

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

C. H. Schmelzer

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 and 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 and 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 interested party nor any one else has appeared and defended 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 ___ 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

That the pleadings herein be and the same hereby are amended to conform to the facts as found by the court herein.

That the predecessors in interest of the plaintiff did appropriate and divert from the waters of Boise River the quantity of water on the date hereinafter stated, such water being estimated and measured under a four inch pressure and did appropriate and divert such water for a Beneficial use and ever since the date of such appropriation such water has been used by the plaintiff and predecessors in interest as so diverted and used.

That the plaintiff is entitled to the use of water of Boise River upon the lands 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 15, Township 4 North, Range 1 East, Boise Meridian, in Ada County, Idaho, for use upon the following described lands in Ada County, Idaho.

All that portion of the Southwest quarter (SW $\frac{1}{4}$) of Section Nine (9) Township four (4) North Range (1) one, East of the Boise Meridian, lying south of the center of the main wagon road passing through said tract, excepting therefrom all that portion of said tract heretofore platted into lots and blocks as shown on the map of the townsite of Eagle, and excepting therefrom also all that portion thereof laid out into lots and blocks as shown on the plat of Aiken's Addition to the townsite of Eagle; also excepting therefrom 10.15 acres more or less conveyed to William Huckba and Oscar J. Horback by deed of date Nov 21, 1907 and of record in the office of the Recorder of Ada County, Idaho in Book 72 for recording deeds at page 74, thereof.

Also the Northwest quarter (NW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section Sixteen (16) Township four (4) North, Range One (1) East of Boise Meridian excepting 1.27 acres more or less heretofore conveyed to Louis Diehl by deed of Date Feb 1st, 1908 and of record in Book 99 for recording Deeds at page 35 Deed records of Ada County, Idaho; excepting also the Railroad Right of Way and the public highway and excepting also a tract of land described as follows: Beginning at a point 16 feet south of the Southwest corner of Lot One (1) in Block Three (3) of the townsite of Eagle Idaho, as shown on the official plat of said townsite of record in the Recorder's office of Ada County, Idaho; running thence south 150 feet; thence east 300 feet; thence north 150 feet; thence west 300 feet to the place of beginning.

Except the following tract of land, beginning at a point on the line between Sections Nine (9) and Sixteen (16) from which the corner of Sections Eight (8) Nine (9) and Sixteen (16) and Seventeen (17) Township Four (4) North Range One (1) East B. M. bears S 89° 05' W. 12.6 feet; thence north 9° 1.3 ft. parallel with west line of section Nine (9) to the south line of Aikens Addition to Eagle Idaho, thence East 337.4 ft. along the south line of Aikens, Addition thence North 186.0 ft. along east line of Aikens Addition to the center line of Valley Street, thence East 112.75 ft. along the center line of Valley Street, thence S. 80° 53' E. 1119.9 ft. along center line of county road, thence S. 0° 45' W. 969.2 ft. along east line of William Huckba tract to the south line of section Nine (9)

The particular lands of plaintiff for which a water right is herein granted is that portion of the above described lands owned by plaintiff situated in the SW $\frac{1}{4}$ of S. 9, aforesaid, 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, in 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 Feb. 6th, 1920

Ed. L. Bryan, District Judge.

Filed and Entered 11.30 A. M.

Feb. 6, 1920

L. C. Knowlton, Clerk

B. L. Maxwell, Deputy

I hereby Certify that the foregoing is a full, true, and correct copy of the original decree filed in the above entitled action.

L. C. Knowlton Clerk

COMPARED