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File 589

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39-A-2A

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE.

*Numbered
Copy*

CAREY VALLEY RESERVOIR COMPANY,
a corporation,

Plaintiff,

vs.

W. C. ELDRIDGE, Watermaster,

Defendant,

and

M. A. CONDIE, A. L. WELCH,
WILLIAM BAIRD, WILLIAM BRIGGS,
LEE ELLIOT, and STELLA HURST,

Intervenors.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
and DECREE.

FINDINGS OF FACT.

I.

That plaintiff is, and at all times hereinafter mentioned has been a mutual non-profit irrigation corporation, organized and existing under the laws of the State of Idaho, for the purpose of impounding, storing and delivering water for the irrigation of the lands of its stockholders, and that during all such times has kept and maintained its office and principal place of business at Carey, Blaine County, Idaho.

II.

That Water District #25 of the State of Idaho is one of the water districts of the State of Idaho, organized and existing for the purpose of administering and distributing the waters of Fish Creek, a natural stream of the State of Idaho, situated within the County of Blaine; that the defendant W. C. Eldredge is the duly elected, qualified and acting watermaster of said Water District #25.

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Twp. 1 N. Range 22 E., Blaine County, Idaho.

Sec.	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	TOTALS
27 :	17 39	40 31 20 40	40 16 22 40	40 40	385
32 :				23	23
33 : 19	40		37 40	40 40 40	256
34 :	40 40	40 40 40 40	40 40 40 40	40 40	480

Twp. 1 S. Range 22 E., Blaine County, Idaho.

3 :	42 42	42 42	40 40	40 40	328
4 :	42 42	42 42	40 40	40 40	328
5 :	42 39	22	30 40	40 40	262
7, 8, 9, 16, 17, 18	all of each				3840
10 :	40 40 40 40	40 40 40 40	40 40 40 40	40 40	560
6 :			15 23	23 24	85
15 :	40 40	40 40 40 40	40 40 40 40	40 40	480
19 :	40 40 40 40	40 40 40 40			320
20 :	40 40 40	40 40 40 40			280
21 :	40 40 40 40	40			240

Twp. 1 S., Range 21 E., Blaine County, Idaho.

12 :	36 40	30	38 27 39	40 40 40 40	370
11 :			8 36 39	5 20 40 39	187
10 :				9	9
13 all					640
14 :	40 40 40 40	40 40 22 40	38 40 35 3	40 31 28	517
15 :	5 20	5	28 38 40 40	40 37 40 40	333
16 :	12 27 40 39	37 37 40 40	40 40 40 40	40 40 40 40	582
17 :	30 18 40 40			40 39 5 28	248
21 :	40 40 40 40	40 32 40	40 40 40	40 40 40 40	542
22 all					640
23 :	26 25	32 40 7	30 40 40 40	3 5 4	292
24 :	40 40 40 40	40 40 40 40	40 40 40		400
26 :	20 40 40	40 40 40 40	40 40 40 40	40 40 40 40	580
27 all					640
28 :	40 40 40 40	40 40 40	40 40	40 40 40 40	520
33 :	40 40 40				120
34 all					640
35 all					640

Twp. 2 S., Range 21 E., Blaine County, Idaho.

2 :	40 40	40 40 40 40	40 40 40 40		400
3 all					640
9 :	40 40				80
10 :	40 40 40 40	40 40 40 40			320
11 :		40 40 40 40			160

37-1162

Total number of acres to be irrigated - - - - - 17,207

seven thousand two hundred five and one-half second feet (7205.5 s. f.) of the flood and winter flow waters of Fish Creek, said diversion to be limited to the capacity of its reservoir, viz: fourteen thousand four hundred eleven acre feet

(14,411 a. f.), such right to date from and have priority of November the first, 1922:

37-1163

That the intervenor, Stella Hurst, be and hereby is awarded the right to divert and use (seventy-eight inches) one and fifty-six hundredths second feet (1.56 s. f.) of the waters of Fish Creek for the irrigation of her land, viz: SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 3; S $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 2; N $\frac{1}{2}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 12, all in twp. 1 N., R. 22 E. B. M., containing about 340 acres; said right to date from and have priority of May 1st, 1923; but as between the parties to this action said right shall during the flood and freshet period, when such waters can be beneficially used for irrigation, be deemed of equal priority with plaintiff's rights in said flood and freshet waters herein decreed.

That the waters of said Fish Creek be, in the future, administered under and in strict accordance with the terms, conditions and priorities fixed by the decree in the case of Potter et al. v. Patterson et al., made and entered in this court on the 15th day of December, 1914, as supplemented by this decree; and that for the purpose of administration, in arriving at the natural flow of Fish Creek, the agreement of the parties, and interpretation of the decree for the past eight years adopted and used, the natural flow of Fish Creek shall be such water as flows into the head of the reservoir from day to day, plus (200 inches) 4 second feet originating from springs within the contour lines of the reservoir and contributed by the flow of that portion of Crooks Creek situate below the high water contour lines of said Fish Creek reservoir and by the flow of that portion of the west fork of Fish Creek below the high water lines of said Fish Creek reservoir.

That in order to compensate for the increased loss by seepage and evaporation in the bed of Fish Creek below the said dam, that such plaintiff be, for the first five days of each recurring season, required to discharge through its head works a sufficient amount of stored water to compensate for said loss, not exceeding in any one season 40.5 second feet or 81 acre feet, and that none of such water, so discharged into said stream, shall be subject to diversion and use by any party to the said decree of

Potter v. Patterson; that in determining the amount of said increased loss, 1.8 second feet (90 inches) shall be considered and is hereby fixed as the normal loss in the bed of Fish Creek below said dam.

That the intervenors, M. A. Condie, A. L. Welch, William Baird, William Briggs and Lee Elliot, take nothing by reason of their cross-complaint herein;

That this decree is ancillary and supplemental to the decree entered in this court on the 15th day of December, 1914, in the case of Potter et al. v. Patterson et al., and that the awards herein made are in strict subjugation thereto;

That each party pay his or its own costs incurred herein.

Dated this twenty-ninth day of December, 1939.

D. H. Sutphen

District Judge.

STATE OF IDAHO,)
) ss.
County of Blaine,)

I, B. P. THAMM, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Blaine, do hereby certify that the foregoing is a full, true and correct copy of the original Findings of Fact, Conclusions of Law and Decree in the above entitled action now on file in my office and recorded in Book 11 of Judgments, Page 249, Records of Blaine County, State of Idaho.

Given under my hand and the seal of said Court in my office, at Hailey, this 11th day of January, 1940.

B. P. Thamm
Ex Officio Recorder, Clerk of the Blaine Court

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