

Leo Edwin Marsters and Julia Edith
Marsters Husband and wife,
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 April, 1920, Martin & Cameron, appearing for the plaintiffs and neither the defendant, nor any one else appeared either in person or by attorney in opposition to the plaintiffs: 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 plaintiffs have 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 plaintiffs 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 plaintiffs.

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

That the lands described in plaintiffs' complaint as belonging to the plaintiffs 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 plaintiffs are entitled under this decree shall be measured at its point of diversion from Boise River.

That the plaintiffs nor 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 parties shall cease to divert and have no rights to divert said waters.

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 plaintiffs did appropriate and divert from the waters of Boise River the quantity of water on the date

That the plaintiffs are entitled to the use of water of Boise River upon the lands mentioned and described in plaintiff's complaint and is hereby awarded the use of the waters of Boise River diverted at a point on the south side of said river in Section 22, Township 4 North, Range 1 East, Boise Meridian, in Ada County, Idaho, for use upon the following described lands in Ada County;

The Lost numbered Three (3) and four (4) and the southeast quarter (SE $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of Section nineteen (19) in township four (4) North of Range one (1) east of the Boise Meridian, in the County of Ada and State, of Idaho, containing 122 acres more or less according to Government survey, 80 acres of which land lies in the Boise River bottom. It is upon the last mentioned 80 acres of land that the said water is to be used in the following amount from the following date;

_____ inches from June 1st, 1882. That the plaintiffs 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 April 26th, 1920

Ed. L. Bryan, District Judge.

Filed & Entered April 26, 1920

at 11.30 o'clock A. M. this

L. C. Knowlton, Clerk

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