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1- Decree - George T. Thornock, et al -vs- Bloomington Irr. Co., et al 11-5208 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.

DECREES

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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
negotiate a settlement and as instructed
complaint and

thence South 2 chains and 50 links; thence West 13 chains and 97 links; thence North 15 degrees West 2 chains and 60 links; thence East 13 chains and 98 links to the place of beginning, and containing 3 acres and 78 square rods of land more or less. Also commencing at a point 14 chains and 7 links South from the Northwest corner of Section 25, Township 14 South, Range 43 East, Boise Meridian, running thence South 2 chains and 50 links; thence East 5 chains and 92 links; thence North 2 chains and 50 links; thence West 5 chains and 92 links to place of beginning, and containing one acre and 76 square rods of land; more or less.

G. C. DUNFORD:

- 11 1227 1889---7/50 of a cubic foot per second to be diverted through said Piggott Ditch; for the irrigation of the following described lands, to-wit: Lot 16, as platted in Bear Lake County Plat Book "B" Page 59; and further described as follows, to-wit: Commencing at a point 18 chains and 50 links North from the Southeast corner of the Northeast Quarter of Section 26, Township 14 South, Range 43 East Boise Meridian, and running thence North 3 chains; thence West 13 chains and 98 links; thence South 15 degrees East 3 chains; thence East 13 chains and 95 links to place of beginning, and containing 4 acres and 29 square rods of land, more or less; also Lot 15 as platted on Page 59 of Bear Lake County Plat Book "B" and further described as follows, to-wit: Commencing at a point 16 chains and 57 links South from the Northeast corner of Section 26, Township 14 South, Range 43 East Boise Meridian, and running thence South 2 chains; thence West 13 chains and 96 links; thence North 15 degrees West 2 chains; thence East 13 chains and 97 links to place of beginning, and containing 2 acres and 126 square rods of land, more or less.

UTAH POWER & LIGHT COMPANY (as successor in interest to defendant Anton Hansen):

- 11 1228 1890---2.47/50 cubic feet per second up to and including June 25th of each and every year, to be diverted through what is known as the "Transtum-Hansen Ditch" having its intake about 20 rods west from Southeast corner of the Southwest Quarter of the Northeast Quarter of Section 26, Township 14 South, Range 43 E.B.M., and also by means of the "Hansen Dam" located on the Archie Bee land hereinafter described and also by means of the "Hansen Dam" located on the lands described in this paragraph, for the irrigation of 149 acres within the following described legal subdivisions: The Northeast Quarter of the Southeast Quarter of Section twenty-five (25), Township fourteen (14) South, Range forty-three (43) and part of Lot three (3) and the Northeast Quarter of the Southeast Quarter of the Southeast Quarter of the Northeast Quarter and the Northwest Quarter of the Northwest Quarter of Section 30, Township 14 South, Range 44 E.B.M.

WILLIAM BEE

- 11 1229 1890---1.1/5 cubic feet per second, up to and including June 25th of each and every year, to be diverted by means of said Hansen Dam, for the irrigation of the South Half of the Southwest Quarter of the Southeast Quarter of Section 25, Township 14 South, Range 43 East, Boise Meridian, and the Northwest Quarter of the Northeast Quarter of Section 26 in said Township and range.

ARCHIE BEE

- 11 1230 1890---Two (2) cubic feet per second up to and including June 25th of each and every year, to be diverted by means of the "Hansen Dam" for the irrigation of 100 acres in the following described legal subdivisions: Northwest Quarter of the Southeast Quarter and the North Half of the Southwest Quarter of the Southeast Quarter and the Southeast Quarter of the

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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:

13 11 6214 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 43 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 43 East, Boise Meridian, and within the Northeast Quarter of the Northeast Quarter of Section 3, Township 15 South, Range 43 East, Boise Meridian.

5688 cts per 6/25

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 inadvertences 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, 1923.

O. R. BAUM
District Judge.

Filed July 25, 1923.
J. B. Petersen,
Clerk.

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