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1. DECREE -- John M. Hopper -bs- Leonard Hopper, et al.

**MICROFILMED**

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JUL 24 1966

67-7

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

JOHN M HOPPER,

Plaintiff,

-vs-

LEONARD HOPPER, J W  
LAPISH, WM JOHNS, and  
W F POTTER,

Defendants.

D E C R E E

The above entitled action came on regularly for trial in open Court at Weiser, Idaho, the 25th day of May, 1931, Geo Donart appearing as attorney for the plaintiff, Frank D Ryan appearing as attorney for the defendant, J W Lapish, and J T Cook appearing as attorney for the defendant, Leonard Hopper, and the remaining defendants not appearing either in person or by counsel, and it appearing to the Court that due and legal service of summons was made upon the defendants, Wm Johns and W F Potter, and that the time allowed by law to the said defendants for appearing had expired, the defaults of said defendants and each of them, as to the complaint of the plaintiff on file in said action, were duly and regularly entered;

WITNESSES were sworn and examined and documentary evidence introduced in behalf of the respective parties, and each of said parties having rested, the cause was submitted to the Court for consideration and decision;

The Court, being fully advised as to the law and the premises, makes and enters its Findings of Fact and Conclusions of Law and orders that Decree be entered in accordance therewith.

NOW, THEREFORE, By virtue of the law and the premises and the Findings of Fact and Conclusions of Law as aforesaid, It is hereby ORDERED, ADJUDGED and DECREED, that the plaintiff, John M Hopper is the owner and in possession of the following described lands and premises, situate in the county of Washington, State of Idaho, to-wit:

The West Half of the Southwest quarter of Section 25, and the South half of the southeast quarter of Section 26, Township 14 North, Range 4 West of Boise Meridian;

That the defendant, J W Lapish is the owner and in possession of the following described lands and premises, situate in the County of Washington, State of Idaho, to-wit:

The North Half of the Southeast Quarter and the North Half of the Southwest Quarter of Section 26, Township 14 North, Range 4 West of Boise Meridian;

That the defendant, Leonard Hopper is the owner and in possession of the following described lands and premises, situate in the County of Washington, State of Idaho, to-wit:

The South Half of the Southwest Quarter of Section 26; the Northwest Quarter of the Northwest Quarter of Section 35, Township 14 North, Range 4 West of Boise Meridian.

That all of said lands are arid in their nature and character and require the artificial use of water for the irrigation thereof in the amount of one miners inch to the acre during the entire irrigation season of each and every year;

That Hopper Creek, sometimes known as Little Keithly Creek, is one of the public streams of the State of Idaho, and is a tributary of the Weiser River and situate in Water District No 41 of the State of Idaho.

That each of the parties hereto and hereinafter named, are entitled to the use of the waters of the Hopper or Little Keithly Creek, for the irrigation of their respective lands, in the amounts and with the dates of priority as follows, to-wit:

67 0507 J W Lapish, 42½ miners inches, for use on the lands and premises hereinbefore described as belonging to J W Lapish with the following dates of priority; 2½ miners inches, May 1st 1885; 40 miners inches, May 1st, 1886.

67 0508 The Plaintiff, John M Hopper, 59 Miners inches, for use upon the lands hereinbefore described as belonging to John M Hopper, with the following dates of priority: 39 miners inches, May 1st, 1897, 20 miners inches, May 1st, 1911.

67 0511 Leonard Hopper, 20 miners inches, for use upon the lands hereinbefore described as belonging to the said Leonard Hopper, with the date of priority as follows: 20 inches, April 1st, 1910.

And it is further ORDERED, ADJUDGED and DECREED that each of said parties shall be entitled to the use of said waters in the amounts above specified, in accordance with their respective dates of priority, and that on application of any one of said parties, or their successors in interest, the water master of District No 41 of the State of Idaho, having charge of the adjudication of the waters of the Weiser River, be and he is hereby directed to take charge of the distribution of the waters of said Hopper Creek or Little

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Keithly Creek, and distribute the same to the use of the various parties hereto in accordance with the terms and provisions of this decree;

And it is further ORDERED, ADJUDGED and DECREED that the defendants, Wm Johns and W F Potter, and all persons claiming or to claim, by through or under them or either of them, be and they are hereby enjoined and debarred from asserting any right, title or interest in or to the waters of the said Hopper or Little Keithly Creek, adverse to the rights of the parties hereto as herein specified, and from in any way interfering with the acts of the said water master who may be appointed to take charge of the distribution of the water of said stream, in his distribution and apportionment of said waters of said stream among parties entitled thereto as hereinbefore set forth.

And it is further ORDERED, ADJUDGED and DECREED that each of the parties hereto pay his own costs and disbursements herein incurred;

Decree rendered this 19<sup>th</sup> day of August, 1931.

A O SUTTON, District Judge.

Filed and Entered Aug 19 1931  
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 the County of Washington, hereby certify that the within and foregoing is a full, true and complete copy of the Decree in the action entitled John M. Hopper, Plaintiff, vs. Leonard Hopper, J. W. Lapish, Wm Jones and W. F. Potter, Defendants, as the same appears of record in Judgment Book "H", at page 478, records of said Court.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 24th day of September, 1931.

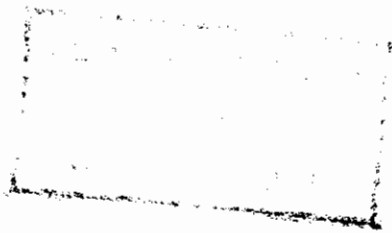
*Frank E Smith*  
Clerk of the District Court.  
*By Mary Therneth.*

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File No. 493

Recorded Book 5

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OFFICE OF THE ATTORNEY GENERAL

THE STATE OF NEW YORK

IN SENATE, JANUARY 1, 1996

REPORT

OF THE COMMISSIONER OF THE DEPARTMENT OF SOCIAL SERVICES

ON THE SUBJECT OF THE DEPARTMENT OF SOCIAL SERVICES

AND THE DEPARTMENT OF CORRECTIONS

IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE

ON MAY 1, 1995, CONCERNING THE DEPARTMENT OF SOCIAL SERVICES

AND THE DEPARTMENT OF CORRECTIONS

AND THE DEPARTMENT OF SOCIAL SERVICES

AND THE DEPARTMENT OF CORRECTIONS