

SUBCOMMITTEE ON THE UNITED STATES DEPARTMENT OF AGRICULTURE.

WHEREAS, a certain agreement, in writing, bearing date the 20th day of June, 1904, made and entered into by and between Ernest F. Benedict, Eliza Matson, Ira E. Igou, William Brown, Elwood Clark, Theodore Peterson, Thomas Palmer, John Palmer, Willard F. Mahle, Henry Lund, Mary Lund, Postville White, John Simock, Albert J. Matthews, John Daniels, Wallace J. Levin, Frank J. McCracken, William Smith and Robert Martin, parties of the first part, designated as the German Creek people, and David McLutt, Mrs. J. Birdseye, and J. Birdseye, her husband, Anna B. Davis, Mary Griebner, Ed Sweney, George L. Shoup, by J. J. McPherson, his attorney in fact, Murdock E. Peterson, J. Macnab, William L. Shoup and Peter McPinne, parties of the second part, designated as the "Big Flat people", providing for the construction of an irrigation ditch from Salmon River in Lemhi County, Idaho, to a point intersecting a ditch known as "the old Cold ditch" owned by McLutt, Birdseye and Davis, in consideration for the conveyance of certain rights in the waters of German Creek, it was agreed to refer the following matters to said parties, with reference to said ditch and conveyance of water, to the award and determination of the undersigned, to wit: to award, order and determine the following:

a. To determine whether the said ditch is completed according to the above named specifications, and whether it is deep enough to admit at the head thereof, two feet of water at low water season.

b. To decide and determine by whom said ditch shall be main-

tened that the German Creek people shall

maintain it.

c. To determine how many inches of the waters of German Creek

the said Big Flat people heretofore appropriated and

are entitled to convey.

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DEPARTMENT OF
WATER RESOURCES

Our property
ownership traces
back to
Elwood D. Clark

565
94
629

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- e To decide and determine when said Big Flat people shall convey their aforesaid right, title and interest in and to said waters of Carman Creek, to said Carman Creek people.

and to determine who of the Carman Creek people, are entitled to a conveyance from the Big Flat people of their interests in the waters of Carman Creek, after completing said River ditch.

Now, we the said Arbitrators, or Referees, having taken upon ourselves, the burden of said reference, and having examined the premises, and heard and duly considered all the allegations and evidence of the said parties, of, and concerning the said matters of difference and subjects so referred as aforesaid, do make and publish this our decision in writing of and concerning said matters, as follows:

1. That E.R. Benedict, Theodore Batson, Elwood F. Clark, Hilliard H. Dahle, John Dimock, John Daniels, Ora L. Igou, William Igou, Albert J. Mathews, Robert Martin, Peter McKinney, J.C. Mather, Thomas Palmer, John Palmer, Wallace Slavin and William Smith, engaged in the work of constructing a ditch from Salmon River in Lemhi County, to a point on the Big Flat, where the same will intersect the Carman Creek ditch, now owned by McNutt, Birdseye and Davis, and completed a ditch from said Salmon River, to said point on the Carman Creek ditch aforesaid, strictly according to the terms of said contract, to wit: said ditch terminates at the point intended by said contract: is six feet wide on the bottom: ten feet wide on top: two feet deep, and on an even grade of five feet to the mile, and low enough at the head, to admit water, two feet in depth at low water season, and has a suitable head gate.

2. We decide and determine, that the aforesaid "Carman Creek people", to wit: those who engaged in the construction of said ditch, shall maintain said ditch, in its present form, for a period of one year from this date, and at the expiration of one year from this date, said ditch shall belong to, and be the property of said "Big Flat people" to be maintained thereafter, at their own expense, except as to Mary J. Birdseye and Anna B. Davis, who shall be relieved from the expense of maintaining

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said ditch, by said persons, who constructed the same, for a period of five years, according to the terms of a contract, existing between them

3. To decide and determine, that the Big Flat people appropriated and used 620 inches of the waters of Gorman Creek, as follows:

David McHutt, 200 inches, appropriated May 1st 1875,

Mary J. Birdseye, 100 inches, appropriated May 1st 1875.

Anna B. Davis, and her Children, 100 inches, appropriated May 1st 1875

Henry Griebner, 70 inches, appropriated May 1st 1882

Neil Sweeney, 30 inches, appropriated May 1st, 1882

George L. Shoup

E. H. McPherson

James Macnab, and

William H. Shoup

} 55 inches, appropriated May 1st 1882

Peter McKinney, 60 inches appropriated May 1st 1882,

and they are entitled to convey the same to the aforesaid individuals

who constructed said river ditch, according to the terms of said contract.

4. That said David McHutt, Henry Griebner, Neil Sweeney, George L. Shoup, E. H. McPherson, J. J. Macnab, William H. Shoup, Peter McKinney, shall, at the expiration of one year from this date, convey to the aforesaid persons, who constructed said river ditch, the following number of inches of the waters of Gorman Creek, heretofore used by them, to wit :

David McHutt, 200 inches

Henry Griebner, 70 inches

Neil Sweeney, 30 inches

Peter McKinney, 60 inches

George L. Shoup, E. H. McPherson

James Macnab, and William H. Shoup

} 55 inches

provided that said river ditch is kept in repair as herein provided.

5. That Mary J. Birdseye and Anna B. Davis, their heirs or assigns, shall at the expiration of five years from this date, convey to said persons who constructed said river ditch, the following number of inches of the waters of Gorman Creek, heretofore used by them, to wit:

Mary J. Birdseye, 100 inches

Anna B. Davis, 100 inches

Provided that said river ditch is kept in such repair, for five years from this date, that it will deliver 200 inches of water from Salmon River, to the point where said river ditch intersects said Carman Creek ditch, in accordance with the terms of the private contract, entered into between said parties, of date June 20, 1900.

5. We hereby find and determine that the following named persons have paid their full share, or portion of the cost of construction of said river ditch, to wit: E.R. Benedict and Wallace W. Slavin, and that the following named persons are in arrear in the payment of their share or portion of the cost of construction of said river ditch, to the amounts set opposite their respective names, to wit:

Theodore Batson	110.31
Elwood W. Clark	30.92
Hilliard H. Mahle	16.56
John Dimock	32.00
John Daniels	266.22
Gra L. and Hillier Lyou	8.54
Albert J. Mathews	18.56
Robert Martin	1.32
Peter McKinney	1.61
A.C. Mather	1.09
Thomas Palmer	28.53
John Palmer	18.55
William Smith	.51

6. That said E/R. Benedict, Wallace W. Slavin, Theodore Batson, Elwood W. Clark, Hilliard H. Mahle, John Dimock, John Daniels, Gra L., and William Lyou, Albert J. Mathews, Robert Martin, Peter McKinney, A.C. Mather, Thomas Palmer, John Palmer and William Smith, are entitled to a conveyance of the waters of said Carman Creek, so appropriated and owned by said Big Flat people provided that all of said persons, except said Benedict and Slavin, pay the aforesaid sums, so due and owing by them, within the

thirty days, fixed by the contract, first herein referred to.

7. That the persons, named in paragraph 6 of this report, are each entitled to a conveyance from said David McKitt, Mary J. Birdseye, Anna B. Davis, Henry B. Griebner, Neil Sweeney, Peter McKinney, George L. Shoup, M.M. McPherson, A.J. Macnab, and William R. Shoup, of the 620 inches of the waters of Garman Creek, in accordance with the terms of said contract the right to the use of said water; dating from the times above stated, to wit: the date of the original appropriation.

8. We also find and determine that the benefit to the William Smith ranch, derived from the construction of said river ditch, is so much greater than the trifling amount of damage inflicted, that we award no damage to the owner thereof.

All of which is respectfully awarded and reported.

Dated October 7th 1901.

J. H. Hocken Smith
Thomas Pyeatt
William Peterson } Referees.

Our charges for services:

James H. Hocken Smith	12 days at 30c	\$ 3.60
Thomas Pyeatt	12 days at 30c	\$ 3.60
William Peterson	12 days at 30c	\$ 3.60

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