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*Recorded*

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR CANYON COUNTY.

HARRY E. WIMER, Plaintiff

vs.

A. V. TALLMAN, as Watermaster  
having charge of the Distribu-  
tion of the Waters of Boise River.  
Defendant

JUDGMENT  
and  
DECREE

This cause came on for hearing in open court, on the 20th day of September, 1920, Hays, Martin Cameron & Hays, appearing for the plaintiff and neither the defendant, nor any one else appearing either in person or by attorney in opposition to the plaintiff; the Court having heard all of the evidence, and proof adduced herein and having examined the files and duly considered the same, and being fully advised in the premises, and it appearing therefrom to the satisfaction of the Court;

1. That the summons in this action together with a copy of the complaint herein, was duly and personally served upon the defendant in this action, and that said defendant has been duly and regularly summoned to answer the plaintiff's complaint in this action; that the time within which the said defendant may appear herein has expired and that the defendant has made default in that behalf, and that the default of said defendant for not appearing and answering under plaintiff's complaint has been duly and regularly entered herein; that the plaintiff has caused to be published for three weeks a notice of the pendency and purpose of this action in a newspaper, to-wit: The Caldwell Tribune, as ordered by the Judge of this Court which notice contained the title of this Court and of this cause and the name of

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the stream, to-wit: The Boise River, in whose waters the plaintiff claims an interest with the date of priority claimed by plaintiff and the date and short title of the decree heretofore entered fixing the permanent rights of the water of Boise River; that the time fixed by the Court for the publication of said notice in its said order has expired and no interested party nor any one else has appeared and defended against the rights claimed by the plaintiff.

NOW, THEREFORE, On motion of Hays, Martin, Cameron & Hays, it is ordered, adjudged and decreed as follows:

That the lands described in plaintiff's complaint as belonging to the plaintiff, are arid in character and require the application of irrigation water to render them valuable for agricultural purposes, and are what are commonly termed Boise River Bottom lands.

That the quantity of water required for the successful irrigation and cultivation of plaintiff's lands, for which a water right is hereby decreed measured at its point of diversion from Boise River is \_\_\_\_ inches per acre.

That the quantity of water to which the plaintiff is entitled under this decree shall be measured at its point of diversion from Boise River.

That the plaintiff nor his successors in interest shall have a right to the use of the waters of Boise River herein awarded except for a beneficial purpose and that whenever the beneficial use has ceased, such parties shall cease to divert and have no rights to divert said waters.

That the pleadings herein be and the same hereby are amended to conform to the facts as found by the Court herein;

That the predecessors in interest of the plaintiff did appropriate and divert from the waters of Boise River the quantity of water on the date hereinafter stated, such water being

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estimated and measured under a four inch pressure and did appropriate and divert such water for a beneficial use and ever since the date of such appropriation such water has been used by the plaintiff and predecessors in interest as so diverted and used.

That the plaintiff is entitled to the use of water of Boise River upon the lands mentioned and described in plaintiff's complaint and is hereby awarded the use of the waters of Boise River diverted at a point on the north side of said river in Section 15, Township 4, North, Range 1, East B. M. in Ada County, State of Idaho, for use upon the following described lands in Ada County, Idaho;-

63 0285 "Lot number Four (4) of Section Sixteen (16) Township four (4), North, Range one (1) East of Boise Meridian containing 17.80 acres more or less. That the lands of plaintiff for which a water right is herein granted is all of the above described lands owned by plaintiff, and is in the following amount from the following date; <sup>.392</sup> 19.1 inches from May 1, 1906.

That the plaintiff shall pay all costs arising under this action.

That the said waters shall be distributed to the plaintiff in the same manner as though they had had their rights included in that decree, adjudicating the waters of Boise River dated January 18, 1906, in that action in the District Court of the Third Judicial District of the State of Idaho in and for Canyon County entitled " Farmers Co-operative Ditch Company, ( a corporation ) Plaintiff, vs. Riverside Irrigation District, a corporation et als, Defendants. "

That the number of inches of water per acre required for irrigation and hereby decreed, and the corresponding total number of inches of water hereby awarded shall be in accordance with the duty of water for Boise River bottom lands, as the same shall be hereafter determined in a suit for that purpose now pending in this Court entitled " Farmers Co-operative Ditch Company, a

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corporation, Plaintiff, vs. Riverside Irrigation District, Limited  
a corporation et als. Defendants", and when the duty of water is so  
determined in said suit on motion of plaintiff, the blanks left  
in this decree for the insertion of the number of inches shall be  
filled and completed to accord with the duty of water as found in  
said suit.

Dated Sept. 20, 1920.

Ed. L. Bryan, District Judge.

Filed & Entered

Sep. 20, 1920

Rose Edwards, Clerk

I hereby Certify that the foregoing is a full, true  
and correct copy of the original decree filed in the above en-  
titled action.

Rose Edwards, Clerk.

B. 7 P. 428

compared

STATE OF IDAHO, }  
County of Canyon, } ss.

I, L. C. Knowlton, Clerk of the District Court and Ex-officio Recorder of the County of Canyon, State of  
Idaho, do hereby certify that the foregoing copy of Judgment and Decree  
(book 7 page 428) has been compared by me with the original, and that  
it is a correct transcript therefrom, and of the whole of such original.

Judgment and Decree as the same appears  
on file in my office.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed my seal this 18<sup>th</sup>

day of

May

1921

Rose Edwards  
Clerk of the District Court and Ex-Officio Recorder.

By

Evalena Holmbeck Deputy.

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