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Dawson to Hot Springs

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO,
IN AND FOR BANNOCK COUNTY.

William C. Underwood)
 Plaintiff)
)
vs.)
)
Alexander Marshall,)
 Defendant.)

DECREE

This cause came on regularly for trial the 28th day of March, 1917, upon the complaint of the plaintiff and answer and cross-complaint of the defendant and the plaintiff's answer to said cross-complaint, Budge & Merrill appearing as attorneys for the defendant and cross-complaint. The court having heard the evidence of the respective parties and the arguments of counsel, and being fully advised in the premises, and findings of fact and conclusions of law having been waived by stipulation of the parties:

29-0491

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the plaintiff's right and title to all of the waters of that certain group of springs commonly known and called the Hot Springs, situated within the southwest quarter of section twelve (12), township twelve (12), south, range thirty-seven (37) east, Boise Meridian, -the approximate flow of which is two cubic feet per second, -save and except three miner's inches hereinafter decreed to the cross-complainant, be, and the same hereby is quieted and established against the said defendant, Alexander Marshall, and all persons claiming or to claim by, through or under him and the said Alexander Marshall is hereby permanently retained and enjoined from diverting or using any of said waters of said springs for any purpose whatsoever, save and except three miner's inches hereinafter decreed to him, and from interfering in any way with the plaintiff's free use and enjoyment of the waters of said springs for culinary and domestic purposes, for the watering of livestock and for the irrigation of the following described lands of the plaintiff, to-wit:

The southwest quarter of the southwest quarter of section 12, the northeast quarter of the southeast quarter, the southeast quarter of the northeast quarter, the northwest quarter of the southeast quarter, the southwest quarter of the northeast quarter, the southwest quarter of the northwest quarter, the southwest quarter of the northwest quarter, the northeast quarter of the northwest

quarter, and the northwest quarter of the northwest quarter of section 11, and the northeast quarter of the northeast quarter of section 10, all in township 12 south, range 37 east, Boise Meridian.

And the plaintiff, William C. Underwood, is further decreed the right to clean out said springs and each and all of them, and to repair the dams and ditch leading therefrom, in order to secure the free and full flow of the waters of said springs down to his said lands, and the defendant, Alexander Marshall, is hereby permanently restrained and enjoined from in any manner interfering with the said plaintiff in cleaning out said springs or the channels thereof for the purposes aforesaid.

It is further ordered, adjudged and decreed that the defendant and cross-complainant has no right, title, or interest in and to the waters of said spring for commercial bathing and he is hereby permanently restrained and enjoined from diverting said waters of any of them for such purposes or in any manner polluting the waters of said springs by such or any other use.

It is further ordered, adjudged, and decreed that the defendant ²⁹⁻⁰⁴⁹² and cross-complainant, Alexander Marshall, has the right of even date with the plaintiff, William C. Underwood, to three miner's inches of waters of said springs hereinbefore described for the irrigation of garden and orchard upon the southwest quarter of the southwest quarter, the east half of the southwest quarter of Section 12, the northeast quarter of the northwest quarter of section 13, all in township 12 south, range 37 east, Boise Meridian, the said waters to be diverted from said springs or the channels thereof through a measuring device, to be constructed and installed by, and at the expense of the said Marshall, which shall at all times be subject to the inspection of the said William C. Underwood, and the right and title of the said Alexander Marshall to the said three miner's inches is hereby quieted and established against the plaintiff and all persons claiming or to claim by, through or under him, and the plaintiff is hereby permanently restrained and enjoined from in any manner interfering with the said defendant and cross-complaintant in the free use and enjoyment of the said three miner's inches herein decreed to him.

It is further ordered, adjudged and decreed that the plaintiff do have and recover his costs herein incurred, taxed at 152.20.

Service of copy acknowledge this 19th day of April, J. J. Goheen, District Judge
1917, C.D. Smith, Atty. for defendant.