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1- Decree - George T. Thornock, et al -vs- Bloomington Irr. Co., et al 11-0208 thru 11-0244

MICROFILMED

11-0208 thru 11-0244

MICROFILMED

MAY 14 1996

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

GEORGE T. THORNOCK, HERBERT BATEMAN
and STAFFORD CLEVELAND,
Plaintiffs,

vs.

BLOOMINGTON IRRIGATION COMPANY, a
corporation, GEORGE REESE CANAL COMPANY,
a corporation, ALMA FINDLAY, GEORGE
JARVIS, THOMAS JARVIS, ALBERT JARVIS,
ROY HILL, ANTON MADISON, WILLIAM
BATEMAN, NELS L. KROGUE, BURTON L.
THOMAS, A. O. CHRISTENSEN, JOHN P.
HULME, BEN F. HULME, ALFRED A. HART,
IRA OSMOND, H. H. BROOMHEAD, JOURNAL
PALMER, J. T. BRISCOE, O. C. DUNFORD,
and Wm. C. PIGGOTT; and ALMA FINDLAY
Jr., ARCHIE BEE and WILLIAM BEE, JOHN
WARD, THOMAS WARD and UTAH POWER & LIGHT
COMPANY,
Defendants.

DECEMBER

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This cause came on regularly for trial on the 6th day of
December, 1922; John A. Bagley, Esquire, of Montpelier, Idaho;
appearing as attorney for the plaintiffs; A. B. Gough, Esq., of
Montpelier, Idaho; and Darwin E. Haddock, Esq., of Paris, Idaho;
appearing as attorneys for the defendants and cross-complainants;
Bloomington Irrigation Company; and John T. Briscoe, William C.
Piggott; and O. C. Dunford; Charles H. Hart, Esq., of Salt Lake City
Utah, appearing as attorney for the defendant and cross-complainant,
George Reese Canal Company, a corporation; William Bateman; Nels
L. Krogue; Burton L. Thomas, A. O. Christensen and Alfred A. Hart;
Budge & Merrill of Pocatello, Idaho; appearing as attorneys for
the defendants and cross-complainants; Alma Findlay; Thomas Jarvis
and Albert Jarvis; Jesse P. Rich and Darwin E. Haddock, Esqs.,
appearing as attorneys for the defendants and cross-complainants;
John P. Hulme and Ben F. Hulme; D. C. Kunz, Esq., of Montpelier,
Idaho; appearing as attorney for the defendants, Anton Madsen;
William Bee, Archie Bee and Herbert Bateman; and Darwin E. Haddock,
Esq., appearing as attorney for the defendant and cross-complainant,
Peter E. Ward; Whereupon, the respective parties
ratified a settlement and adjustment
complaint and

JOHN WARD:

11 0238 1900

---4/5 of a cubic foot per second, up to and including the 25th day of June of each and every year, to be diverted one-half through a ditch having its intake in Southeast Quarter of the Northeast Quarter of Section 26, Township 14 South, Range 43 East, Boise Meridian, and one-half through Hansen Dam for the irrigation of the following described lands: Southwest Quarter of the Southeast Quarter and Lot 5, Section 18, Township 14 South, Range 44 East, Boise Meridian, and Lots 4 and 13, Section 19, Township 14 South, Range 43 East, Boise Meridian, as platted in Plat Book "D" at Page 245, Records of Bear Lake County, containing 48 acres.

THOMAS WARD:

11 0239

1900---2-3/5 cubic feet per second, to be diverted one-half through a ditch having its intake in the Southeast Quarter of the Northeast Quarter of Section 26, Township 14 South Range 43 E.B.M., for the irrigation of the following described lands up to and including the 25th day of June of each and every year: West Half of the Northeast Quarter of Southeast Quarter of Section 24, Township 14 South, Range 43 East, Boise Meridian; the East Half of Southwest Quarter of Section 19, Township 14 South, Range 44 East, Boise Meridian; also 10 acres along the West side of the West Half of Southeast Quarter of Section 19, Township 14 South, Range 44 East, Boise Meridian.

PETER E. WARD:

11 0240

1902---4/5 of a cubic foot per second, to be diverted by means of what is known as the Transtrum-Madsen Ditch hereinbefore described, for the irrigation of 40 acres within the Northeast Quarter of Section 25, Township 14 South, Range 43 East, Boise Meridian.

ALMA FINDLAY, JR.

11 0241

1902---3/10 of a cubic foot per second, to be diverted by means of a ditch having its intake in the Northeast Quarter of the Southeast Quarter of Section 19, Township 14 South, Range 43 East, Boise Meridian, for the irrigation of 15 acres within the North Half of the Southwest Quarter of Section 20, Township 14 South, Range 43 East, Boise Meridian.

UTAH POWER & LIGHT COMPANY (as successors in interest to defendant and cross-complainant Anton Madsen);

11 0242

1902---1/2 of a cubic foot per second, to be diverted by means of said Transtrum-Madsen Ditch for the irrigation of 25 acres of the following described lands, to-wit: Northeast Quarter of the Southeast Quarter of Section 25, and Lot 3 of Section 30, Township 14 South, Range 43, East, Boise Meridian.

GEORGE E. JARVIS, THOMAS W. JARVIS AND ALBERT JARVIS:

11 0243

1905---3/50 of a cubic foot per second, to be diverted by means of a ditch having its intake in the Northwest corner of the lands hereinafter mentioned, for the irrigation of the following described tract: Commencing at a point 34 feet North of the Northwest corner of Lot 6, Block 15, Bloomington Townsite Survey, Bear Lake County, Idaho, running thence South 887 feet; more or less; to the bank of Bloomington Creek; thence in a Northwesterly direction following the meanders of said Bloomington Creek to a point 234 feet

directly west of the point of beginning, thence East 264 feet to the point of beginning, containing two acres of land, more or less.

GEORGE REESE CANAL COMPANY, a corporation:

11 13 244 1908---5 cubic feet per second, to be diverted by means of a ditch known as the George Reese Canal having its intake in the Southeast Quarter of the Northeast Quarter of Section 26, Township 14 South, Range 45 East, Boise Meridian, for the irrigation of 250 acres of land belonging to the shareholders of said company living within Sections, 22, 27 and 34, all in Township 14 South, Range 45 East, Boise Meridian, and within the Northeast Quarter of the Northeast Quarter of Section 3, Township 15 South, Range 45 East, Boise Meridian.

5888 c/s 4/15

IT IS FURTHER ORDERED, ADJUDGED and DECREED that all rights hereinbefore decreed shall have a date of priority as of May 1st of the respective years hereinbefore specified, and that all such rights shall, unless otherwise specified, be for the irrigation season of each and every year, to-wit: from May 1st to October 1st.

In accordance with said stipulation, IT IS HEREBY ADJUDGED that all pleadings have been deemed amended to conform to said stipulation and that pleadings have been filed as a basis for the several awards made to individuals not specifically named as defendants in the complaint herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the court shall retain jurisdiction; and jurisdiction is hereby reserved for a period of three years from the date hereof for the purpose of granting relief to any party to the action on account of clerical or typographical errors or inadvertence or for the purpose of making further inquiry and entering additional or modified findings and decree with reference to the rights of the Bloomington Irrigation Company in the event it shall be satisfactorily made to appear that the award of water to said company, as hereinbefore set forth, is in excess of what is required to properly irrigate the lands of the shareholders of said company hereinbefore described, and that claimants possessing subsequent right to the waters of said Bloomington Creek are suffering detriment by reason of such excessive use; and it is ORDERED, ADJUDGED and DECREED that the several persons to whom water is awarded under this decree or those in joint control of any ditch whereby water is diverted shall at his or their own cost and expense install and maintain a measuring device at or near each such point of diversion in order that it may be readily determined what quantity of water is being diverted. Such measuring devices shall be under the exclusive control of those who install or own the same and all others are hereby restrained and enjoined from molesting, tampering or interfering with (but may at any time inspect) any such device.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party pay its own costs herein.

DATED this 25th day of July, 1925.

O. R. BAUM
District Judge.

Filed July 25, 1925,
J. S. Petersen,
Clerk.

MAY 14 1996