

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

FRED S. STEVENS, et al., :
Plaintiffs, :
vs. :

Eastern Idaho Water Co., et al., :
Defendants. :

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This cause having been heretofore tried by the Court without a jury, and the Court having made its findings of fact and conclusions of law,

IT IS NOW ORDERED, ADJUDGED AND DECREED that the following parties are entitled to divert from the Blackfoot River the amount of water herein indicated, and the right of each party dates from the time hereinafter stated and set opposite each name, to-wit:

Fred S. Stevens,	July 6th, A. D. 1869,	138 inches.
Henry Dunn,	July 1st, A. D. 1870,	300 inches.
N. A. Just and)		
Emma Just,	August 1st, A. D. 1871,	200 inches.
Leon Misslen,	July 1st, A. D. 1873,	200 inches.
John Misslen,	April 1st, A. D. 1874,	120 inches.
H. R. Lewis,	March 1st, A. D. 1875,	100 inches.
Presto Burrell,	March 1st, A. D. 1876,	100 inches.
William Kirkpatrick,	May 1st, A. D. 1878,	100 inches.
F. W. Shoemaker,	April 1st, A. D. 1879,	90 inches.
Eastern Idaho Water Co.	March 25th, A. D. 1880,	1800 inches.
P. B. Fox Jr.,)		3148
William Howard,	March 25th, A. D. 1880,	600 inches.
A. Whitten,		216 3
Susan E. Whitten,		
and Calvin Miles,		
Levi Warren,	April 1st, A. D. 1882,	52 inches.
Emily Warren,	April 1st, A. D. 1883,	106 inches.
Daniel Y. Miller,	April 1st, A. D. 1883,	100 inches.
Fred S. Stevens,	October 1st, A. D. 1884,	140 inches.
N. A. Just and)		
Emma Just,	April 1st, A. D. 1885,	100 inches.
Leon Misslen,	May 1st, A. D. 1885,	300 inches.
Robert Millen,	May 1st, A. D. 1885,	150 inches.
P. B. Fox Jr.,)		9188
William Howard,		
A. Whitten,	June 1st, A. D. 1885,	1500 inches.
Susan E. Whitten,		191885
Calvin Miles,		
W. W. Ritter,		
Thomas G. Weber,	July 23rd, A. D. 1885,	560 inches.
James Drew,	July 23rd, A. D. 1885,	480 inches.
Eastern Idaho Water Co.	October 1st, A. D. 1885,	6 inches.
H. R. Lewis and)	October 1st, A. D. 1885,	1000 inches.
Sarah Lewis,		cut 1725
James Welch,	March 1st, A. D. 1886,	160 inches.
William H. Danilison,	March 20th, A. D. 1886,	400 inches.
David S. Morgen,	April 5th, A. D. 1886,	352 inches.
William Morgen,	April 5th, A. D. 1886,	132 inches.
William A. Dowling,	April 5th, A. D. 1886,	100 inches.
F. Little,	October 4th, A. D. 1886,	120 inches.
Charles S. Burton,	October 4th, A. D. 1886,	240 inches.
John Sharp Sr.,	November 1st, A. D. 1886,	240 inches.
F. W. Jennings,	November 1st, A. D. 1886,	320 inches.
Donald Tolmie,	April 1st, A. D. 1887,	400 inches.
		100 inches.

Samuel Borup,
Jacob Eliason,)
Caroline Eliason)
Maylan C. Fox,

April 1st, A. D. 1887, 50 inches.
May 1st, A. D. 1889, 145 inches.
December 4th, A. D. 1889, 640 inches.

The right of:

H. R. Lewis,
F. W. Riten,
Thomas G. Webber,
H. R. Lewis and)
Sarah Lewis,)
F. Little,
Charles S. Burton,
John Sharp Sr.,
E. E. Jennings,
Donald Tolmie,
Jacob Eliason &)
Caroline Eliason,)
Maylan C. Fox,

March 1st, A. D. 1875, 100 inches.
July 23rd, A. D. 1885, 560 inches.
July 23rd, A. D. 1885, 480 inches.
March 1st, A. D. 1886, 160 inches.
October 4th, A. D. 1886, 240 inches.
October 4th, A. D. 1886, 240 inches.
November 1st, A. D. 1886, 320 inches.
November 1st, A. D. 1886, 400 inches.
April 1st, A. D. 1887, 100 inches.

May 1st, A. D. 1889, 145 inches.
December 4th, A. D. 1889, 640 inches.
Shall only extend to July 1st, in each year, for irrigating purposes. And each and all of them are hereby enjoined from diverting or using in any manner any part of the said water rights aforesaid, after the 1st day of July in each and every year hereafter, for irrigating or any other than domestic purposes.

WOLVERINE CREEK.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the following parties are entitled to divert from the Wolverine Creek, a tributary of said Blackfoot River the amount of water herein indicated, and the right of each party dates from the time hereinafter stated, and set opposite each name, to-wit:

Peter Morris,
Semple Orr,
Peter Morris,
Daniel M. Taylor,

March 1st, A. D. 1882,
July 1st, A. D. 1882,
April 1st, A. D. 1887,
April 1st, A. D. 1888,

60 inches.
60 inches.
60 inches.
10 inches.

CEDAR CREEK.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the following parties are entitled to divert from Cedar Creek, a tributary of the Blackfoot River, the amount of water herein indicated and the right of each party dates from the times hereinafter stated and set opposite each name, to-wit.

George Monroe, and)
John Lyon,
Samuel Borup,

April 1st, A. D. 1884,
April 1st, A. D. 1887,

100 inches.
50 inches.

BRUSH CREEK.

IT IS ORDERED, ADJUDGED AND DECREED that George Heaton is intitled to divert from the east fork of Brush Creek, a tributary of Blackfoot River 125 inches. of water, said right dating from:

May 1st, A. D. 1889, to July 1st, in each year, for irrigating purposes, and the said Heaton is hereby enjoined from diverting or using in any manner any part of the said water after July 1st. in each and every year hereafter for irrigating, or any other than domestic purposes.

CANON VIEW CREEK.

IT IS ORDERED, ADJUDGED AND DECREED that the following parties are entitled to divert from Canon View Creek, a tributary of the Blackfoot River, the amount of water herein indicated and the right of each party dates from the time hereinafter stated and set opposite each name, to-wit:

Enoch Hansen,
James Sharp,

May 1st, A. D. 1885,
October 11th, A. D. 1886,

150 inches.
640 inches.

W. H. Rowe, Oct. 31st, A. D. 1886, 30 inches. *cut*

But these said rights of said Enoch Hansen, James Sharp and W. H. Rowe to waters of Canon View Creek herein set forth shall only extend to:

July 1st, in each year for irrigating purposes, and the said Hansen, Sharp, and Rowe, and each and all of them are hereby enjoined from diverting or using in any manner any part of the said water rights after the 1st, of July in each and every year hereafter for irrigating or any other than domestic purposes.

DIMOND CREEK.

IT IS ORDERED, ADJUDGED AND DECREED that the following parties are entitled to divert from Dimond Creek, a tributary of the Blackfoot River, the amount of water herein indicated, and the right of each party dates from the time hereinafter stated and set opposite each name, to-wit:

James Sharp,	October 4th, A. D. 1886,	560 inches.
James T. Little,	October 11th, A. D. 1886,	560 inches.
Charles Burton,	October 11th, A. D. 1886,	200 inches.

To extend to July 1st, of each year, for irrigating purposes. *cut*

The said Sharp, Little, and Burton, are hereby enjoined from diverting or using in any manner any part of said water rights after the first day of July in each and every year hereafter, for irrigating or any other than domestic purposes.

HOME SPRING CREEK.

IT IS ORDERED, ADJUDGED AND DECREED that the following parties are entitled to divert from Home Spring Creek, a tributary of the Blackfoot River, the amount of water herein indicated, and the right of each party dates from the time hereinafter stated, and set opposite each name, to-wit:

W. H. Riter,	October 4th, A. D. 1886,	320 inches.
James Sharp,	October 17th, A. D. 1886,	320 inches.

To extend to July 1st, of each year, for irrigating purposes. *cut*

The said Riter, and Sharp are hereby enjoined from diverting or using in any manner any part of the said water rights after the 1st, of July in each and every year hereafter, for irrigating or any other than domestic purposes. *59*

WEST SPRING CREEK.

IT IS ORDERED, ADJUDGED AND DECREED that Elias A. Smith is entitled to divert from the West Spring Creek, a tributary of the Blackfoot River, 568 inches of water, said right dating from October 17th, A. D. 1886, to July 1st, in each year, for irrigating purposes. Here enjoined from diverting or using in any manner any part if the said water right after July 1st, in each and every year hereafter, for irrigating, or any other than domestic purposes. *57*

Elias A. Smith	October 17th, A. D. 1886,	568 inches.
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LANE CREEK. *cut*

IT IS ORDERED, ADJUDGED AND DECREED that the following parties are entitled to divert from Lane Creek, a tributary of the Blackfoot River, the amount of water herein indicated, and the right of each party dates from the time hereinafter stated and set opposite each name to-wit:

W. H. Riter,	October 11th, A. D. 1886,	320 inches.
Henry Dinwoody,	October 11th, A. D. 1886,	400 inches.
Joseph Jennings,	October 11th, A. D. 1886,	560 inches.
Heber W. Wells,	October 11th, A. D. 1886,	640 inches.
John Sharp, Sr.,	October 17th, A. D. 1886,	284 inches.
Wm. Kountze,	April 1st, A. D. 1889,	160 inches.
John Kountze,	May 1st, A. D. 1889,	160 inches.

To extend to July 1st, in each year, for irrigating purposes. *cut*

Dinwoody, Jennings, Wells Sharp Sr., Wm. Kountze, and John Kountze, are hereby enjoined from diverting or using in any manner any part of said water rights after July 1st, in each and every year hereafter, for irrigating or any other than domestic purposes.

MEADOW CREEK.

IT IS ORDERED, ADJUDGED AND DECREED that the following parties are entitled to divert from Meadow Creek, a tributary of the Blackfoot River, the amount of water herein indicated, and the right of each party dates from the time hereinafter stated, and set opposite each name, to-wit:

Lars Hansen,	July 1st, A. D. 1888,	160 inches.
W. H. Edwards and		
I. J. Edwards,	May 1st, A. D. 1890,	200 inches.
Evin McPherson,	May 15th, A. D. 1890,	50 inches.
W. H. Ellison,	January 1st, A. D. 1891,	400 inches.
Elizabeth Collett,	April 1st, A. D. 1891,	160 inches.
O. B. Hansen,	April 1st, A. D. 1891,	160 inches.
James Durney,	May 1st, A. D. 1891,	100 inches.
H. C. Measingale,	June 1st, A. D. 1891,	50 inches.
To extend to July 1st, in each year, for irrigating purposes.		

The above named persons are hereby enjoined from diverting or using in any manner any part of the said water rights after July 1st, in each and every year hereafter, for irrigating or any other than domestic purposes.

LITTLE BLACKFOOT RIVER.

IT IS ORDERED, ADJUDGED AND DECREED that the following parties are entitled to divert from Little Blackfoot River, a tributary of the Blackfoot River, the amount of water herein indicated and the right of each party dates from the time hereinafter stated, and set opposite each name, to-wit:

Thomas Collett,	April 1st, A. D. 1887,	75 inches.
Abe Anderson,	April 1st, A. D. 1889,	170 inches.
Andrew Christensen,	April, 1st, A. D. 1889,	60 inches.
Peter Hansen,	May 1st, A. D. 1889,	160 inches.
To extend to July 1st, in each year, for irrigating purposes.		

The above named persons are hereby enjoined from diverting or using in any manner any part of the said water rights after t July 1st, in each and every year hereafter for irrigating, or any other than domestic purposes.

TRAIL CREEK.

IT IS ORDERED, ADJUDGED, AND DECREED that the following party is entitled to divert from Trail Creek, a tributary of Blackfoot River, the amount of water indicated.

John Sharp Sr.,	October 11th, A. D. 1886, to July 1st, in each year,	560 inches.
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LAKE CREEK, DALE CREEK, AND PALE CREEK.

IT IS ORDERED, ADJUDGED AND DECREED that the following parties are entitled to divert from Lake Creek, Dale Creek, and Pale Creek all tributaries of the Blackfoot River, the amount of water indicated.

George Romney,	October 11th, A. D. 1886, to July 1st, in each year,	610 inches.
W. W. Riter,	October 11th, A. D. 1886, to July 1st, in each year,	610 inches.
John Sharp Sr.,	October 11th, A. D. 1886, to July 1st, in each year,	610 inches.

DECK SPRING CREEK

IT IS ORDERED, ADJUDGED AND DECREED that the following party is entitled to divert from Duck Spring Creek, a tributary of the Blackfoot River, the amount of water indicated.

P. Little, October 4th, A. D. to July 1st, in each year, (A.D. 1886)
540 inches.

HIGHLAND CREEK.

IT IS ORDERED, ADJUDGED AND DECREED that the following party is entitled to divert from Highland Creek, a tributary of Blackfoot River, the amount of water indicated.

John Sharp Jr., October 4th, to July 1st, of each year, (A.D. 1886)
540 inches.

BUTTE CREEK.

IT IS ORDERED, ADJUDGED AND DECREED that the following party is entitled to divert from Butte Creek, a tributary of Blackfoot River, the amount of water indicated.

L. S. Mills, October 11th, A. D. 1886, to July 1st, in each year, ^{du}
400 inches.

ROCK CREEK.

IT IS ORDERED, ADJUDGED AND DECREED that the following party is entitled to divert from Rock Creek, a tributary of Blackfoot River, the amount of water indicated.

J. T. Little, October 17th, A.D. 1886, to July 1st, in each year, ^{du}
480 inches.

SHEEP CREEK. *Runs from Clark's Creek*

IT IS ORDERED, ADJUDGED AND DECREED that the following party is entitled to divert from Sheep Creek, a tributary of Blackfoot River, the amount of water indicated.

Evin McPherson, May 15th, A. D. 1890, to July 1st in each year, ^{du}
50 inches.

SPRING CREEK. *So named.*

IT IS ORDERED, ADJUDGED AND DECREED that the following parties are entitled to divert from Spring Creek, a tributary of Blackfoot River, the amount of water indicated.

Nels Christensen, April 1st, A.D. 1886, to July 1st, in each year, ^{du}
160 inches.

H. Hansen, April 1st, A. D. 1884, to July 1st, in each ^{Foot}
year, 150 inches.

LONE PINE CREEK. *Enosh Valley*

IT IS ORDERED, ADJUDGED AND DECREED that the following party is entitled to divert from Lone Pine Creek, a tributary of Blackfoot River, the amount of water indicated.

S. Goodwin, April 1st, A. D. 1885, to July 1st, in each year, ^{du}
170 inches.

GROUSE CREEK AND SHEEP CREEK.

IT IS ORDERED, ADJUDGED AND DECREED that the following party is entitled to divert from Grouse Creek and Sheep Creek, tributaries of Blackfoot River, the amount of water indicated.

J. E. Davis, May 15th, A.D. 1890, to July 1st, in each year, ^{du}
160 inches.

LAME CREEK AND SPRINGS.

IT IS ORDERED, ADJUDGED AND DECREED that the following parties are entitled to divert from Lame creek and Spring near Lame Creek, tributaries of the Blackfoot River, the amount of water indicated.

Samuel J Rich, October 1st, A. D. 1888, to July 1st in each year, 200 inches.

John A. Bagley, October 1st, A. D. 1888, to July 1st, in each year, 200 inches.

PINE CREEK, Deep Creek

IT IS ORDERED, ADJUDGED AND DECREED that the following party is entitled to divert from Pine Creek, a tributary of Blackfoot River, the amount of water indicated.

R. J. Rasmussen, July 1st, 1889, A. D. (Pine Creek) 50 inches.
(Deep Creek) 150 inches.

The said Creeks being tributaries of Blackfoot River, said rights dating from July 1st, A. D. 1889; the said rights aforesaid to-wit: The right of John Sharp Sr., to the waters of Trail Creek the right of John Sharp Sr., George Romney, and W. W. Ritter, to the waters of Lame Creek, Deep Creek, and Pale Creek, the right of F. Little to the waters of Duck Spring Creek, the right of John Sharp Jr., to the waters of Highland Creek, the right of L. T. Hills to the waters of Butte Creek, the right of J. T. Little to the waters of Rock Creek, the right of Evin McPherson to the waters of Spring Creek, the right of Nels Christensen to the waters of Spring Creek, the right of H. Hansen to the waters of Lone Pine Creek, the right of S. Goodwin to the waters of Grouse Creek and Sheep Creek, the J. E. Davis to the waters of Grouse Creek and Sheep Creek, the right of R. J. Rasmussen to the waters of Pine Creek and Deep Creek, and the right of Samuel J. Rich and John A. Bagley aforesaid shall only extend to July 1st, in each year, and the said John Sharp Sr., George Romney, W. W. Ritter, F. Little, John Sharp Jr., L. T. Hills, J. T. Little, Evin McPherson, Nels Christensen, H. Hansen, S. Goodwin, J. E. Davis, R. J. Rasmussen, Samuel J. Rich, and John A. Bagley, and each and all of them, are hereby enjoined from diverting or using in any manner any part of the said water rights after July 1st, in each and every year hereafter, for irrigating or any other than domestic purposes.

IT IS ORDERED ADJUDGED AND DECREED that the following parties shall pay none of the costs of this suit, viz; W. R. Jones, C. T. Woodall, Thomas Boreley, Chas. B. Wilson, Frank S. Brereton, James B. Hansen, Geo. H. Lacy, James Heatley, Charles Badcock, Samuel Kountze, P. B. Fox Sr., H. S. Woolley.

IT IS ORDERED, ADJUDGED AND DECREED that the costs of the Judge Pro tem, shall be and the same is hereby taxed as costs of suit and the same is fixed at two hundred and ten dollars.

IT IS ORDERED, ADJUDGED AND DECREED that the several quantities of water herein decreed shall be the quantities hereinbefore named measured under a four inch pressure, and that the first appropriator in point of time is first in point of right, and all appropriations of equal or of the same date are of equal rights.

IT IS FURTHER ADJUDGED AND DECREED, that in case of insufficiency of water to supply all parties the entire volume is to be devoted to and used by these appropriators who are first in point of time.

IT IS FURTHER ADJUDGED AND DECREED, that all water diverted from any stream mentioned in this decree by any party hereto shall be diverted through a box or flume so arranged and constructed as to permit the water also diverting, being measured under a four inch pressure and when the waters of the streams mentioned in this decree are not used for irrigating of lands, all water shall be returned to the natural channel of the stream, and no diverting there of allowed.

IT IS ADJUDGED AND DECREED, that the plaintiffs to this action shall pay one-sixth of all the costs to this action, and each and all of said plaintiffs shall be jointly and severally liable for the one-sixth part until such part of one-sixth is fully paid.

IT IS ADJUDGED AND DECREED that Henry Dunn, N. A. Just, Emma Just, John Misslen, Leon Misslen, Robert Millen, Peter Morris, and Daniel Y. Miller shall pay one-sixth of all the costs of this a action, and said parties shall be jointly and severally liable for the said one-sixth until such part is fully paid.

IT IS ADJUDGED AND DECREED that P. B. Fox Jr., William Howard, A. Whitten, Susan E. Whitten, Calvin Miles, Eastren Idaho Water Co., P. M. Shoemaker, Sample Orr, Daniel M. Taylor, Geo. Monroe, Jn. Lyon Geo. Heaton, Levi Warren and Presto Burrell shall pay one-fourth of all the costs of this action, and said parties shall be jointly and severally liable for said one-fourth until such part is fully paid.

It is adjudged and decreed, that Caroline Eliason, Jacob Eliason, W. H. Eliason, Abe Anderson, Thomas Collett, W. H. Edwards, I. J. Edwards, Evin McPherson, Elizabeth Collett, Nels Christensen, C. B. Hansen, H. Hansen, Enoch Hansen, S. Goodwin, James Durney, J. E. Davis, Donald To, Lars Asun, Wm. Kountze, R. J. Rasmussen, John Kountze, H. R. Lewis, Sarah Lewis, H. C. Missingale, James Drew, and Samuel Berup shall pay one-sixth of all the costs of this action, and said parties shall be jointly and severally liable for the said action one-sixth until such part is fully paid.

IT IS ADJUDGED AND DECREED that James Sharp, John Sharp Sr., John Sharp Jr., Elias A. Smith, Geo. Remney, W. W. Riter, P. Little Maylan C. Fox, James T. Little, P. W. Jennings, Thos. G. Weber, Henry Dinwoody, Heber M. Wells, L. S. Hills, W. H. Rowe, Charles Burton, Samuel J. Rich, and John A. Bagley, shall pay one-fourth of all the costs of this action, and said parties shall be jointly and severally liable for the said one-fourth until such part is fully paid.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all parties to this action shall have the right to use the waters of the several streams named in this decree for domestic purposes.

Done in open Court this
August 1st, A. D. 1891.

Chas. Cobb,
Judge Pro tem.