

C. W. McClurg

Plaintiff

vs.

A. V. Tallman, as Watermaster having charge of the Distribution of the Waters of Boise, River.

Defendant.

JUDGMENT and DECREE.

This cause came on for hearing in open court, on the 26th day of January, 1920 Martin & Cameron, appearing for the plaintiff and neither the defendant, nor any one else, appeared either in person or by attorney in opposition to the plaintiff; the

Court having heard all of the evidence, and proof adduced herein, and having examined the files, and duly considered the same, and being fully advised in the premises, and it appearing therefrom to the satisfaction of the Court;

1. That the summons in this action, together with a copy of the complaint herein was duly and personally served upon the defendant in this action, and that said defendant has been duly and regularly summoned to answer the plaintiffs complaint in this action; that the time within which the said defendant may appear herein has expired and that the defendant has made default in that behalf and that the default of said defendant for not appearing and answering under plaintiffs complaint has been duly regularly entered herein; that the plaintiff has caused to be published for four weeks a notice of the pendency and purpose of this action in a newspaper, to-wit:

The Caldwell Tribune, as ordered by the Judge of this Court which notice contained the title of this court of this cause and the name of the stream to-wit: The Boise River, in whose waters the plaintiffs claim an interest with the date of priority claimed by plaintiff and the date and short title of the decree heretofore entered fixing the permanent rights of the waters of Boise River; that the time fixed by the Court for the publication of said notice in its said order has expired and no interest party nor any one else has appeared and defendant against the rights claimed by the plaintiff:

NOW THEREFORE, on motion of Martin & Cameron, it is ordered, adjudged and decreed as follows:

That the lands described in plaintiff's complaint as belonging to the plaintiff are arid in character and require the application of irrigation water to render them valuable for agricultural purposes, and are what are commonly termed Boise River Bottom lands.

That the quantity of water required for the successful irrigation and cultivation of Plaintiffs lands, for which a water right is hereby decreed, measured at its point of diversion from Boise River is 1 inches per acre.

That the quantity of water to which the plaintiff is entitled under this decree shall be measured at its point of diversion from Boise River.

That the plaintiff nor his 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 parties shall cease to divert and have no rights to diver said waters.

That the pleadings herein be and the same hereby are amended to conform to the facts

been used by the plaintiff and predecessor in interest as so diverted and used.

That the plaintiff is entitled to the use of water of Boise River upon the land mentioned and described in plaintiffs complaint and is hereby awarded the use of the waters of Boise River diverted at a point on the north side of said river in Section 14, Township 4 North, Range 1 East, Boise Meridian, in Ada County Idaho, for use upon the following described lands in Ada County, Idaho:-

Commencing at the corner of Section 8, 9, 16 and 17 township four (4) North, Range one (1) East of Boise Meridian, running thence north along the section line 417.2 ft. to a point thence west 155 feet to a point, thence north 150 feet to a point, thence east 155 feet to a point, thence north 260 feet to a point, thence west 360 feet to a point, thence north 301 feet to a point thence south 81° 15' west 213.7 feet to a point thence north 86° 15' west 261 feet to a point thence South 291 feet to a point thence 374.6 feet to a point, thence south 1° 12' east 991 feet to a point, thence south 75° 15' East 1226 feet to a point, thence north 480 feet to the place of beginning, containing 34.19 acres more or less, and 17½ acres of which lies in the Boise River, bottom.

And it is upon the last mentioned 17½ acres of land, that the said water is to be used in the following amount from the following date; inches from May 1st, 1883.

That the plaintiff shall pay all costs arising under this action.

That the said waters shall be distributed to the plaintiff in the same manner as though they had had their rights included in that decree adjudicating the waters of Boise River dated January 18, 1906, and that action in the District Court of the Third Judicial District of the State of Idaho in and for Canyon County, entitled "Farmers Co-operative Ditch Company (a corporation). Plaintiff, vs. Riverside Irrigation District, Limited, a corporation, et als, Defendants".

That the number of inches of water per acre required for irrigation and hereby decreed, and the corresponding total number of inches of water hereby awarded shall be in accordance with the duty of water for Boise River Bottom lands as the same shall be hereafter determined in a suit for that purpose now pending in this court entitled "Farmers Co-operative Ditch Company (a corporation, Plaintiff, vs Riverside Irrigation District, Limited, a Corporation, et als, Defendants, " and when the duty of water is so determined in said suit, on motion of plaintiff the blanks left in this decree for the insertion of the number of inches shall be filled and completed to accord with the duty of water as found in said suit.

Dated February 6th, 1920

Ed. L. Bryan, District Judge.

Filed and entered, 1132 A. M. Feb, 6, 1920

L. C. Knowlton Clerk

E. L. Newell, Deputy

I hereby certify that the foregoing is a full, true, and correct copy of the