

11-413- ✓

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BEAR LAKE.

PRESTON-MONTEPELLIER IRRIGATION
COMPANY, a corporation,

Plaintiff,

vs.

DINGLE IRRIGATION COMPANY, a cor-
poration; Grinnett-Black Otter
Irrigation Company, a corporation;
Peg Leg Island Irrigation Company, a
corporation; West Fork Irrigation
Company, a corporation; Ream-Crockett
Irrigation Company, a corporation;
Pugmire Livestock & Land Company, a
corporation; Continental Life Insur-
ance Company, a corporation; Ole
Transtum; Carrie Hill; J.A.C. Nielson,
John A. Jensen; Oron Quayle; Thomas
Quayle; George Parker; Edw. LaRocco;
John O. Miller; Ezra J. Phelps; George
A. Sparks; Hyrum Esterholdt, and Joseph
Esterholdt,

Defendants

DECREE

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This cause came on regularly for trial on the 4th
day of August, 1923, John A. Bagley, Esquire, and D. C. Kunz,
Esquire, appearing as attorneys for the plaintiff Preston- Montpelier
Irrigation Company, a corporation, and John A. Bagley, Esquire, appearing
as attorney for Oron Quayle, Thomas Quayle, George Parker, Edw. LaRocco,
John O. Miller, Ezra J. Phelps, and George A. Sparks, defendants and cross-
complainants; and D. C. Kunz, Esquire, appearing as attorney for the
Continental Life Insurance Company, a corporation, Ole Transtrum, Carry
Hill, J. A. C. Nielson and John A. Jensen, defendants and cross-complain-
ants; and A. B. Gough, Esquire, appearing as attorney for Dingle Irrigation
Company, a corporation, Peg Leg Island Irrigation Company, a corporation,
Grinnett Black Otter Irrigation Company, a corporation, and the Pugmire
Livestock & Land Company, a corporation, defendants and cross-complainants;
Ross W. Bates, Esquire, appearing as attorney for the Ream-Crockett Irriga-
tion Company, a corporation, defendants and cross-complainants; and Jesse P.
Rich, Esquire, appearing as attorney for the West Fork Irrigation Company,
a corporation, defendants and cross-complainants and Darwin Haddock, Esquire,
appearing as attorney for Hyrum Esterholdt and Joseph Esterholdt, defendants
and cross-complainants. Whereupon, the respective parties proceeded to
negotiate a settlement and adjustment of the issues raised by the complain-

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ant and the answers of the defendants thereto and by the cross-complainants, and answers thereto and thereafter, to-wit: On the 4th day of August, 1923, a stipulation of facts was entered into, signed and filed herein, which it was agreed between the parties, that it should be and the same is hereby adopted as the findings of fact herein, and the court, from the stipulation and findings of fact- being fully advised in the premises and conclusions of law being waived:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the respective parties hereto be, and each of them is hereby awarded/and decreed the quantity of water hereinafter specified with date of priority and for the irrigation of lands as hereinbefore set forth, such water to be directed from the several points of diversion as herein after stated, all rights herein decreed to be either what is hereinafter designated as a "Meadow Right" or an "Agricultural Right" and to be by the respective dates and particular years fixed as the date of priority:

PRESTON-MONTPELIER IRRIGATION COMPANY.

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0895 1877-April 15th, what is designated in this decree as a "Meadow Right", 30 cubic feet per second from April 15th to July 1st of each year, to be reduced to 20 cubic feet per second from July 1st to September 30th of each year.

0896 1877 July 1st, what is designated in this decree as an "Agricultural Right", 12 cubic feet per second.

0897 1883- April 15, what is designated in this decree as an "Agricultural Right", 28.6 cubic feet per second.

0898 1884- April 15th, what is designated in this decree as an "Agricultural Right" 5.3 cubic feet per second.

All of said waters to be diverted from Bear River through a ditch diverting therefrom at a point located at or near thirty-six rods South and twelve rods East from the Northwest corner of Section Eight in Township Fourteen South, Range Forty-four East of the Boise Meridian, to be used upon 3200 acres of land described as follows:

Commencing at the Southeast corner of the Southwest Quarter of Section Six (6), in Township Fourteen (14), South, of Range Forty-five (45), East B. M., run thence West to Bear River; Thence North westerly down the meanderings of Bear River to the Southwest corner of the Northwest Quarter of the Southwest Quarter of Section Ten (10), in Township Thirteen (13) South of Range Forty-four (44) East, B.M. Thence East Fifty (50) chains more or less to the Preston and Montpelier Canal; Thence South and Southwesterly up and along the meanderings of said canal to the place of beginning.

Also, the South half of the Northwest Quarter and the North half of the Southwest quarter of Section Ten (10), Township Thirteen (13) South Range Forty-four (44) East B. M. containing Thirty Two Hundred (3200) acres.

DINGLE IRRIGATION COMPANY:

0899 1880- April 15th- what is designated in this decree as an "Agricultural Right", 20 cu. feet per second.

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BOISE LIVESTOCK & LAND COMPANY:

96-1

- ~~1877~~ 1877- April 15th, what is designated in this decree as a "Meadow right".
~~1877~~ April 15th - July 1st, 6.9 cubic feet per second.
~~1877~~ July 1st - September 30th, 4.6 cubic feet per second.

All of said waters to be diverted from Bear River through the ~~East~~ ^{Pugmire} ditch about forty rods west of its intake out of the Vasts Slough, to be used upon 231.75 acres of land, described as follows, to-wit:

Commencing at the Northwest corner of Section 34, and running thence North 60 rods, more or less, to Bear River; thence following up the channel of said Bear River in a Southeasterly direction to its intersection with the North boundary line of said Section 34; thence East 40 rods, more or less, to the Northeast corner of the Northwest of said Section 34; thence South 30 rods; thence East 80 rods; thence South 80 rods; thence West 80 rods; thence South 13 rods, more or less, to center of Slough; thence Westerly along center of said slough 80 rods, more or less, to intersection of West boundary line of the Northeast quarter of the Southwest quarter of Section 34; thence North 10 rods, more or less, the half section line; thence West 35 rods, more or less, to center of Slough; thence following the meanderings of said Slough in a Northwesterly direction to its intersection with the West boundary line of said Section 34; thence North 12 rods, more or less, to a point which is 44 rods South from the Northwest corner of said Section 34; thence East 10.4 rods; thence North 44 rods; thence West 10.4 rods to the place of beginning, and containing 210 acres, more or less. All of which said land is in Township 13 South of Range 44 East of Boise Meridian, in Bear Lake County, Idaho; also,

Commencing at a point 156 feet South from the Northwest corner of the Southeast quarter of Sec. 34, Township 13 South Range 44 East Boise Meridian, and running thence North 156 feet; thence East 573 feet, more or less to East bank of Slough; thence Southwesterly down said Slough to the place of beginning, containing 3-3/4 acres of land, more or less; and also,

Commencing at the Northeast corner of the Southwest quarter of Section 34, Township 13 South Range 44 East of Boise Meridian, and running thence South 13 rods to center of Slough; thence Westerly along the center of the Channel of said Slough 158 rods; thence North 3 rods to quarter section line; thence East along said quarter section line 105 rods to place of beginning, containing 18 acres of land, more or less.

WEST FORK IRRIGATION COMPANY:

97-1

- ~~1877~~ 1877- April 15th, what is designated in this decree as a "Meadow Right".

April 15th - July 1st, 160 cubic feet per second.
 July 1st - September 30th, 107 cubic feet per second.

All of said waters to be diverted from Bear River through a ditch known as the West Fork Canal, diverting from said Bear River at a point located at or near South 12°36' West 1411 feet from the Northeast corner of Section Five, Township Thirteen South, Range Forty-four East of the Boise Meridian, to be used upon 5330 acres of land situated in the following subdivisions:

The SW¹/₄ of Section 8; SW¹/₄, S¹/₂NE¹/₄, E¹/₂ of E¹/₂ of W¹/₂, and NE¹/₄ of NE¹/₄ of Section Eighteen; Section Seventeen; S¹/₂ of Section Sixteen; E¹/₂ and E¹/₂ of W¹/₂ of Section 19; Section 20; Section 21; W¹/₂, and W¹/₂ of E¹/₂ of Section 28; Section 29; E¹/₂ and E¹/₂ of W¹/₂ of Section 30; NE¹/₄ and NE¹/₄ of NW¹/₄ of Section 31; N¹/₂ and about 80 acres in N¹/₂ of S¹/₂ of Section 32; and NW¹/₄, W¹/₂ of NE¹/₄, N¹/₂ of SW¹/₄, NW¹/₄ of SE¹/₄ of Section 33, all in Township 13 South, Range 44 East, of Boise Meridian.

CONTINENTAL LIFE INSURANCE COMPANY:

95-1 (Preston and Phelps d'ing a)

- ~~1877~~ 1877 April 15th, What is designated in this decree as a "Meadow Right".

April 15th - July 1st, 6.6 cubic feet per second.
 July 1st - September 30th, 4.4 cubic feet per second.

- ~~1883~~ April 1883- April 15th, what is designated in this decree as an "Agricultural Right", 1.7 cubic feet per second.

- ~~1884~~ 1884- April 15th, What is designated in this decree as an "Agricultural Right", 3 cubic feet per second.

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All of said waters to be diverted from Bear River by means of the Kent-LaRocco Ditch out of Casto Slough, the same being a branch of Bear River, at a point near the Northeast Corner of the Northwest Quarter of Section 2, Township 14 South, Range 44 East of the Boise Meridian, to be used upon 322 acres of land described as follows, to-wit:

Commencing at a point 11 rods East from the Northwest corner of Lot 4 in Section 3 Township 14 South of Range 44 East of the Boise Meridian, and running thence East 69 rods; thence South 130 rods; thence following the windings of Black Otter Slough West, North and East a distance of 251 rods; thence on a direct line North, crossing said Slough, a distance of 10 rods to the North side of said Slough; thence following the windings of said slough in a Westerly direction, 70 rods; thence North 21 rods to the place of beginning, containing 37.71 acres, more or less.

Also the Southeast quarter of Section 34, in Township 13 South Range 44 East of the Boise Meridian and the South Half of the Northeast Quarter and Lots 1 and 3 of Section 3 in Township 14 South of Range 44 East of the Boise Meridian, excepting therefrom the tract sold to the Utah Power & Light Company described as follows:

Commencing at the center of Section 3, Township 14 South, Range 44 East of the Boise Meridian, running thence North 16°45' East through the Northeast Quarter of said Section 3 and the Southeast Quarter of Section 34, Township 13 South Range 44 East of the Boise Meridian to the North line of said Southeast Quarter of said Section 34; thence East approximately 1044.4 feet to the East line of said Section 34; thence South 16°45' West through the Southeast quarter of said Section 34 and Northeast Quarter of said Section 3 to the South line of said Northeast quarter of said Sec. 3; thence West approximately 1044.4 feet to the place of beginning constituting a strip of land 1000 feet wide, 500 feet on each side of the center of main canal.

ORON QUAYLE:

- 95-2 (Preston-Montpelier Irrig Co.)
- 11 0913 1877 April 15th, what is designated in this decree as a "Meadow Right".
April 15th - July 1st, 1.6 cubic feet per second.
July 1st - September 30th, 1.2 cubic feet per second.

- 11 0914 1883 April 15th, what is designated in this decree as an "Agricultural Right, 1.7 cubic feet per second
- 11 0915 1884 April 15th, what is designated in this decree as an "Agricultural Right", .3 cubic feet per second.

All of said waters to be diverted from Bear River by means of the Kent-LaRocco Ditch out of the Casto Slough, the same being a branch of Bear River, at a point near the Northeast corner of the Northwest Quarter of Section 2, Township 14 South, Range 44 East of the Boise Meridian, to be used upon 160 acres of land, described as follows, to-wit:

The NE $\frac{1}{4}$ of Section 3, Township 14 South, Range 44 East, Boise Meridian, in Bear Lake County, Idaho. - This claim's land in right of way Rainbow Canal. & overlaps about 50a of 95-1

THOMAS QUAYLE:

- 95-3 (Preston-Montpelier Irrig Co.)
- 11 0916 1883 April 15th, what is designated in this decree as an "Agricultural Right. 1.1 cubic feet per second.
- 11 0917 1884 April 15th, what is designated in this decree as an "Agricultural Right" .2 cubic feet per second

All of said waters to be diverted from Bear River by means of the Kent-LaRocco Ditch out of Casto Slough, the same being a branch of Bear River, at a point near the Northeast corner of the Northwest Quarter of Section 2, Township 14 South, Range 44 East of the Boise Meridian, to be used upon 65 acres of land, described as follows, to-wit:

The W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 2, Township 14 South, Range 44 East of Boise Meridian, in Bear Lake County, Idaho.

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to supply said 6012.25 acres of said agricultural lands to the full extent of their decreed rights.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED: That the Court shall retain jurisdiction, and jurisdiction is hereby reserved for a period of five years from the date hereof for the purpose of correcting said decree if it shall be made to appear to the court that there are errors in the description or amounts of land to which water has been decreed under this decree

IT IS FURTHER ORDERED, ADJUDGED AND DECREED , That each party pay his own costs herein.

Dated this 7th day of March, 1924.

ROBERT M. TERRELL
District Judge.

STATE OF IDAHO
COUNTY OF BEAR LAKE

I, J. S. Peterson, Clerk of the District Court of the Fifth Judicial District of Idaho, in and for Bear Lake County, do hereby certify that the within and foregoing is a full and true copy of the original Water Decree in the case of Preston-Montpelier Irrigation Company vs. Dingle Irrigation Company, et al duly filed in my office on the 7th day of March, 1924.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Paris, Idaho, this 8th day of July, 1924.

(SEAL)

J. S. PETERSON
Clerk

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