

Superseded

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DECREED WATER RIGHTS

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI.

HERBERT H. HAYS,)
Plaintiff,)
VS.)
FRED SCHULER, HENRY)
VREELAND and PETER)
VREELAND,)
Defendants.)

DE C R E E.

This cause having been regularly called and tried by the Court on the 16th day of September, 1905, and having on said day been taken under advisement by the Court, Mr. H. G. Redwine appearing as counsel for the plaintiff, Herbert H. Hays, and Messrs. John H. Padgham and W. S. Barbour appearing as counsel for the defendants and cross-complainants Henry Vreeland and Fred Schuler, and the defendant Peter Vreeland having filed his answer herein in which he disclaims any right, title or ownership in and to the waters of Hawley Creek, and the Court having heard all the evidence herein and considered the same, and the findings of fact and conclusions of law and the decisions thereon in writing, having been duly rendered by the Court, which are now on file in this cause, wherein judgment is awarded plaintiff on his complaint and defendants and cross-complainants Henry Vreeland and Fred Schuler on their cross-complaints, and all and singular the law and the premises being by the Court here understood and fully considered;

Wherefore, it is here ordered, adjudged and decreed, and this does order, adjudge and decree as follows, to-wit:

1. That the plaintiff, Herbert H. Hays, is the owner and in the possession of the lands described in his complaint, situated and being in Lemhi County, State of Idaho, described as follows:

The South half of the Southeast quarter of Section 27, the North-west quarter of the North-west quarter of Section 35, and the North-east quarter of the North-east quarter of Section 34, all in Township 16 North, Range 26 East Boise Meridian.

Also the East half of the North-west quarter and the West half of the North-east quarter of Section 34, Township 16 North, Range 26 East of Boise Meridian.

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And said plaintiff is entitled to have, and is hereby awarded, the right to the perpetual use of seventy-five inches of the waters of Hawley Creek, measured under a four inch pressure, being one and one-half cubic feet per second of time, for the purpose of irrigating his said lands, his said right to be the third right to the use of said water and to date from April 15, 1883.

2. That the defendant and cross-complainant, Henry Vreeland, is the owner and in the possession of the lands described in his cross-complaint, situated and being in Lemhi County, State of Idaho, described as follows:

Commencing at the South-east corner of Section 25 in Township 16 North of Range 26 East of Boise Meridian running thence East 1000 feet to the place of beginning; thence North 15 deg. 0 min. West 510 feet; thence North 70 deg. 40 min. East 1879 feet; thence South 13 degrees, 20 min., East 1089 feet thence North 82 degrees, 15 min. East 1165 feet; thence South 1420 feet; thence North 81 deg. 44 min. West 2861.9 feet; thence North 15 deg. 0 min. West 1120 feet to said place of beginning. Also that parcel of land adjoining the above described land and described as: Commencing at the South-east corner of said Section 25, running thence East 1000 feet; thence South 7 deg. 45 min. West 242 feet to the place of beginning; thence South 3 deg. 53 min. West 352.4 feet; thence East 218 Feet; thence North 15 deg. 0 min. West 364 feet; thence West 100 feet to said place of beginning.

Also that other parcel of land situate near the above described land and described as: Commencing at the South-east corner of said Section 25, running thence East 1000 feet; thence South 7 deg. 45 min. West 242 feet; thence South 3 deg. 53 min. West 352.4 feet, thence South 54 deg. 56 min. West 308 feet to the place of beginning, thence South 58 deg. 38 min. East 386 feet, thence South 27 deg. 54 min. West 115 feet, thence South 85 deg. 9 min. West 502 feet, thence North 33 deg. 4 min. East 410.4 feet to said place of beginning.

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And said defendant and cross-complainant is entitled to have, and is hereby awarded, the right to the perpetual use of thirty-five inches of the waters of Hawley Creek, measured under a four-inch pressure, being seven-tenths of a cubic foot per second of time, for the purpose of irrigating his said lands, his said right to said seven-tenths of a cubic foot per second of time to be the first right to the use of said water and to date from the year of 1879; that said Henry Vreeland is further entitled to the use

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of one hundred and sixty-five inches of the waters of said Hawley Creek, measured under a four-inch pressure, being three and three-tenths cubic feet per second of time, for the purpose of irrigating his said lands, said right to said three and three-tenths cubic feet per second of time to be the fifth right to the

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use of said water and to date from the fifteenth day of August, 1883.

3. That the defendant and cross-complainant, Fred Schuler, is the owner and in the possession of the lands described in his cross-complaint, situated and being in Lemhi County, State of Idaho, described as follows:

The North half of North-west quarter, the South-west quarter of the North-west quarter, and the Northwest quarter of the South-west quarter of Section 1, and the East half of the North-east quarter of Section 10, and South-east quarter of the South-east quarter of Section 3, and the South-west quarter of the South-west quarter of Section 2, in Township 15 North of Range 27 East of Boise Meridian, and all water rights connected therewith of appurtenant thereto.

And said defendant and cross-complainant is entitled to have and is hereby awarded, the right to the perpetual use of thirty-

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five inches of the waters of Hawley Creek, measured under a four-inch pressure, being seven-tenths of a cubic foot per second of time, for the purpose of irrigating his said lands, his said right to said seven-tenths of a cubic foot per second of time to be

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the third right to the use of said water and to date from the year of 1881; that said Fred Schuler is further entitled to the use of two hundred and fifty inches of the waters of said Hawley Creek measured under a four-inch pressure, being five cubic feet per second of time, for the purpose of irrigating his said lands, said right to said five cubic feet per second of time to be the fourth right to the use of said water and to date from the first day of August, 1883.

4. That the parties hereto are entitled to, and are hereby awarded, the right to the use of the waters of the said Hawley Creek according to the priority of their respective rights, as hereinbefore decreed, and when there is not a sufficient amount of water flowing in said creek to supply all the rights herein, said water shall be distributed to said parties according to the date of their respective priorities.

5. That the defendant, Peter Vreeland, has no right, title or interest in and to the waters of said Hawley Creek, and is hereby perpetually enjoined and restrained from making any claim thereto or in any manner interfering with the free and uninterrupted flow therein so as to prevent the same from flowing down to the lands of plaintiff Hays and defendants and cross-complainants Vree-

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6. That each of the parties hereto be, and they are, hereby perpetually enjoined and restrained from using the waters of Hawley Creek otherwise than as decreed herein, or to any greater extent, and each of them their agents, servants and employees be and are perpetually enjoined and restrained from in any manner interfering with the flow of the waters of Hawley Creek otherwise than as herein decreed, or in any manner depriving any party hereto of the free use of the waters of said creek as decreed to him herein.

7. It is further ordered, adjudged and decreed that each of the parties hereto pay his own costs, and that the plaintiff, Herbert H. Hays, and the defendants and cross-complainants, Henry Vreeland and Fred Schuler, each pay one-third of the cost of filing findings of fact and decree and recording decree.

Done and dated this the fourth day of May, 1909.

J. M. STEVENS.

Judge of the District Court of the Sixth Judicial District of the State of Idaho.

Filed May 4th, 1909

W. G. SMITH, Clerk.
By J. L. KIRTLEY, Jr., Deputy.

STATE OF IDAHO.)
)
) SS.
)
COUNTY OF LEMHI)

I, W. W. SIMMONDS, Clerk of the District Court of the Sixth Judicial District of the State of Idaho, in and for Lemhi County, do hereby certify that I have compared the foregoing copy with the original judgment in the above entitled action filed in my office on the fourth day of May, 1909, and that the same is a full, true and correct copy of such original and of the whole thereof.

In witness whereof, I have hereunto set my hand and affixed the seal of said Court this 26th, day of October, 1928.

(SEAL)

W. W. SIMMONDS,
Clerk of District Court.

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