

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.

DE C R E E

Riverside Irrigating District, Limited, (a corporation), The Sie-  
benberg Cooperative Ditch Company, Limited (a corporation), Frank  
Gilbert, T. W. Doone, Prior Burnett, Thomas Andrews, H. Ray Boudinot,  
I. M. Tucker, C. F. J. Peterson, William McKnett, Fred J. Kiesel,  
Neil McCarron, Michael Gilbride, Lower Boise Ditch Company, (a corpor-  
ation), R. H. Stockton, H. F. Vanderpool, D. D. Camboll, William  
Foss, Smith Stockton, John Atkins, Ben Ross, John Foss, D. F. McCon-  
nol, John Lemr, John Mannon, Bird Bowman, (substituted for L. B.  
Bowman Jr.), D. Mumford, T. T. Johnson, H. Carlyle, Charles Allen,  
J. Bowman, Robert McGuire, Frederick Ode, Eureka Ditch Company, (a  
corporation), J. Roland, Thomas J. Palmer and Noah W. Palmer (substi-  
tuted 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. M. 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 Cor-  
rinna Jobe, minors, A. Holcomb, George Milner, George Hess, John Thom-  
as, H. H. Whitney, Emma S. Lee, Edwin Curtis, Eureka Water Company,  
(a corporation), William Simpson, William Lewis, Huston Frost, Elijah  
Frost, George Goodrich, R. K. Brannan, William Frost, Adam Schindler,  
Pioneer Irrigation District, (a corporation), Franklin Ditch Company,  
(a corporation), Canyon County Water Company, (an association)  
Francis A. Phelps and Frances Phelps husband and wife, John D. Rut-  
ledge, James Hartley, Joseph Wilson, Daniel Mastersen, Perry Stoffle,  
H. McGill, E. C. Foote, J. E. Smith, John Lemr, K. E. Fowler, Thomas

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Norris, James Harvey, Jacob Alchenberger, Peter Watkins, A. J. Bres-  
 hears, C. G. Myers, John Langford, F. M. Ryals, Frank Hart, Mrs A.  
 Woudy, A. Elessinger, Dan Shuee, 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, B. F.  
 Swalley, S. McDowell, Mrs E. J. McDowell, J. W. Dickson, Amos Prosser,  
 William Snodgrass, (sub. for Thomas R. 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. H. 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.  
 for Boise Rapid Transit Company), The Canyon County Irrigation Company  
 Limited, (a corporation), Denver & Idaho Land Company, (a corporation)  
 Thomas Davis, T. C. Catlin, Polette Kace, C. C. Havird, Draper &  
 Wells, James L. Graham, Frank N. Graham, William Gilbert, Martha Bow-  
 man, G. W. Gess, Allon V. Webster, William P. Kennedy, Frank L. Leon-  
 ard, Edna E. Leonard, J. S. D. Manville, Estate of Albert Sherwin,  
 Martha E. McCarthy, H. D. Goodman and Dora Goodman, C. B. Ross,

C. H. Allen, Edgar Dilley, W. H. Ross, Isaac Redak, Julia Emmen,  
Mason Creek Ditch Company, (a corporation), W. J. Hamming, Peter  
Mcoves, Mary G. Davis, Edward H. Hart, 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 Coble,  
Susie Campbell, J. T. Barber, (sub. for James Barber), S. W. Hutchin-  
son, Johnson, W. A. Black, (sub. for Ira B. Arney), American  
Ditch Association, (a corporation) Charles H. Miller, L. F. Graham,  
M. S. Cobb, O. F. Short, Loomis L. Hoesley, C. B. Taylor, South  
Dodge 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 Sundman), J. F.  
Yarvan,

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Defendants.

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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 Corinna Jobe, (minors) A. Holcomb, George Milner, George Hess, John Thomas, H. N. 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, <sup>and conclusions of law</sup> 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 parties hereto, or their successors in interest, shall have a right to the use of the waters of Boise River herein awarded, except for a beneficial purpose; and that whenever the beneficial use has ceased, such party or parties shall cease to divert and have no right to divert the said waters; that 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 interfer

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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;

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(5)

XII.

That the defendants JAMES L. GRAHAM, FRANK N. GRAHAM and WILLIAM GILBERT, be, and they are hereby awarded the use of the waters of Boise River, diverted from a point on said river near the SE corner of NW 1/4 of NE 1/4, Sec. 21, T. 4 N. R. 1 E. B.M., for use upon Lots 2 and 3 in NW 1/4 NE 1/4 and NE 1/4 NW 1/4, and lot 1 in NE 1/4 of NE 1/4, Sec. 20, and lots 3 and 4 in N. 1/2 NW 1/4, Sec. 21, all in T. 4 N. R. 1 E. B.M., in the following amount and from the following date;  
**63 0144**  
220 inches, from June 1, 1865; and hereby designated as Right No. 12. And be adjudged to pay \$15.40 costs, in addition to the costs incurred by them.

XIII.

That the defendant the EUREKA WATER COMPANY, a corporation, be, and it is hereby awarded the use of the waters of Boise River, diverted at a point on the south side of said river easterly of what is now the farm of William Simpson in Sec. 23, T. 4 N. R. 1 W. B.M., for use upon the lands lying under its canal system, in the following amount and from the following date;  
**63 0145** T. 4 N. R. 1 W. B.M.  
1666 inches, from June 1, 1865; and hereby designated as Right No. 13. And be adjudged to pay \$116.62 costs, in addition to the costs incurred by it.

XIV.

That the defendant the NEW UNION DITCH COMPANY, a corporation, be, and it is hereby awarded the use of the waters of Boise River, diverted at a point on the north bank of said river on Lot 2, Sec. 23, T. 4 N. R. 1 E. B. M., for use upon the lands lying under its canal system, in the following amount and from the following date;  
**63 0146**  
688 inches, from June 1, 1865; and hereby designated as Right No. 14. And be adjudged to pay \$48.16 costs, in addition to the costs incurred by it.

XV.

That the defendant the BOISE VALLEY IRRIGATION DITCH COMPANY, a corporation, be, and it is hereby awarded the use of the waters of Boise River, diverted from said river at the head of the canal of defendant the farmers' Union Ditch Company, and taken through said canal to the point of use, for use upon the lands lying under its canal system, in the following amount and from the following date;  
**63 0147**  
2729 inches, from June 1, 1865; and hereby designated as Right No. 15. And be adjudged to pay \$191.03 costs, in addition to the costs incurred by it.

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LXXXI.

That the defendant A. V. LINDER be, and he is hereby awarded the use of the waters of Boise River, diverted at a point near the center of SW 1/4 of SE 1/4 of Sec. 15, T. 4 N. R. 1 E. B.M., for use upon the SW 1/4 of NE 1/4, SE 1/4 of NW 1/4, NE 1/4 of SW 1/4, NW 1/4 of SE 1/4, and lot 2, all in Sec. 12, T. 4 N. R. 1 W. B.M., in the following amount from the following date;

**63 0234**  
200 inches, from June 1, 1888. hereby designated as Right No. 98. And be adjudged to pay \$14.00 costs in addition to the costs incurred by him.

LXXXII.

That the defendant LEVI SMITH be, and he is hereby awarded the use of the waters of Boise River, diverted from said river at a point near the center of the SW 1/4 of SE 1/4 of Sec. 15, T. 4 N. R. 1 E. B.M., for use upon the E. 1/2 of SW 1/4 of Sec. 7, T. 4 N. R. 1 E. B.M., in the following amount from the following date;

**63 0235**  
65 inches, from June 1, 1888. hereby designated as Right No. 99. And be adjudged to pay \$4.55 costs in addition to the costs incurred by him.

LXXXIII.

That the defendant CHARLOTTE CALHOUN be, and she is hereby awarded the use of the waters of Boise River, diverted from said river at a point near the center of the SW 1/4 of SE 1/4 of sec. 15, T. 4 N. R. 1 E. B.M., for use upon the W. 1/2 of the SW 1/4, otherwise described as lots 3 and 4, Sec. 7, T. 4 N. R. 1 E. B.M., in the following amount from the following date;

**63 0236**  
70 inches, from June 1, 1888. hereby designated as Right No. 100. And be adjudged to pay \$4.90 costs in addition to the costs incurred by her.

LXXXIV.

That the defendant E. J. LINDER be, and he is hereby awarded the use of the waters of Boise River, diverted at a point near the center of the SW 1/4 of SE 1/4 of Sec. 15, T. 4 N. R. 1 E. B.M., for use on the E. 1/2 of SE 1/4 of sec. 12, T. 4 N. R. 1 W. B.M., in the following amount and from the following date;

**63 0237**  
73 inches, from June 1, 1888. hereby designated as Right No. 101. And be adjudged to pay \$5.11 costs in addition to the costs incurred by him.

MISSOURI

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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 \$10,804.80, 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, \$0.08709 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 \$482.63, 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, \$0.00291 for each inch so allotted.

Date

January 18 1906

*Just Stewart*  
Judge

State of Idaho }  
County of Canyon }  
I hereby certify that the foregoing instru-  
ment is a true and correct copy of the ori-  
ginal as the same appears in this office.  
DAVID

1906  
District Court

Walter J. ...  
and Ex. Off.  
Deputy

RECORDED  
JUN 21 1996