

IDAHO DEPARTMENT OF WATER RESOURCES
 Adjudication Claim Report 75-10474

RECEIVED
 JUL 25 2005
 DEPARTMENT OF
 WATER RESOURCES

WATER RIGHT NUMBER: 75-10474

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	DAVID MC FARLAND PO BOX 124 CARMEN, ID 83462 (208)756-3752
Original Owner	THOMAS MC FARLAND PO BOX 124 CARMEN, ID 83462 (208)756-4805
Original Owner	BAR S RANCH INC C/O MITCHELL MC FARLAND PO BOX 58 CARMEN, ID 83462 (208)882-3136
Current Owner	ANTELOPE HILLS NORTH WATER CO PO BOX 87 CARMEN, ID 83462 (208)756-2755
Original Owner	BRUCE MC FARLAND PO BOX 124 CARMEN, ID 83462 (208)756-2490

Priority Date: 04/01/1915

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
CARMEN CREEK	SALMON RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 11/01	2.040 CFS	
	<u>Total Diversion:</u>	2.040 CFS	

Location of Point(s) of Diversion

CARMEN CREEK	SW1/4SW1/4SE1/4	Sec. 8,	Twp 22N,	Rge 22E, B.M.
LEMHI County				
CARMEN CREEK	SW1/4NW1/4SW1/4	Sec. 9,	Twp 22N,	Rge 22E, B.M.
LEMHI County				

Place of UseIRRIGATION Within LEMHI County

T22N R22E S08	SWNE	12.0	T22N R22E S08	NENW	30.0
T22N R22E S08	NWNW	5.0	T22N R22E S08	SWNW	23.0
T22N R22E S08	SENE	36.0			

Total Acres: 106

G- 653
 28-226

Blackfoot 038478

4-1028

Jul. 15, 1925.

THE UNITED STATES OF AMERICA,
To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Register of the Land Office at Hailey, Idaho, has been deposited in the General Land Office, whereby it appears that full payment has been made by the claimant H. F. WILLIAM NIEMANN, according to the provisions of the Act of Congress approved March 3, 1877, entitled "An Act to provide for the sale of desert lands in certain States and Territories," as amended by the Act of March 3, 1891,

for the southwest quarter of the northeast quarter of Section eight in Township twenty two north of Range twenty-two east of the Boise Meridian, Idaho, containing forty acres, according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor-General:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises and in conformity with the several acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT, unto the said claimant and to the heirs of the said claimant the Tract above described; TO HAVE AND TO HOLD the same together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Calvin Coolidge, President of the United States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed. GIVEN under my hand, in the District of Columbia, the EIGHTH day of JULY in the year of our Lord one thousand nine hundred and TWENTY-FIVE and of the Independence of the United States the one hundred and FIFTIETH.

-SEAL-

By the President: Calvin Coolidge
By Viola B. Pugh, Secretary
M. P. LeRoy, Recorder of the General
Land Office.

RECORDED: Patent Number 962781

Recorded at the request of H. F. W. Niemann, August 24th, 1925, at 3 minutes past 11 o'clock A.M., in Book 28 of Deeds, page 226, Records of Lemhi County, Idaho.

By Delia M. Glennow
Deputy

H. H. Simmonds
County Recorder

Fee: 1.00

SW4NE4
pcc 8

United States
William Smith

Recorded at the request of William Smith Jan. 26 - 1895. at 4 1/2 minutes past 1 O'clock
M. in Book of Page 663. Records of Lemhi County Idaho J. P. Blough County Recorder.

Homestead Certificate No 526. } United State of America
Application 983. } To all to whom these presents
shall come. Greeting.

Whereas, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Hailey Idaho, whereby it appears that pursuant to the act of Congress approved 20th of May 1862. "To secure Homesteads to actual Settlers on the Public Domain," and the acts supplemental thereto the claims of William Smith has been established and duly consummated in conformity to law, for the North West-quarter of Section eight in Township twenty two North of Range twenty two East of Boise Meridian in Idaho. Containing one hundred and sixty acres according to the Official Plat of the Survey of the said land returned to the General Land Office by the Surveyor General:
Now Know Ye. That there is therefore granted by the United States unto the said William Smith the tract of Land above described: To have and to hold the said tract of Land with the appurtenances thereto unto the said William Smith, and to his heirs and assigns forever: subject to any vested or accrued water rights for mining, agricultural manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of courts and also subject to the right of the proprietor of a vein or lode to extract ^{there} ~~and~~ move his ore therefrom should the same be found to penetrate or intersect the premises hereby granted as provided by law. And there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.
In testimony whereof J. Grover Cleveland Pres. of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed, Given under my hand at the City of Washington the sixteenth day of November, in the year of our Lord, one thousand eight hundred and ninety four, and of the Independence of the United States the one hundred and nineteenth

By the President- Grover Cleveland
By W. M. McKeen. Secretary
L. B. C. Lamar
Recorder of the General Land Office.

Know all men by these presents that the undersigned have this day located the Water Right of the South Fork of Carson's Creek, commencing at the head of the Crawford and Hefner ditch, the water to be conveyed to be used on the Mammouth Bar, and the right of way to convey it to the Bar, the said ditch is to be 2 feet deep, 3 feet on the bottom and 4 feet wide at the top.

This 15th day of February 1882, {
 ✓ D. et. Myers,
 ✓ W^m Sanders
 ✓ James Savage.

Filed for record in this Office this 20th day of February, A.D. 1882, at 11 O'clock A.M. and duly recorded in Record of Water Rights Book No. Page 228.

John Hagan
 Sec. Recorded

February 15th A.D. 1882.

Know all men by these presents that the undersigned have this day located the Water Right of the Middle Fork of Carson's Creek, commencing at the head of the Crawford and Hefner ditch, the water to be conveyed to be used on the Mammouth Bar and the right of way to convey it to the same, the said ditch to be 2 feet deep 2 feet wide at the bottom and four feet wide at the top.

✓ D. et. Myers,
 ✓ W^m Sanders,
 ✓ James Savage.

Filed for record February 20th A.D. 1882, at 11 A.M. and duly recorded in Record of Water Rights Book, No. Page 228.

John Hagan
 Sec. Recorded

Notion is hereby given that the undersigned have this day located and claim this hundred (50) inches of the Water of Carson's Creek (Mining Measurement) to be taken out at a point about eight hundred feet above the Bridge crossing the said Creek on the regular traveled highway leading down Salmon River and to be conveyed by my ditch to my ranch below for irrigation and other purposes.
 Big Bottom March 1st 1882. William Smith

Filed for record in this Office this 3rd day of March A.D. 1882, at 3 O'clock P.M. and duly recorded in Record of Water Rights Page 228.

John Hagan
 Sec. Recorded

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF LEMHI.

ADAH E. FRIEDORFF,

vs.

Plaintiff,

D E C R E E.

M. W. FRIEDORFF,

Defendant.)

This matter came on regularly to be heard at the instance of the Plaintiff, on this 19th day of May, 1931, at Salmon, Lemhi County, Idaho, before Hon. C. J. Taylor, Judge of the Ninth Judicial District of the State of Idaho, sitting for and in behalf of Hon. Ralph W. Adair, Judge of the Sixth Judicial District, E. H. Casterlin appearing as attorney for the Plaintiff, and the Defendant failing to appear in his own proper person or by his attorney; and it appearing to the satisfaction of the said Judge that personal service of Summons had been had in the State of Idaho, upon the said defendant, and that the said defendant has failed, refused and neglected to appear in this action and the time for answering having expired and the default of the said defendant having been regularly entered herein; and it further appearing to the satisfaction of the said Judge that each and every material allegation of plaintiff's complaint is supported by competent proof and evidence, and that the prayer of plaintiff's Complaint should be granted,

NOW, THEREFORE, by reason of the law and the evidence, it is ordered that the bonds of matrimony heretofore existing between the plaintiff Adah E. Friedorff and the Defendant M. W. Friedorff be and the same are hereby wholly dissolved and the parties freed from the obligations thereof.

Dated May 20th, 1931.

C. J. Taylor
District Judge.

Filed & Entered May 20th, 1931

W.W. Simmonds, Clerk.

By Margaret Shoup, Deputy.

Judgment Book D, page 56

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF LEMHI.

ALBERT E. DANIELS and

NELLIE D. DANIELS, husband and
wife,

vs.

Plaintiffs,

D E C R E E.

MARTHA A. PYEATT and MARTHA A.

PYEATT, Administrator of the

Estate of MacPherson Pyeatt,

deceased, LILLIE JONES

SANDILANDS and DAVID SANDILANDS,

AUGUST F. ROSE and MAY B. ROSE,

Defendants.)

This matter came on regularly for hearing this 1st day of June, 1931, before Honorable C. J. Taylor, Judge of the Ninth Judicial District of the State of Idaho, sitting for and on behalf of Honorable Ralph W. Adair, Judge of the Sixth Judicial District of the State of Idaho, at Salmon, Lemhi County, Idaho, the plaintiffs being represented by E.H. Casterlin, their attorney of record, and the defendants Lillie Jones Sandilands and David Sandilands, having confessed plaintiffs' complaint, being represented by E.H. Casterlin their attorney of record, the defendants Martha A. Pyeatt and Martha A. Pyeatt Administrator of the Estate of MacPherson Pyeatt, deceased, being represented by J.H. Padgham, their attorney of record, and the defendants August F. Rose and May B. Rose being represented by their attorney of record, E. W. Whitcomb, and the action having been dismissed without prejudice as to the defendant Jack Stevens, and no cross complaint having been filed by the said Jack Stevens or by any other party to this action against the said Jack Stevens;

And it appearing to the satisfaction of the said Judge that all of the parties affected by this decree are within the jurisdiction of this court and have submitted thereto; and that the said parties affected by this decree have stipulated all of the facts in respect of the plaintiffs' complaint and the causes of action alleged by the respective parties defendants, and in said stipulation have consented that the said facts are and constitute all of the facts submitted by the respective parties in support of their respective causes of action; and the said parties having waived Findings of Fact and Conclusions of Law in writing; and the entire matter having been submitted to the Court on the said Stipulation, the Court now renders its judgment thereon as follows:-

1.

That the defendant Lillie Jones Sandilands is the owner of an interest in and to the hereinafter described ditch to the extent of a carrying capacity therein of 15 miner's inches of the waters of Carmen Creek, or so much thereof as may be necessary to irrigate the following described lands in Lemhi County, Idaho, to wit: SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{4}$ SW $\frac{1}{4}$ of Section Two; that part of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section Two described as beginning at the NE corner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section Two, and run thence along the north line of the said quarter section 300 feet; thence South 36° 20' West 244 feet to the channel of Carmen Creek; thence South 14° 30' West along the center of the channel of said creek 340 feet; thence South 5° 25'

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That the plaintiffs, Albert E. Daniels and Nellie D. Daniels are the owners of an interest in and to the said ditch, after deducting the interest of the said Lillie Jones Sandilands, to the extent of three-eighths of the carrying capacity thereof during the high water period, and to the extent of one-third of the carrying capacity thereof after the water in said creek has dropped to a point that there is only sufficient water to fill the, or a part of the decreed water rights of the parties Daniels and Rose as the said decreed water rights exist and are owned by the respective parties on the date hereof, which right is appurtenant to the following described lands, situated in Lemhi County, State of Idaho, and particularly described as follows, to wit: SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9 and W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 10, Township 22 North, Range 22 East of the Boise Meridian.

That the defendants, Martha A. Pyeatt, Martha A. Pyeatt, administrator of the estate of MacPherson Pyeatt, deceased, August F. Rose and May B. Rose, husband and wife, are the owners of an interest in and to the said ditch, after deducting the interest of the said Lillie Jones Sandilands, to the extent of five-eighths of the carrying capacity thereof during the high water period, and to the extent of two-thirds of the carrying capacity thereof after the water on said creek has dropped to a point that there is only sufficient water to fill the, or a part of the decreed water rights of the parties Daniels and Rose, as the said decreed water rights exist and are owned by the respective parties on the date hereof, all of which is appurtenant to the following described lands situated in Lemhi County, State of Idaho, to wit:

W $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, of Section 3, Township 22 North, Range 22 East of the Boise Meridian;

Also SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 10, Township 22 North, Range 22 East of the Boise Meridian;

Also that part of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 10 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9 in Township 22 North, Range 22 East of the Boise Meridian, described as beginning at the SE corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10 of said Township and Range, thence North along the East line of the said NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, 330 feet to the center of the County road, thence South 47° 40' West along the center line of the said road 493.7 feet, more or less, to the South line of the said NW $\frac{1}{4}$ NW $\frac{1}{4}$, thence East along the South line 367 feet to the place of beginning; also beginning at the East quarter corner of Section 9, Township 22 North, Range 22 East of the Boise Meridian, thence North along the East line of the said SE $\frac{1}{4}$ NE $\frac{1}{4}$, 475 feet to a point in the center of the County road; thence South 11° 30' West 115 feet; thence South 27° 47' West 409 feet more or less, to the South line of said SE $\frac{1}{4}$ NE $\frac{1}{4}$; thence East 214 feet to the place of beginning.

Excepting and reserving from the said lands that part of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, Township 22 North, Range 22 East of the Boise Meridian, conveyed by deed dated April 1, 1915, and recorded in Book "X" of Deeds at page 60 thereof. Also excepting that part of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 10, Township 22 North, Range 22 East of the Boise Meridian, that part of land described as beginning at a point on the West line of said Section 10, 475 feet North of the West Quarter Corner of said Section 10, the same being in the center of the present County road, thence North along the West line of said Section 10, 376.8 feet; thence North 45° East 662.2 feet to the North line of said 40 acre tract, thence East along the north line of said 40 acre tract 474. feet to a point in the center of said County road; thence South 48° West along the center of said County Road 1265.4 feet to the place of beginning.

That the ditch hereinabove mentioned is situated in Lemhi County, State of Idaho and has its point of diversion in Carmen Creek upon the land now owned by George Howell being Lot 3 of Section _____, Township 22 North, Range 22 East of the Boise Meridian, and the course of which is southwesterly, following the contour of the country, through, to and upon the lands of the parties to this action, as well as other lands, and terminating upon the lands owned by the parties Daniels.

That the rights of the parties in and to said ditch are for conducting the said waters of Carmen Creek for agricultural and domestic purposes. That the waters conveyed through said ditch during the high water period as hereinabove defined, shall be allotted to the parties to this action as their right in and to said ditch have been herein determined, which is to say, Lillie Jones Sandilands shall have the right to take from said ditch 15 inches of water, or so much thereof, as may be necessary to irrigate her said lands, and the balance of the water shall be divided between the plaintiffs Daniels and the Defendants Pyeatt and Rose in a proportion of 150 inches to 200 inches.

That for the distribution and division of the said ditch and the waters to be conveyed therein and there through, the said Lillie Jones Sandilands shall, at her own cost and charges, install in said ditch a proper, suitable and efficient measuring device and weir and maintain the same, so that at all times the amount of water to which she is entitled to convey in and through her portion of said ditch may be measured to her. That the plaintiffs Daniels and the defendants Rose shall establish and maintain, at their own cost and charges, in the proportion as their rights are herein made to appear, at the upper or first point of diversion of water from said ditch by the defendants Rose, a proper and suitable measuring device or weir, so that as between them the amount of water to which each is entitled at this said point can be determined and divided between them; and that they shall likewise establish and maintain at the point where the said ditch leaves the premises now owned by the defendants Rose, a suitable weir or measuring device to measure all of the water to which the plaintiffs Daniels may be entitled at that point; that at all times when the defendants Rose, or their successors in interest, are not using the said ditch, or any part thereof, between the upper and lower weirs, the plaintiffs Daniels and their successors in interest, shall bear and sustain all loss of water caused by seepage below the upper weir, and that at all times when the defendants Rose, and their successors, are using the said ditch, or any part thereof, between the said weirs, then the said defendants Rose, and their successors in interest, shall deliver to the plaintiffs Daniels, and their successors in interest, at the lower weir, all of the water to which the plaintiff Daniels are entitled

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to and do have at the upper weir. That the seepage of water which the plaintiffs Daniels are to stand and bear shall mean all water lost by seepage, except that caused or permitted at the several taps or points of diversion established and maintained by the defendants Rose, and their successors in interest, in said ditch, which is to say, that the defendants Rose, and their successors in interest, are not to negligently maintain any tap or diversion in said ditch between the said weirs to the damage of the plaintiffs Daniels, and their successors.

7.

That the parties to this action shall be charged with the maintenance and repair of said ditch from its point of diversion in said Carmen Creek down to their lowest point of taking water from said ditch, respectively, in the proportion that their rights therein and thereto are hereby made to appear.

8.

That this decree shall run to and bind the successors, employees and agents of the parties to this action, and the respective parties hereto are restrained and enjoined from interfering with the use of the said ditch by the other parties to this action as their rights are herein determined; each party to bear their own costs.

Dated this 6th day of June, 1931.

C. J. Taylor
District Judge.

Filed & Entered June 9th, 1931.
W. W. Simmonds, Clerk.
By Margaret Shoup, Deputy.
Judgment Book D, pages 56, 57 & 58.

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI.

ETTA MARRON CROOK,	)	
VS.	)	DECREE OF DIVORCE.
J. E. CROOK,	)	
DEFENDANT.	)	

This cause having been brought on to be heard this 19th day of June, A.D. 1931, and E. W. Whitcomb appeared for plaintiff and the defendant made no appearance, either in person or by attorney, and his default was duly had and proofs having been regularly taken herein from which it appears that all the material allegations of the complaint are sustained by testimony free from all legal exceptions as to its competency, admissibility and sufficiency; that said matters so alleged and proved are sufficient to entitle plaintiff to the relief prayed for in said complaint; that plaintiff was a resident in this State for a period of more than six months next preceding the time of commencing this action; and the Court having heard the evidence and argument of Counsel, and being satisfied in the premises; findings of facts and conclusions of law being duly waived; now, on motion, of E. W. Whitcomb, of Counsel for Plaintiff,

IT IS ORDERED, ADJUDGED AND DECREED, That the marriage between the said plaintiff Etta Marron Crook and the said defendant, J. E. Crook, be dissolved, and the same is hereby dissolved accordingly, and the said parties are, and each of them is, freed and absolutely released from the bonds of matrimony, and all the obligation thereof.

Dated June 19, 1931.

C. J. Taylor
Acting Judge of said Sixth Judicial District.

Filed & Entered June 19th, 1931.
W. W. Simmonds, Clerk.
By Margaret Shoup, Deputy.
Judgment Book D, page 58.

In the District Court of the Fifth Judicial District of the State of Idaho, in and for Lemhi County.

David M. Nutt, James M. Nutt, Neil M. Nutt
J. H. Birdseye & Mary J. Birdseye his wife,
Anna B. Davis, Arthur Davis, Edna Davis,
Estella Davis, and Fred Davis, Minors by Anna
B. Davis, their Guardian, N. J. M. Grew, Peter
M. Kinney, Neal Sweeney, and Henry Greber
vs. Plain tiffs.

Thomas Palmer, John Palmer, F. J.
Ferguson, Mont White, Ernest R. Benedict,
William Young, A. J. Mathews, W. H. Slavin,
F. P. M. Brackens, William Smith, A. L. Mathew,
William Igou and O. L. Igou, partners, John
Dimock, H. H. Dahle, Robert Martin, Theodore
Barton, E. W. Delark, John Daniels, James B. Grant
The Lemhi Placer Mining Company a corporation,
Emma White, and Eliza S. Mathew. Defendants.

Judgment.

This cause coming on to be heard upon the findings of facts and conclusions of law herein filed, and the Court being fully advised in the premises, it is ordered, adjudged and decreed:

I. That David M. Nutt, he and he is hereby awarded the continuous of 120 inches of the flow of the waters of Carman Creek, to be measured at the point of diversion, for the irrigation of his lands, the right thereto to date from the year of 1876.

II. That Mary J. Birdseye and Anna B. Davis and Anna B. Davis as guardian of Arthur Davis, Edna Davis, Estella Davis, Fred Davis, minors, he and they are hereby jointly awarded the continuous use of 200 inches of the flow of the waters of the said Carman Creek, to be measured at the point of diversion, for the irrigation of their lands, the right thereto to date from the year 1875.

III. That Henry Greber, he and he is hereby awarded the continuous of 70 inches of the flow of the waters of the said Carman Creek, to be measured at the point of diversion, for the irrigation of his lands, the right thereto to date from the year 1882.

IV. That Neal Sweeney, he and he is hereby awarded the continuous use of 35 inches of the flow of the waters of the said Carman Creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from the year of 1882.

V. That N. J. M. Grew he and he is hereby awarded the continuous use of 55 inches of the flow of the water of the said Carman Creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from the year of 1882.

VI. That Peter M. Kinney, he and he is hereby awarded the continuous use of 75 inches of the flow of the waters of the said Carman Creek, to be measured at the point of diversion, for the

irrigation of his said lands first described, the right thereto to date from the year of 1882. and that he be and is hereby further awarded the continuous use of 35 inches of the flow of the waters of the said Garman creek, to be measured at the point of diversion, for the irrigation of his said lands last described, the right thereto to date from the year of 1896.

VII. That J. F. Ferguson, be and he is hereby awarded the continuous use of 90 inches of the flow of the waters of the said Garman creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from the year 1874.

VIII. That Mont White be and he is hereby awarded the continuous use of 40 inches of the flow of the waters of the said Garman creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from the year of 1874.

IX. That Ernest R. Benedict, be and he is hereby awarded the continuous use of 138 inches of the flow of the waters of the said Garman creek, to be measured at the point of diversion, for the irrigation of his said lands first described, the right thereto to date from the year of 1882; and that he be and is hereby further awarded the continuous use of 112 inches of the flow of the waters of the said Garman creek, to be measured at the point of diversion, for the irrigation of his said lands last described, the right thereto to date from the year of 1892.

X. That William Igou and O. L. Igou, partners, be and they are hereby awarded the continuous use of 100 inches of the flow of the waters of the said Garman creek, to be measured at the point of diversion, for the irrigation of their said lands first described, the right thereto to date from the year of 1891. and that they are hereby further awarded the continuous use of 10 inches of the flow of the waters of the said Garman creek, measured at the point of diversion, for the irrigation of their said lands last described, the right thereto to date from the year of 1892.

XI. That William Smith, be and he is hereby awarded the continuous use of 80 inches of the flow of the waters of the said Garman creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from the year of 1875.

XII. That A. C. Mather, be and he is hereby awarded the continuous use of 125 inches of the flow of the waters of the said Garman creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from the year of 1882.

XIII. That Emma White, be and she is hereby awarded the continuous use of 40 inches of the flow of the waters of the said Garman creek, to be measured at the point of diversion, for the irrigation of her said lands, the right thereto to date from the year of 1874.

of her said lands, the right thereto to date from the year of 1894.

XV. That A. J. Mathews, he and he is hereby awarded the continuous use of 5 inches of the flow of the waters of the flow of said Carman creek, to be measured at the point of diversion, the right thereto to date from the year of 1890, and the further continuous use of 40 inches of the flow of the waters of the said Carman creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from the year of 1897.

XVI. That H. H. Dahle, he and he is hereby awarded the continuous use of 75 inches of the flow of the waters of ^{the point of} Carman creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from the year of 1886.

XVII. That John Dimock, he and he is hereby awarded the continuous use of 65 inches of the flow of the waters of the said Carman creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from the year of 1886.

XVIII. That H. H. Marvin, he and he is hereby awarded the continuous use of 75 inches of the flow of the waters of the said Carman creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from the year of 1885.

XIX. That Robert Martin, he and he is hereby awarded the continuous use of 15 inches of the flow of the waters of the said Carman creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from the year of 1895.

XX. That E. B. Clark, he and he is hereby awarded the continuous use of 60 inches of the flow of the waters of the said Carman creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from the year of 1898.

XXI. That F. P. McBracken, he and he is hereby awarded the continuous use of 30 inches of the flow of the waters of the said Carman creek, to be measured at the point of diversion, the right thereto to date from the year of 1869, and that he is hereby awarded the further continuous use of 15 inches of the flow of the waters of the said Carman creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from March 1st 1896.

XXII. That Thomas Palmer, he and he is hereby awarded the continuous use of 20 inches of the flow of the waters of the said Carman creek, to be measured at the point of diversion, the right thereto to date from the year of 1888; and that he is hereby awarded the further & continuous use of 30 inches of the flow of the waters of the said Carman creek, to be measured at the point of diversion for the irrigation of his said lands, the right thereto to date from the year of 1892.

XXIII. That John Palmer, he and he is hereby awarded the continuous use of 100 inches of the flow of the waters of the said Carman creek, to be measured at the point of diversion, for the irrigation of his said lands, the right thereto to date from the year of 1889.

XXV That The Lemhi Placer Mining Company, be and it is hereby awarded the continuous use of five hundred inches of the flow of the waters of the said Carman creek, to be measured at the point of diversion, for the working and washing of that portion of its placer mining ground that lies and is situated near the two east forks of the said Carman creek, that the said company shall be entitled to use the said amount of 500 inches of the said water of the said Carman creek, upon the said Mining claims above mentioned at all times, and that the said water shall be allowed to flow back into the natural channel of the said Carman creek after such use by the said company, the right thereto to date from the year of 1889, and that the said The Lemhi Placer Mining Company be and it is hereby further awarded the continuous use of 2000 inches of the flow of the waters of the said Carman creek, to be measured at the point of diversion, for the working and washing of that portion of its placer mining ground that lies and is situated on Kirtley creek, the right thereto to date from the year of 1892, that they shall also be entitled to the use of this water for mining purposes from the 15th day of October, of each and every year until the 15th day of April, of the succeeding year. Provided, that if at any time after the rights of other claimants have been satisfied there should remain a surplus of water then said Placer Mining Co. shall be allowed to use such surplus for mining purposes not exceeding 2000 inches.

XXVI That the water herein adjudged and decreed, shall be measured by means of a box of one rod or one half rod in length, constructed of lumber not less than one inch in thick and set on a solid foundation. The measurement shall be made at the head of the box and the water for at least 50 feet above and below the box shall run at as nearly as practicable the same grade as the box has, which shall be, in case the box is one rod long a fall of one half inch, and if one half rod long a fall of one quarter of an inch, that is the fall of the water shall be one half inch to the rod when the water flows no deeper than six inches, when it flows nine inches deep. When the fall to the rod shall be one quarter of an inch, the water shall be measured flowing at a depth of not less than six or more than nine inches, and shall be without pressure other than the fall as above mentioned.

XXVII That it is further ordered, adjudged and decreed, that upon the application of any ten of the parties to this action, to the Judge of this Court, a suitable person shall be appointed by the said Judge as a water commissioner to carry into effect the provisions of this decree.

XXVIII That it is also adjudged and decreed, that the claimants upon and along Carman creek, or any of them may within three years from this date, enlarge the said Salmon River ditch of the

lands of the said plaintiffs that lie under and below the said Salmon River ditch, and if the said claimants or any of them shall enlarge the said ditch within the said three years, and keep the same in necessary repair from year to year, then the said plaintiffs will be required to irrigate as much of their said lands as can be irrigated from the said Salmon River ditch, and the claimants so enlarging the said ditch shall be entitled to all of the waters of Carman creek, that is hereby decreed to Mr. Mutt, Birdseye and Davis, except 92 inches the amount necessary to irrigate that portion of their said lands that lie and is situated above the said Salmon River ditch, and in case the said claimants, upon or along Carman creek, or any of them, shall fail to so enlarge the said ditch within the three years as above specified then their right to enlarge the same shall cease. Provided that all or any of the defendants shall have the right to participate in the enlargement and repairing of said ditch and share in the benefit derived from said enlargement.

XVIII. That the claimants upon and along Carman creek, or any of them may within three years from this date, enlarge and maintain the said Salmon River ditch of the plaintiffs Henry Greber, Neal Sweeney, Peter McKinney and M. J. McGee, and make the same of sufficient size and capacity to carry water sufficient to irrigate all of the lands of the said plaintiffs above mentioned that can be irrigated from their said Salmon River ditch, and if the said claimants or any of them shall enlarge the said ditch within the three years as above specified and maintain the same thereafter in necessary repair, then the said plaintiff will be required to take the amount of water herein decreed to them from the said Salmon River ditch, and the claimants so enlarging the said ditch shall be entitled to all of the waters of Carman creek that is hereby decreed to the said Henry Greber, Neal Sweeney, Peter McKinney and M. J. McGee, except such amount as will be necessary to irrigate such lands of theirs as may lie and be situated above the said Salmon River ditch and in case the said claimants upon or along Carman creek or any of them shall fail to so enlarge or maintain the said ditch within three years as above specified, then their right to do so shall cease. Provided that all or any of the defendants shall have the right to participate in the enlargement and repairing of said ditch and share in the benefit derived from said enlargement.

XXIX. ^{That} It is also further adjudged and decreed, that in case it shall be found that the water could be used to better advantage by giving to any claimant a larger amount of water than is hereby decreed to him for a shorter time, the water master or commissioner who may be hereafter appointed to enforce this decree or apportion the water under it may give to any claimant a larger amount of water for a less time, provided the amount given him for any length of time is equivalent to a continuous flow of the amount herein decreed to him.

XXX. That an inch of water to the acre is sufficient to irrigate all of the lands of the parties hereto so the said lands will produce a profitable crop.

XXXI. That it is further adjudged and decreed that none of the parties hereto that have water decreed to them, shall be allowed to take water under the provisions of this decree until they have constructed their boxes and proceeded to measure the water according to the provisions of this decree. It is further ordered that each of the parties pay his witness fees herein incurred and an equal share of the fees of the clerk and of the sheriff, and of the surveyor for making the map used upon the trial.

Dated this June 27th 1898.

W. H. Standrod
Judge

Filed June 29-1898.

J. P. Delough Clerk.
By C. A. Humphrey Deputy

In the District Court of the Fifth Judicial District of the State of Idaho.
in and for the County of Lemhi.

David M^c Nutt. James M^c Nutt. Neal M^c Devitt.
J. W. Bridgege. and Mary J. Bridgege, his wife.
Anna B. Davis. Anna B. Davis as guardian of the
minor children of Caleb Davis, deceased. H. J. M^c
Gree. Peter M^c Kinney. Neil Sweeney. and Henry
Greber.

vs.

Plaintiffs

Thomas Palmer. John Palmer. John F. Fergusson
Montreville White. Ernest R. Benedict. William
Young. A. J. Matthews. W. H. Slavin. F. P. M^c
Cracken. William Smith. A. E. Mather.

Judgment

William Igon. and C. L. Igon. partners. Theodore
Baton. E. J. Clark. John Winock. H. H. Dahle.
Robert Martini. John Daniels. James B. Grant.
and the Lemhi Placer Mining Company,
a corporation. Emma White and Eliza S. Mather

Defendants

This cause came on regularly for trial on the 11th. day of October. 1901.
The parties appearing in person. and their respective attorneys. a jury having
been expressly waived. and the Court having heard the proofs of the respect-
ive parties. and the agreement and stipulations of the parties. and the report
of Thomas Pycatt. James H. Hockensmith and William Peterson. arbitrators
which is a part of said written agreement and stipulation. and considered
the same. and the records and papers in the cause. the evidence being read
and agreements of Counsel had thereon. The cause was submitted to the Court
for consideration and decision. and after due deliberation thereon. the Court delib-
erates its findings and decision in writing. which is filed. and orders that judg-
ment be entered in accordance therewith. Wherefore by reason of the law and
the findings aforesaid. all parties consenting. it is ordered. adjudged and dec-
1. That the right and title of the plaintiff. David M^c Nutt in and to 200
inches of the waters of Carman Creek. in Lemhi County. Idaho. is hereby quieted.
his right thereto dating from May 1st 1875. and he is hereby adjudged to be
the owner thereof. subject to the rights of the defendants and cross complain-
ants therein and thereto. which they have under and by virtue of the terms
and conditions of the written agreement on file herein. executed and entered
into. by and between said plaintiffs and said defendants and cross complainants
relative to the delivery to said plaintiffs. of water from Salmon River. for the
irrigation of their said farms. and said David M^c Nutt is hereby ordered
directed to convey to defendants and cross complainants. his right to the use
of said 200 inches of the waters of said creek. in accordance with the terms
said contract. and the findings and report of James H. Hockensmith. Thomas
Pycatt and William Peterson referees on file herein.

2. That the right and title of the plaintiff Henry Greber in and to 70 inches
of the waters of said Carman creek is hereby quieted. his right thereto dating
from May 1st 1882. and he is hereby adjudged to be the owner thereof.

the report and findings of said referees. and said Henry Greber is hereby ordered and directed to convey to defendants and cross complainants. his right to the use of said 70 inches of the waters of said creek. in accordance with the terms of said contract and the findings and report of said referees.

3. That the right and title of the plaintiff. Niel Sweeney in and to 35 inches of ^{the} water of said creek is hereby quieted. his right thereto dating from May 1st 1882. and he is hereby adjudged to be the owner thereof. subject to the rights of the defendants and cross complainants therein. and thereto. under and by virtue of said written agreement and the findings and report of said referees. and said Niel Sweeney is hereby ordered and directed to convey to defendants and cross-complainants. his right to the use of said 35 inches of the waters of said creek. in accordance with the terms of said contract. and the findings and report of said referees.

4. That the right and title of the plaintiff. Peter McKinnay in and to 60 inches of the water of said creek is hereby quieted. his right thereto. dating from May 1st 1882. and he is hereby adjudged to be the owner thereof. subject to the rights of the defendants and cross complainants therein. and thereto. and by virtue of said written agreement. and the findings and report of said referees. and said Peter McKinnay is hereby ordered and directed to convey to defendants and cross complainants. his right to the use of said 60 inches of the waters of said creek. in accordance with the terms of said contract and the findings and report of said referees.

5. That the right and title of the plaintiff. Mary J. Birdseye in and to 100 inches of the waters of said creek is hereby quieted. her right thereto dating from May 1st 1875. and she and her successors in interest. are hereby adjudged to be the owner thereof. subject to the rights of the defendants and cross complainants therein and thereto. under and by virtue of said written agreement. and the findings and report of said referees. on file herein. and said Mary J. Birdseye and her successor in interest. are hereby ordered and directed to convey to defendants and cross complainants her and their right to the use of said 100 inches of the waters of said creek. in accordance with terms of said contract and the findings and reports of said referees.

6. That the right and title of the plaintiff individually and as guardian of the minor children of Caleb Davis. deceased. in and to 100 inches of the waters of said creek is hereby quieted. their right thereto. dating from May 1st 1875. and they are hereby adjudged to be the owners thereof subject to the rights of the defendants and cross complainants therein. and thereto under and by virtue of said written contract and the findings and report of said referees. and said Anna B. Davis is hereby ordered and directed to convey to defendants and cross complainants their aforesaid right to the use of said 100 inches of the waters of said creek. in accordance with the terms of said contract and the findings and reports of said referees.

7. That the right and title of George L. Shoup. M. M. McPherson. A. J. Macnab and Wm H. Shoup as successors of plaintiff N. J. McCre.

in and to 55 inches of the waters of said creek is hereby granted. Their right thereto dating from May 1st 1882. and they are hereby adjudged to be the owner thereof. subject to the rights of the defendants and cross-complainants therein and thereto. and by virtue of said written contract and the findings and report of said referees, and said George L. Shoup, M. M. McPherson, A. J. Macnab and Wm H. Shoup are hereby ordered and directed to convey to said defendants and cross-complainants their aforesaid right to the use of said 55 inches of the waters of said creek in accordance with the terms of said contract and the findings and report of said referees.

8. That the defendant and cross-complainant, Frank P. McCracken is entitled to have, and is hereby awarded the use of 30 inches, continuous flow of the waters of Carmack creek in Lemhi County, for the irrigation of his land, described in the findings of fact, and that his right dates from May 1st 1869, and the further right to the use of 15 inches of the waters of said creek, for domestic use, and the irrigation of his land, described in said findings of fact, and that his right thereto, dates from May 1st 1869.

9. That the defendant and cross-complainant, Emma White as Administratrix of the Estate of Montraville White, deceased, is entitled to have and is hereby awarded the use of 70 inches of the waters of said creek, for domestic use and the irrigation of the land described in the findings of fact, as having been left by Montraville White at his death, for the benefit of the heirs of said Montraville White, and that the right thereto dates from May 1st 1874.

10. That the defendant and cross-complainant, Emma White, is entitled to have and is hereby awarded, in her own right, the use of 20 inches, continuous flow of the waters of said creek, for the irrigation of the land, described in the findings of fact, and that her right thereto, dates from May 1st 1874.

11. That the defendant and cross-complainant, A. C. Mather, is entitled to have and is hereby awarded the use of 12 1/2 inches, continuous flow of the waters of said creek, for domestic use, and the irrigation of his land, described in the findings of fact, and that his right thereto, dates from May 2nd 1882.

12. That the defendant and cross-complainant, William Smith is entitled to have and is hereby awarded the use of 80 inches, continuous flow of the waters of said creek, for domestic use and irrigation of his land, described in the findings of fact, and that his right thereto dates from May 1st 1869.

13. That the defendant and cross-complainant, John F. Ferguson is entitled to have, and is hereby awarded for the use of Mary R. Linnell, his grant, the use of 75 inches, continuous flow, of the waters of said creek, for domestic use, and irrigation of her land, described in the findings of fact, and that the right thereto dates from May 1st 1874.

14. That the defendant and cross-complainant, Willard H. Wahl, is entitled to have, and is hereby awarded the use of 75 inches, continuous flow of the waters of said creek, for domestic use and the irrigation of his land described in the findings of fact, and that the right thereto, dates from the 1st of May, 1874.

have, and is hereby awarded the use of 75 inches continuous flow of the waters of said creek, for domestic use, and the irrigation of his land described in the findings of fact, and that his right thereto dates from May 1st 1886.

16. That the defendant and cross complainant, John Dimock is entitled to have and is hereby awarded the use of 50 inches, continuous flow of the waters of said creek, for domestic use and the irrigation of his land, described in the findings of fact, and that his right thereto dates from May 1st 1886.

17. That the defendant and cross complainant, Eliza Mather is entitled to have and is awarded the use of 70 inches, continuous flow, of the waters of said creek, for the irrigation of her land, described in the findings of fact, and that her right thereto dates from May 1st 1896.

18. That the defendant and cross complainant, Thomas Palmer is entitled to have, and is hereby awarded the use of 20 inches, continuous flow, of the waters of said creek, for domestic use, and the irrigation of his land described in the findings of fact, and that his right thereto dates from May 1st 1888, and the further use of 30 inches, continuous flow, of the waters of said creek, for the irrigation of his said land, and that his right thereto dates from May 1st 1892.

19. That the defendant and cross complainant, John Palmer, is entitled to have, and is hereby awarded the use of 100 inches, continuous flow, of the waters of said creek, for domestic use, and the irrigation of his land described in the findings of fact, and that his right thereto, dates from May 1st 1888.

20. That the defendant and cross complainant, Albert J. Mathews is entitled to have and is hereby awarded the use of 10 inches, continuous flow of the waters of said creek, for domestic use, and the irrigation of his land, described in the findings of fact, and that his right thereto, dates from May 1st 1890, and ~~that~~ the further right to the use of 40 inches ^{said} continuous flow, of the waters of said creek, for the irrigation of his land, and the right thereto dates from May 1st 1897.

21. That the defendant and cross complainant, Peter M. Keimney is entitled to have, and is hereby awarded the use of 50 inches, continuous flow, of the waters of said creek, for the irrigation of his land, known as his Desert Lot, his right thereto dates from May 1st 1896, and the further right to the use of 15 inches, continuous flow, of the waters of said creek, for the irrigation of that part of the S. 1/4 of the N. E. 1/4 lying above the "Carman creek ditch" (as called, now under cultivation, and the right to convey said water to said land through his ditch, which conveys water from said creek to his said desert lot. His right to the use of said 15 inches of water dates from May 1st 1882.

22. That the defendant and cross complainant, Ernest R. Benedict, is entitled to have, and is hereby awarded the use of 180 inches, continuous flow, of the waters of said creek, for domestic use, and the irrigation of his land, described in the findings of fact, his right thereto, dates from May 1st 1882, and the further right to the use of 70 inches, continuous flow, of the waters of said creek, for the irrigation of his said land, and his right thereto dates from May 1st 1892.

23. That the defendant and cross complainant, Elwood D. Clark is entitled to have and is hereby awarded 15 inches continuous flow of the water of said creek for domestic use and the irrigation of his land, described in the findings of fact, his right thereto dates from May 1st 1898, and to the further right to the use for domestic and irrigation purposes, of all water furnished by springs on his said land.

18. That the defendant and cross complainant Ora L. and William L. & son are entitled to have and are hereby awarded the use of 70 inches continuous flow of the water of said creek for domestic use, and the irrigation of their land, described in the findings of fact, their right thereto dates from May 1st 1886, and the further right to the use of 100 inches continuous flow of the water of said creek for the irrigation of their land, their right thereto dates from May 1st 1892.

25. That the defendant and cross complainant, the Lemhi Placer Mining Company is entitled to have and is hereby awarded the use of 500 inches continuous flow of the water of said creek for the working and washing of that portion of its placer mining ground, lying near the two east forks of said Carman creek. Its right thereto dates from the year 1887. And to the further use of 2000 inches continuous flow of the water of said creek for the working and washing of its placer mining ground that lies and is situated on Kintley Creek in said County of Lemhi. said last named amount of water to be used from the 15th day of October of each and every year until the 15th day of April of the succeeding year. The date of the appropriation for such use, is October 15th 1892. In case there is a surplus of water in said creek beyond the allotment to the other defendants and cross complainants herein then said rights shall not be limited to the dates above named, but said company shall have the right to divert and use said 2000 inches of water at all times when such surplus of water may be flowing in the east branches of said creek, but in no case shall it interfere with the parties herein in their use of the waters hereby awarded to them.

26. That the dates above named are the dates of appropriation of said several amounts of water by the parties aforesaid and their grantors. And in case the amount of water in said creek at any time of the year be less than 2000 inches, then the first appropriation shall have, and are hereby given the first right to the use of the waters then in said creek, to the amount hereby allotted to them, the first in time of appropriation, having the first right to such use.

27. The waters herein allotted to them shall be measured to the parties aforesaid at the place of diversion, under a four inch pressure. And in case any of the parties hereby declared to be entitled to the use of the water of said Carman creek shall disagree in the measurement or diversion of said water, the Court or Judge thereof shall appoint a commissioner for the purpose of measuring and regulating the diversion of such water.

28. That each of the parties hereto to whom a right to the use of the waters of Carman creek is herein decreed, be and they are hereby perpetually enjoined from using said water in any manner different or to any greater extent than herein found and declared, and a disobedience of this order, shall be a contempt.

Filed May 9th 1902.
J. B. Clough
Clerk.