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In the District Court of the United States for the
District of Idaho, Eastern Division.

UTAH POWER & LIGHT COMPANY,

Plaintiff

vs.

THE LAST CHANCE CANAL COMPANY,
Limited, et. al.

Defendants.

In Equity

No. 203.

FINAL DECREE

Before HON. F. S. DIETRICH,
District Judge.

Filed July 14, 1920.

W. D. McREYNOLDS,
Clerk.

By PEARL ZANGER,
Deputy.

MAY 14 1996

In Equity No. 203

**In the District Court of the United States
for the District of Idaho, Eastern Division**

UTAH POWER & LIGHT COMPANY, a Corporation, *Plaintiff,*

vs.

The Last Chance Canal Company, Limited; The Tanner Canal Company, Limited; The Central Canal Company, The North Extension Canal Company, Limited; West Branch Canal Company, Limited; The Turner Canal Company, Limited; The East Branch Canal Company, The Bench Canal, and Budge Land & Live Stock Company, Limited; corporations; W. H. Larkins, Jas. Ellsmore, Geo. Hogan, Lewis S. Pond and Alex Harris as Trustees of the Gentile Valley Irrigation Company, Limited, late a corporation; The Thatcher Irrigation Company, Limited, a corporation; Nathan D. Thatcher, J. A. Folkman, Milton Robbins and Geo. M. Smith, as Trustees of Thatcher Canal & Power Company, Limited, late a corporation; Nelson Ditch Company, a corporation; A. J. Nielson, B. R. Meek, Henry McCuen, C. S. Burton and Eli Fosgreen, as Trustees of Riverdale-Preston Irrigation Company, late a corporation; The Riverdale Irrigating Company, Nielson-Meek Company and West Cache Irrigation Company, corporations; E. P. Johnson, Albert Johnson, Hyrum Johnson, Geo. D. Anderson, Joseph T. Pond, Frank W. Harris, A. C. Bosen, Hyrum J. Smith, John E. Hill, Melvin Green, Robert L. Smith, Charles Westerburg, Peter Westerburg and David P. Evans.

Horace Howard, Henry Rhinehart, Harvey W. Higley, James Monroe (or Munro), Nellie Simmons, John Baird, William Monroe (or Munro), Orrin Monroe (or Munro), Charles Monroe (or Munro), Charles Foster, Hyrum Foster, Mary Baird, John Woodall (or J. D. Woodall), George Ellis, Skinner Irrigation Company, a corporation; Heber Crane, Fred Bartschi, Charles Bartschi, David Chugg, Phillip Chugg, Fred Stauffer, William Williams, Sr. (or William Morgan Williams), William Williams, Jr. (or William Mormon Williams), Oliver Williams, E. M. Lindsay, Georgetown Irrigation Company, a corporation, and Thomas Freeman.

MAY 14 1996

DATE OF PRIORITY	AMOUNT IN SECOND FEET	POINT OF DIVERSION AND PLACE OF USE
11 0302 (b) 1877—May 1	.5 c.f.s.	To be diverted from Stauffer Creek, through a ditch having its intake therefrom in the Northwest quarter of the Southwest quarter of said Section 34.
11 0303 (c) 1877—May 1	.8 c.f.s.	To be diverted from Middle Fork, later known as Nounan Creek, through a ditch having its intake in the Southeast quarter of the Northeast quarter of Section 34, said Township and Range. Said water decreed in paragraphs (b) and (c), immediately above, to be used for the irrigation of 35 acres of land in the Southeast quarter of the Northeast quarter of Section 34, Township 11 South, Range 43 East, B.B.M.
11 0304 (d) 1881—May 1	.8 c.f.s.	To be diverted from Spring Creek, through a ditch having its intake in the Southwest quarter of the Southwest quarter, Section 34, for the irrigation of 40 acres of land in the Southeast quarter of the Southeast quarter of Section 34, the West half of the Southwest quarter of Section 35, Township 11 South, Range 43 East, B.B.M.
11 0305 (e) 1898—May 1	1.3 c.f.s.	To be diverted from Nounan Creek, through ditches having their point of diversion on the lands hereinbelow described, for the irrigation of 65 acres of land in the Southeast quarter of the Northwest quarter of the Northeast quarter of the Southwest quarter, Section 22, Township 11 South, Range 43 East, B.B.M.
30. William Morgan Williams: 11 0306 (a) 1885—May 1	1.6 c.f.s.	To be diverted from Stauffer Creek, later known as Nounan Creek, through three ditches diverting therefrom in Sections 27 and 34, Township 11 South, Range 43 East.
11 0307 (b) 1885—May 1	.6 c.f.s.	To be diverted from Spring Creek through two ditches diverting therefrom in the East half of Section 27, said Township and Range. Water decreed in paragraphs (a) and (b), immediately above, to be used for the irrigation of 110 acres of land in the Southwest quarter of the Northeast quarter, the

DATE OF
PRIORITY

AMOUNT IN
SECOND FEET

POINT OF DIVERSION AND
PLACE OF USE

11 0308

31. *William Mormon Williams:*
1897—May 1 .5 c.f.s.

Northwest quarter of the Southeast quarter, the East half of the Southwest quarter, said Section 27.

To be diverted from Stauffer Creek, later known as Nounan Creek, through ditches diverting therefrom on the lands hereinbelow described, for the irrigation of 25 acres of land in the East half of the Northeast quarter, Section 33, the West half of the Northwest quarter, Section 34, Township 11 South, Range 43 East, B.B.M.

11 0309

32. *Fred Bartschi:*
(a) 1899—May 1 1.4 c.f.s.

To be diverted from Nounan Creek, by means of three ditches diverting therefrom in Sections 15 and 22, to be used for the irrigation of 70 acres of land in the South half of the Southwest quarter, Section 15, and the North half of the Northwest quarter, Section 22, Township 11 South, Range 43 East, B.B.M.

11 0310

(b) 1907—May 1 .8 c.f.s.

To be diverted from Nounan Creek in the Northwest quarter of Section 15, to be used for the irrigation of 40 acres of land in the South half of the Southeast quarter and the Southeast quarter of the Southwest quarter, Section 10, the Northeast quarter of the Northwest quarter, Section 15, Township 11 South, Range 43 East, B.B.M.

11 0311

33. *Charles Bartschi:*
(a) 1885—May 1 2 c.f.s.

To be diverted from Nounan Creek by means of five ditches diverting therefrom in Sections 27 and 22, Township 11 South, Range 43 East.

11 0312

(b) 1885—May 1 .8 c.f.s.

To be diverted from Unnamed Spring in the Northwest quarter of the Northeast quarter of Section 27, said Township and Range, a tributary of said Nounan Creek. Said water decreed in paragraphs (a) and (b) immediately above, to be used for the irrigation of 140 acres of land in the East half of the Northwest quarter, the Northwest quarter of the Northeast quarter, Section 27, the Southwest quarter of the Southeast quarter and the Southeast quarter of the Southwest quarter of Section 22, said Township and Range, B.B.M.

4. The plaintiff having filed herein its bill of costs for expenses incurred by it for printing bill of complaint, for making service of process, including subpoena *ad respondendum* and warning orders, and of printing this decree, amounting to \$1,923.75, it is ORDERED, ADJUDGED AND DECREED that the same be taxed as costs against the parties to whom rights have been decreed herein *per capita*, at the rate of \$4.81 against each of said parties.

The plaintiff having further included in said bill of costs the amounts paid by it to C. E. Tappan as water master or commissioner of the court in charge of the distribution of water as between the plaintiff and defendant, Last Chance Canal Company, Limited, during the years 1918 and 1919, including therein services rendered by said commissioner for the distribution of water of Soda Creek to the Farmers Land & Irrigation Company during the year 1919, it is ORDERED, ADJUDGED AND DECREED that \$125.00 of said amount be charged to the said Farmers Land & Irrigation Company and \$75.00 to T. H. Horsley, J. E. Lan, D. J. Lau and H. M. Lau, for said last mentioned services, and that one-half of the balance, to-wit: \$1,025.20, be taxed to the Last Chance Canal Company, Limited, and the plaintiff may have process to recover all said costs as herein taxed, in accordance with the rules and practice of the court in equity cases. No other costs or disbursements shall be allowed to any of the parties hereto, but each shall pay his or its own costs.

5. It is further ORDERED AND DECREED that the court retain jurisdiction of this cause for the following purposes:

(a) To make corrections for clerical errors, inadvertences and omissions in the rights decreed.

(b) To review and amend the provisions of this decree, fixing the limits of the irrigation season, and further reducing the amounts of water which may be diverted for irrigation purposes during the months of August and September upon proof of decreased requirements by any appropriator.

(c) To take further evidence upon and to increase or decrease, after hearing allotments for winter use.

(d) To amend the provisions of this decree upon transit losses of stored waters released from the plaintiff's reservoir, and to increase or decrease the allowances herein made for that purpose.

(e) To consider the claims of Thorq Johnson and Enoch Johnson, who claim to divert water from Soda Creek.

RECORDED

All the foregoing reservations of jurisdiction shall extend after the term at which this decree is entered, and during any subsequent term prior to January 1, 1924, at which time, or at such earlier time as the court may determine these matters, this decree shall be closed. In all other respects this decree shall be final.

The court further retains jurisdiction, however, at all times, and from time to time, to make all reasonable rules touching the manner of diverting, measuring and distributing the waters, and the devices to be installed and used for such purposes where it may be impracticable to fully comply with the terms of this decree, and to direct that the parties keep accurate and detailed records of the amounts of water diverted, and to require reports to be filed from time to time of the amount so diverted, and generally to make such orders as may be found reasonably necessary to give effect to the decree, and to appoint commissioners or water masters to make distribution in accordance with its terms, and to punish the parties hereto, their officers, agents and employes, and their grantees and successors in interest, for any violation of the provisions thereof.

Done in open court this 14th day of July, 1920.

FRANK S. DIETRICH,
Judge.

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