

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, HED UP FOR THE COUNTY OF TETON

NEWEL MADSEN,

Plaintiff,

vs.

R. G. WIEKLE, as Water Master of
Water District No. 360 of the
State of Idaho; and LOUIE BUXTON,

Defendants,

and

ALBERT GILBERT,

Intervenor.

AT TEN MINUTES PAST 11.

DATE 4/13/1933

Earl Floyd
CLERK OF DIST. COURT

BY

DEPUTY

DECREE

This cause came regularly on for trial on the 10th day of April, 1932, before the Honorable Jay L. Downing, Presiding District Judge, sitting without a jury, at Brices, Teton County, Idaho, Merrill S. Merrill, Attorneys at Law, and Newel Madsen, Attorney at Law, appeared for and on behalf of the plaintiff; George L. Edgington, Attorney at Law, appeared for and on behalf of the defendant, Louie Buxton. The defendant, R. G. Wickle as Water Master of Water District No. 360 did not appear in person or by attorney. S. R. Atchley, Attorney at Law, appeared for and on behalf of the Intervenor, Albert Gilbert. It appeared to the Court that this action was originally instituted by Anton O. Mickelson, as plaintiff, against E. B. Edlefsen, as Water Master of Water District No. 360 of the State of Idaho, John R. Clausen, John D. C. Kruger, Sallie G. Haines, Newel Haines, J. C. Thomsen, Charles J. Martin, and C. G. Keller, as defendants, and that thereafter the said Anton O. Mickelson sold, transferred and conveyed his rights described in his original complaint to Newel Madsen and by proper order of this Court the said Newel Madsen was substituted as plaintiff for and in the stead of Anton O. Mickelson; and that thereafter the said E. B. Edlefsen ceased to act as Water Master of District No. 360, as aforesaid, and that R. G. Wickle was duly appointed Water Master of Water District No. 360 of the State of Idaho, and as such was by proper Order of this Court substituted in said action as defendant for and in the place of E. B. Edlefsen; and it further appeared that thereafter the said original defendants, John R. Clausen, John D. C. Kruger, Sallie G. Haines, Newel Haines, J. C. Thomsen, Charles J. Martin and C. G. Keller, duly and regularly quit claimed and transferred their various interests possessed by them at the time of the institution of this suit to the predecessor-in-interest of Louie Buxton, and that the said Louie Buxton became the owner of the lands and water rights herein-

of the plaintiff thereto. Said cause was thereafter briefed, argued and submitted to the Court for decision. The Court, having heretofore made and entered its findings of fact and conclusions of law, makes and enters this its decree, whereby it is ORDERED, ADJUDGED AND DECREED, AS FOLLOWS, TO WIT:

22-0298A
22-0299A
22-0300
1. That the plaintiff, Axel Ladsen, take nothing by reason of his complaint, save and except the right to the use of all waters decreed to the lands owned by him by that certain decree dated December 16, 1910, and also that portion of the waters decreed to the lands now owned by Louie Burton, and which waters have been abandoned by the said Louie Burton and her predecessors-in-interest, that is to say: that the plaintiff is entitled to divert from the main channel of Horseshoe Creek, the natural flow of the water thereof, twenty (20) miners inches of water with a priority of September 1, 1897, and two hundred thirty-five (35) miners inches with a priority of June 1, 1898, and one hundred sixty (60) miners inches with a priority of June 1, 1900. Said waters are to be diverted from said Horseshoe Creek at a point near the South line of the Northeast quarter of the Northwest quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Twenty-seven (27), in Township Five (5), North Range Forty-four (44), East of the Boise Meridian, in Teton County, Idaho, and to be carried in the ditch constructed for such purpose for irrigation, domestic, culinary and other beneficial uses upon the

West half of the Southeast quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$) and the East half of the Southeast quarter (E $\frac{1}{2}$ SE $\frac{1}{4}$), of Section Twenty-two (22); the Northwest quarter of the Northeast quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$), the Northeast quarter of the Northwest quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$), and the East half of the Northeast quarter (E $\frac{1}{2}$ NE $\frac{1}{4}$), of Section Twenty-seven (27), Township Five (5), North Range Forty-four (44), East of the Boise Meridian, in Teton County, Idaho.

22-0298B
22-0299B
2. That the defendant, Louie Burton, is entitled to divert from the main channel of Horseshoe Creek from the natural flow of water of ten (10) miners inches with a priority of September 1, 1897, and 35 miners inches with a priority of June 1, 1898. Said water is to be diverted at a point near the South line of the Northeast quarter of the Northwest quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Twenty-seven (27), Township 5, North Range 44, East of the Boise Meridian, in Teton County, Idaho, and to be carried in the ditch constructed for such purpose for irrigation, domestic, culinary and other beneficial uses upon the:

Southwest quarter (SW $\frac{1}{4}$) of Section Twenty-six (26), Township Five (5), North Range Forty-four (44), East of the Boise Meridian, in Teton County, Idaho.

3. That the balance of the right decreed to the lands now owned by Louie Burton by that decree of December 16, 1910, to wit: All but sixty-five (65) miners inches, has been abandoned and that

are to be diverted from said Horseshoe Creek at a point four hundred feet North of the North line of the Northeast quarter (NE $\frac{1}{4}$) of Section Twenty-two (22), in Township Five (5), North Range Forty-four (44), East of the Boise Meridian, in Teton County, Idaho, and to be carried in the ditch constructed for such purpose for irrigation, domestic, culinary and other beneficial uses upon the

The Northeast quarter of the Northeast quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section Eleven (11), and the North half of the Northwest quarter (N $\frac{1}{2}$ NW $\frac{1}{4}$), and the Northeast quarter of the Northwest quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Twelve (12) in Township Five (5), North Range Forty-four (44), East of the Boise Meridian, in Teton County, Idaho.

5. That in all respects, save and except as in this decree modified, explained or changed, the rights of the respective parties, by virtue of that certain decree affecting said waters and lands herein described, entered December 16, 1910, are hereby ratified and confirmed.

6. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that said parties and their successors-in-interest are each enjoined and restrained from interfering with or molesting the rights of the respective parties to the use of the waters aforesaid.

7. That each party shall bear and defray his or her own costs.

DATED, this 17th day of April, 1933.

Jay L Downing

Presiding District Judge.

STATE OF IDAHO)
) ss.
COUNTY OF TETON)

Filed for Record at the Request of Clerk at 2 O'clock P. M. this 19 day of April 1933 and Recorded in Book 59 of Judgments page 75 Records of Teton, County, State of Idaho.

Earl Floyd

Recorder.

Instrument 25116

Inst. No. 25116

CERTIFICATE OF TRUE COPY