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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR
WASHINGTON COUNTY.

BROWNLEE SHEEP COMPANY, A Corporation;
and DIBBRAE SHEEP COMPANY, A Corporation,
Plaintiffs,

vs

W A WHITFACER, Successor to C D PHILLIPS
and RAY McCLAVE, HENRY LYONS, WILLIAM
HIGGINS, EMMAJAN HIGGINS, GEORGE DEBORD,
THOMAS DEBORD, H P DAVIS, JAMES ROTH, FRANK
HENLY, MERTON HANAMAN, PAUL RAYMOND, WILLIAM
BOYLDS, and COTTONWOOD SHEEP COMPANY, a
Corporation,

Defendants.

AMENDED DECREE.

This cause came on for trial and hearing in Chambers, at Weiser, Washington
County, Idaho, before Honorable B S Varian, a Judge of above entitled Court, pursuant to
stipulation of all parties duly entered into by and through their respective attorneys.

It appearing to the Court that personal service of Summons in the above en-
titled action had been had upon defendants George Debord, Frank Henly, Thomas Debord, and
the time for answer has long since expired and that said defendants and each of them have
failed to answer or otherwise plead to the complaint of the plaintiff, on motion of the
attorney for the plaintiffs, the default of said George Debord, Thomas Debord and Frank
Henly for want of answer is hereby entered.

Whereupon an agreed statement of facts was made in Court by respective counsel
and predicated upon said agreed statement of facts it was stipulated that judgment be en-
tered in said action in accordance therewith. Said statement of facts as agreed upon was
embodied in this decree which was presented to the Court and counsel stipulated that said
decree should be signed by the Court as the Decree in this action and that findings of
fact be waived.

WHEREFORE, by reason of the law and the premises it is hereby ordered, adjudged
and decreed as follows:

That during all of the times mentioned in this action Brownlee Sheep Company
was and still is a corporation organized and existing under and by virtue of the laws of
the State of Idaho with its principal place of business in Washington County, Idaho.

That during all of the times mentioned in this action Dibrae Sheep Company was
and still is a corporation organized and existing under the laws of Colorado and is en-
titled to do business within the State of Idaho.

That during all of the times mentioned in this action Cottonwood Sheep Company
was and still is a corporation organized and existing under the laws of the State of Ida-
ho, with its principal place of business in Washington County, Idaho.

That Brownlee Creek, Trail Creek and Pole Creek and Grade Creek are each public
streams of the State of Idaho, located within Washington County, Idaho.

That the duty of water as applied to all of the lands of the plaintiff and the
defendants which are irrigated from either Brownlee, Trail Creek, Pole Creek or Grade
Creek, is fixed at one miner's inch, measured under a four inch pressure, per acre, per
irrigation season, continuous flow, which is basis for measuring all rights decreed and
adjudicated by this decree.

That all of the lands of the plaintiff and the various defendants described and
set forth in the complaint and the various answers and cross complaints are arid in
character and without the aid of artificial irrigation will not produce remunerative
crops; but with the aid of artificial irrigation will produce remunerative crops.

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That the plaintiffs and defendants are each the owners of, and in possession of, the various pieces, parcels and lots of land as specifically described and set forth in the complaint and various answers and cross-complaints herein.

It is further adjudged that Trail Creek, Pole Creek and Grade Creek are all tributaries of Brownlee Creek.

It is further ordered, adjudged and decreed that the plaintiffs and each of the defendants, and their predecessors in interest who made appropriations of water for the lands hereinafter described, or who now hold water as hereinafter described and set forth were citizens of the United States, at the time residents of the State of Idaho, and in every respect qualified under the constitution and laws of the State of Idaho to appropriate water and to own water rights appurtenant to land.

It is further ordered, adjudged and decreed that the following named parties to this action do have and there is hereby decreed unto them the following amounts of water from the following named creek to be used in irrigating the following described lands to which said waters are hereby adjudged to be appurtenant. All of the said water hereby adjudicated to be measured in miner's inches under a four inch pressure. And it is further adjudged that when user is taking water out of any of the tributaries of any of the streams herein described and by reason of the taking and using of such water from said tributary stream the amount of water adjudged to the lower owner, older in point of time, is not flowing to the headgate of the lower older user, then such upper user out of said tributary shall cease to use the water in such tributary stream when same is needed by such lower older user to make up the amount to which he is entitled by this decree.

69 00034 BROWNLEE SHEEP COMPANY. 15 inches of the date of 1872, to be taken out of ditch on North side of Brownlee Creek; 18 inches of date of 1887 to be taken in ditch out of Brownlee Creek on the North side thereof and 15 inches of the date of 1884 to be taken in ditch on South side of Brownlee Creek. All said water to be taken out of Brownlee Creek. Said water being appurtenant to and to be used in the irrigation of the following described lands (commonly known as the Neal Ranch) to-wit:

69 00037 Lots 2, 3 and 4, and North half SW 1/4 all in Section 22, Twp 17 N R 5 W B M.

BROWNLEE SHEEP COMPANY. Five inches of the date of 1905 (Holland Place), out of Main Brownlee Creek; Four inches of the date of 1887 (Vall Place) out of Main Brownlee

69 00038 Creek; Seven inches of date of 1887 out of Main Brownlee Creek; 4 inches of date of 1887 out of Middle Fork of Brownlee Creek; 5 inches of date of 1894 out of Main Brownlee Creek and 27 inches of date of 1890 out of Middle Fork (last four rights being for Scotty place); 27 inches of date of 1890 out of Middle Fork (Madison place). All of said water is to be taken from said creeks and to be used in the irrigation of the following described lands to which said water is appurtenant, as follows, to-wit:

Northeast quarter of Northeast quarter, West half of Northeast quarter, West half of Southeast quarter of Section 35, in Township 17 North of Range 5 West of Boise Meridian; and the lots 3, 4 and the Southeast quarter of the Northwest quarter of Section 1; lots 1 and 2 and the Southeast quarter of the Northeast quarter, Southwest quarter of Northeast quarter and Southeast quarter of the Northwest quarter of section 2, and the South half of the Southwest quarter of section 1; and the North half of the Northwest quarter of section 12 in Township 16 N R 5, W B M.

69 00042 BROWNLEE SHEEP COMPANY. 109 inches of the date of 1887 and 25 inches of the date of 1899, both out of Main Brownlee Creek. All of said water is appurtenant to and to be

used in the irrigation of the following described lands of said Denbree Sheep Company, to-wit:

lots 2 and 3 and the Southeast quarter of the Southeast quarter of section 15; lot one and the Northeast quarter of section 22; Northeast quarter of the Southwest quarter, and Southeast quarter of the Southwest quarter and West half of the Southeast quarter of section 26 and the Southwest quarter of the Southeast quarter of section 14; the Southeast quarter of section 33 - all in Township 17 North of Range 5 West of Boise Meridian; lot 4, section 3; and lots 1, 2 and 3, section 4; the South half of the Northeast quarter and the Southeast quarter of the Northwest quarter and lots 3 and 4 of section 6; all in Township 16 North of Range 5 West of Boise Meridian; lots 1, 2 and 3, section 1, Township 16 North of Range 6 West of Boise Meridian; Southeast quarter of the Southeast quarter of section 32; Southwest quarter of the Southwest quarter of section 33, all in Township 16 North of Range 4 W B M; lots 3 and 4, section 4, in Township 15 North of Range 4 West of Boise Meridian; Southeast quarter of the Northeast quarter of section 22 in Township 17 North of Range 5 West of Boise Meridian.

69 0016 COTTONWOOD SHEEP COMPANY, 23 inches out of West Fork of Brownlee Creek of the date of 1903, which water is appurtenant to and to be used in the irrigation of the following described lands now owned by said Cottonwood Sheep Company, a corporation, to-wit:

West half of Southeast quarter, South half of Northwest quarter, and lot one, section 11; Southwest quarter of Northeast quarter, Northwest quarter of Southeast quarter, Southeast quarter of Northwest quarter, Northeast quarter of Southwest quarter of section 12; North half of Northeast quarter of section 14; and lots 3 and 4, section 2, all in Township 16 North of Range 6 W B M.

69 0018 BROWNLEE SHEEP COMPANY, 14 inches out of West Fork of Brownlee Creek of date 1885; 4 inches out of West Fork of Brownlee Creek of date of 1885, and 4 inches out of West Fork of Brownlee Creek of date of 1895; all of said water is appurtenant to and to be used in the irrigation of the following described lands of Brownlee Sheep Company (known as Williamson Place), to-wit:

The same lands of the said Brownlee Sheep Company located in Township 17 North of Range 5 West of Boise Meridian and in Township 16 North of Range 5 W B M, hereinbefore in this decree specifically set forth and described.

69 0020 WILLIAM BOYLES, 10 inches of the date of 1916 and 5 inches of the date of 1912 out of Main Brownlee Creek; said water is appurtenant to and to be used in the irrigation of the following described real estate of the said William Boyles, to-wit:

69 0022 PAUL HAYMOND, 2 inches of date of 1901, out of Main Brownlee Creek; which water is appurtenant to and to be used in the irrigation of the following described lands of said Paul Raymond,

beginning at corner No 1, from which the South quarter corner of said section 9 bears S. 19° 24' East 29.73 chains distant, thence N 17 deg. 43' W. 3.99 chains to corner No 2; thence N 65 deg. 13' E. 11.95 chains to corner No 3; thence S 8 deg. 8' E. 4.74 chains to corner No 4; thence S 68 deg. 19' W. 10.73 chains to corner No 1 in Section 9, Twp 16 N R 4 W B M.

69 0023 GROVER GIBBS, 11 inches of date of 1915; from Grade Creek, a tributary of Brownlee Creek; which water is appurtenant to and to be used in the irrigation of the following described lands of said Grover Gibbs, to-wit:

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SW $\frac{1}{4}$ SW $\frac{1}{4}$, section 30, N $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$, section 31, all in township 17 N R 4 W B M; and also SE SW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, lots 3 and 4 section 32, in township 17 N R 4 W B M.

Grade Creek, a tributary of Brownlee Creek; which water is appurtenant to and to be used in the irrigation of the following described lands of said William Higgins, to-wit: lots 4 and 5, section 31, Twp 17 N R 4 W B M.

NEWTON HANAMAN, 3 inches of date of 1916 out of Main Brownlee Creek; which water is appurtenant to and to be used in the irrigation of the following described lands of said Newton Hanaman, to-wit:

SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, SE NW $\frac{1}{4}$, section 7 in township 16 N R 4 W B M.

W A WHITTAKER, as the successors in interest of and grantee from B D Phillips and Ray R McClave, 51 inches of date of 1890 and 30 inches of date of 1906, both out of Grade Creek a tributary of Brownlee Creek (Henley Ranch); 2 inches out of Long Gulch of date of 1882; 17 inches of date of 1895 out of Camp Creek and 10 inches out of Brownlee Creek of date of 1905; 69 inches of date of 1907 out of Main Brownlee Creek (Devils Ranch); which water is appurtenant to and to be used in the irrigation of the following described lands of said W A Whittaker, to-wit:

N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, section eight; N $\frac{1}{2}$ NW $\frac{1}{4}$ section 9; SE SW $\frac{1}{4}$, section 5; NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said section 5; and N $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said section 5; all in township 16 N R 4 W B M.

Also, NW $\frac{1}{4}$ of section 6; N $\frac{1}{2}$ NW $\frac{1}{4}$ of said section 6, in township 16 N, R 4 W B M. N $\frac{1}{2}$ SW $\frac{1}{4}$ of section 31 in township 17 N R 4 W B M.

JAMES HUTH, 8 inches of date of 1873, 3 inches of date of 1889 and 39 inches of date of 1890, all to be taken out of Main Brownlee Creek (the 3 inches above to be taken through what is known as the Henley Ditch); all of said water being appurtenant to and to be used in the irrigation of the following described lands of the said James Huth, to-wit: NW $\frac{1}{4}$, and N $\frac{1}{2}$ SW $\frac{1}{4}$, section 1, in township 16 North of Range 5 West of Boise Meridian.

HENRY LYONS, 7 inches out of Main Brownlee Creek of date of 1900; which water is appurtenant to and to be used in the irrigation of the following described lands of the said Henry Lyons, to-wit:

Northeast quarter of Southwest quarter and Northwest quarter of Southeast quarter, section 8 in township 16 North, of Range 4 West of Boise Meridian.

It is further ordered, adjudged and decreed that each and every of the parties to this action be and they and each of them are hereby forever enjoined and restrained from claiming or attempting to claim any interest in and to the waters of said Brownlee Creek, Grade Creek, Trail Creek and Pole Creek, or any or either of them, contrary to the adjudication and appurtenment of the said waters of said creeks between the various users thereof as set forth and awarded in this decree; and each and every of said parties hereto is further perpetually enjoined and restrained from using any of said waters of any of said creeks when said waters are necessary to be turned down to a lower prior appropriator for his use under the terms of this decree and adjudication.

It is further adjudged and decreed that each of the parties hereto shall pay his own costs in this action.

Done at Weiser, Washington County, Idaho, this the 10th day of November, 1921.

B B Varian,
Filed and entered Jan. 10, 1922.
Frank R Smith, Clerk District Court,
By B B Hunt, Deputy.

B B Varian,
District Judge
1922

STATE OF IDAHO)
County of Washington) ss

I, Frank E Smith, Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Washington, do hereby certify that the within and foregoing is a full, true and correct copy of the Amended Decree in the action entitled Brownlee Sheep Company, et al, Plaintiffs, vs. W A Whitaker, et al, Defendants, as the same appears of record in Judgment Book "E" at pages 484 to 487 inclusive, records of said Court and County.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court this 19th day of January, 1922.

Frank E Smith
Clerk of the District Court .

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69-B

BROWNLEE SHEEP COMPANY, a corporation,
and DENHAM SHEEP COMPANY, a corporation,
Plaintiffs,

vs

W A WITTAKER, Successor to C D Phillips
and RAY MCCLAVE, HENRY LYONS, WILLIAM
HIGGINS, BENJAMIN HIGGINS, GEORGE DEBORD,
THOMAS DEBORD, H P DAVIS, JAMES ROTH,
FRANK HENLEY, NATHAN HANAHAN, PAUL RAYMOND,
WILLIAM BERTINS, AND COTTONWOOD SHEEP COM-
PANY, a corporation,

Defendants.

Defendants.

This cause came on for trial and hearing in Chambers, at Weiser, Washington County, Idaho, before Honorable J S Varian, a Judge of above entitled Court, pursuant to stipulation of all parties duly entered into by and through their respective attorneys.

It appearing to the Court that personal service of Summons in the above entitled action had been had upon defendants George Debord, Frank Henley, Thomas Debord, and the time for answer has long since expired and that said defendants and each of them have failed to answer or otherwise plead to the complaint of the plaintiff, on motion of the attorney for the plaintiffs, the default of said George Debord, Thomas Debord and Frank Henley for want of answer is hereby entered.

Whereupon an agreed statement of facts was made in Court by respective counsel and predicated upon said agreed statement of facts it was stipulated that judgment be entered in said action in accordance therewith. Said statement of facts so agreed upon was embodied in this decree which was presented to the Court and counsel stipulated that said decree should be signed by the Court as the decree in this action and that findings of fact be waived.

WHEREFORE, by reason of the law and the premises it is hereby ordered, adjudged and decreed as follows:

That during all of the times mentioned in this action Brownlee Sheep Company was and still is a corporation organized and existing under and by virtue of the laws of the State of Idaho, with its principal place of business in Washington County, Idaho.

That during all of the times mentioned in this action Denham Sheep Company was and still is a corporation organized and existing under the laws of Colorado and is entitled to do business within the State of Idaho.

That during all of the times mentioned in this action Cottonwood Sheep Company was and still is a corporation organized and existing under the laws of the State of Idaho, with its principal place of business in Washington County, Idaho.

That Brownlee Creek, Trail Creek and Pole Creek and Grade Creek are each public streams of the State of Idaho, located within Washington County, Idaho.

That the duty of water so applied to all of the lands of the plaintiff and the defendants which are irrigated from either Brownlee, Trail Creek, Pole Creek or Grade Creek, is fixed at one miners inch measured under a six inch pressure, per acre, per irrigation season, continuous flow, which is basis for measuring all rights decreed and adjudicated by this decree.

That all of the lands of the plaintiff and the defendants as described

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and set forth in the complaint and the various answers and cross complaints are and in character and without the aid of artificial irrigation will not produce remunerative crops; but with the aid of artificial irrigation will produce remunerative crops.

That the plaintiffs and defendants are each the owners of, and in possession of, the various pieces, parcels and lots of lands as specifically described and set forth in the complaint and various answers and cross-complaints herein.

It is further adjudged that Trail Creek, Pole Creek and Grade Creek are all tributaries of Brownlee Creek.

It is further ordered, adjudged and decreed that the plaintiffs and each of the defendants, and their predecessors in interest who made appropriations of water for the lands hereinafter described, or who now hold water as hereinafter described and set forth were citizens of the United States, at the time residents of the state of Idaho, and in every respect qualified under the constitution and laws of the State of Idaho to appropriate water and to own water rights appurtenant to land.

It is further ordered, adjudged and decreed that the following named parties to this action do have and there is hereby decreed unto the the following amounts of water from the following named creek to be used in irrigating the following described lands to which said waters are hereby adjudged to be appurtenant. All of the said water hereby adjudicated to be measured in where inches under a six inch pressure. And it is further adjudged that when user is taking water out of any of the tributaries of any of the streams herein described and by reason of the taking and using of such water from said tributary stream the amount of water adjudged to the lower over older in point of time is not flowing to the headgate of the lower older user, then such upper user out of said tributary shall cease to use the water in such tributary stream when same is needed by such lower older user to make up the amount to which he is entitled by this decree.

BROWNLEE CREEK COMPANY. 15 inches of the date of 1872, to be taken out of ditch on North side of Brownlee Creek; 10 inches of date of 1887 to be taken in ditch out of Brownlee Creek on the North side thereof and 15 inches of the date of 1884 to be taken in ditch on South side of Brownlee Creek. All said water to be taken out of Brownlee Creek. Said water being appurtenant to and to be used in the irrigation of the following decreed lands (commonly known as the Neal Ranch), to-wit:

Lots 2, 3 and 4 and North half ~~and~~ all in section 22 in Twp. 17 N R 5 W 3 N.

BROWNLEE CREEK COMPANY. Five inches of the date of 1905 (Holling Place) out of Main Brownlee Creek; four inches of the date of 1887 (Veil Place) out of Main Brownlee Creek; seven inches of date of 1887 out of Main Brownlee Creek; 4 inches of date of 1887 out of Middle Fork of Brownlee Creek; 5 inches of date of 1894 out of Main Brownlee Creek and 27 inches of date of 1890 out of Middle Fork (last four rights being for Scotty place); 27 inches of date of 1890 out of Middle Fork (Madison place). All of said water is to be taken from said creeks and to be used in the irrigation of the following described lands, to which said water is appurtenant, as follows, to-wit:

Northeast quarter of Northeast quarter, West half of Northeast quarter, west half of Southeast quarter of section 35 in Township 17 North of Range 5 west of Boise Meridian; and the lots 3, 4 and the Southeast quarter of the Northwest quarter of section 1; lots 1 and 2 and the Southeast quarter of the Northeast quarter of the Northwest quarter of section 2, and the Northeast quarter and southeast quarter of the Northwest quarter of section 2, and the

South half of the Southwest ____ of section 1; and the North half of the Northwest quarter of section 12 in Township 16 N R 5, W B M.

DENVER SHEEP COMPANY. 109 inches of the date of 1887 and 25 inches of the date of 1889, both out of Main Brownlee Creek. All of said water is appurtenant to and to be used in the irrigation of the following described lands of said Denver Sheep Company, to-wit:

Lots 2 and 3 and the Southeast quarter of the Southeast quarter of section 15; lot one and the Northeast quarter of section 22; Northeast quarter of the Southwest quarter, and southeast quarter of the southwest quarter and West half of the Southeast quarter of section 26, and the Southwest quarter of the Southeast quarter of section 14; the Southeast quarter of section 33 - all in Township 17 North of Range 5 West of Boise Meridian; Lot 4 section 3; and Lots 1, 2, and 3 section 4; the South half of the Northeast quarter and the Southeast quarter of the Northwest quarter and Lots 3 and 4 of section 6, all in Township 16 North of Range 5 West of Boise Meridian; Lots 1, 2 and 3, section 1; Township 16 North of Range 6 West of Boise Meridian; Southeast quarter of the Southeast quarter of section 32; Southwest quarter of the Southwest quarter of section 33, all in Township 16 N of Range 4 W B M; Lots 3 and 4 section 4; in Township 15 North of Range 4 West of Boise Meridian; Southeast quarter of the Northeast quarter of section 22 in Township 17 North of Range 5 West of Boise Meridian.

COTTONWOOD SHEEP COMPANY. 23 inches out of West Fork of Brownlee Creek of the date of 1903, which water is appurtenant to and to be used in the irrigation of the following described lands now owned by said Cottonwood Sheep Company, a corporation, to-wit:

West half of Southeast quarter, South half of Northwest quarter and lot one section 11; Southwest quarter of Northeast quarter, Northwest quarter of Southeast quarter, Southeast quarter of Northwest quarter, Northeast quarter of Southwest quarter of section 12; North half of Northeast quarter of section 14; and Lots 3 and 4 section 2, all in Township 16 N of R 6 W B M.

BROWNLEE SHEEP COMPANY. 14 inches out of West Fork of Brownlee Creek of date 1885; 4 inches out of West Fork of Brownlee Creek of date of 1885; and 4 inches out of West Fork of Brownlee Creek of date of 1895; all of said water is appurtenant to and to be used in the irrigation of the following described lands of Brownlee Sheep Company (known as Williamson Place), to-wit:

The same lands of the said Brownlee Sheep Company located in Township 17 North of Range 5 West of Boise Meridian and in Township 16 North of Range 5 W B M hereinbefore in this decree specifically set forth and described.

WILLIAM BOYLES. 10 inches of the date of 1916 and 5 inches of the date of 1912 out of Main Brownlee Creek; said water is appurtenant to and to be used in the irrigation of the following described real estate of the said William Boyles, to-wit:

W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ section 13 and SW $\frac{1}{4}$ NW $\frac{1}{4}$ section 14 in Township 16 N R 5 W B M.

PAUL RAYMOND. 2 inches of date of 1901, out of Main Brownlee Creek; which water is appurtenant to and to be used in the irrigation of the following described lands of said Paul Raymond "Beginning at Corner No 1 from which the South quarter corner of said section 9 bears S 19 deg. 24' East 29.78 chains distant; thence N 17 deg. 41' W 3.99 chains to corner No 2; thence N 65 deg. 13' W 11.95 chains to corner No 3; thence S 8 deg. 8'

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N 4.74 chains to corner No 4; thence S 68 deg. 19' W 10.73 chains to corner No 1 in section 9 Twp 16 N R 4 W B M.

GROVER GIBBS. 41 inches of date of 1915; from Grade Creek, a tributary of Brownlee Creek; which water is appurtenant to and to be used in the irrigation of the following described lands of said Grover Gibbs, to-wit:

SW¹/₄ SW¹/₄ Section 30, NE¹/₄ NW¹/₄ and SW¹/₄ NW¹/₄ Section 31, all in Township 17 N R 4 W B M; and also SE¹/₄ SW¹/₄, NW¹/₄ NW¹/₄, NE¹/₄ SW¹/₄, lots 3 and 4 Section 32 in Township 17 N R 4 W B M.

WILLIAM HIGGINS. 6 inches of date of date of 1889 and 2 inches of date of 1915, out of Grade Creek, a tributary of Brownlee Creek; which water is appurtenant to and to be used in the irrigation of the following described lands of said William Higgins, to-wit: Lots 4 and 5 Section 31, Twp 17 N R 4 W B M.

NEWTON HANAMAN. 3 inches of date of 1916 out of Main Brownlee Creek; which water is appurtenant to and to be used in the irrigation of the following described lands of said Newton Hanaman, to-wit:

SW¹/₄ NW¹/₄, NW¹/₄ NW¹/₄, SE¹/₄ NW¹/₄ Section 7 in Township 16 N R 4 W B M.

W A WHITTAKER, as the successors, interest of and grantees from, S D Phillips and Ray K McCleave, 51 inches of date of 1890 and 30 inches of date of 1906, both out of Grade Creek a tributary of Brownlee Creek; (Benley Ranch); 2 inches out of Long Gulch of date of 1882; 17 inches of date of 1895 out of Grade Creek, 10 inches out of Brownlee Creek of date of 1905; 69 inches of date of 1907 out of Main Brownlee Creek (Davis Ranch; which water is appurtenant to and to be used in the irrigation of the following described lands of the said W A Whittaker, to-wit:

NE¹/₄ NW¹/₄, SW¹/₄ NW¹/₄, SE¹/₄ NW¹/₄, NW¹/₄ NW¹/₄ Section eight; NE¹/₄ NW¹/₄, Section 9, SE¹/₄ SW¹/₄ of Section 5; NW¹/₄ SW¹/₄ of said section 5; and NE¹/₄ SW¹/₄ and SW¹/₄ SW¹/₄ of said section 5; all in Township 16 N R 4 W B M.

Also NW¹/₄ of section 6; NE¹/₄ NW¹/₄ of section 6, in Township 16 N R 4 W B M, NE¹/₄ SW¹/₄ of section 31 in Township 17 N R 4 W B M.

JAMES RUTH. 8 inches of date of 1873, 3 inches of date of 1889 and 39 inches of date of 1890, all to be taken out of Main Brownlee Creek (the 3 inches above to be taken through what is known as the Henley ditch); all of said water being appurtenant to and to be used in the irrigation of the following described lands of the said James Ruth, to-wit:

NW¹/₄ and NE¹/₄ SW¹/₄ Section 1 in Township 16 North of Range 5 West of Boise Meridian.

HENRY LYONS. 7 inches out of Main Brownlee Creek of date of 1900; which water is appurtenant to and to be used in the irrigation of the following described lands of the said Henry Lyons, to-wit:

Northeast quarter of Southwest quarter and Northwest quarter of Southeast quarter section 8 in Township 16 North of Range 4 West of Boise Meridian.

It is further ordered, adjudged and decreed that each and every of the parties to this action be and they and each of them are hereby forever enjoined and restrained from claiming or attempting to claim any interest in and to the waters of said Brownlee Creek, Grade Creek, Trail Creek and Pole Creek, or any or either of them contrary to the

adjudication and apportionment of the said waters of said creeks between the various users thereof as set forth and awarded in this decree; and each and every of said parties hereto is further perpetually enjoined and restrained from using any of said waters of any of said creeks when said waters are necessary to be turned down to a lower prior appropriator for his use under the terms of this decree and adjudication.

It is further adjudged and decreed that each of the parties hereto shall pay his own costs in this action.

Done in Welsch, Washington County, Idaho, this the 12th day of September, 1921.

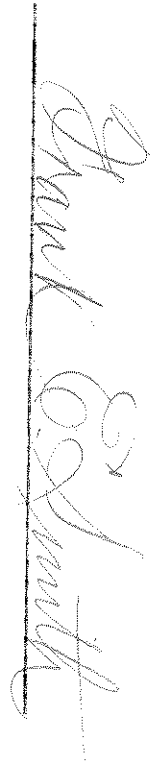
D. S. Varian,
District Judge.

Filed and entered Sep. 14, 1921,
Frank E. Smith,
Clerk District Court.

STATE OF IDAHO }
County of Washington) ss

I, Frank E. Smith, Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for Washington County, hereby certify that the within and foregoing is a true and complete copy of the Decree in the action entitled Brownlee Sheep Company, et al, vs. W. A. Whitaker, et al, rendered in the above entitled Court on the 12th day of September, 1921, and filed and entered on the 14th day of September, 1921, as the same appears of record in Book E of Judgments at pages 407 to 411 inclusive, records of said Court.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Court this 30th day of September, 1921.


Clerk of the District Court

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