

DEC 17 1942

P. B. ... County Clerk

A. S. ... DE-INGERSH

SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF SNOHOMISH

IN THE MATTER OF FIXING THE LEVEL OF LAKE McALEER, also known and being the same as LAKE BALLINGER, in Snohomish County, Washington.

No: 39542

FINAL ORDER

This matter having come regularly on for hearing before the above entitled Court on December 17, 1942, based on written petition and on order of this Court of October 20, 1942 fixing December 17, 1942 as the date for hearing on said petition, and after the Court had heard testimony under oath in support of said petition by Oscar A. Piper, civil engineer, K. C. Bell, chief engineer of the Department of Fisheries, R. C. Meigs, Biologist of the Department of Game, Clarence Hickey, Snohomish County Engineer, Tom W. Holman, and E. B. Ballinger, and after there had been offered and received in evidence Exhibits "A" to "F", both inclusive; and no objection or exception to the granting of the prayer of the said petition having been filed herein, or having been made in open court; and at the conclusion of said hearing the Court having made and entered herein its findings of fact and conclusions of law; now, based on said findings of fact and conclusions of law, and the Court being fully advised,

IT IS DETERMINED, ADJUDGED AND ORDERED by way of final order herein, as follows:

That the said Lake McAleer is also known as and is the same body of water as Lake Ballinger, and is all within Snohomish County, Washington; that the water level (maximum) at which water of Lake McAleer is required to be maintained in order

1 to alleviate damage to the shore lands by flood waters, and
2 to protect the fish and game fish within said lake, is at
3 an elevation of 278.5 United States Geological Survey datum;
4 that the control of the waters of said Lake McAleer at said
5 level shall be by means of a weir constructed at the head of
6 McAleer Creek as the outlet stream from said Lake McAleer,
7 consisting of a dam capable of regulation by stop-logs, or
8 similar means, which dam in general shall consist of a cur-
9 tain wall to prevent under-cutting and percolation, and
10 shall have a superstructure and deck of concrete, and for
11 which dam that portion of the deck that is downstream from
12 the stop-logs, or similar means, shall be at an elevation of
13 276.5 feet United States Geological Survey datum, and the
14 stop-logs, or similar means, shall be adjustable and be made
15 capable of being locked in position; and that in conjunction
16 with, and as a part thereof, current and continuing mainten-
17 ance of the outflow McAleer Creek within a distance of 2550
18 feet from such dam shall be maintained by the Director of
19 Hydraulics of the State of Washington; and that the foregoing
20 is necessary to alleviate damage to shore lands of said Lake
21 McAleer by flood waters, and to protect the fish and game
22 fish within said lake; that the total cost, exclusive of
23 the item of cost for maintenance as hereinafter provided,
24 for making such aforesaid improvements, and including the
25 costs of these proceedings in the amount of \$550.00, is the
26 sum of \$8,235.00, which amount is hereby apportioned and
27 charged and entered as a lien at the rate and cost of
28 \$0.97018366 per lineal foot against the respective tracts
29 and lots of the following described real property within
30 Snohomish County, Washington, for the respective number of

1 feet fronting on said Lake McAleer at the meander line,
 2 and amounting in each instance respectively to the sum as
 3 shown herein below, namely:

4	DESCRIPTION	FRONTAGE IN FEET	OWNER	AMOUNT AT \$0.97019366 per lineal foot.
7	In Lake Ballinger Land			
8	Co's Flat of Subdivision			
8	No 1:			
9	McAleer Way, in said		Shohomish County, a	
10	plat, intersecting		municipal corporation	
10	the meander line of		of the State of Wash-	
11	Lake McAleer, with a		ington	
11	frontage of	60.00		\$ 58.21
12	In Block 7:			
13	Lots 1 and 2	150.5	Guy Boswell	146.01
14	Lot 3	75.01	Frank H. Roe	72.77
15	Lot 4	75.01	Joseph Leo Roe	72.77
16	Lot 5	75.01	James Ashford Siegrist	72.77
17	Lots 6 and 7	150.02	M. J. Badders	145.55
18	Lot 8	73.15	Ray H. Correll	70.97
19	Lot 9	71.95	Lacy H. Hughes	
20			with contract to	
20			Wallace E. Smith	69.81
21	Lots 10 and 11	143.90	Walter Shoder	139.61
22	In Block 7:			
23	Lot 12	71.95	A. B. Goodmiller, Jr.	69.81
24	Lot 13	71.95	F. M. Roberts	69.80
25	Lots 14, 15, 16,		R. Mines & Lee Mellon	
26	and 17,	304.04	with contract to	
26			John W. Lipke	294.93
27	Lots 18 and 19	157.63	Carl Rudolf Anderson	152.93
28	Lot 20	68.81	Martha Rowles	66.76
29	Lot 21	60.00	Charlotte Soulls McArthur	53.21
30	Lot 22	60.00	Don L. Granger	58.21

1	In Block 7 (cont.)			
2	Lots 23 and 24	108.08	C. G. Bossart with contract on Lot 24 to Charles G. Bossart Jr.	104.86
3				
4	Lot 25	62.5	Charles G. Bossart, Jr.	60.64
5	Lots 26 and 27	166.7	C. G. Bossart with contract on Lot 26 to Karl D. Scheller and contract on Lot 27 to Nels C. Nelson	161.73
6				
7				
8	In Block 8			
9	Lots 1, 2 and 3	353.16	W. G. Barnard	342.63
10	Lots 4	75.05	A. E. Allyn	72.81
11	Lot 5	75.05	Mary & Amelia Thompson	72.81
12	Lots 6 and 7	150.10	Rex L. Alexander	145.63
13	Lot 8	75.05	Maud L. Enz	72.81
14	Lot 9	45.00	Maude H. McGuire	43.66
15	Lot 10	45.00	E. S. Hutchinson	43.66
16	Lots 11 and 12	83.12	Alfred Isaksen	80.64
17	Lot 13	45.00	W. S. Overturf	43.66

(Outside of above designated plat, an irregular tract of land described as follows: Beginning at a point 30 feet north of the southwest corner of Government Lot 2 in said Section 32, Township 27 North, Range 4 East, W.M., and running thence north 0°18'22" east a distance of 1050.39 feet; thence south 56°56' west a distance of 347.45 feet; thence south 31°34'17" west 75.0 feet; thence south 21°04' west 289.84 feet; thence south 56°26' west 354.40 feet; thence south 29°42'03" east 261.52 feet; thence south 24°41' west 106.15 feet; thence south 88°25'43" east 656.65 feet to afore-

1	DESCRIPTION	FRONTAGE	OWNER	AMOUNT AT
2		IN FEET		\$0.97018866 per
3				lineal foot.
4	said point of be-			
5	ginning; and con-			
6	taining 11 acres, more			
7	or less.	1065.69	Nile Temple of the	
8			Ancient Arabic	
9			Order of the Nobles	
10			of the Mystic Shrine	
11			for North America,	
12			a corporation	\$1033.92
13	All of Government		Nile Temple of the	
14	Lot 2 in Section		Ancient Arabic Or-	
15	32, Township 27	269.61	der of the Nobles	
16	North, Range 4		of the Mystic	
17	East, W.M., with		Shrine for North	
18	a frontage on Lake		America, a corpor-	
19	KeAbeer of		ation,	261.57
20	Government Lot 3		Nile Temple of the	
21	in Section 32, Town-		Ancient Arabic Or-	
22	ship 27 North,	1450.00	der of the Nobles	
23	Range 4 East W.M.		of the Mystic Shrine	
24			for North America,	
25			a corporation	1406.77
26	Government Lot 4,			
27	in Section 32, Town-	1050.00	Henry and Leon	
28	ship 27 North,		Cassies	1018.70
29	Range 4 East, W.M.			
30	That portion of			
31	Government Lot 5			
32	lying east of the			
33	P.N.T.R. of W. as			
34	shown on Exhibit			
35	"B" attached to the			
36	petition in the			
37	above entitled mat-			
38	ter, and less the			
39	30 foot strip adja-			
40	cent to said R. of			
41	W. and less the two			
42	tracts in said Gov-			
43	ernment Lot 5 next			
44	below described,			
45	and with this with-			
46	in ownership being	750.00	Henry and Leon Cassies	727.64
47	approximately 15.47			
48	acres.			
49	Beginning at an in-			
50	tersection of the			
51	south line of Gov-			
52	ernment Lot 5 in			

1	DESCRIPTION	FRONT- AGE IN FEET	OWNER	AMOUNT AT \$0.97018366 per lineal foot.
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4 Section 32, Township)
 5 27 North, Range 4 East)
 6 W.M., and the east)
 7 line of the P.N.T.R.)
 8 of W. as shown on Ex-)
 9 hibit "B" attached to)
 10 the petition in the)
 11 above entitled matter;)
 12 thence east along the)
 13 south line of said)
 14 Government Lot 5 to)
 15 the meander line of)
 16 said Lake McAleer;)
 17 thence northerly along)
 18 said meander line a)
 19 distance of 100 feet;)
 20 thence westerly and)
 21 parallel with the)
 22 south line of said)
 23 tract to the east)
 24 line of the P.N.T.R.)
 25 of W; thence south)
 26 along the easterly)
 27 line of said right-of-)
 28 way to the point of)
 29 beginning.

100.00 Richard Talcott \$97.02
 Ballinger

17 Beginning on the mean-)
 18 der line and westerly)
 19 shore of Lake McAleer)
 20 at a distance 240 feet)
 21 north of the intersec-)
 22 tion of the south line)
 23 of Government Lot 5)
 24 in Section 32, Town-)
 25 ship 27 North, Range 4)
 26 East W.M., with said)
 27 meander line; thence)
 28 south along said mean-)
 29 der line a distance of)
 30 140 feet; thence west-)
 31 erly to the east line)
 32 of the P.N.T.R. of W.)
 33 as shown on Exhibit)
 34 "B" attached to the)
 35 petition in the above)
 36 entitled matter; thence)
 37 north along the east-)
 38 erly line of said R.)
 39 of W. a distance of)
 40 approximately 140 feet)
 41 to a point due west of)
 42 the point of beginning)
 43 for this description;

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	DESCRIPTION	FRONT- AGE IN FEET	OWNER	AMOUNT AT \$0.97018806 per lin- eal foot.
	thence east to the point of beginning, less the west 30 feet for roadway.	140.00	Julia A. Ballinger, Richard Talcott Ballinger and Edward Bradley Ballinger	\$ 135.83
	Beginning on the meander line and west shore of Lake McAleer at its intersection with the north line of Government Lot 6, Section 32, Township 27 North, Range 4 East, W.M., and running thence south 140 feet along said meander line; thence westerly to intersect the P.N.T. R. of W. as shown on Exhibit "B" attached to the petition in the above entitled matter; thence northerly along the easterly line of said P.N.T. R. of W. to intersect the north line of said Government Lot 6; thence east to the point of beginning, including shore lands and less the west 30 feet for road purposes.	140.00	Julia A. Ballinger	135.83
	Commencing at the point where the northerly line of McAleer Way intersects the meander line of Lake McAleer; thence northerly along said meander line a distance of 260 feet for a point of beginning; thence west to intersect the easterly boundary line of Bradley Road in Lake Ballinger Land Co.'s Plat of Subdivision No. 1 as shown on Exhibit "B" attached to the petition in the above entitled matter; thence northwesterly along said easterly line of Bradley Road to a point 340 feet			

1 2 3	DESCRIPTION	FRONT- AGE IN FEET	OWNER	AMOUNT AT \$0.97018863 per lineal foot.
4 5 6 7 8	south of the northeast- erly line of Government Lot 6 in said Section 32; thence east to intersect the meander line of Lake McAleer; thence south- erly along said meander line to the point of be- ginning of this descrip- tion.	100.00	Hillman Investment Company, a corpor- ation, with con- tract to E.M.Martin who in turn assigned to Vern Clausen	\$ 97.02
9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Commencing at the point where the northerly line of McAleer Way intersects the meander line of Lake McAleer; thence northerly along said meander line a distance of 250 feet for a point of beginning; thence along said meander line a distance of 10 feet; thence westerly and parallel with the north- erly line of Government Lot 5 to intersect the easterly boundary line of Bradley Road in Lake Bal- linger Land Co.'s Flat of Subdivision No. 1 as shown on Exhibit "B" at- tached to the petition in the above entitled matter; thence southeasterly along the easterly line of said Bradley Road to a point westerly of the point of beginning; thence on a line parallel with the northerly line of this description to the point of beginning.	10.00	Hillman Investment Company, a corpor- ation, subject to upland owners' use thereof by certain unknown and undis- closed upland owners	9.70
25 26 27 28 29 30	Commencing at the point where the north line of McAleer Way intersects the meander line of Lake McAleer; thence running northerly along said me- ander line a distance of 350 feet for a point of beginning; thence west- erly to intersect the easterly line of Bradley			

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	DESCRIPTION	FRONT- AGE IN FEET	OWNER	AMOUNT AT \$0.97018866 per lincal foot.
	Road at a point 20 feet east of the P.N.T. R. of W. as shown on Exhibit "B" attached to the petition in the above entitled matter; thence northerly on a line parallel to and 20 feet from the easterly line of said P.N.T. R. of W. for a distance of 100 feet; thence east to the meander line of said Lake McAleer, and thence southerly along said meander line to the point of beginning for this description.	100.00	Edgar R. Hinckley	\$ 97.02
	Commencing at the point where the north line of McAleer Way intersects the meander line of Lake McAleer; thence northerly along said meander line a distance of 460 feet for a point of beginning; thence northerly along said meander line a distance of 100 feet; thence west to the easterly right-of-way line of the P.N.T.R. of W. as shown on Exhibit "B" attached to the petition in the above entitled matter; thence southerly on said easterly right-of-way line to a point immediately west of the point of beginning; thence east to the point of beginning.	100.00	Lake Ballinger Land Co., a corporation, Julie A. Ballinger, Richard Talcott Ballinger and Edward Bradley Ballinger	97.02
	And also that portion of Government Lot 6 in Section 32, Township 27 North, Range 4 East, W.M., described as: Beginning at the point where the northerly line of McAleer Way intersects the meander line of Lake McAleer; thence northerly along			

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DESCRIPTION	FRONT- AGE IN FEET	OWNER	AMOUNT AT \$0.97019366 per lineal foot.
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said meander line a distance of 260 feet; thence west to intersect the easterly boundary line of Bradley Road in Lake Ballinger Land Co.'s Plat, Subdivision No. 1, in Section 32, Township 27 North, Range 4 East, W.M., thence southerly along said easterly boundary line of said Bradley Road and on the arc of a curve joining into and continuing along the northerly boundary line of McAleer Way to the aforesaid point of intersection and point of beginning.

260.00^{x 252.25} Lake Ballinger Land Co., a corporation, Julia A. Ballinger, Richard Talcott Ballinger and Edward Bradley
\$ 252.25

(8488.04 lineal feet x \$0.97019366 per lineal foot..... \$8235.00)

That the Supervisor of Hydraulics of the State of Washington be, and is hereby ordered and directed to regulate and control the outflow from said Lake McAleer so as to maintain properly the water level of said lake at not to exceed said elevation of 278.5 feet United States Geological Survey datum, whenever proper control devices have been installed; that the aforesaid amounts hereby ordered and fixed as lien amounts respectively upon the respective tracts and lots within Snohomish County, Washington shall be paid to the County Treasurer of Snohomish County, Washington, and the said County Treasurer is hereby ordered and directed to place said funds as received in a special fund to be known as "Lake McAleer Improvement Fund"; that the aforesaid improvements are hereby to be installed under the direction of the

1 Board of County Commissioners of Snohomish County, Washing-
2 ton, with the approval of the Directors of the Department
3 of Fisheries and the Department of Game, and the Supervisor of
4 Hydraulics of the State of Washington, and are hereby ordered
5 to be paid for out of the said "Lake McAleer Improvement
6 Fund" by said County Treasurer upon the written orders of
7 the Supervisor of Hydraulics and the Directors of the De-
8 partment of Fisheries and the Department of Game, other than
9 the sum of \$550.00 thereof, which is hereby ordered to be
10 paid to Brethorst, Holman, Fowler & Dewar from said funds
11 without necessity of such written order or certification,
12 in satisfaction of the costs of these proceedings; that the
13 County Treasurer of Snohomish County, Washington is further
14 hereby ordered and directed to apportion and enter as a lien
15 amount against each of the above described tracts and lots
16 of real property from time to time as required such amount
17 as may be certified to said County Treasurer by the Super-
18 visor of Hydraulics of the State of Washington as an amount
19 required for maintenance of the aforesaid improvements and
20 of the outflow McAleer Creek within a distance of 2550 feet
21 from the aforesaid weir; and that the Supervisor of Hydraul-
22 ics of the State of Washington is hereby ordered to appoint
23 a suitable person, to be compensated from the said fund,
24 to regulate the determined level as herein decreed and
25 ordered; and the said Supervisor of Hydraulics is further
26 hereby ordered and directed to regulate and control the
27 outflow of said Lake McAleer so as to properly maintain said
28 water level and the aforesaid distance of McAleer Creek in
29 connection therewith;
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1 and that the payment for said regulation, maintenance and
2 supervision, shall be from said "Lake McAlcer Improvement
3 Fund" by the Treasurer of Snohomish County, Washington upon
4 written order of the said Supervisor of Hydraulics, and the
5 Directors of the Department of Fisheries and the Department
6 of Game.

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8 AND IT IS FURTHER ORDERED that any of the duties
9 herein provided for the Directors of the Department of Fish-
10 eries and the Department of Game, and the Supervisor of Hy-
11 draulics shall control for such officers and for any legal
12 successors to the duties of such officers.

13 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
14 certified copies of this within order be served upon the
15 Directors of the Department of Fisheries, and the Department
16 of Game, the Supervisor of Hydraulics, and the Treasurer of
17 Snohomish County and the Auditor of Snohomish County, as
18 Clerk of the Board of County Commissioners.

19 DONE IN OPEN COURT AND DATED this 17th day of
20 December, 1942.

21
22 CHARLES R. DENNEY

23 Presented by
24 Tom W. Holman
one of attorneys for petitioner.

J U D G E

25 Approved:
26 M. C. Hall, Chief Eng. Dept. of Fisheries, State of Wash.

27 approved
28 R. C. Meigs, Biologist, Dept. of Game, State of Wash.
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30