

WRID, Lyon County and Bowman Protestants

EXHIBIT

152

Stipulation and Agreement for Entry of Amended Final Decree Pursuant to Writ of Mandate of
The Circuit Court of Appeals - Ninth Circuit - and Also Amended Decree Entered Herein on
April 15, 1936 to Clarify Certain Provisions Thereof,
filed April 25, 1940 in the Walker River Action

ORIGINAL

1 Filed April 25th, 1940

2 J. E. Rankham, Clerk

3 By _____, Deputy

4
5 IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA,
6 IN AND FOR THE DISTRICT OF NEVADA

7
8 UNITED STATES OF AMERICA,)

9 Plaintiff,)

IN EQUITY
NO. C-125

10 -vs-

11 WALKER RIVER IRRIGATION
12 DISTRICT, a corporation,
13 et al,

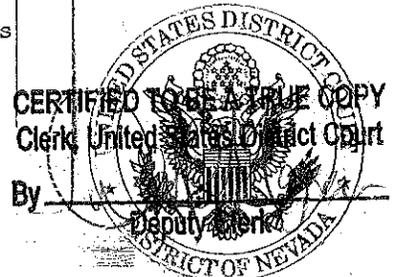
13 Defendants.)

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15 STIPULATION AND AGREEMENT FOR ENTRY OF
16 AMENDED FINAL DECREE PURSUANT TO WRIT OF MANDATE
17 OF THE CIRCUIT COURT OF APPEALS - NINTH CIRCUIT-
18 AND ALSO AMENDED DECREE ENTERED HEREIN ON APRIL
15, 1936 TO CLARIFY CERTAIN PROVISIONS THEREOF.

19 WHEREAS, the above entitled Court entered its final decree
20 in the above cause on the 15th day of April, 1936, and there-
21 after plaintiff having appealed, the United States Circuit
22 Court of Appeals - Ninth Circuit - issued on the 19th day of
23 October, 1939, its Mandate, Order and Decree reversing in
24 certain respects, the Order and Decree of this Court entered
25 herein, as aforesaid, on April 15, 1936, and

26 WHEREAS, the plaintiff having heretofore duly filed and
27 noticed its Motion in the above cause for an Order directing
28 the Clerk to file said Mandate and for an Order amending said
29 final decree to conform with said Writ of Mandate, and

30 WHEREAS, plaintiff and defendants, through their respect-
31 ive attorneys, also desire to clarify certain other provisions
32 of the Decree entered by the above Court in said cause on



1 April 15, 1936, as aforesaid;

2 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED between
3 the above named plaintiff and defendants, through their res-
4 pective attorneys, that the above entitled Court may enter
5 its Order amending the said Final Decree heretofore entered
6 in the above entitled cause on April 15, 1936, in the follow-
7 ing respects:

8 1. That page 10 of said Decree be amended to read as
9 follows:

10 argued before the Court in San Francisco, California
11 and finally submitted on January 10, 1936. The Court,
12 having considered the arguments of counsel and the
13 evidence and having made its findings of fact and con-
14 clusions of law, and upon the 15th day of April, 1936
15 filed and entered its order and decree herein, and it
16 thereafter appearing to this Court that on the 19th
17 day of October, 1939, the United States Circuit Court
18 of Appeals, Ninth Circuit, issued its Mandate, Order
19 and Decree reversing the order and decree of this
20 Court entered herein as aforesaid on April 15, 1936,

21 WHEREFORE, pursuant to said Writ of Mandate and in
22 conformity therewith, it is now ordered, adjudged
23 and decreed as follows:

24 RIGHTS OF THE UNITED STATES OF AMERICA

25 I. The plaintiff, United States of America, is
26 hereby adjudged and decreed to be the owner of the
27 right to divert a continuous flow of 26.25 cubic
28 feet per second of the natural flow of the Walker
29 River to be diverted from said stream upon or above
30 the Walker River Indian Reservation during the irri-
31 gation season of 180 days of each year for the irri-
32 gation of 2100 acres of land situate in the Walker
River Indian Reservation, in addition to whatever
flow of said stream is reasonably necessary for dom-
estic and stock watering purposes and power purposes,
to the extent now used by plaintiff during the non-
irrigation season, all with a priority of November
29, 1859, the date of the establishment of said
Indian Reservation. The said natural flow of water
of said stream and its said tributaries to be
diverted therefrom at the points of diversion now
used for such purpose by plaintiff or at such other
points as may hereafter be selected by plaintiff for
such diversion, either upon or above the Walker River
Indian Reservation, provided, however, that any change
in point or points of diversion sought to be made by
the United States of America, to a point or points
above the present boundaries of the Walker River
Indian Reservation, shall not be made except upon

1 petition to this Court and its approval obtained
2 after hearing upon such notice as the Court may
3 order, and the Court expressly reserves juris-
4 diction of this cause for the purpose of hearing
5 and determining such a petition or petitions.

6 The defendants and each of them, their several
7 servants, agents, attorneys and all persons claiming
8 by, through or under them, are forever enjoined and
9 restrained from preventing or interfering with the
10 natural flow of said quantities of water from the
11 channels of the said stream and its said tributaries
12 down to and upon said Indian Reservation.

13 RIGHTS OF DEFENDANTS RECOGNIZED IN DECREE
14 NO. 731

15 II. The parties defendant to this suit, or their
16 successors in interest, hereinafter in this para-
17 graph II mentioned, whose rights were adjudicated
18 for them, or their predecessors in interest, in the
19 decree of this Court in the suit entitled "Pacific
20 Livestock Company, a corporation, Plaintiff, vs.
21 T. B. Rickey, et al, Defendants" in Equity No. 731,
22 are hereby severally*

23 2. That said Decree may be amended by inserting the
24 words "as of the 14th day of April, 1936" after the words
25 "its tributaries", being the last words on line 3, page 72
26 thereof.

27 3. That said Decree may be amended by inserting the
28 words "of point of diversion or" after the first two words
29 "a change" appearing on line 3 of page 73 thereof.

30 4. That said Decree may be amended by making Paragraph
31 XVI, page 75 thereof, read as follows:

32 "XVI. The irrigation season along the Walker
River, its branches and tributaries, extends
from the first day of March to the thirty-first
day of October of each year, except that in
Bridgeport Valley on the East Walker River, and
at all points above the Coleville Gauging Sta-
tion on the West Walker River the irrigating
season covers the period from March first to
September fifteenth of each year."

1 DATED at Reno, Nevada, ~~March~~ ^{April} 22nd, 1940.

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