

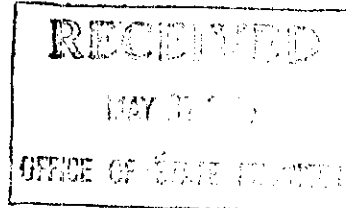
IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR ELMORE
COUNTY.

E. M. Kimbrough,
Plaintiff.

Vs.

D E C R E E.

Hiram Canfield, Mary
Canfield, his wife,
Charles Brady, Miles
C. Lawrence, and Lydie
Lawrence, his wife,
Hezekiah G. Bayles,
Minnie Bayles and Victor
Walker,
Defendants.



And now this cause coming on to be heard upon the findings of facts and conclusions of law hereinbefore filed, and the court being fully advised in the premises, it is ordered, adjudged and decreed:

I.

That the plaintiff, be and he is hereby awarded the use of the amount of water hereinafter stated, from the waters of King Hill Creek, in each year, from the following dates of priority, to-wit:-

61 0349 1st. For the West half of the Northeast quarter of Section Eleven and the Southwest quarter of the Southeast quarter and the southeast quarter of the Southwest quarter of Section Two, Township Five South, of Range Ten East of Boise Meridian, Sixty inches dating from April 1st. 1876.

61 0350 2nd. For the East half of the Northwest quarter of Section Eleven, Township Five, South of Range Ten East of Boise Meridian, Forty inches dating from January 1st. 1901.

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II.

That the defendant Hezekiah G. Bayles and Minnie Bayles, be and they are hereby awarded the use of the amount of water hereinafter stated, from the waters of King Hill Creek, in each year, from the

following dates of priority, to-wit:-

61 0351 1st. For the North half of the Northwest quarter Section Twenty-five and the Southeast quarter of the Southwest quarter and the Southwest quarter of the Southeast quarter of Section Twenty-four, all in Township four South of Range ten East of Boise Meridian, One hundred inches dating from April 1st. 1886.

61 0352 2nd. For the Southwest quarter of the Southeast quarter of Section Twenty-seven and the Northwest quarter of the Northeast quarter of Section Thirty-four, all in Township Four South of Range Ten East of Boise Meridian, Forty inches dating from April 1st 1894.

III.

That the defendant Hiram Canfield and Mary Canfield, be and they are hereby awarded the use of the amount of water hereinafter stated, from the waters of King Hill Creek, in each year from the following dates of priority, to-wit:-

61 0353
T-1757 1st. For the East half of the Southwest quarter of Section Eleven and the Northeast quarter of the Northwest quarter of Section Fourteen Township Five South of Range Ten East of Boise Meridian, fifty-six inches from the 1st. day of April, 1891.

61 0354 2nd. For the South half of the Southeast quarter and the Northwest quarter of the Southeast quarter of Section Thirty-four, Township Four, South of Range Ten East; (and the Northwest quarter of the Southwest quarter and southwest quarter of the Northwest quarter, of Section Two, and the Southeast quarter of the Northeast quarter and Lot No. One of Section Three Township Five, South of Range Ten East of Boise Meridian, One hundred and ninety inches, dating from April 1st. 1895.)

IV.

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Defendant Charles Brady is hereby awarded the use of the amount of water hereinafter stated, from the waters of King Hill Creek, in each year from the following date of priority, to-wit:-

61 0355 1st. For the Northeast quarter of the Southwest quarter of Section Two, Township Five, South of Range Ten, East of Boise Meridian, Twelve inches dating from April 1st. 1896.

V.

Defendant Victor Walker is hereby awarded the amount of water hereinafter stated, from the waters of King Hill Creek, in each year, from the following date of priority, to-wit:

61 0356 1st. For Southeast quarter of the Northeast quarter of Section One in Township Five, South of Range Ten East, the Southwest quarter of the Northeast quarter, the West half of the Southeast quarter, the North Half of the Southwest quarter and the South half of the Northwest quarter of Section Six, Township five South of Range Eleven East of Boise Meridian, Three hundred and twenty inches dating from January, 7th. 1901, and for the purpose of filling a reservoir constructed on said land, said defendant is entitled to six hundred and
61 0357 eighty inches dating from January 7th. 1901.

VI.

That all of said Water hertofore awarded to the respective parties to this action shall be measured at the point or points of diversion from the channel of said stream, in a box or boxes, headgate or headgates, constructed for measuring water under a four-inch pressure, or its equivalent in second-feet,

VII.

That the plaintiff shall take and use his allotment of sixty inches out of his ditch on the west side of the creek until the water in the Creek becomes so low that there is not sufficient to supply any part of the allotment of Hiram Canfield, after which time he may change the use of said water to the ditch on the East side, if he so desires, and he may take^{hi} said water through his ditch on the East side at any time before, provided he leaves six inches of said allotment in the Creek for the purpose of making up his part of the seepage in the West ditch while it is being used by defendant Canfield.

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VIII.

It is further ordered, adjudged and decreed that when the water, allowed to flow undisturbed in the channel of said King Hill Creek, will not reach the land of a prior user, then the person above him on

creek, next in priority of right, shall have the right to use all of the water to the amount of his allotment.

IX.

It is further ordered, adjudged and decreed that the defendant Charles Brady shall have the right to conduct his allotment of water through the ditch on the West side of said creek, owned by plaintiff and Hiram and Mary Canfield during each year when he shall have done and performed his proportion of the labor and expense of keeping said ditch in repair. Provided that said defendant Brady, shall in no manner interfere with the distribution of water through said ditch and the management and control of said ditch shall be in the plaintiff and said defendant, Canfield, and their successors in interest, subject only to rights under this decree; that said Charles Brady shall, at his own cost, but under the direction of plaintiff and said Canfield, or their successors, place a headgate and measuring box, suitably constructed for measuring water under a four inch pressure, or its equivalent in second feet in said ditch at a point where he takes his water therefrom and said box shall be provided with a suitable lock and key which shall be kept by said plaintiff and defendant Canfield, or their successors in interest, who shall distribute to said Charles Brady, for use on his said land the amount of water allotted to him, with his proportion of flood water conveyed in said ditch, free of cost to said Brady or his successors, less the amount or proportion of water lost by evaporation or seepage.

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X.

It is further ordered, adjudged and decreed, that none of the parties hereto, or their successors in interest, shall have the right to the use of the waters of said King Hill Creek, herein awarded, except for a beneficial purpose; that whenever the beneficial use ceases each party shall turn the waters of said stream back into the creek; that each and all of the parties to this action, their servants, employees, privies and successors in interest are hereby enjoined and restrained from any and all interference with or diversion or use of

the waters of said King Hill Creek except as provided in this decree,
whenever such diversion or use will in any manner interfere with the
quantity of water awarded by this decree to any of the parties to this
action or their successors in interest.

That the costs and disbursements of each party shall be born by
each party,

Dated this 2 day of June 1904.

Lytleton Price,
x

District Judge.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT, OF THE STATE
OF IDAHO, IN AND x ELMORE COUNTY. E. M. Kimbrough Plaintiff. VS. H.
Canfield et-als, Defendants. Decree.

Filed June 24 1904. J. A. Purtil, Clerk.

STATE OF IDAHO)
COUNTY OF ELMORE) SS.

I hereby certify that this instrument was filed for record at
request of J. A. Purtil, Clerk at 40 minutes past 2 o'clock P. M.
this 25 day of June A. D. 1904, in my office.

J. A. Purtil,

Ex-officio Recorder.

Fees \$2.50 Pd.

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CERTIFICATE OF TRUE COPY--RECORDER

Gazette Printers, Glenn Ferry, Idaho

STATE of IDAHO) ss.
County of Elmore)

I, F. M. Hobbs, Auditor and Recorder in and for the County of Elmore, State
of Idaho, do hereby certify that the foregoing is a true and correct copy of the original.....decree.....
E. M. Kimbrough vs. Hiram Canfield et al
now on.....record.....in my office. in Book 5 of Judgments Page 96.

Given under my hand and official seal at Mountain Home, Idaho,
this, the 24th day of May, A. D. 1916.

ATTEST: F. M. Hobbs Auditor and Recorder

By.....Deputy

