

 Return to Lynn Crandall

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT.

The Martin Canal Company, a cor-
poration,

Plaintiff,

vs.

Lynn Crandall, Watermaster Water
District No. 36 of the State of
Idaho,

Defendant.

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: FINDINGS OF FACT, CON-
: CLUSIONS OF LAW AND
: JUDGMENT:
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This cause came regularly on for hearing before the court sitting without a jury at the court room of said court in the court house of the City of St. Anthony, Fremont County, Idaho, pursuant to notice given and published and the order continuing the hearing heretofore made herein on the 5th day of August, 1931. The plaintiff appeared by its attorney, Otto E. McCutcheon, and the defendant appearing not, and it appearing that the defaults of the defendant and all interested parties having been heretofore entered herein, it was ordered that said defaults of the defendant and all interested parties be and they are hereby confirmed. And after hearing the evidence offered by the plaintiff in support of its claim, the court being fully advised in the premises, makes its findings of fact, conclusions of law and judgment as follows, to wit:

FINDINGS OF FACT

1

That plaintiff since the 9th day of November, 1906, has been and now is a corporation organized and existing under the laws of the State of Idaho.

2

That since on or about the first day of March, 1930, the defendant, Lynn Crandall, has been and now is the duly elected, qualified and acting Watermaster of Water District No. 36 of the

State of Idaho, which includes within its boundaries the Counties of Bonneville and Fremont of said state.

3

That the waters of Snake River and its tributaries were heretofore decreed in this court in the action entitled Rexburg Irrigation Company, et al., plaintiffs, vs. Teton Irrigation Canal Company, et al., defendants, and judgment therein was made and entered under date of December 16th, 1910, and appears of record in Book B of Judgments at Page 449, records of Fremont County, Idaho. That the plaintiff was not a party to the said action and did not appear therein.

4

That plaintiff was organized for the purpose of acquiring water rights and transporting water for the benefit of its stockholders, and that the lands described in paragraph 7 of the complaint and hereinafter described for a long time hitherto and now are irrigated from the canals of the plaintiff, and said lands lie within the boundaries of Water District No. 36, and all of said lands are situated within the County of Bonneville, State of Idaho.

5

That the lands referred to at the time said Snake River water suit so called was commenced and tried, were largely in the hands of individuals who were financially unable to immediately complete the reclamation thereof by the completion of plaintiff's canal and the building of diversion works and laterals, and that this plaintiff was not, nor were any of its stockholders, served with process in said water suit, and neither plaintiff nor its officers nor stockholders had any realization of the importance or necessity of securing an adjudication of water rights at the time appurtenant to the said lands, and no person who used water on lands lying under the canal system of the plaintiff was a party to said action and did not become a party thereto.

That on June 1st, 1905, the plaintiff and the respective land owners under its canal system appropriated and diverted from Snake River 17.54 second feet, and on or about the 12th day of August, 1908, it likewise diverted and appropriated 3.47 second feet, and on or about the 17th day of July, 1915, plaintiff appropriated and diverted 7.38 second feet of the unappropriated waters of Snake River and its tributaries at a point in the Northeast Quarter of the Northeast Quarter of Section 35, Township 4 North, Range 37 East B. M., at the headgate of the New Sweden Irrigation District Canal, and into the canal of the plaintiff from said Irrigation District canal at a point in the Northeast Quarter of the Northeast Quarter of Section 17, Township 2 North, Range 37 East of the Boise Meridian conducted said water to and upon and applied the same to beneficial uses for agricultural and domestic purposes on the lands described in plaintiff's complaint and hereinafter described, and said waters have been continuously and uninterruptedly diverted and used for beneficial purposes during all of the time from said date until the present time so long as such diversion and use did not interfere with priorities earlier than June 1st, 1905, as determined by the said Snake River water decree.

That all the lands lying under plaintiff's canal are naturally arid in character, and for years required and now require the artificial application of water for the purpose of producing profitable agricultural crops thereon, and that all of the waters described in plaintiff's complaint are necessary for the complete development and reclamation of said lands.

That the said water rights or appropriations have never been denied and have never lapsed for any reason whatsoever, and said rights have never been decreed or adjudicated, and that

certain difficulties arise or are likely to arise regarding the distribution to the plaintiff and its stockholders of the waters so appropriated, diverted and used, and, as a matter of fact, plaintiff's position in respect to securing an adjudication of its water rights should be corrected and a summary decree secured therefor.

9

That many users of water from Snake River and its tributaries have rights inferior in time and subsequent and subject in priority to the rights claimed by the plaintiff, and likewise there are many users of said water whose claims are prior and superior to the rights claimed by the plaintiff, but that all rights of said users whose rights were initiated subsequent to the following dates are inferior and subject to the rights of the plaintiff, to wit:

As to 17.54 second feet with priority date June 1st, 1905, as to 3.47 second feet with priority date August 12th, 1908, as to 7.88 second feet with priority date July 17th, 1915.

10

That plaintiff admits as binding upon it and its land owners and stockholders and it and they accept the provisions of the decree of the waters of Snake River and its tributaries heretofore entered herein under date of December 16th, 1910.

11

That all the allegations contained in plaintiff's verified complaint are true, and that no interested party has pleaded to or answered said complaint, and that the defaults of the defendant and all interested parties have been entered herein.

CONCLUSIONS OF LAW

1

From the foregoing findings of fact the court finds as conclusions of law that the plaintiff is entitled to a judgment herein granting to it a summary decree and adjudication of the water

rights in the amounts and with the dates of priority mentioned in its complaint prior and superior to all appropriated and users of water with dates of priority subsequent to the dates indicated, and debarring the defendant and all interested parties from asserting any right, claim or claims to the use of water under priority dates subsequent to the three specific dates mentioned in plaintiff's complaint.

JUDGMENT

It is therefore considered ¹adjudged and decreed by the court that the plaintiff is entitled to a summary decree and adjudication of the waters of Snake River and its tributaries with dates of priority indicated and in amounts as follows. to wit:

Date of priority	Amount	
June 1st, 1905.	17.54 second feet	1-2009A
August 12th, 1908.	3.47 second feet	1-2009B
July 17th, 1915.	7.88 second feet.	1-10207

2

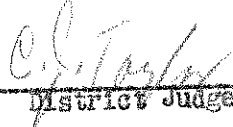
Further ordered, adjudged and decreed that the plaintiff has the right to divert and use said quantity of water with the said priority dates subject, however, to the terms of the said decrees of December 16th, 1910, for use for irrigation and domestic purposes upon the following described lands, to wit:

Southeast Quarter of Southwest Quarter and Lot #4 of Section 18; Northeast Quarter of Northwest Quarter; East half of Southwest Quarter; and Lots #1-2-3 & 4 of Section 19; Northeast Quarter of Northwest Quarter and Lots #1 and 2 of Section 30, all in Township 2 North, Range 37 E. B. M. Lot #4 of Section 13; West half of Southeast Quarter; East half of Southwest Quarter; Southwest Quarter of Southwest Quarter, and Lots #1-2-3 & 4 of Section 24; All of Section 25; Northwest Quarter of Northeast Quarter, and Lot #1 of Section 36, all in Township 2 North, Range 36 E. B. M., Bonneville County, Idaho.

Said waters are to be diverted from Snake River into the headgate of the New Sweden Irrigation District canal at a point in the Northeast Quarter of the Northeast Quarter of Section 35, Township 4 North, Range 37 East of the Boise Meridian, and again diverted from the New Sweden Irrigation District canal into the canal of the plaintiff at a point in the Northeast Quarter of the Northeast Quarter of Section 17, Township 2 North, Range 37 East of the Boise Meridian, and thence conducted to the said lands.

Further ordered, adjudged and decreed that this summary adjudication of water rights is made under authority and in accordance with the terms of Section 7036, Idaho Compiled Statutes, and that plaintiff pay its own costs incurred herein.

Dated August 20th, 1931.



District Judge.