

within its boundaries the county of Fremont.

III

That the Teton River is a tributary of the Snake River and flows through the south and east part of Fremont County and flows particularly through section 36, Township 7 North, Range 40 East Boise Meridian; that, in fact, near the boundary between Sections 30 and 31 of Township 7 North, Range 41 East Boise Meridian, and before it enters Section 36 of Township 7 North, Range 40 East Boise Meridian, the said river divides, and one fork thereof, commonly known as the North Fork crosses Section 36 in the north part thereof, and the other fork flows diagonally from the north-central part thereof to the south west corner; that the land described in the complaint on file herein and for which an adjudication of water rights is sought lies along the banks of said Forks of said river; that all said lands are arid in character and require artificial application of water to make them agriculturally productive.

IV

That prior owners of the property, above mentioned, subject of this action, who settled said land in the first instance and appropriated water for the use thereof did so between the years 1895 and 1904, and that by December of 1903, all of said lands had been settled and water appropriated for the use thereof in amounts hereinafter indicated; that the use of said water since appropriation in the first instance, as aforementioned, in the respective amounts hereinafter mentioned has been continuous and for a beneficial purpose and uninterrupted;

V

That rights to the use of the waters of the 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 was made and entered therein under date of December 16th, 1910, and appears of record in Book B of Judgments at page 449, records of Fremont County, Idaho. That H. J. Clark, owner in 1898 of property described as the South West Quarter of the South West Quarter of Section 36, Township 7 North, Range 40 E. B. M. had appropriated water for the use thereof prior to ^{May} ~~May~~ 15 of 1898 and obtained an adjudication in the case above-mentioned of 160 inches of water for property described as the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 36, T. 7 N., R. 40 E. B. M. and SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said section, township and range; that the said H. J. Clark, did not in 1898, nor at any other time

own any interest in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 36, T 7 N., R. 40 EEM so far as can be ascertained from the records, and in so far as the adjudication of water right concerned said property it was of no value, but he had acquired a right in and to the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said section and had appropriated water there-fore, and the adjudication of water right therefore in an amount of 80 inches should be confirmed and is binding on all parties.

VI

That owners of all other property subject to this action did nothing so far as can be ascertained to obtain record title to water appropriated for the use thereof, but that they had, by December 1, of 1903 appropriated water for the use thereof as hereinafter indicated; that they are entitled to an adjudication of record showing priority as of that date;

CONCLUSIONS OF LAW

From the foregoing findings of fact the Court concludes as a matter of law that Lelan Anderson, as successor in interest of H. J. Clark, in and to all that property described as the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 36, T 7 N., R. 40 EEM is entitled to priority of water right for the use the roof in an amount of 80 inches with priority date of ~~MAY~~ 15 1898, per decree already entered; that the other plaintiffs are entitled for their respective properties in amounts hereinafter shown to a priority date of December 1, 1903;

JUDGMENT

It is hereby ORDERED, ADJUDGED and DECREED that the plaintiffs be, and each of them is hereby, awarded priority right to the use of water of the Snake River and its tributary the Teton River, in amount and as of priority date hereinafter indicated for the purpose of irrigation and domestic use:

FLOYD GARDNER: 160 inches Dec. 1, 1903
The NW $\frac{1}{4}$ SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 36, T 7 N., R. 40 EEM

LELAN ANDERSON: 80 inches ~~MAY~~ 15 1898
The SW $\frac{1}{4}$ SW $\frac{1}{4}$ SEC. 36, T 7 N., R. 40 EEM.

William D. HOLLIST: 164 inches DEC. 1, 1903
That part of the NE $\frac{1}{4}$ NW $\frac{1}{4}$, of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 36, T 7, N, R 40 EEM, which is north of the Teton River

YOSHIIHISA UCAKI: 150 inches Dec. 1, 1903
Commencing at the NE corner of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec 36, T 7 N., 40 EEM, running thence west 60 rods, thence south 53 1/3 rods, thence east 60 rods, thence south 26 2/3 rods, thence east 40 rods, thence north 20 rods, thence east 40 rods, thence north 11 rods, thence west 20 rods, thence west 40 rods, thence north to the point of beginning.
ALSO: The west $\frac{1}{2}$ of the west 10 acres of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 36 T 7 N., R 40 EEM
ALSO: The South 57 $\frac{1}{2}$ rods of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec 36, T 7 N., R 40 EEM

ALBERT BIRCH: 60 inches Dec. 1, 1903
All the part of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec 36, T 7 N., R 40 EEM lying
and being south of the Teton River

Eva B. CUTLER: 60 inches Dec 1, 1903
The SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec 36, T 7 N., R 40 EEM

DAVID LEROY GARDNER: 80 inches Dec 1, 1903
The SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec 36, T 7 N., R 40 EEM

MARK CLARK: 80 inches Dec 1, 1903
That part of the south $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Sec 30 and of the east
70 rods of the NW $\frac{1}{4}$ of Sec 31 of T 7 N., R 40 EEM which lies
between the Forks of the Teton River

DEAN CRAIN: 110 inches Dec 1, 1903
Beginning at the NW corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec 36, T 7 N., R 40
EEM and running thence North to the North Fork of the Teton River
thence following the south bank of the said Fork of said River
to the west line of the NE $\frac{1}{4}$ of said section, thence south approx-
imately 66 rods to the Garner Ditch, thence westerly along the
Garner Ditch bank approximately 78 rods, thence north to the point
of beginning.

Said adjudication being under authority of and in accord with the
provisions of Sec. 42-1405 Idaho Code.

Done this 6th day of April, 1954.

Henry S. Mantz
District Judge

279076

Filed for record at the request of

Willard C. Ruston

25 minutes past 3

P. M. Apr 4

June 1954

Judy 166

Jack A. Stone
Maud Bird