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IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CASSIA

B. W. Dansie, Rachael S. Clark, Alpha Elquist, Vern C. Wooley and Glenn C. Wooley,

Plaintiffs.

vs

L. J. Robinson, Sr. and Mary Robinson,

Defendants.

DECREE

This cause came regularly on for hearing before the Court without a jury on the 18th day of May, 1925, on the complaint of the plaintiff filed herein and the answer and cross complaint of the defendants and the answer of the plaintiffs and cross defendants to the cross complaint of the defendants and cross complainants. The plaintiffs appeared in person and by their attorney, S. T. Lowe, and the defendants appeared in person and by their attorneys, Sweely and Sweely. Thereupon witnesses on behalf of the plaintiffs and cross defendants were duly sworn, examined and cross examined, and documentary evidence introduced and the plaintiffs and cross defendants rested. Witnesses on behalf of the defendants and cross complainants were duly sworn, examined and cross examined and documentary evidence introduced and the defendants and cross complainants then asked leave of court to file an amended cross complaint and were by the Court granted ten days in which to file an amended cross complaint and the defendants having filed in said Cause an amended cross complaint and the plaintiffs having answered the said amended cross complaint, the said cause was thereafter, to-wit; on the 17th day of July, 1925, duly called for further proceedings and thereafter witnesses on behalf of the defendants and cross complainants were called, sworn, examined and cross examined and documentary evidence introduced and the defendants and cross complainants rested; thereupon witnesses on behalf of the plaintiffs and cross defendants were called, sworn, examined and cross examined and documentary evidence introduced in rebuttal and the plaintiffs and cross defendants rested; witnesses on behalf of the defendants and cross complainants were sworn and examined in surrebuttal and the defendants and cross complainants rested, and the evidence being closed the cause was submitted to the Court and counsel for the respective parties given time in which to file written briefs. The Court having fully considered all of the evidence and being fully advised in the premises and having made and filed herein his Findings of Fact and Conclusions of Law and concluded that the plaintiffs are entitled to a decree of this Court as prayed for in their complaint.

NOW THEREFORE, by virtue of the law and by reason of the premises, it is hereby ORDERED, ADJUDGED AND DECREED:

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Spring for stock and domestic purposes during the entire year. That the waters of Land Creek are to be diverted at a point near the Southwest corner of the Northwest quarter of the Northwest quarter ($NW\frac{1}{4}NW\frac{1}{4}$) of Section 5, Township 13 South, Range 23 East Boise Meridian, and the waters of Land, Warm or Thorn Spring to be diverted in the Southwest quarter of the Northwest quarter ($SW\frac{1}{4}NW\frac{1}{4}$) of Section 6, Township 13 South, Range 23 East Boise Meridian.

VIII.

That the lands to which the waters herein given and granted to the plaintiffs, Vern C. Wooley and Glenn C. Wooley, and to which the same are hereby made appurtenant are situated in the County of Cassia, State of Idaho, and particularly described as follows, to-wit: Northeast quarter of the Northwest quarter ($NE\frac{1}{4}NW\frac{1}{4}$) of Section six (6) Northeast quarter of the Northeast quarter ($NE\frac{1}{4}NE\frac{1}{4}$) of Section seven (7) all in township thirteen (13) South, Range twenty-three (23) East Boise Meridian, also a tract of land described as follows, to-wit; beginning at a point 638.4 feet West of the Southeast corner of Section 36, Township 12 South Range 22 East Boise Meridian, thence North 14 degree 40 minutes East 414.51 feet, thence West 4746.50 feet, thence South 401 feet, thence East 4641.51 feet, thence West 4746.50 feet, thence South 401 feet, thence East 4641.54 feet to the place of beginning; also a further tract of land, described as follows, to-wit; Beginning at a point 660 feet West of the Northeast corner of Section one (1) township Thirteen (13) South, Range Twenty-two (22) East Boise Meridian, thence South 82.28 feet, thence North 14 degrees 40 minutes East 85.07 feet; thence West 21.54 feet, to the place of beginning.

IX.

45-0703 That the defendant and cross complainant, L. J. Robinson, Sr. be and he is hereby given and granted the use and the right to the use of 3.2 cubic feet per second or 160 inches of the flood or flush waters of Land Creek with date of priority of April 1, 1912, for irrigation, stock and domestic purposes, during the irrigation season from March first to December fifteenth of each year, upon the lands hereinafter described, the same to be diverted from Land Creek in the Northeast quarter of the Northeast quarter ($NE\frac{1}{4}NE\frac{1}{4}$) of Section 6, Township 13 South, Range 23 East Boise Meridian.

X.

That the lands to which the waters herein given and granted to the defendants, L. J. Robinson, Sr., and to which the same are hereby made appurtenant are situated in the County of Cassia, State of Idaho, and particularly described as follows, to-wit; Northeast quarter ($NE\frac{1}{4}$) of Section thirty-six (36), Township twelve (12) South, Range twenty-two (22) East Boise Meridian.

XI.

That each party hereto be perpetually enjoined and restrained from in any manner interferring with the flow of the waters to which the other parties are entitled.

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XII.

That the defendants, L. J. Robinson, Sr., and Mary Robinson be perpetually enjoined and estopped from interferring with the water rights of the plaintiffs or either or any of them, or any of the ditches owned by the plaintiffs or any of them, and that the temporary injunction heretofore granted in favor of the plaintiffs and against the defendants is hereby made permanent and perpetual.

XIII.

That any water that shall be flowing from Land, Warm or Thorn Spring, during the period of the year from the Fifteenth day of December and the first day of March of each year, not herein specifically decreed for stock and domestic purposes shall be turned into the old channel of said Spring and permitted to flow down the same without any interruption by any of the plaintiffs, their successors or assigns.

XIV.

That the plaintiffs have and recover from the defendants, all their costs and disbursements of suit, to be taxed at the sum of $___, together with interest thereon from the date of this judgment until paid at the rate of seven per cent per annum, and that they have execution for the collection of such costs.

DATED this 3rd day of March, 1926.

T. Bailey Lee
District Judge.

Filed for record at request of S. T. Lowe at 4:35 P.M., March, 4th, 1926.

B. F. Wilson County Recorder

Recorded in Book 5 of Judgments on pages 539-541

Certificate of True Copy—Clerk of the District Court, Ex-Officio Auditor and Recorder.

STATE OF IDAHO, County of Cassia } ss.

I, B. F. Wilson, Clerk of the District Court, Ex-Officio Auditor and Recorder in and for Cassia County, Idaho, do hereby certify that the foregoing is a true and correct copy of the original Decree of B. W. Dansie et al Plaintiffs vs. L. J. Robinson, Sr. and Mary Robinson, Defendants.

.....now on record in my office at Burley, Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal.

Done at Burley, Idaho, this 15th day of August A. D. 1929.

B. F. Wilson

Clerk of the District Court, Ex-Officio Auditor and Recorder.

By ..... Deputy.

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MEMORANDUM

TO: FILE 45-00703

FROM: PAM SKAGGS

RE: TRANSFER # 5147

DATE: 10-7-97

Original Transfer Application, Form and correspondence regarding the above referenced Transfer is located within file # 45-00163.