

63-7

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

Farmers' Cooperative Ditch Company (a corporation)

Plaintiff,

vs.

D E C R E E

Riverside Irrigating District, Limited, (a corporation), The Siebenberg Cooperative Ditch Company, Limited (a corporation), Frank Gilbert, T. W. Doone, Prior Burnett, Thomas Andrews, H. Ray Boudinot, I. M. Tucker, C. E. J. Peterson, William McKnett, Fred J. Kiesel, Neil McCarren, Michael Gilbride, Lower Boise Ditch Company, (a corporation), R. H. Stockton, H. F. Vanderpool, D. D. Camboll, William Boss, Smith Stockton, John Atkins, Ben Ross, John Foss, D. F. McConnell, John Lemm, John Mannon, Bird Bowman, (substituted for M. B. Bowman Jr.), D. Mumford, T. T. Johnson, H. Carlyle, Charles Allen, J. Norman, Robert McGuire, Frederick Ode, Eureka Ditch Company, (a corporation), J. Roland, Thomas J. Palmer and Noah W. Palmer (substituted for Lillian Potter, Administratrix of the Estate of L. D. Potter, deceased, Susan E. Potter, Thad. S. Potter, Elisha Potter, Lillian Potter, Ida Potter, James Baker), C. W. Cooper, Pioneer Dixie Ditch Company (a corporation), William C. Young, Lizzie Young, Estella C. Young, E. E. Kirkpatrick, S. H. Mitchell, L. F. Cook, Triphenia Jobe, administratrix of the estate of J. H. Jobe, deceased, Triphenia Jobe, Charlotte Coonrod, _____ Coonrod, her husband, Minta Lund and Frank Lund, her husband, William Jobe and Alice Jobe, Edith Jobe and Corrinna Jobe, minors, A. Holcomb, George Milner, George Hess, John Thomas, H. H. Whitney, Emma S. Lee, Edwin Curtis, Eureka Water Company

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Norris, James Harvey, Jacob Alchenberger, Peter Watkins, A. J. Bress-
hairs, C. G. Myers, John Langford, F. M. Ryals, Frank Hart, Mrs A.
Moudy, A. Elessinger, Dan Shuse, S. H. Mitchell, T. Cheneworth, W. F.
Foster, Mrs Perkel, Milt McIntyre, Perry Shafer, Hiram Payne, Jacob
Fowler, (sub. for John Steele), J. C. Baldwin, Charles Palmer, D. F.
Swalley, S. McDowell, Mrs E. J. McDowell, J. W. Dickson, Amos Prosser,
William Snodgrass, (sub. for Thomas P. Martin), D. D. Shaw, (sub. for
A. T. Thornton), Frank Hart (sub. for Joseph E. Weeks), James M. Stew-
art, Elza Everett, (sub. for Phelps Everett), W. A. Fowler, State of
Idaho, Snyder & McDowell, William Spielman, T. C. Creason, Ed. Bullock
J. W. McGrath, Middleton Mill Ditch Company, (a corporation), Middle-
ton Canal Company, (a corporation), Middleton Water Company, (a corpor-
ation), Levi Smith, Charlotte Calhoun and David Calhoun her husband,
Lizzie Everett and P. H. Everett her husband, Mrs E. J. Linder and
A. V. Linder her husband, Jesse Wilson, New Union Ditch Company, (a
corporation), New Dry Creek Ditch Company, (a corporation), Farmers'
Union Ditch Company, (a corporation), Boise Valley Irrigation Ditch
Company, (a corporation), John Utter, Stephen Utter, Josephine E.
Gallagher, administratrix of the estate of J. H. Gallagher, (sub. for
J. H. Gallagher), Charles Rein, William Bubb, Barber Lumber Company,
(sub. for I. N. Coston), The Nampa & Meridian Irrigation District,
(sub. for The Boise City Irrigation & Land Company), Settlers' Canal
Company, Limited, (a corporation), New York Canal Company, Limited,
(a corporation), A. Rossi, W. H. Ridenbaugh, R. Z. Johnson, Kate Per-
rault and Joseph Perrault her husband, Boise City Canal Company, (a
corporation), Jacobs Canal Company, Limited, (a corporation), (sub.

(3)

C. H. Allen, Edgar Dilley, W. H. Ross, Isaac Bedal, Julia Hammen,
Keson Creek Ditch Company, (a corporation), W. J. Hamming, Peter
Meoves, Mary G. Davis, Edward H. Part, S. S. Gray, Heirs of Edward and
Mary Clark, John Cecil, Thomas H. Aikens, W. H. Conway, Isham Joplin,
Senora Joplin, Andrew J. Joplin, Francis H. Joplin, Joseph Goble,
Susie Campbell, J. T. Barber, (sub. for James Barber), S. W. Hutchin-
son, Johnson, W. A. Black, (sub. for Ira E. Arney), American
Ditch Association, (a corporation), Charles H. Miller, L. F. Graham,
W. S. Cobb, O. F. Short, Loomis L. Heseley, G. B. Taylor, South
Polso Mutual Irrigation Company, (sub. for William Bubb, Alexander Mc-
Therson and L. Carrie McTherson, Annie H. Fogarty, (sub. for Gardner
Adams and Mildred Adams), Grace Call, Samuel H. Canfield, Charles
Rein and Jane Kech, Mathew Casey, Jacob Bingham, Canyon Ditch Company,
(a corporation), (sub. for D. D. Campbell and Fred Sandman), J. F.
Taryan,

Defendants.

In the above entitled cause the default of the non-answering defendants having been duly entered, to-wit;

Frank Gilbert, William McKnett, Neil McCarron, Michael Gilbride, Lower Boise Ditch Company, H. F. Vanderpool, John Atkins, Ben Ross, John Ross, D. K. McConnel, H. Carlyle, J. Bowman, E. M. Kirkpatrick, S. H. Mitchell, L. F. Cook, Triphenia Jobe, administratrix of the estate of J. H. Jobe; William Jobe, Alice Jobe, Edith Jobe and Corrinna Jobe, (minors) A. Holcomb, George Milner, George Hess, John Thomas, H. W. Whitney, Edwin Curtis, Kate Perrault, Henry Ott and John Doe et al, L. F. Graham, M. S. Cobb and O. F. Short;

and said cause having been regularly tried and submitted to the court for its decision, and the court having considered the evidence and being fully advised in the premises, makes and files its findings of fact, *and conclusions of law*, and directs judgment to be entered in accordance therewith.

Whereupon it is ordered, adjudged and decreed as follows;

1. That each and every of the tracts of land described in the complaint, answers and cross-complaints in this action as belonging to the several parties, or tributary to the canals of certain parties plaintiff and defendant herein, are arid in character and require the artificial application of water to render them valuable for agricultural purposes.
2. That the quantity of water required for the successful irrigation and cultivation of said lands, measured at the intake of the respective ditches under a four inch pressure, is one inch per acre for bench lands, and one and one-tenth inch per acre for bottom lands.
3. That the quantity of water to which each of the parties to this action is entitled under this decree, shall be measured at the point or points of diversion thereof.
4. It is further ordered, adjudged and decreed that none of the

ence with or diversion or use of the waters of said Boise River, except as provided in this decree, whenever such interference, diversion or use would in any manner interfere with the quantity of water awarded by this decree to any of the other parties to this action.

5. It is further ordered, adjudged and decreed that the complaint, answers and cross-complaints and all pleadings filed in this cause be and the same are hereby amended to conform to the facts as found by the court herein.

6. That each of the parties to this action or their predecessors in interest, whose rights are adjudicated by this action, did respectively appropriate and divert from the Boise River the quantities of water hereinafter stated, and on the dates respectively as hereinafter stated, such water being estimated and measured under a four inch pressure and did respectively appropriate and divert such quantities of water for a beneficial use, and that ever since said dates of the several appropriations such water has been by said parties and their grantors and predecessors in interest so diverted and used.

7. That the following named parties, parties to this action, are entitled to the use of the waters of Boise River upon the lands mentioned and described in the complaint and cross-complaints and answers herein, in the following amounts and from the following dates, to-wit;

LII.

That the defendants the heirs of EDWARD AND MARY CLARK, be and they are hereby awarded the use of the waters of Boise River, diverted from said river at a point opposite the upper end of Government Island ~~thru~~ through what is known as the Thurman Mill Slough, for use upon the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ and lots 7 and 8, Sec. 20, T. 4 N. R. 1 E. B.M., in the following amount and from the following date;

63 0192 115 inches, from June 1, 1876; and hereby designated as Right No. 61.
And be adjudged to pay \$8.05 costs in addition to the costs incurred by them.

LIII.

That the defendant JOHN CECIL be, and he is hereby awarded the use of the waters of Boise River, diverted from said river at a point opposite the upper end of Government Island, through what is known as the Thurman Mill Slough, for use upon the following described land; commencing at a point $\frac{1}{4}$ mile west of the NE corner of NE $\frac{1}{4}$ of Sec. 27, T. 4 N. R. 1 E. B.M., thence west 120 rods, thence south 249 feet, thence southeast along the brow of the hill 120 rods, thence north 633 feet to place of beginning, in the following amount and from the following date;

63 0193 22 inches, from June 1, 1876; and hereby designated as Right No. 62;
And be adjudged to pay \$1.54 costs in addition to the costs incurred by him.

LIV.

That the defendant THOMAS H. AIKENS be, and he is hereby awarded the use of the waters of Boise River, diverted at a point in said river on

C.

That the defendants ADA COUNTY FARMERS' IRRIGATION COMPANY, A. H. EAGLESON & SONS, Limited, and ESTHER HALE, and neither of them, be awarded the use of any portion of the waters of Boise River, separate or apart from the appropriation thereof by the defendant the New York Canal Company, Limited, as found and decreed herein, but that whatever rights said defendants may have to the use of said waters be adjudged to be included in the right to the use of said waters herein allotted to said New York Canal Company, Limited.

It is further ordered, adjudged and decreed that the costs and disbursements of each party herein be paid by the party by whom such costs and disbursements were incurred, and that the costs of the State Engineer's examination, to-wit, the sum of \$10,804.30, be apportioned to the parties to this action who are allotted water herein, in the same proportion as water is allotted to them, that is to say, \$0.03709 for each inch so allotted, and that execution issue for said State Engineer's costs.

It is further ordered, adjudged and decreed that the expense incurred in preparing findings and decree herein and in filing and recording the same, to-wit, the sum of \$468.63, be apportioned to the parties to this action who are allotted water herein in the same proportion as water is allotted to them, that is to say, \$0.03709 for each inch so allotted, and that execution issue for said State Engineer's costs.