

67-AX-3

1. DECREE -- John T. Muir, et al. -vs- William Allison, et al.
2. FINDINGS OF FACT AND CONCLUSIONS OF LAW AND JUDGMENT -- Weiser City Water Ditch and Irrigating Co. -vs- Weiser Irrigation Dist.

MICROFILMED

JUL 24 1996

File 361

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

JOHN T. MUIR, ET AL,

PLAINTIFFS,

VS.

WILLIAM ALLISON, ET AL,

DEFENDANTS.

D E C R E E .

Recorded Book & Deeds

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Hauser River

WOOD, DRISCOLL & WOOD

601-3-5 OVERLAND BLDG.

BOISE, IDAHO

JUL 24 1996

① Recorded

67-AZ-3

various tributaries of said river hereinafter named:

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

JOHN T. MUIR, ET AL,)
PLAINTIFFS,)
VS.) DECREE.
WILLIAM ALLISON, ET AL,)
DEFENDANTS.)

This cause came on for hearing before the Court, upon the report and findings of the Referee, filed herein, asking for the entry of a temporary decree, in accordance with the allotments made in said report, pending the entry of the final decree herein, and it appearing to the Court, from the report of said Referee, that each and all of the Attorneys of record had been personally notified by said Referee of the proposed filing of said report and the hearing at this time of said application for a temporary decree, and after hearing counsel thereon, and the Court being fully advised in the premises, it is ORDERED, ADJUDGED AND DECREED that the waters of the Weiser River, and all of its tributaries be, and the same are hereby decreed to the plaintiffs herein and to the various defendants and cross-complainants hereinafter named, in the following amounts and from the dates, and in the order of priority herein stated, each inch of water, as hereinafter stated, being the equivalent of one fiftieth of a cubic second foot flow, said waters to be diverted from the said Weiser River and its tributaries by the plaintiffs and defendants hereinafter named and through the ditches, and from the

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WEISER RIVER PRIORITY SUIT.
WATER ALLOTMENTS AND DATES OF PRIORITY.

NAMES.	AMOUNTS IN INCHES.	DATES.
SUNNYSIDE DITCH		
John T. Muir and William H. Muir	112½	June 1, 1887
George F. Smith, John L. Smith and Minnie B. Smith,	62½	" " "
Sunnyside Ditch Company	100 436	May 1, 1899 " " 1900
KELLY ANDERSON DITCH.		
Anna Galloway Dickerson, Frances H. Galloway, Guy Galloway, Caterine Galloway, J. R. Galloway and Thoma O. Galloway Jr.	70	June 1, 1889
J. Newton and Bessie Wingfield	15	June 1, 1889
Weiser Mill Ditch	450	Sept. 1, 1880
WEISER IRRIGATION DISTRICT	100 1500 250 250 300 200 200 150 150 150 150 250 2000 1000 700 500	May 1, 1868 Aug. 29, 1883 May 1, 1887 May 1, 1888 May 1, 1889 May 1, 1890 May 1, 1891 May 1, 1892 May 1, 1893 May 1, 1894 May 1, 1895 May 1, 1896 May 1, 1897 May 1, 1898 May 1, 1904 July 7, 1883 Nov. 1, 1887 May 1, 1889
MIDDLE VALLEY DITCH COMPANY		
ALLISON JEWELL DITCH.		
Alexander Allison	68 54	July 4, 1882 May 1, 1902
Joseph Allison	100	July 4, 1882
Eugene Looney	100	" " "
Harry Coon	165	" " "
SMITH-JAMES-MARTIN DITCH		
B. F. James	10	July 4, 1886
Marion Smith	90	" " "
Heirs of R. H. Martin	90	" " "

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POST WESTON DITCH

J. Emmett Pfost	125	May 6, 1884
John A. Pfost	41	Nov. 25, 1911
Goldie Abernathy	50	Aug. 27, 1910
Fred Jewell	50	" " "
Grace Everest	25	May 6, 1884

MIDDLE FORK AND LOST CREEK

Orchards Water Company Middle Fork	M.F.	3500	Sept. 11, 1909
Lost Creek Reservoir	L.C.	6250	May 27, 1910
A. L. Freehafer	" " "	360 A ft.	" " "
J. A. Carr	" " "	300 A ft.	" " "

MIDDLE FORK

W. M. Bacous	14	May 1, 1891
Catherine Austin	24	" " "
	24	" " 1901
Ben Wooden	30	May 1, 1894
Henry Heimsoth	13	May 1, 1900
George Shaw	21	" " "
William B. Shaw	44	May 1, 1903
Dave Durso	5	May 1, 1905
C. E. Roper	7 1/2	May 1, 1911
John Sweringen	6	May 1, 1903

FARMERS CANAL

Mark Winkler	60	June 1, 1891
Carrie Winkler	19	" " "
E. Hinkle	50	" " "
	32	Jan. 1, 1900
B. Moudy and E. Hinkle	19	June 1, 1891
George Gould	82	June 1, 1891
	7	June 1, 1905

FRANK HAHN DITCH

Frank Hahn	33	June 1, 1902
	38	June 1, 1903
	36	June 1, 1904
	60	June 1, 1905

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GLENN McMAHON DITCH

Isaac McMahon	10	May 31, 1884
	9	May 1, 1901
for power	400	July 1, 1908
Rolfe A. McMahon	4	June 1, 1884
Samuel L. McMahon	22	" " "
L. W. Glenn	45	" " "
Lester I. McMahon	4	May 31, "

ROBERTSON GRAVEY DITCH

George Robertson	5	June 1, 1884
	30	June 1, 1887
A. J. Goshert	38	May 1, 1906
Lester I. McMahon	18	Apr. 1, 1901
T. T. Hamill	25	May 1, 1906
	5	" " 1916
Samuel L. McMahon	1	Apr. 1, 1901
Rolfe A. McMahon	22	" " "
	10	" " "
Isaac McMahon	24	Apr. 1, 1905
	4	" " 1901
Lillian G. Spofford	45	Apr. 25, 1901
E. R. Windes	135	May 1, 1908
	20	May 18, 1910
First Bank of Council	10	" " "
J. J. Jones	8	May 25, 1910
Fruitvale Townsite Co. and its grantees	30	Sept. 23, 1901
Phillip Galston	4	May 1, 1906
	4	" " 1901
A. W. Cox	25	Sept. 23, 1901

TOMLINSON YANTIS DITCH

Mary E. Tomlinson	50	June 13, 1905
E. E. Tomlinson	55	" " "
Sarah Yantis	40	" " "
L. W. Spira	10	" " "
Ralph Yantis	8	Dec. 31, 1908

ROBERTSON DAVEY AND FORT HALL
A. L. Frechafer and Margaret E. Pike R. H. Schlemmer 35
F. H. Zick 10
Lost Creek Res. 40 A. Ft.

June 1, 1902
July 19, 1892
May 27, 1910

FORT HALL CREEK

G. T. Hamill	4	May 1, 1882
	4	" " 1889
Lewis Harp	6	May 1, 1882
	11	June 1, 1911

WEST FORK RIGHTS.

T. J. Glenn	53	May 1, 1898
Joel Glenn	15	May 1, 1900
C. L. Ham	4	May 1, 1900
J. H. Bridgewood	8	May 1, 1900
G. L. Ham	22	May 1, 1900
Bridgewood and Riddell	26	May 1, 1900

LITTLE PINE AND SAID CREEK.

William W. Allison	L. P. Little Pine Said	12 62 1/2	June 26, 1888 May 6, 1899
Joseph C. Allison	L. P. Little Pine	48	May 1, 1906

SPRING CREEK

Thomas Ray	12 1/2	Aug. 11, 1906
Frank Courtright	1	Aug. 11, 1906
G. W. Lattig, sub. for W. Beeson	10	Aug. 11, 1906
James C. Tuttle	10	Aug. 11, 1906
Andrew Miller	9	Aug. 25, 1906
G. W. Rowley	5	Aug. 11, 1906

RUSH CREEK.

Joseph Hutchings (Beaver Creek)	45	June 1, 1883
Daniel W. Bradshaw	19	Oct. 29, 1908
Silas L. Craddock	23	" " "
Edward E. Lorton	63	" " "
Charles R. Edwards	27	March 20, 1911
E. E. Edwards, admin. of David G. Edwards estate	20	" " "
R. E. Wilson	16	May 1, 1891
and Edwin J. Hill	136	Oct. 29, 1908

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RUSH CREEK CON.

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R.H. Wilson	20 8 22 19 4	Oct. 29, 1903 May 1, 1878 June 1, 1899 June 1, 1900 Oct. 23, 1883
L. Etta Wilson	22 8	May 1, 1883 May 1, 1907
A.H. Nunnalee	14	May 1, 1875
John Tinsley	14	Oct. 23, 1883
James Parke	4	" " "
Eva Barbär	16	May 1, 1890
Village of Cambridge	2 7/8 20 2 1/8	Oct. 23, 1883 Apr. 30, 1890 May 1, 1895
John Garrick	32	May 1, 1899
James L. Warren	75-	May 1, 1897
Edward Byers, sub. for William Cope	12 1/2 7 1/2	May 1, 1889 May 1, 1892
Jerome B. Cox	19	May 1, 1890
Hub B. Peynor	16 6	May 1, 1892 May 1, 1894
A. Milton Hinshaw	19	May 1, 1896
W.H. Gibson	2 1/2	May 1, 1894
J. Edward Wicks	19	May 1, 1895
Minta Dugger	1 1/2	May 1, 1883
Margaret Haller	39	May 1, 1883
Nels C. Nelson	12 1/2	Apr. 30, 1890
Charles F. Hulet	31 1/2	May 1, 1895
LeRoy T. Braden	2 1/2	Oct. 23, 1883
J.M. Atwell	9 1/2	May 1, 1888
Walter E. Ford	3 3/4	May 1, 1902
George A. Jefferson	3 1/8 12 3/8	May 1, 1884 May 1, 1890
Estate of Christian Larson	22	May 1, 1878
Hattie Macey	19	May 1, 1887
Moses H. Hopper	8 1	May 1, 1883 Apr. 30, 1890
Erwin Lichter		
James L. & Earl Lewis	25	May 1, 1878

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RUSH CREEK CON.

James L. Lewis	7 7/8	May 1. 1878
George W. Hall	7 1/2	May 1. 1883
	12 1/2	May 1. 1890
	11 1/2	May 1. 1896
	6 1/2	May 1. 1901
James L. Lewis	23 1/2	June 1. 1899
Fred M. Suiter and Grace E. Suiter	12 1/2	Aug. 23. 1883
O.E. Schmitz	4 3/8	" " "
John Tinsley	13 5/8	" " "
Elizabeth Norton	2 3/8	" " "
John Norton	4 3/4	" " "
Bouis Robson	2 3/8	" " "
C.W. Tuttle	2 3/8	" " "
A. L. Kingsbury	7 1/2	May 1. 1895
Elihu W. Hinshaw sub. for Devaney & Carter	18 1/2	May 1. 1899
Philbrick & Greenwood	3 1/8	June 1. 1900
William Thelen	12 1/2	May 23. 1903
E.E. Lorton	25	May 1. 1904
Marion C. Potter	9 3/8	May 1. 1904

PINE CREEK

Fannie E. Baker	6	May 1. 1891
	29	May 1. 1900
Edw. H. Edwards	123	May 1. 1891
	42	" " "
Enoch Bloomstrom	12 1/2	May 1. 1886
	22 1/2	May 1. 1889
Andrew Schweinfurter	2	May 1. 1910
O. S. Hulet	31 1/2	June 1. 1886
Denbrae Sheep Co.	15	June 1. 1891
E.M. Fuller	32	May 1. 1900
S.M. Rutledge	17	May 1. 1902
Arthur Moon	5	May 1. 1910
John D. Forsyth	45	May 1. 1900
James H. Davis	35	May 1. 1900
Charles A. Haygood	25	May 1. 1900
	25	May 1. 1902

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PINE CREEK CON.

John W. Gibson	27½	May 1. 1900
Henry Harsh and Orma Harsh	13½	May 1. 1909
Frank C. Downs	5	June 1. 1910
Elizabeth Webber for life	14	May 1. 1901
Roy O. Howland	12	May 1. 1901
Boel W. Weimer	41	May 1. 1908
Bertha May Weimer		
William A. McKenzie	19	May 1. 1900
C.C. Amidon	11 21	May 1. 1905 May 1. 1901
William Toors	7½	May 1. 1906
Fred C. Kruch	10	May 1. 1904
Little Pine Creek	2	May 1. 1902
James Horton Harold B. Kinney	35	Aug. 15. 1888
James Orton	8½	June 30. 1905
August Kinney	12½	May 1. 1912
Nathaniel H. Wells	31	Aug. 15. 1888
William Niemeyer	7 6½	May 1. 1892 May 1. 1897
James W. Tindell	32½	May 1. 1890
Mary Marquess	5 21 20	May 1. 1892 May 1. 1893
Michael Ward	47½	June 3. 1890
Thomas May	6½	May 1. 1902
James H. Phillips	17½	June 5. 1884
C.E. Schmitz	5½ 5 12	May 1. 1912 May 1. 1884 May 1. 1904
Angus E. McDonald	47 13	June 1. 1879 June 1. 1905
Nels Buhl	90 30	May 1. 1880 June 1. 1884
GOODRICH CREEK.		
J.P. Ogilvie	10	May 1. 1892
Ashton Roby	4	May 1. 1911

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COW CREEK.

H. Philbrick and Greenwood
American Falls P.W.Co., sub. for

HORNET CREEK.

	47	June 1, 1886
J.J. Shaw and D.H. Whitehead	31½ 10	May 1, 1900 May 1, 1901
Ellis Hartley	47 12½	May 30, 1883 Dec. 31, 1899
Rebecca Wilson	62½	May 30, 1883
C.M. Gilmer and Frank Peck	37½	May 1, 1884
Henry A. Warner and Earl Walston	37½	June 1, 1886
J.E. Lawrence and Clark Adams	56½	Aug. 31, 1887
J.A. Darland	25	June 1, 1888
Rebecca Wilson sub. for Walter Wilson	50	Dec. 1, 1888
A. Kampeter	35½	Dec. 31, 1889
W.J. Wilson	47	June 1, 1893
Frank Peck	10	June 30, 1895
Lydia Brauer, Otto Brauer and Dorothy Lakey	28 9½	Dec 31, 1899 " " "
William Henson	12	Dec. 31, 1891
Mattie M. Keys	16	" "
Frank Richardson	22	June 1, 1881
Mark C. Fuller sub. for C.H. Davis	40	" " "
A.J. Duffus	32	" " "
Preston Q. Anderson (D.E. Lindsey is his guardian)	15	May 1, 1898
A.L. Freehafer, adm. of the estate of Thomas J. Stuttsman	38½	May 1, 1880
P.H. Miller	38½ 25	Apr. 2, 1895 Apr. 30, 1895
B.M. Holt	62½ 40 30	Apr. 1, 1886 May 1, 1900 Apr. 1, 1905
Dale Donnelly	50	May 1, 1884
S.E. Dare and Florence G. Dare	56½ 16	June 30, 1883 May 1, 1885
E.E. Shannon and Ed Shannon	25	June 1, 1881

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HORNET CREEK CON.

Hornet Creek Water Storage Assn.

1250
1250

July 6, 1909
May 28, 1909

Robert Harrington

COTTONWOOD CREEK

William Phipps

50
20
3

June 1, 1884
June 1, 1889
" " 1892

O.W.Phipps

37½

June 1, 1889

F.W.Boier

58

June 1, 1882

P.W.Higgins

20

Sept. 6, 1884

Edgar Moser

22½

" " "

Grant Moore

3
5

May 1, 1900
" " "

I.A.Whiteley, sub. for I.A.Whiteley
and J.D.Heale

15 5/8
31 3/8

June 1, 1888
June 1, 1887

Mary E. Houston

25

July 2, 1890

A.W.Peebles

4

Apr. 1, 1896

P.S.Kincaid

4

" " "

James H. McGinley

72
3

July 1, 1890
May 1, 1889

NORTH FORK COTTONWOOD CREEK

W.F.Cifford

107

June 5, 1902

Eliza Sorensen

62

" " "

James L.Stewart and William F.Smith

20

" " "

S.D.Piper

10

" " "

Mrs.J.T.Root sub. for M.Rhinehart

96

" " "

Mama Cool, sub. for Fred Cool

10

" " "

J.A.Carr

25

" " "

Caldwell Commercial Bank.

58

" " "

A.L.Freehafer

5

" " "

Berna Arrington

5

" " "

Washington Co. Land & Development Co.

25

" " "

Frank H. Brown

2½

" " "

Wm Winkler & Ch Weid

23 3/4

" " "

Crystal Foust

5

" " "

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NORTH FORK COTTONWOOD CREEK, CON.

Robert Waffler	2 $\frac{1}{2}$	June 5, 1902
First National Bank of Vale	16	" " "
Ben Houston	3	" " "
A. Grossen	10	" " "
Hans Grossen	5	" " "
J.F. Lowe	37.96	" " "
L.J. Rhinehart	31	" " "
Loren Rhinehart	40	" " "
Anna Morrow	5	" " "

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MILL CREEK RIGHTS.

Deerret Sheep Company, substituted for O. A. Martin,
Grantee of Margaret Krigbaum,

41 2/3 May 1, 1884

William Winkler, Lewis Winkler, Mrs. F. H. Hayner, John Kessler, Jim Kessler, Lewis Kessler, Bettie Dickerson, Janie Hart Ida Blanchard, William Kessler, Elva Young and Rebecca Kessler, successors of Alexander Kessler, deceased,	25	" "	1878
Charles Lappin and A. E. Felmlay, Grantee of C. S. Gibbs,	54	" "	1896
J. D. Poynor and John Poynor,	21 1/2	" "	1886
B. W. Turnipseed,	18	" "	1903
Frederick M. Watriss, Grantee of Geo. M. Winkler,	16 2/3 12 1/2 33 1/3 20 3/4	" " " " " " " "	1881 1884 1893
P. H. Schaff and F. S. Galey, Grantees Samuel Hark	37 1/2 29	" " " "	1882 1891
Council Valley Grohards Grantee J. Marion Young	10 3/4 29 37 1/2	" " " " " "	1885 1894 1889
James A. Huston and William Spahr, Grantees of John and J. D. Poynor,	16	" "	1899
P. H. Schaff and Thomas L. Watt, Grantees of B. F. Middleton,	37 1/2	" "	1894
George T. Ellis	27 1/2	" "	1893
J. V. Morrison,	16	July 1	1909
C. W. Holmes	8 1/2	May 1	1909

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EAST FORK DITCH.

Frank M. Brown	70	July 1, 1905
George H. Bliss	35	" " "
J.A.Carr	15	" " "
G.S.Findies and F.P.Hagan	30	" " "
L.H.Camp	40	" " "
L.L.Burtenshaw and Harvey Huston	4	" " "
Nettie C. Burtenshaw	37	" " "
J.L.Kauffman	10	" " "
Will Kauffman	9½	" " "
J.R.McGinley sub for M.M.Krigbaum	20	" " "
Anna E.Morrow	5	" " "
E.D.Piper	25	" " "
Lillian G. Spofford	106	" " "
Fred Cool	37	" " "
C.L.Weed	10	" " "
F.S.Weymouth	30	" " "
John Ingram	20	" " "
C.F.Lappin	30	" " "
A.E.Felmley, sub, for A.C.Potters	20	" " "
H.W.Anderson	10	" " "
E. Medley	5	" " "
G. H. Epchurch	10	" " "
C.T.Gard	2½	" " "
Minnie Rambo	5	" " "
E.C.Smith	3½	" " "
Carrie M. Lowe	3	" " "
J.D.Neale	3	" " "
Riley Atkinson	14	" " "
Fay McBirney	20	" " "
Janet Ketchen	20	" " "
J.S.Hamilton, G.S.Hagan sub.	10	" " "
Whitney P.James	40	" " "
Council Valley Orchards Co.,	110	" " "

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C. H. Wall	EAST FORK DITCH CON.	10	July 1, 1905
Henry Van Kleeck		27½	" " "
Council Valley Orchards	(Mill Creek)	100	June 1, 1906
" " "	(Unnamed stream)	100	July 3, 1911
Frank S. Galey	" " "	80	Mar. 17, 1913
M. B. Bickorstaff	(Weiser River)	45	June 1, 1890
C. W. Holmes	(Unnamed Stream)	10	(State Exp. Co.) May 16, 1912

LITTLE WEISER.

Thomas Hutchinson		25	June 1, 1883
Anna Hutchinson		30	" " "
J. W. Corriell		18	" " "
America Lindsay		12½ 28 12	June 1, 1875 " " " June 1, 1883
J. I. Linder		17 37½ 50	June 1, 1883 June 1, 1877 June 1, 1887
Edward Manning		25 12½	June 1, 1883 June 1, 1885
Elizabeth Anderson		25	June 1, 1883
G. W. Lewis		97	" " "
S. T. Logan		17	June 1, 1895
Annie Carson		35	" " "
J. W. Corriell		8	June 1, 1886
M. D. K. Lindsay		46	June 1, 1885
Leander Lindsay		17	" " "
Cora Hutchinson		22½ 4½	June 1, 1875 June 1, 1883
Ella Imler		35	" " "
Georgine Ludwig		50 87	" " " June 1, 188
L. A. Thompson		85	June 1, 188
A. L. Hutchinson		45	" " "
Richard Johnson		100 7	" " " June 1, 18
John H. Kilgore		50	June 1, 18
Matilda Snow		26	

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LITTLE BEISER CON.

Ellis Snot	29	June 1, 1893
E.H. Richardson	29	June 1, 1885
E.L. Byers	22	June 1, 1881
Willette L.	42	June 1, 1895
Wm. Frasier (Sub. for .)	31	" " "
J.W. Frasier	33	June 1, 1901
E.G. Martin	19	June 1, 1883
May Burger	8	June 1, 1895
Chris Bohnen	30	June 1, 1900
J.A. Lemons	13	June 1, 1902
J.W. Noeneely sub. for Leitchliter	38	June 1, 1875
Fred Anderson	25	June 1, 1888
G.E. Steward	57	Mar. 1, 1880
F.C. Shearer	1	June 1, 1886
A.F. Coutts	34	June 1, 1884
C.E. Kennedy	14	June 1, 1886
Mattie E Gray	23	June 1, 1891
A.S. Byers	16	June 1, 1883
Samuel Woods	93	June 1, 1883
J.D. Bailey	15	June 1, 1885
Walter Benson sub for Caroline Bailey	6	June 1, 1894
Albert McDowell	19	June 1, 1889
Andrew Hutchinson	80	June 1, 1873
D.W. Hutchinson	19	June 1, 1890
Mrs. H.L. Ware	32	June 2, 1887
H.L. Joslin	17	" " "
James Benson	20	June 1, 1885
John Woods Grays Creek	7	June 1, 1909
Elizabeth Woods " "	10	" " "
John Hutchinson	30	May 1, 1897
Anna Hutchinson	8	June 1, 1885
J.E. Donart	76	July 1, 1883
Heirs of E.H. Martin	90	May 1, 1887

MEAD

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LITTLE GREENSBORO.

Samuel A. Mentzer, sub for Riley Cox	94	May 1, 1887
Marion Smith	92	" " "
E. D. Morey	162½	" " "
Mrs. Margaret A. Greuter	65	" " "
Henry Hosman	85	" " 1891
Stella Beigh	12	" " "
H. B. Snyder	66	" " "
H. C. Wilkerson (sub for ...)	82	" " "
	25	May 1, 1894
G. R. York	10	May 1, 1881
	25	May 1, 1892
J. L. Starr	22½	May 1, 1881
A. C. Hartley sub for H. E. Hustead	19	May 1, 1911
William E. Gladheart	121	May 1, 1884
Albert Moritz	35	May 1, 1894
Jacob Moritz	49	May 1, 1892
John Schwenkfelder	145	May 1, 1892
Leslie Johnson	95	" " "
George Vorhies	35	May 1, 1881
Emma E. Shroyer	25	" " "
W. R. Thomasen	38	" " "
	44	May 1, 1886
Robert Cornet	22½	May 1, 1883
William Hutchinson	26	" " "
A. M. Gordon	25	May 1, 1891
Edith K. Devaney and Ella May Carter	22½	May 1, 1886

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FALL CREEK

Hattie Gilbert, sub for Oscar Gilbert, sub for A. E. Beigh,	74	Dec. 30, 1907
John Roberts,	125	" " "
S. L. Goodwin	62½	" " "
James Harrell (Fall Creek Middle Fork)	120	July 1, 1883
Jacob Cornett (" " " ")	90	" " "
John Cornett (" " " ")	58	Dec. 30, 1907
Jesse Buzzard	26	June 1, 1895

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KEITHLEY CREEK.

That Keithley Creek is a tributary of the Weiser River and consists of two forks commonly known as Big Keithley and Little Keithley Creeks. Which said creeks were formerly known as and are referred to in the evidence as Big ~~Keithley~~ Creek and Little Creek.

That the defendant, Jacob Ader, is entitled to 20 inches of water from Keithley Creek for use upon the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Sec. 30, Twp. 14 N., R. 3 W., B. M., under priority date May 15, 1890.

That the defendant, E. M. Stewart, is entitled to 4 inches of water from Keithley Creek for the irrigation of 6 acres situated in ~~xxxxxx~~ the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30, Twp. 14 N., R. 3 W., B. M., under priority date, May 15, 1890.

That the defendant, James Keithley is entitled to 26 $\frac{1}{2}$ inches of water from Keithley Creek for the irrigation of 42 acres of land situated in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 36, Twp. 14 N., R. 4 W., B. M., under priority date, May 15, 1877.

That the defendant, Chloe Keithley, is entitled to 27 $\frac{1}{2}$ inches of water from Keithley Creek for the irrigation of 44 acres of land situated in the N $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 36. Twp. 14 N., R. 4 W., B. M., under priority date, May 15, 1877.

That the defendant, John Zencher, is entitled to 8 $\frac{1}{2}$ inches of water from Keithley Creek for use upon 13 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 35, Twp. 14 N., R. 4 W., B. M., under priority date, May 15, 1885.

That the defendant, Walter J. Hopper, is entitled to 11 inches of water from Keithley Creek for use upon 17 acres of land situated in Lot 4, Sec. 1, Twp. 13 N., and the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 35, and the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 35. Twp. 14 N. R. 4 W. B. M., under priority date, May 15, 1885.

That the defendant, Curt W. Randleman, is entitled to 62 $\frac{1}{2}$ inches of water from Keithley Creek for use upon 100

JUL 24 1936

acres of land situated in the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec. 25, Twp. 14 N., R. 4 W., B. M., and Lots 3 and 4 and the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 30, Twp. 14 N., R. 3 W. and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and Lot 4, Sec. 30 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Lot 1, Sec. 31, Twp. 14 N. R. 3 W., B. M. under priority date, May 15, 1879.

That the defendant, W. F. Seid, is entitled to 29 inches of water from Keithley Creek for use upon 46 acres of land situated in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and Lot 3, Sec. 31, Twp. 14 N., R. 3 W., B. M. under priority date, May 15, 1883 for 2 inches of said water and May 15, 1885 for 27 inches of said water.

That the defendant, Walter G. Keithley, is entitled to 16 inches of water from Keithley Creek for use upon the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 36, Twp. 14 N., R. 4 W., B. M., under priority date, May 15, 1899.

That the defendant, William Wicks, is entitled to 3 $\frac{1}{2}$ inches of water from Keithley Creek diverted from the slough in the William Seid land for use upon 5 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 31, Twp. 14 N., R. 3 W., B. M., Under priority date, May 15, 1896.

That the defendant, Andrew M. Reed, is entitled to 12 $\frac{1}{2}$ inches of water from Keithley Creek for use upon 20 acres of land situated in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 5, Twp. 13 N. R. 3 W., B. M., 6 $\frac{1}{2}$ inches thereof under priority date, May 15, 1871 and 6 $\frac{1}{2}$ inches thereof under priority date, May 15, 1906.

That the defendant, William Wiggins, is entitled to 2 $\frac{1}{2}$ inches of water from the Warm Springs a tributary of Keithley Creek for use upon 2 $\frac{1}{2}$ acres of land in Lot 3, Sec. 19, Twp. 14 N., R. 3 W., B. M., under priority date, May 15, 1884.

RECORDED
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That the defendant, Victor L. Hopper, is entitled to $6\frac{1}{2}$ inches of water from Warm Springs, a tributary of Keithley Creek for use on 10 acres situated in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 30, Twp. 14 N. R. 3 W., B. M., under priority date, May 15, 1879.

That the defendant, Allen Seid, is entitled to 2 inches of water from Warm Springs, a tributary of Keithley Creek for use upon two acres situated in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 30, Twp. 14 N., R. 3 W., B. M., under priority date, May 15, 1879.

That the defendant, Otho Towell, is entitled to $26\frac{1}{2}$ inches of water from Keithley Creek diverted therefrom in three separate ditches upon the land of the said Otho Towell to wit: the S $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 2, Twp. 13 N., R. 4 W., B. M., $6\frac{1}{2}$ inches thereof under priority date, May 1, 1886 and 20 inches thereof under priority date, May 15, 1899.

That the defendant, Frank Towell, is entitled to $28\frac{1}{8}$ inches of water from Keithley Creek diverted in 2 separate ditches upon the land of the said Frank Towell to wit: the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the E $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 2, Twp. 13 N. R. 4 W., B. M., under priority date for $18\frac{1}{2}$ inches of said water, May 15, 1884 and $9\frac{3}{8}$ inches of said water under priority date, May 15, 1899.

That the defendant, Elihu G. Johnson, is entitled to $3\frac{1}{8}$ inches of water from Keithley Creek diverted in a ditch upon and for the use of 5 acres of land in Lot 1 Sec. 1. and to 5 inches of water diverted from Keithley Creek in a ditch upon and for use upon the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Sec. 1, Twp. 13 N. R. 4 W., B. M., both under priority date, May 15, 1899.

That the defendant, Charles T. Reavis, is entitled to $68\frac{1}{2}$ inches of water from Keithley Creek diverted through three separate ditches to and upon his lands to wit: Lots 2, 3, and 4 and the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 1, Twp. 13 N. R. 4 W., B. M., under priority date, for 20 inches thereof, May 15, 1882 and for $48\frac{1}{2}$

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inches thereof under priority date, May 15, 1883.

That the defendant, W. F. Seid, is entitled to 43 $\frac{1}{4}$ inches of water from Keithley Creek diverted therefrom to and upon the lands of the said W. F. Seid to wit: the SE $\frac{1}{4}$ NE $\frac{1}{4}$, the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and Lot 3, Sec. 31, Twp. 14 N., R. 3 W., B. M., under priority date, May 15, 1883.

That the defendant, Carrie Clayton, is entitled to 2 inches of water from Little Keithley Creek a branch of Keithley Creek to and upon her lands to wit: the S $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 31, Twp. 14 N. R. 3 W., B. M., under priority date, May 15, 1886.

That the defendants, Forrest Burns and Clifford Burns are entitled to 7 $\frac{1}{2}$ inches of water from Keithley Creek diverted to and upon their lands to wit: the N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 31, Twp. 14 N. R. 3 W., B. M. excepting therefrom 5 acres out of the NE corner, under priority date, May 15, 1884.

That the ~~xx~~ said defendants, Forrest Burns and Clifford Burns, are also entitled to 5 inches of water diverted from Keithley Creek to and upon their lands in another ditch under priority date, May 15, 1886.

That the defendant, Edward M. Wiggins is entitled to 50 inches of water diverted from Keithley Creek for use upon his land to wit: the SE $\frac{1}{4}$ Sec. 32, Twp 14 N., R. 3 W., B. M., under priority date, May 15, 1884.

That the said Edward M. Wiggins, is entitled to 12 $\frac{1}{2}$ inches of water diverted to his lands by another ditch and for use upon said lands under priority date, May 15, 1896.

That the defendant, William S. Potter, is entitled to 11 $\frac{1}{4}$ inches of water from Keithley Creek diverted upon and for use on his lands to wit: the W $\frac{1}{2}$ SE $\frac{1}{4}$, the SE $\frac{1}{4}$ SE $\frac{1}{4}$ and an irregular tract of 8 acres in the SW corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ all in Sec. 35, Twp. 14 N. R. 4 W., B. M. under priority dates

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as follow: 2 inches of water, May 15, 1883; 2½ inches of water May 15, 1889 and 7 inches of water under priority date, May 15, 1901.

That the defendant, Sarah S. Keithley, administratrix of the estate of John D. Keithley and as trustee for the estates of Edward E. Keithley, John Keithley and Clarence F. Keithley, is entitled to the use of 200 inches of water from Keithley Creek during the high water period for use upon the West half of the Southeast quarter and the East half of the Southwest quarter Section 35, the West half of the Northeast quarter and the East half of the Northwest quarter Section 36, the Northeast quarter of the Northeast quarter of section 36, the East half of the Northeast quarter and the Northwest quarter of the Southeast quarter of section 35, the West half of the northwest quarter and the North half of the Southwest quarter of Section 36, Township 14 North, Range 4 West Boise, Meridian and during the low water period the said defendant is entitled to the use of 100 inches for said land.

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It is further ordered and adjudged that the report and findings of the said Referee be, and the same are, hereby adopted and approved by the court, the said findings to stand as and for the findings of fact by the court.

RECORDED

JUL 24 1996

It is further ordered, adjudged and decreed, that the foregoing allotments are made upon the basis of five-eighths ($5/8$) of an inch per acre for the high water period with a gradual increase of duty to three-eighths ($3/8$) of an inch per acre for the low water period.

It is further adjudged and decreed that three-eighths ($3/8$) of an inch per acre is the maximum duty of water for the said Weiser River and its tributaries, and whenever the commissioner, charged with the execution of this decree, finds the water in said Weiser River insufficient to supply the allotments as hereinafore made on the basis of five-eighths ($5/8$) of an inch per acre, then and in that event, the duty of water shall be gradually raised to three-eighths ($3/8$) of an inch per acre; and whenever the water in said stream, or any of its tributaries, shall prove insufficient to furnish each allotment aforesaid with the full amount of three-eighths of an inch per acre, measured at their various diversion points, then and in that event the last appropriator in point of time shall be denied the use of said water; except, however, there is hereby allotted and decreed to the Weiser Irrigation District an additional quantity of water, amounting to 1500 inches during the high water period, and not less than 1000 inches during the low water period, for loss by seepage and evaporation in carrying said allotment from its diversion works to the head of the distributing laterals of its canal system, the waters allotted and decreed aforesaid to be apportioned to and for use upon the lands of the plaintiffs and the said defendants and cross-complainants, which said lands are directly under and served with said water by and from the canals and ditches above mentioned.

It is further ordered, adjudged and decreed, that the Orchard's Water Company be, and the same is hereby, permitted to

commingle the waters from the Lost Creek Reservoir with the main Weiser River and substitute the same for water diverted by said Orchards Water Company from the Middle Fork of the Weiser river; provided, however, that a sufficiently added amount shall be turned into the stream from the reservoir to insure the delivery at the mouth of the said Middle fork of an equivalent amount of water to that diverted as aforesaid from the said Middle Fork.

It is further ordered and adjudged that none of the parties hereto, or their successors in interest, shall have the right to the use of the waters of the said Weiser river, or any of its tributaries, except for a beneficial use, and whenever such use has ceased such party or parties shall cease to divert, and shall have no right to divert the said waters, or any part thereof, and each and every of the parties hereto, their servants, attorneys, employees, privies and successors in interest, are hereby enjoined and restrained from any and all interference with, or diversion or use of the said waters, except as provided in this decree, whenever any 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.

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

And, WHEREAS, it appears from the report and findings of said Referee, that there are other matters for consideration before the final disposition of this cause, it is therefore ordered that this decree be entered as a temporary decree in said cause, and subject to the further order of the court until the final decree shall be entered herein.

Done in open Court at Weiser, Washington County, Idaho,
August 6th, 1917.

Carl A. Davis,
Presiding Judge.

State of Idaho,
County of Washington.

I, Frank E. Smith, Clerk of the District Court
in and for the County of Washington, State of Idaho, hereby certify
that the within and foregoing is a full, true and complete copy of
the Decree in the above entitled action, as the same was filed in
said Clerk's office on the 6th day of August, 1917.

WITNESS my hand and the seal of said Court, this 6th
day of August, 1917.

Frank E. Smith
Clerk of said Court.

JUL 24 1996

41X-3

THIRD DIVISION
J. H. Lowell, Commissioner
Caldwell, Idaho
1909

In the District Court of the Seventh Judicial District of the
State of Idaho, in and for Washington County.

WEISER CITY WATER DITCH
AND IRRIGATING COMPANY,
A Corporation,

Plaintiff, FINDINGS OF FACT

AND CONCLUSIONS OF

WEISER IRRIGATION DISTRICT, LAW AND JUDGMENT.
A Municipal Corporation of
Washington County, State
of Idaho,

Defendant,

This cause having been regularly set for trial before the
Court on the 26th day of January, 1909, and having been
called for trial at said time before the Court; Lot L. Fel-
tham, appearing as attorney for the plaintiff and Frank
Harris, appearing as attorney for the defendant, and the
Court having heard the proof of the respective parties in
this action and their witnesses, and having considered the
same together with the documentary evidence and records
and files in this case, and having heard the argument of
counsel for the respective parties herein, and the cause
having been finally submitted to the Court of its considera-
tion and decision, and the Court now makes its findings of
fact and conclusions of law and renders judgment and
decree thereon as follows, to-wit:

JUL 24 1906

I.

That the plaintiff herein was at all times set forth in its complaint a duly organized and existing corporation and qualified to succeed to all rights of R. Morehead and Company in the Weiser Mill Ditch and water right appropriated to fill said ditch for irrigation and power purposes and did succeed to the same and still own and control the same, except as in so far said water rights have been lost by non-user.

II.

That the defendant was at all times set forth in its answer a duly organized and existing municipal corporation under the laws of the State of Idaho, for the purpose of operating an irrigation system in Washington County, Idaho.

III.

That on or about the 7th day of May, 1879, the plaintiff through its predecessors in interest commenced the construction of that certain canal afterwards and now known as the Weiser City Mill Ditch, running from a point on the north bank of the Weiser River in Washington County, Idaho, in Section 2 in Township 10 North of Range 5 West of Boise Meridian in Idaho, down the Weiser River Valley to and into the Town of Weiser, of a capacity of 744 miners inches (equivalent to 14.88 second feet) and appropriated from the waters of the said Weiser River the capacity of said ditch and thereafter completed said ditch in the year of 1880 and carried the said quantity of water to the place of intended use.

IV.

That as stipulated by the respective parties herein all the lands lying under the said ditches of plaintiff and defendant, or either of them, are arid lands and require artificial application of water to render them valuable for agricultural purposes, except those lands lying along the river bottom which sub-irrigates from the said Weiser River.

JUL 24 1996

V.

That during each and every year thereafter the plaintiff continued to conduct water through its said ditch to and upon the arid lands lying along and under it for irrigation purposes, distributing water for the irrigation of 219 lots in the City of Weiser, 42.5 acreage in the City of Weiser, and 335.2 acres of land outside of Weiser, lying along the course of said ditch.

VI.

That on or about the 17th day of July, 1905, and prior to the commencement of this action, the defendant wrongfully and unlawfully obstructed the flow of water to the headgate of plaintiff company and deprived the plaintiff of the water supply in the Weiser River to which it was entitled to the loss and damage of the said company plaintiff and its stockholders and patrons.

VII.

That the rights of the plaintiff in and to the waters of the Weiser River are superior to the rights of the defendant, except as stipulated in open Court as to the Durbin and Jeffreys ranches, and the plaintiff is entitled to a prior right to said waters for the irrigation of said lots and acreage and farm lands in a quantity sufficient to properly irrigate the crops, shrubbery and trees growing thereon or hereafter to be grown thereon in a quantity hereafter to be determined by actual use and measurement as hereinafter specified.

VIII.

That for the present season of 1909, and until determined accurately by measurement, the plaintiff is entitled to the use of 430 miners inches of water, perpetual flow (equivalent to 8.6 second feet) for the irrigation of the said lots and lands, which use shall be for beneficial purpose without unnecessary waste in the irrigation of said lots and lands and shall be a prior right to the rights of the defendant in the waters of Weiser River; except the amount stipulated by the parties hereto to go to the Durbin and Jeffreys ranches.

JUL 24 1906

IX.

That as stipulated by the parties hereto there shall be given to Mrs. Nellie M. Durbin and her successors and assigns, the use of one second foot for irrigation purposes upon the Durbin ranch described as 18 acres in the west side of the southwest quarter of the southwest quarter of section 33, the southeast quarter, the east half of the southwest quarter, and the east half of the west half of the southwest quarter of section 32 in township 11 north, and lots one, two and three in section 5 in township 10 north, all in range 4 west of Boise Meridian in Idaho, in Washington County, Idaho; also to Sarah J. Jeffreys and her successors and assigns the use of one second foot of water for irrigation purposes upon the Jeffreys ranch, described as the west half of southeast quarter of section 31 in township 11 north, and the west half of the northeast quarter, the eight acre tract lying in the southeast corner of lot 3 and 31 acres lying in the southeast side and corner of the southeast quarter of the northwest quarter of section 6, in township 10 north; all in range 4 west of Boise Meridian in Idaho, in Washington County, Idaho; provided, however, that these rights to the Jeffreys and Durbin ranches shall not be transferable to any other lands or lots than those above described and shall be used without waste and when not so used upon said land shall be subject to the prior right of use of the plaintiff in whole or in part as the case may be.

X.

That because of the wrongful interference by defendant with plaintiff's use of the waters of Weiser River at and before the time of the commencement of this action, the plaintiff is entitled to have the temporary injunction heretofore issued against defendant in this case made perpetual to the extent herein specified restraining defendant, its agents, officers and employees and each of them, from taking from the waters of the said river, the entire flow thereof or any quantity except the excess flow over and

JUL 24 1996

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above the said Durbin and Jeffreys-rights and the plaintiff's rights as herein specified.

CONCLUSIONS OF LAW.

XI.

That plaintiff is entitled to recover its costs in this case expended, in the sum of \$....., to be shown by a memorandum of costs filed by plaintiff herein hereafter.

That plaintiff is entitled to a prior right to the use of the waters of the Weiser River for irrigation purposes to the extent of 8.6 second feet upon the lots and lands lying under said ditch of plaintiff, subject to the right of use of one second foot for each of the Durbin and the Jeffreys ranches when necessary, said waters to be measured accurately by a water weir properly constructed to measure the same, said waters to be measured at a point in the main canal of plaintiff above the headgates of the ditches of the users thereof, and most convenient for the accurate measurement of the flow of waters in said canal.

That the injunction heretofore granted by the Court restraining defendant from interference with the flow of waters to the headgate of plaintiff is made perpetual, limited to the said quantity of 8.6 second feet, and subject to the rights to the Durbin and Jeffreys ranches, and subject also to the future order of this Court to be extended or contracted as the case may be after proof submitted of the actual water duty per acre and per lot needed to properly irrigate the lots and lands of the plaintiff and the said Durbin and Jeffreys ranches.

JUDGMENT.

It is therefore ordered, adjudged and decreed that none of the parties hereto, or their successors in interest shall have a right to the use of the waters of the Weiser River except for a beneficial purpose and shall not waste the waters thereof when needed for beneficial use by any other party hereto; that for the time being and until the further order of this Court there shall be and is hereby decreed

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to Mrs. Nellie M. Durbin for use upon the Durbin ranch, described as 18 acres along the west side of the southwest quarter of the southwest quarter of section 33, the southeast quarter, the east half of the southwest quarter and the east half of the west half of the southwest quarter of section 32, all in township 11 north, and lots one, two and three in section 5 in township 10 north, all in range 4 west of Boise Meridian in Idaho, in Washington County, Idaho, one second foot of water from the Weiser River to be taken from the defendant's canal and there shall be and is hereby decreed to Mrs. Sarah J. Jeffreys for use upon the Jeffreys ranch described as west half of southeast quarter of section 31 in township 11 north, and the west half of northeast quarter, the 8 acre tract in the southeast corner of lot No. 3, and the 31 acre tract in the southeast corner of the southeast quarter of the northwest quarter of section 6 in township 10 north, all in range 4 west of Boise Meridian in Idaho, in Washington County, Idaho, one second foot of water from the Weiser River to be taken from the defendant's canal, each of which ranches shall have a prior right to the use of said quantity of water for irrigation purposes for those lands described, but shall not be transferable to any other lands or lots than those described herein, and shall be used without waste and for beneficial purpose only and when not so used upon said lands as herein designated the said waters shall be subject to the prior right of use by the plaintiff herein in whole or part as the case may be.

It is ordered, adjudged and decreed that the plaintiff, subject to the rights of the Durbin and Jeffreys ranches as hereinbefore stated, shall have a prior right superior to the defendant to the use of the waters of Weiser River for irrigation purposes to the extent of 8.6 second feet to be used by plaintiff for the irrigation of the lots and lands lying under the plaintiff's canal, said use being accurately determined in quantity by a weir properly constructed at a convenient point in the main canal of plaintiff Company above the headgates of the lateral ditches of the users thereof

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7.
and most convenient for the accurate measurement of the flow of said canal and an accurate and constant measurement of the volume of water poured over said weir shall be kept and recorded by the agents of the plaintiff and by users of said water upon the Durbin and Jeffreys ranches and a report of the quantity of the flow of said waters through said weirs, and the time when used and the extent used, shall be on or before the first day of January, 1910, made to this Court by the plaintiff of the waters so used for its stockholders and patrons, and by the said Mrs. Nellie M. Durbin and said Sarah J. Jeffreys of the waters so used by them from the said water supply, and at the following term of this Court after the filing of such reports the Court will determine upon a hearing upon said reports whether the amount herein allowed to the plaintiff is sufficient or in excess of the amount of water necessary to properly irrigate the lots and lands of the stockholders and patrons of the plaintiff company and at said time this decree shall be amended, if necessary, to provide for the plaintiff company the prior right to the use of sufficient water for its stockholders and patrons from the said Weiser River through its main canal for irrigation purposes, and the defendant, its agents, officers and employees, and each of them are perpetually enjoined from interfering with the plaintiff's prior rights to the use of the quantity of water herein decreed, or any further quantity hereafter decreed or hereafter diminished by decree of this Court.

It is ordered, adjudged and decreed that the plaintiff may have the further use of the waters of the said Weiser River for power and milling purposes to the extent of the capacity of its canal, subject to the prior rights of the defendant company for waters for irrigation purposes, the quantity so used for power and milling purposes shall be measured and kept distinct from the quantity used for irrigation purposes so that the same may be determined accurately and reported to this Court at the time next and before stated.

JUL 24 1910

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It is ordered, adjudged and decreed that the complaint, answer, defendant's cross complaint and plaintiff's answer to cross complaint are and same have been hereby amended to conform to the facts as found by the Court herein and to correspond with the proofs offered in this case, and that costs shall be allowed the plaintiff herein taxed at \$136.05.

Dated this 14th day of June, 1909.

ED. L. BRYAN,
Judge.

Filed and entered June 18, 1909.

FRANK E. SMITH

Clerk.

By HARRIET SMITH, Deputy.

State of Idaho,

County of Washington,

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 Findings of Fact, Conclusions of Law and Judgment in the not on of Weiser City Water Ditch and Irrigating Com- descri against Weiser Irrigation District, as the same ap- benef of record in Book "C" of Judgments at pages 153 land 57 inclusive, records of said Court.

to the IN WITNESS WHEREOF, I have hereunto set my hand part a affixed the Seal of said Court at Weiser, Idaho, this

It day of June, 1909

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FRANK E. SMITH,

Clerk District Court.

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