 1984

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JOSEPH B. HARVEY

Judge of the Superior Court

*The foregoing instrument is a correct copy  
of the Original on file in this office.*

Attest: JUL 31 1984 19

JACQUELYN FULLER

*County Clerk and Clerk of the Superior  
Court in and for the County of Lassen,  
State of California.*

*Bruce D. Dyer*  
BRUCE D. DYER  
Deputy



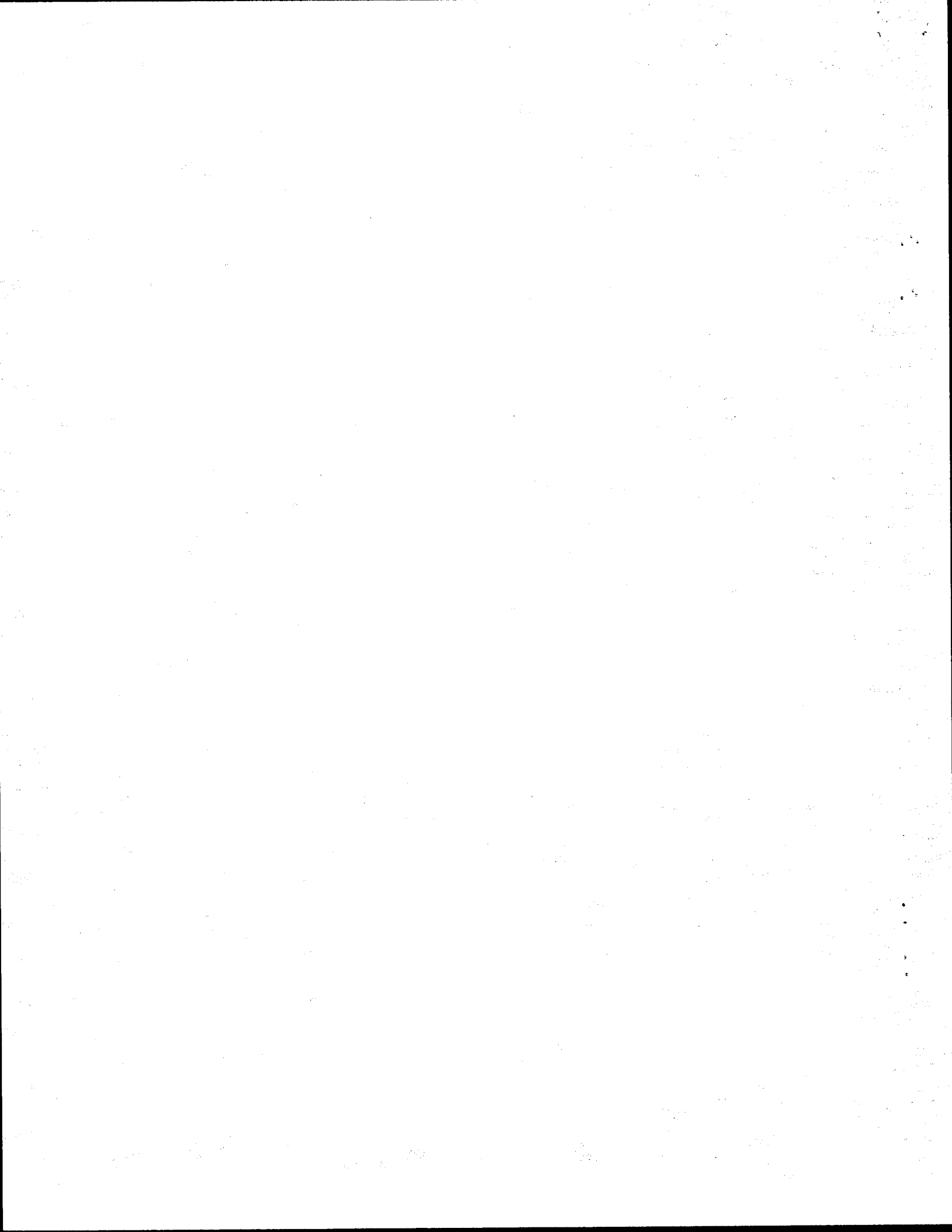
SCHEDULE 1

DESCRIPTION OF PLACES OF USE OF WATER FROM HALLETT CREEK STREAM SYSTEM

<u>Owner</u>	<u>Use</u>	<u>Acres</u>	<u>Subdivision</u>	<u>Section</u> T28N, R13E, MDB&M
Bailey, George L., Jr. & Sr.	Irrigation	12.1	SW $\frac{1}{4}$	13
	"	1.3	SE $\frac{1}{4}$	14
	"	66.1	NW $\frac{1}{4}$	24
	"	72.5	NE $\frac{1}{4}$	23
Blickenstaff, A. G. & B. C.	Irrigation	100	NW $\frac{1}{4}$ , NE $\frac{1}{4}$ & SE $\frac{1}{4}$	24
Clement, M. A.	Domestic		SW $\frac{1}{4}$ of NW $\frac{1}{4}$	23
Marino, Frank	Irrigation	0.75	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	23
Tramutolo, Richard & Alice	Irrigation	3.5	NW $\frac{1}{4}$	23
USDA Forest Service	Industrial Firefighting		E $\frac{1}{2}$ of SW $\frac{1}{4}$	27
			S $\frac{1}{2}$	28
			NE $\frac{1}{4}$	28
			N $\frac{1}{2}$	33
	NW $\frac{1}{4}$		34	
West, George G. & N. R.	Stockwatering		NW $\frac{1}{4}$ of NE $\frac{1}{4}$	23
Bailey, J. C.	Domestic		Portions of NE $\frac{1}{4}$	23

DESCRIPTION OF PLACES OF USE OF WATER FROM BOOTSOLE AND THOMPSON CREEK STREAM SYSTEM

Bailey, George L., Jr. & Sr.		103	SW $\frac{1}{4}$	13
		97	SE $\frac{1}{4}$	14





SCHEDULE 2

LOCATION OF POINTS OF DIVERSION

Name of Diversion System	Diversion Number on State Water Resources Control Board Map	LOCATION OF POINT OF DIVERSION WITHIN T28N, R13E, MDB&M			
		Legal Subdivision in Which Diversion Occurs	Reference Corner for Distance and Bearing	Bearing from Reference Corner	Distance From Reference Corner (In Feet)
U. S. Forest Service, springs,	1	E $\frac{1}{2}$ of SW $\frac{1}{4}$ Section 27, & portions of Sections 28, 33, & 34	SE Corner Section 27	N20 $^{\circ}$ E	2000
Marino, wood check dam	2	NE $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 22	SE Corner Section 22	N22 $^{\circ}$ W	1800
Clement, diversion	3	SW $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 23	NW Corner Section 23	S22 $^{\circ}$	2250
Tramutolo, earth check dam	4	SE $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 23	NW Corner Section 23	S45 $^{\circ}$ E	2350
Bailey, earth check dam	5a	SE $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 32	SE Corner Section 32	N40 $^{\circ}$ W	800
Bailey, earth check dam	5b	NE $\frac{1}{4}$ of SW $\frac{1}{4}$ Section 33	SW Corner Section 33	N45 $^{\circ}$ E	2750
Bailey, concrete box check dam	5c	SE $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 23	NW Corner Section 23	S57 $^{\circ}$ E	2400
Bailey, J. C. diversion	6	NW $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 23	NW Corner Section 23	S08 $^{\circ}$ E	3500
West diversion	7	NW $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 23	NW Corner Section 23	S73 $^{\circ}$ E	3800
Bailey, check dam	8	NE $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 23	NE Corner Section 23	S38 $^{\circ}$ W	1200
Blickenstaff, sump portable pump	9	NW $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 24	NW Corner Section 24	S68 $^{\circ}$ E	2800

SCHEDULE 3

ALLOTMENTS TO VARIOUS CLAIMANTS  
FROM HALLETT CREEK STREAM SYSTEM

Name of Claimant	Diversion Number on SWRCB Map	Use	Area Irrigated in Acres	FIRST Priority (Gal/Day)	SECOND Priority (Gal/Min.)	THIRD Priority (Gal/Min.)
United States Forest Service	1	Industrial Firefighting			95,000 gal/annum	
Marino	2	Irrigation	0.75		3	
Clement	3	Domestic		30		
Tramutolo	7	Irrigation	3.5		10	
*Bailey, G. L.	5a,b,c	Stockwatering Irrigation	200			
Bailey, J. C.	6	Domestic		30		
West	7	Stockwatering			0.5	
Bailey, G. L.	8	Irrigation	152		409	
Blickenstaff	9	Irrigation	100			371

\*All available water from Bootsole and Thompson Creeks from pre-1914 appropriation.

