

HAEMMERLE & HAEMMERLE, P.L.L.C.

Attorneys & Counselors at Law

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JUN 29 2007

June 20, 2007

DEPARTMENT OF
WATER RESOURCES

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JUN 25 2007

DEPARTMENT OF
WATER RESOURCES

Idaho Department of Water Resources
c/o Chris M. Bromley, Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0098

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JUN 27 2007

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Re: Water Right No. 37-01208

Dear Chris:

This firm represents the City of Bellevue (City). The purpose of this letter is to explain the City's proposed Amended Claim for water right number 37-01208. The City will be requesting a priority date of July 20, 1880. The current priority date in the Director's Report is for November 9, 1885.

The basis of the priority date comes from the case of *The City of Bellevue v. Simpson et al.* The attached certified copies (along with a transcribed copy of the Complaint) of the Court documents obtained from the Idaho State Historical Society reveal as follows:

1. The City filed a Complaint alleging an initial diversion for beneficial use of March 22, 1880;
2. After the Complaint was filed, the Court ordered a referee, D.E. Waldon, to issue Findings of Fact. The findings were based on an investigation that involved testimony of witnesses. Based on that investigation, the Referee's fourth finding reads as follows: "Fourth. That in or about the 20th day of July 1880, the inhabitants of the said township of Bellevue for themselves and for the use and benefit of said inhabitants appropriated and diverted, on a creek known as Seamons Creek, a public water course . . . 300 inches."
3. The Judgment then states that the "plaintiff [City] is entitled to 300 inches of the waters of Seamands [sic] Creek measured under a four inch pressure and that the Defendants had unlawfully interfered with the plaintiffs right to the use thereof as stated in the complaint to which report and findings reference is hereby made."

Chris M. Bromley
June 20, 2007
Page 2

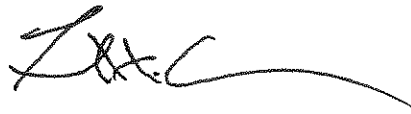
Based on these documents, the City is requesting that you advise IDWR staff to proceed on the City's proposed amendment of the priority date. Please advise Kelly Christensen in the Twin Falls Office about this matter as I know he will be seeking your legal conclusions about this amendment.

If you require anything more or have any questions, please do not hesitate to call.

Thank you.

Sincerely,

HAEMMERLE & HAEMMERLE, P.L.L.C.

A handwritten signature in black ink, appearing to read 'Fritz X. Haemmerle', with a long horizontal flourish extending to the right.

Fritz X. Haemmerle

FXH: fxh

Encl.

cc: Kelly Christensen, IDWR Twin Falls
Jim Phillips, Bellevue City Attorney
Tom Blanchard, City Administrator



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JUN 13 2007

"The History and Preservation People"

Our mission: to educate through the identification, preservation, and interpretation of Idaho's cultural heritage.

www.idahohistory.net

C.L. 'Butch' Otter

~~Dir. K. K. K. K. K.~~
Governor of Idaho

Steve Guerber
Executive Director

I certify that this is a true copy of material found in the collections of the Idaho State Historical Society Public Archives and Research Library.

AR 200 Al furas County, Idaho Territory

City of Bellevue vs. Goble, et al; filed Oct. 31, 1885 8 pp.

City of Bellevue vs Simpson Goble, et al; filed Nov. 9th, 1885 8 pp.

City of Bellevue vs. Goble, et al; filed Sep. 22, 1884 15 pp.

Administration
2205 Old Penitentiary Road
Boise, Idaho 83712-8250
Office: (208) 334-2682
Fax: (208) 334-2774

Archaeological Survey of Idaho
210 Main Street
Boise, Idaho 83702-7264
Office: (208) 334-3847
Fax: (208) 334-2775

Historical Museums and
Education Programs
610 North Julia Davis Drive/
Boise, Idaho 83702-7695
Office: (208) 334-2120
Fax: (208) 334-4059

Historic Preservation Office
210 Main Street
Boise, Idaho 83702-7264
Office: (208) 334-3861
Fax: (208) 334-2775

Historic Sites Office
2445 Old Penitentiary Road
Boise, Idaho 83712-8254
Office: (208) 334-2844
Fax: (208) 334-3225

Public Archives and
Research Library
2205 Old Penitentiary Road
Boise, Idaho 83712-8250

Public Archives
Office: (208) 334-2620
Fax: (208) 334-2626

Research Library
(208) 334-3556

Oral History
Office: (208) 334-3863
Fax: (208) 334-3198

John Yandell
Signature John Yandell

Archivist & Public Records Custodian
Title

June 14, 2007
Date

Pre-paid (chk) 6-13-2007 \$/A. 00
J.Y./I.H.S. - PARL



In this and having process, and having been regularly served with Complaint on file herein, and the Defendant *The Nord River* in the premises, is hereby duly entered according to law.

Attest, my hand, and the seal of said Court the

5th day of *Dec* 188
L L Richardson Clerk.
By *E E Richardson* Deputy Clerk.

The City of Bellevue
in trust

as

Mr H. L. L. L.

to be paid

to the City of Bellevue

on Sept. 23, 1884

L L Richardson

By E E Richardson

L L Richardson

Att'y

regularly served with process, and having failed to appear and answer the
file herein, and the time allowed by law for answering having expired, the default of said

es, is hereby duly entered according to law.

Attest, my hand, and the seal of said Court this

5th day of Dec 1884

L. L. Richardson

Clerk

By E. E. Richards

Deputy Clerk

CLERK'S ENTRY OF DEFAULT.

The Clerk of the Court
in and for the County of
Illinois

The Clerk of the Court
in and for the County of
Illinois

W. H. Hoff et al

Complainant

vs

W. H. Hoff et al

Defendant

By E. E. Richards

Deputy Clerk

L. L. Richardson

Clerk

In the District Court of the Second
Judicial District in and for the
County of Allouas and Territory of Dakota

The City of Bellevue, in trust
and for the use and benefit of the
Inhabitants of said City of Bellevue
Plaintiff

vs
W. H. Noble, Mrs Jennie Reside
Wasmick, John ^{W.} Brown
Michael Brown, The ~~State~~ ~~Sanitary~~
~~and~~ ~~obtaining~~ ~~Sanitary~~, & Mike Smith, &
A. Bayless, John ~~Stoublong~~
defendants.

The Plaintiff complaining of the
above named defendants alleges,

That the said City of Bellevue
was duly chartered and incorporated
as a city by an Act of the Legislature
of the Territory of Dakota and approved
and affirmed February 8th 1883.

That thereafter said City of Bellevue
by virtue of said charter and act
approved on the day of April A.D. 1883
and in accordance with law and
by virtue of said Corporate Charter and
in pursuance of said Corporate Act
did duly and legally elect a Mayor

^{vaguer man}
Board of ~~Councilmen~~ and all
other Officers as by and in said
Corporate Charter provided, and that
thereafter and in accordance with the
provisions of said Charter and Corporat
act said Officers aforesaid did duly
qualify and enter upon the duties
of each of said Offices as aforesaid
and ever since said day of April
1st 1883 there has been and now is
a duly elected and qualified and
acting Mayor of said City of Bellevue
and a duly ~~selected~~ acting and
qualified Board of Aldermen in and
for said City of Bellevue and such other
Officers as by said Corporate act and
Charter provided.

II

Plaintiff further alleges that on the
22^d day of March A.D. 1880, Geo
W Goodman, William Tenney and
A. J. Hark each and all residents
and inhabitants of the town of Bellevue
County of Idaho and Territory of Idaho
for the use and benefit and in trust
and for and on behalf of the inhabitants
of the said town of Bellevue did
locate claim and appropriate five

hundred inches of the waters of a

hundred inches of the waters of a certain natural stream or creek situate about one mile East of the City of Bellevue. County of Alameda and Territory of Idaho known as Seamonds Creek and did on said date duly post in a conspicuous place a written notice claiming, locating and appropriating 500 inches of said waters of said Seamonds Creek for the use and benefit of and in trust for the use and benefit of the inhabitants of said town of Bellevue officers, and thereafter and on the 25th day of March 1880 said notice of location & claim was duly recorded in the office of the County Recorder of Alameda County and Territory of Idaho, and thereafter on or about the 26th day of March 1880 the inhabitants of said town of Bellevue did construct and cause to be constructed a dam in said Seamonds Creek at a point near said notice of location and about 1650 yards East of the present East line of the City of Bellevue, and did on or about the 26th day of March 1880 commence to

Construct and immediately cause to be constructed a ditch from said dam in and on said level four feet wide and sixteen inches deep and of sufficient capacity to carry and run 500 inches of the waters of said creek so located and appropriated as aforesaid into, on and along the streets, alleys and lands of said town of Bellevue, and did on or about said 26th day of March 1880 divert, turn and appropriate, and turn into said ditch and cause to be diverted and appropriated 500 inches of the waters of said Seamonds Creek for the use and benefit of the inhabitants of said town of Bellevue, (A)

III

Plaintiff further alleges: that at the time of such location, appropriation and diversion of said waters of said creek as aforesaid the town of Bellevue aforesaid contained a large number of inhabitants to wit one hundred or more living in and upon various portions of said town, including a large number of families; that said town

of Bellevue had on and before
 said location diversion and
 appropriation of said waters of Seamount
 Creek of record been laid off
 into lots blocks streets and alley
 ways, and a large number of said
 streets and alley ways were then
 occupied and possessed by a large
 number of the inhabitants of said
 town of Bellevue to the number
 one hundred or more including
 a large number of families,

IV

Plaintiff further avers that immediately
 upon the construction of said main
 ditch from said point of diversion to
 and upon said creek or overflow
 into and to said town of Bellevue, the
 inhabitants of said town constructed
 and caused to be constructed
 from said main ditch overflow a
 number of smaller ditches to along
 and upon the lots, streets and alley
 ways of said town for the purposes of
 conducting the waters said Seamount
 Creek into upon and along the lots
 and pieces of land owned occupied
 and possessed by the inhabitants of
 said town for the purposes of irrigating

the lands and gardens of said
in habitants of said town and for
domestic use, and for protection against
fire and for other useful purposes
of said in habitants, and Plaintiff
avers that ever since the construction
of said ^{main} ditch of said and the
construction of said branch ditches
aforesaid the said in habitants of said
town of Bellevue - now City of
Bellevue as hereinafter stated. have
been and now are the owners and
entitled to the uninterrupted and
exclusive use of 500 inches of the
waters of said Skomando Creek and
have ever since said location.
appropriation and diversion of aforesaid
continuously used, and are now
using 500 inches of said waters of
said Creek for the purposes of
irrigating the lands & gardens of said
in habitants during the irrigating season,
and for domestic use of said in habitants
and for protection against fire, except
when hindered and interrupted and
prevented from so doing by the defendants
as hereinafter stated.

V.

Plaintiff further alleges that said City of Bellevue formerly town of Bellevue aforesaid now Antonio and numbers about twelve hundred inhabitants, and plaintiff avers: that the waters of said Creek to the amount aforesaid are absolutely, and the inhabitants of said City to the number of three hundred, are solely dependent upon the waters of said Creek to the amount aforesaid for the purposes of irrigating the lands and gardens of said inhabitants aforesaid during the irrigating season, and for domestic use and for protection against fire and for other useful and beneficial purposes, and that said lands and gardens without the use and benefit of said water would be rendered worthless, and the inhabitants aforesaid would suffer irreparable loss and injury if deprived of the use and benefit of said waters so appropriated and diverted as aforesaid.

VI

Plaintiff further avers: that the inhabitants of the town of Bellevue in the month of December 1882,

obtained a United States Patent for all the lands included within the town site of Bellevue and the inhabitants of said former town, now City of Bellevue now hold and own said lands & so owned and occupied and possessed by them a title in fee from the Government of the United States and they are now the owners in fee of said lands.

VII

Plaintiff further alleges that the Corporation and Corporate Charter of said City of Bellevue and the boundary lines of said Corporate City extends over and includes within its Corporate boundaries, all the lands and premises of the former town site of the town of Bellevue and includes within and extends over all the branch ditches made and constructed from the main ditch herein before described by the inhabitants of the former town of Bellevue aforesaid, and a large portion of said main ditch before mentioned, and all other branch ditches subsequently built and constructed connecting with

3
said main ditch afore said now
is use for the purposes aforesaid by
the inhabitants of said City of Bellevue.

VIII

Plaintiff further avers that said
defendants claim assert and exercise
an adverse claim and right in
and to said 500 inches of the waters
of said Creek or owned and
claimed by the inhabitants aforesaid,
but said claim of right to the use of said
waters is subsequent to and in
subordination to the rights of the
inhabitants aforesaid.

~~VIII~~ IX

Plaintiff further avers that whilst
the said inhabitants were once and
the owners of and entitled to the
exclusive use and benefit of said
500 inches of the waters of said Leavenworth
Creek aforesaid for the uses and
purposes aforesaid and whilst in the
actual use of said water for
irrigating purposes during the irrigating
season and while using said
water for irrigating purposes, and
using the same for domestic purposes
and for protection against fire the
said defendants on divers days

and times between the 1st day of
June A.D. 1884 and the 6th day
of August next ensuing by means
of dams and ditches made and
constructed by said defendants ^{into} ~~from~~ ^{Creek aforesaid}
said four said ~~Seamans~~, wrongfully
and without right or to us and
against the consent of these plaintiffs
take divert and appropriate the said
500 inches of the waters of ~~the waters~~
of said Creek to which these plaintiffs
were the owners and entitled to the
use thereof, and wholly deprived
these plaintiffs of the use and benefit
of said waters, and are now continuously
using diverting and appropriating said
waters of said Creek as belonging to
said plaintiffs aforesaid, and threaten
to continue to use divert and
appropriate said waters of said Creek
as belonging to these plaintiffs as
aforesaid, whereby and by means
and by reason of such wrongful
diversion and appropriation of said
waters of said Creek by said defendants
as aforesaid these plaintiffs during
the time aforesaid were entirely
prevented from the use and benefit

of said ~~waters~~ 500 inches of said

of said ~~waters~~ 500 inches of said
waters of said Creek or locate
diverted and appropriated as aforesaid
Whereby and by means of said
unlawful diversion and appropriation
of the said waters of said Creek
as aforesaid by said defendants
these plaintiffs were wrongfully
prevented from irrigating their said
gardens, and the same were rendered
worthless to the great damage and
irreparable injury to these plaintiffs, and
Whereby and by means of said wrongful
diversion and appropriation of said waters
of said Creek aforesaid by said defendants
these plaintiffs were deprived of the
use of said waters for domestic use
and for protection against fire, and
Plaintiffs aver that said defendants
threaten to continue to divert and
appropriate the said ~~waters~~ 500 inches
of said waters of said Creek to which
these plaintiffs are entitled there to
and to deprive these plaintiffs
of the use and benefit thereof in
maneuver and from aforesaid, and
said plaintiffs aver that said
defendants will continue to divert
and appropriate the waters of said Creek

so located, appropriated and diverted
by these plaintiffs as over and
under restrained by an order of
this Hon Court, and that such
diversion and appropriation by said
defendants will render the gardens
and lands and premises of said
plaintiffs worthless and of no value
and prevent Plaintiff from raising
various kinds of vegetables and
other crops on their said land and
premises, and prevent said plaintiffs
from using said waters for domestic
purposes and prevent said plaintiffs
from the use of said water for
protection against fire, and will
work and cause an irreparable
loss and injury to these plaintiffs.

Wherefore plaintiff pray judgment
and decree of the Court
1st

That the Court adjudge and
decree that the location appropriation
and diversion of the waters of said
Beaman Creek to the extent of
500 inches at the point of diversion
so made on said Creek by said
Geo W Goodman, William Tenney

4

And A. J. Hark be decreed to be
in trust and for the use and
benefit and for the purposes of the
inhabitants of said City of Bellevue,
2^d

That the Court adjudge and
decree that the said plaintiffs
have the first right to the use of
and are the owners of five hundred
inches of the waters of Seannine
Creek at the point of diversion
and head of plaintiffs ditch as
against each and all of said
defendants.

3^d

That upon a final hearing
of this Cause the Court grant
and issue a perpetual injunction
against each and all of the
defendants herein forever restraining
and enjoining the said defendants
and each of them their agents
employees and attorneys from in any
manner interfering with or in
any manner diverting any portion
of the waters of said Seannine Creek
to which said plaintiffs have any
right or claim thereto, and for
such other and further relief as

as may seem meet is on our
and necessary in the premises.
and for the Costs and disbursements
of this action.

G. L. Waters
Plff. atty.

Territory of Idaho }
County of Adams }
J. S. Whitton

being duly sworn deposes and says:
that he is the acting qualified
Mayor of the City of Bellevue the
Plaintiff named in the foregoing
Complaint; that he has read said
Complaint read and knows the
contents thereof; that the same is true
of his own knowledge except the
matters therein stated on his
information or belief and as to those
matters he believes it to be true.

J. S. Whitton
Subscribed and sworn to
before me this 22 day of Sept 1894
C. C. Reddick Justice of the Peace

Wm. H. H. H. H. H.
Wm. H. H. H. H. H.
Wm. H. H. H. H. H.

City of Belmont
Ms.

S. H. H.
H. H. H.

Wm. H. H. H. H. H.

File Oct 31, 1885

A. H. H. H. H. H.

Wm. H. H. H. H. H.

Wm. H. H. H. H. H.
Wm. H. H. H. H. H.

In the District Court of the 2nd
Judicial District in and for Alameda
County Idaho Territory

The City of Bellevue
Plff.

M.
Simpson Goble
et. al.
Defts.

Findings of Fact.

This cause
came on for trial before the Referee
J. E. Malden on the 17th day of
August 1885. J. L. Waters Esq. and
Messrs. Auger & Sullivan appearing as
Attorneys for the Plaintiff and H. E.
Ensinger Esq. and Jas. H. Hawley Esq. appear-
ing as Attorneys for the defendants the
Wood River Smelting Company and
A. J. Bryant whose default for want of
appearance have been regularly
entered herein and the plaintiff having
introduced testimony & established
issues herein in its behalf and the ~~case~~
case having been after argument
by the respective counsel on each side
duly submitted to Referee for his

at that time the said Township contained not less than three hundred inhabitants including one hundred families

Fourth. That in or about the 2nd day of July 1880. the inhabitants of the said Township of Bellevue for themselves, and for the use and benefit of said inhabitants appropriated and diverted from a creek ^{mentioned in plaintiff's complaint} known as Seamonds Creek a public water course upon the Public Domain of the United States of America by means of a dam and ditch at that time constructed by them three hundred (300) inches of the waters of said ^{under a four inch pressure} Seamonds Creek and caused the same to flow into and through said ditch constructed and run to upon and along the streets and Alley ways of said Township of Bellevue.

Fifth. That from the time of said appropriation and diversion the said waters except where interfered with by the defendants have been continuously used by the said

inhabitants of the townsite of Bellevue
and since its incorporation by the
plaintiff for household and domestic
purposes, irrigation of gardens, watering
stock and protection against fires and
for other purposes useful and beneficial
and that the said waters so appropriated
and diverted ever since have been and
now are necessary to the inhabitants of
said Townsite and said City of Bellevue
for the uses and purposes of said

Sixth That the defendants and each
of them and all of them have jointly
and separately at the times mentioned
and set forth in the complaint in
this action wrongfully and unlawfully
diverted interrupted used and
appropriated from the plaintiff the
said waters of "Seam and Creek" from
the plaintiff and up to the time of
the commencement of this action and
thereafter wrongfully diverted inter-
rupted used and appropriated the
waters of said Creek which had pre-
viously been lawfully diverted and
appropriated by the said inhabitants
of the townsite of Bellevue and the

plaintiff herein and prevented the said inhabitants and said plaintiff from exercising their lawful right to the improvement and use of said waters so appropriated and diverted by them as aforesaid and up to the time of the commencement of this action continued and they steered to continue said wrongful appropriation use diversion and interruption to the great and irreparable damage and injury of the plaintiff

Second. That all the material allegations of the complaint are true

And the Referee finds as conclusions of law from the foregoing facts as follows.

First. That the plaintiff is the lawful lawful owner of and is entitled to the possession of Three hundred acres (300) of the waters of said "Seamans Creek" under and by virtue of the appropriation diversion and use thereof as aforesaid

Second. That the defendants have not nor have either of them any right title

or interest in or to said Three hundred (300) inches of the waters of said "Seamands" Creek owned by the plaintiff or any part thereof

Third. That the interference by the defendants and each of them with the said waters owned by the said plaintiff was unlawful and without any color of right

Fourth. That the plaintiff is entitled to the judgment and decree of this court establishing and decreeing its rights and ownership in and to said three hundred (300) inches of the waters of said "Seamands" Creek as against the claims of the defendants and each and all of them and to a perpetual injunction against the defendants and each and all of them their successors Agents servants and employees from and against all and any interference with or appropriation or use of as against the plaintiff of said three hundred (300) inches of said waters of said "Seamands" Creek owned by plaintiff

on any part thereof and for costs of suit
and necessary disbursements thereon
Let judgment be entered
accordingly

Dwight E. Malden
Referee

Wiley Allen Co. }
Paid by Oct 31, 1885 }

No. _____

DISTRICT COURT,

SECOND JUDICIAL DISTRICT,

Territory of Idaho, County of Alburas.

City of Bellevue

Plaintiff

vs.

Samuel L. Lyle
et al.

Defendant

Judgment Roll.

Filed *Nov. 9th* 188*3*

A. S. Richardson

Clerk.

By

G. O. Richards

Deputy Clerk

Daily and Weekly News-Miner, Hailey, Idaho.

In Second District

Albion County

The City of Billings

Smith

— no —

Simpson Under
State Dept

Receives

Filed Nov 9th 1885

at Richardson

Clack

J. C.

In the District Court of the Second Judicial District of the Territory of Idaho in and for the County of Alturas.

The City of Bellevue
Plaintiff

vs

Simpson Noble
Mrs. Jennie Galbraith
Worrock John W Brown
Michael Brown Mike
Smith A Bryant John
Hubbard and The Wood River
Smelting Company

Defendant

Secured

This Cause

Came on regularly to be heard at the May Term 1885 of this Court and by Stipulation of the parties was by Order of this Court made and entered on the 20th day of July A.D. 1885, referred to D.E. Waldron Esq. to take the testimony and report his findings of fact and Conclusions of Law thereon at the October Term A.D. 1885 of this Court. And the said referee having taken said testimony and having made and filed his report containing his findings of fact and Conclusions of Law thereon which was filed he is

on the 31st day of October 1888
Whereby the said referee found
that the plaintiff is entitled
to 300 inches of the waters of
Diamonds Creek measured
under a four inch pressure
and that the defendants had
unlawfully interfered with
the plaintiffs right to the use
thereof as stated in the Complaint
to which report and findings
reference is hereby made.

Now on Motion of E. L.
Waters Esq and Messrs Angel
& Sullivan Attorneys for the
plaintiff it is

Ordered adjudge
and decreed that the plaintiff
in this action the City of Bellmore
is the owner of and entitled
to the possession of Three
Hundred (300) inches measured
under a four inch pressure
of the waters of Diamonds Creek
under and by virtue of the
appropriation division and use
thereof as stated in the Complaint
and found by the said referee
and that the defendants have
not nor have either of them any
right title or interest in or to said

Three Hundred (300) inches of the
waters of said Diamonds Creek
owned by the plaintiff as aforesaid
or any part thereof.

And it is further adjudged and
decreed that the said defendants
Simpson Goble Womack
Jimmie Galbreath Mike Smith
John Brown, Michael Brown & J.
Bryant John Hubbard and the
Wood River Smelting Company
their and each of their attorneys
agents servants employees
and all persons acting by, through
or under them or either of them
be and each is hereby forever
enjoined and restrained from
in any manner turning di-
verting appropriating or using
any portions of the waters of Dia-
monds Creek or in any manner
whatever interfering with the
free and unobstructed use
and possession of the waters of
said Diamonds Creek or in
any manner whatever interfer-
ing with or turning out any
waters from said Diamonds Creek
after said waters shall have
reached the said plaintiffs
dam and ditch so long as
the quantity running in said

ditch shall not exceed three
hundred inches measured
under a four inch pressure
or in any manner whatever
prevent or obstruct the said
plaintiff the City of Bellevue and
the inhabitants thereof from
the free and unobstructed use
and possession of the said
quantity of three hundred inches
measured under a four inch
pressure of the waters of said
Diamonds Creek. or in any
manner whatever obstruct or
prevent the said three hundred
inches of the said waters as meas-
ured as aforesaid from freely and
without obstruction flowing into
the ditch or ditches of the
plaintiff. And it is further
ordered and adjudged that
the plaintiff the City of Bellevue
do have and receive from
the defendants the sum of

^{dollars}
Costs and disbursements
of this action

Dated November

9th

1885

By The Court

Conrad Erickson

District Judge

June 21, 1886

This judgment modified so as to allow
plaintiff to have 150 inches of water &
that each party pay their own cost

In the District Court of the Second Judicial District, Idaho Territory,
COUNTY OF ALTURAS.

City of Bellevue
Plaintiff

VS.

Simpson Goble et al
Defendants

I, the undersigned, Clerk of the District Court of the Second Judicial District of said Territory, in and for said County, do hereby certify the foregoing to be a true copy of the Judgment entered in the above entitled action, and recorded in Judgment Book 4 of said Court, at page 393. And I further certify that the foregoing papers, hereto annexed, constitute the Judgment Roll in said action.

WITNESS my hand and the Seal of said District Court, this 19th
day of November, A. D. 1885

A. L. Richardson

Clerk of the District Court.

By E. E. Richards Deputy Clerk.

In the District Court of the Second Judicial District of the Territory of Idaho in and for the County of Alturas.

The City of Bellevue,

Plaintiff

Vs

Simpson, Goble
Mrs. Jennie Galbraith, Wonack
John W Brown, Michael Brown
Mike Smith, A Bryand, John Hubbard
And the Wood River Smelting Company,

Defendant

This cause came on regularly to be heard at the May Term 1885 of this court and by stipulation of the parties was by order of the Court made and entered pm the 25th day of July AD 1885 referred to D. E. Waldron Esq. to take the testimony and report his findings of fact and conclusions of law therein at the October Term AD, 1885 of this Court and the Said referee having taken said testimony and having made and filed his report containing his findings of fact and conclusions of law thereon which report was filed herein on the 31st day of October 1885 whereby the Said referee found that the plaintiff is entitled to 300 inches of the waters of Seamands Creek measured under a four inch pressure and that the Defendants had unlawfully interfered with the plaintiffs right to the use thereof as stated in the complaint to which report and findings reference is hereby made.

Now on motion of G.S. Waters and Angel and Sullivan, Attorneys for the Plaintiff it is ordered adjudged and decreed that the plaintiff in this action the City of Bellevue is the owner of and entitled to the possession of three hundred (300)* inches measured under a four inch pressure of the waters of Seamands Creek under and by virtue of the appropriation, diversion and use thereof as stated in the complaint and found by the said referee and that the defendants have not nor have either of them any right title of interest in or to said three hundred (300) of the waters of said Seamands Creek owned by the plaintiff ans aforesaid or any part thereof.

And it is further adjudged and decreed that the said defendants Simpson Goble, ___ Womack, Jennie Galbraith, Mike Smith, Brown, Michael Brown, A J Bryant, John Hubbard and the Wood River Smelting Company theirs and each of theirs attorneys, agents, servants, employees and all persons acting by, through or

under then or either of them be and each is hereby forever enjoined and restrained from in any manner turning, diverting, appropriating or using any portion of the waters of Seamands Creek or in any manner whatever interfering with the free and unobstructed use and possession of the waters of said Seamands Creek or in any manner whatever interfering with a turning out any waters from said Seamands Creek after said waters shall have reached the said plaintiffs dam and ditch so long as the quantity running in said ditch shall not exceed three Hundred inches measured under a four inch pressure or in any manner whatever prevent or obstruct the said plaintiff, the City of Bellevue and the inhabitants thereof, from the free and unobstructed use and possession of the said quantity of three hundred inches measured under a four inch pressure of the waters of said Seamands Creek or in any manner whatever obstruct or prevent the said three hundred inches of the said waters so measured as aforesaid, from freely and without obstruction flowing into the ditch or ditches of the plaintiff and it is further ordered and adjudged that the plaintiff, the city of Bellevue, do have and recover from the defendants the sum of (document is blank in this space) dollars cost and disbursement at the action.

Dated November
9th, 1885

By the Court
Case Borderick
District Judge

[*A note on the bottom right side of page 394 states:]

June 21, 1886

This judgment modified so as to allow plaintiff to have 150 inches of water and that each party pay their own costs.

[The District Court Book of Judgments does not show any action on June 21, 1886, so the action was taken in another court of appeals.]