

1 said ditches and that each of said ditches shall be provided
2 with adequate gates and weirs constructed in accordance
3 with plans approved by the State Engineer. That these
4 Findings and Decree shall not restrict any party hereto
5 to make application for change of point of diversion or
6 change of place of use under proceedings instituted under
7 the water laws of the State of Oregon.

8 V.

9 That the diversion point from Ten Mile Creek for
10 Petitioner's prior right of 1873 and a part of Petitioner's
11 right of 1884 is the same point of diversion as to the water
12 right of Lula M. Simpson of 1880 as shown by Judgment on the
13 Mandate. That said point of diversion is located North 80°
14 50' East 1632 feet from the Northeast quarter of Section 20
15 and being within the Southeast quarter of the Southwest quarter
16 of Section 16, Township 40 South, Range 43, E.W.M. That
17 said point of diversion is not the original point of diversion
18 either for the Bankofier right or for the Simpson right and
19 that said point of diversion was granted by Order of the
20 State Engineer on separate Petitions filed with the State
21 Engineer for change of diversion point to that above described.
22 That at said point the Petitioner and Walter Bowden, the
23 successor in interest to Lula M. Simpson, constructed jointly
24 a diversion works with provision for turnout from said works
25 of water into the ditch serving the rights to Lula M. Simpson
26 confirmed by the Judgment on the Mandate in the Simpson vs.
27 Bankofier, et al, case and to serve the right decreed to
28 Joe Bankofier under priority of 1873 and a part of his rights
29 of 1884. That in such diversion no works were established
30 by which the rate of flow or quantity of water diverted into
31 the several ditches could be measured, and that gates and
32 weirs should be constructed at said diversion so that the rate