

Hereditaments, and appurtenances and any and all water rights and irrigating ditches thereto belonging or in anywise appertaining. Including 1-12/50 shares of water right in Cub River Irrigation Company, a corporation.

Dated at chambers at Pocatello, Idaho this 24th day of October, A.D. 1924.

Robert M. Terrell
District Judge.

Filed October 25th, 1924.

John A. Clifford
CLERK

Compared, *J. A. C.*

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO
IN AND FOR FRANKLIN COUNTY.

Charles M. Harris,
VS
Plaintiff

Alfred J. Atkinson and
Merium H. Costley,
Defendants.

DECREE

This cause having been heretofore tried to the court without a jury and duly and regularly submitted to the Court for its decision upon the merits thereof and taken under advisement by the Court, and the Court having duly and regularly made and filed therein its findings of fact and conclusions of law, and the Court being fully advised in the premises, both as to the law and the facts therein.

Now, therefore, it is hereby Adjudged and Decreed:

First: That the plaintiff take nothing by his said action and that the same be and the same is hereby dismissed.

Second: That the defendants are the owners thereof and are entitled to and they are hereby awarded and decreed the free, uninterrupted and unobstructed use of all of the waters of Costley or Clarkston Creek, including all of the springs seeping or flowing into the channel of the said Creek from the source or head thereof down to the lands of defendants, described as follows, to-wit:

The Southeast quarter of the Southeast quarter of Section 23; the Southwest quarter of the Southwest quarter of Section 24; the West half of the Northwest quarter; the Northwest quarter of the Southwest quarter, and Lot four of Section 25; thence East half of the Northeast quarter; the Northeast quarter of the Southeast quarter and Lot one of Section 26; All in Township 16 South, Range 37 East of the Boise Meridian, containing 347.42 acres. for the Irrigation of said lands during the irrigation season of each and every year from and after the month of March until the month of November, and sufficient of such waters for defendants' domestic, culinary and stockwatering purposes to be used upon defendants' said land and premises for the said and remaining months of each and every year, excepting only one-half of the flood and freshet waters which find their way into the plaintiff's reservoir during the high water seasons of each year in the spring months of each year up and till, but not later than May 15th of each year, which said freshet and flood waters may lawfully be reservoird and stored by the plaintiff and used for the irrigation of his lands described in his complaint. That the plaintiff has and possesses no right, title or interest whatever in or to any of the said waters, of Costley or Clarkston Creek, excepting said flood and freshet waters for any purpose whatsoever, and his claim thereto is without merit.

Third: That the defendants and each of them are entitled to and are hereby granted the right and privilege, free from the hinderance of the plaintiff, or any person claiming through or under him, to enter upon the lands of the plaintiff described as follows, to-wit:

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DEPARTMENT OF
WATER RESOURCES

The Northeast quarter of the Northeast quarter, and the Northwest quarter of the Northeast quarter, of Section 21, and the Southeast quarter of the Northeast quarter, and the Southwest quarter of the Northeast quarter of Section 22, all in Township 16 South, Range 37 East of the Boise Meridian, for the purpose of repairing and keeping free from obstructions, and cleaning out the channel of said Creek and also the tributaries leading into such channel, of any and all obstructions to the free, interrupted and continuous flow of said water. And the said plaintiff, his agents, servants and all persons claiming through or under him, are each hereby enjoined and restrained from interfering with or obstructing the free flow of any and all of the waters of said Costloy or Clarkston Creek above granted and decreed to defendants (including said springs) from the head waters or sources of said waters down to the defendants' said land, both above and below plaintiff's reservoir.

It is hereby further ordered, adjudged and decreed that the defendants have and recover of and from the plaintiff their costs of suit in this cause expended taxed at the sum of \$_____.

Dated this 2nd day of November, 1924.

Robert M. Terrell
Judge.

Filed November 26th, 1924.

John A. Kiefer
Clerk

Compared *JA*
* * * * *

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF IDAHO
IN AND FOR THE COUNTY OF FRANKLIN.

REBECCA JARDINE, Plaintiff

VS

CLAUDE E. HAWKES and
ALICE M. HAWKES, his wife,
and H. A. PEDERSEN,
Defendants.

: FINDINGS OF FACT
: CONCLUSIONS OF LAW and
: DECREE OF FORECLOSURE.

This cause was regularly heard in open court on the 11th day of March, 1924, upon the plaintiff's amended complaint and the defendant's answer thereto, A. H. Wilkie, of Idaho Falls, Idaho, appearing as counsel for plaintiff, and Messers Evans & Morgan, of Preston, Idaho, appearing as counsel for the defendants.

The court having heard all the evidence and proofs produced herein, and duly considered the same, and being fully advised in the premises finds:

FINDINGS OF FACT:

1st. That notice of the pendency of this action in due form was filed in the office of the County Recorder of Franklin County, Idaho, on the 15th day of May, 1923, and there recorded in Book 1 of Pendency of Actions at page 63;

2nd. That at no time subsequent to the maturity of said promissory note nor at the maturity of said promissory note was same presented to defendant, Claude E. Hawkes, for payment at the office of H. A. Pedersen & Company, at Logan, Utah, but at all of said times said note was in the possession and under the control of plaintiff at Idaho Falls, Idaho;

3rd. That there has been paid on the principal of said note and mortgage indebtedness the sum of \$760.00, and interest thereon up to and including the 3rd day of January, 1923;

4th. That there is now due and unpaid thereon the sum of \$274.23, principal and interest to March 11th, 1924.