

* * * * *

LAWSON L. McMANUS and EDITH L. McMANUS, husband and wife, and ALICE TEATER, a widow,

Plaintiffs,

vs.

EDWIN B. KARN, Water Master,

Defendant.

CIVIL NO. 15390

JUDGMENT

3:50
JAN 12 1962
Irene Krebs

The above matter came on regularly to be heard in this Court without a jury on the 12th day of January, 1962, upon the plaintiffs' complaint, the plaintiffs appearing by their attorney, Wm. F. Gigray, Jr., of the firm of Gigray & Boyd, and the defendant, Edwin B. Karn, having been regularly served with process according to law and having appeared in person, and refusing to plead further in this cause, and waiving any further notice that may be required by law and consenting that default be entered against him, and the default of the defendant having been entered, witnesses were sworn and examined on behalf of the plaintiffs, and oral and documentary evidence having been introduced, the Court being fully advised in the premises and having duly considered the same, and the Court having arrived at his conclusions and having made and filed Findings of Fact and Conclusions of Law from which it appears that the plaintiffs are entitled to Judgment as prayed for in their complaint;

NOW, THEREFORE, It is ORDERED, ADJUDGED and DECREED, and this does ORDER, ADJUDGE and DECREE, that the plaintiffs, Lawson L. McManus and Edith L. McManus, husband and wife, are the owners of the following described real estate situated in Canyon County, Idaho, containing approximately 85 acres of land, to-wit:

Range 3 W. and Range 4 W.B.M. in Township 4, 880 feet North of the Section corner common to Sections 7 and 18, Township 4 North, Range 3 W. and Sections 12 and 13, Township 4 North, Range 4 W.B.M., thence North on said Range line 1721 feet; thence due West 604.39 feet to a point of beginning: Thence South $26^{\circ} 40'$ W. 705.49 feet; thence South $53^{\circ} 10'$ East 53.25 feet; thence South $45^{\circ} 05'$ East 525 feet; thence South $31^{\circ} 20'$ East 465 feet: thence South $36^{\circ} 00'$ East 250 feet; thence South $49^{\circ} 40'$ East 150 feet; thence South $46^{\circ} 00'$ East 335 feet; thence South $48^{\circ} 15'$ East 405 feet; thence South $70^{\circ} 30'$ East 230 feet; thence South $79^{\circ} 50'$ East 415 feet; thence North $78^{\circ} 10'$ East 110 feet to the East boundary line of Lot 3 of Section 7, Township 4 North, Range 3 W.B.M.; thence North along said boundary line 2116.4 feet; thence South $86^{\circ} 45'$ West 350 feet; thence due West 425 feet; thence North $75^{\circ} 00'$ West 210 feet; thence North $54^{\circ} 45'$ West 375 feet; thence North $27^{\circ} 95'$ West 605 feet; thence North $4^{\circ} 10'$ West 101.86 feet; thence South $26^{\circ} 40'$ W. 716.46 feet to the point of beginning; Excepting therefrom a strip of land 99 feet in width extending along the Easterly side thereof, comprising approximately 5 acres, and also excepting therefrom a strip of land 20 feet in width extending along the Southernly and Southwesterly boundary line of said premises.

Together with all water, water rights, and rights of way for ditches, used in connection with the irrigation of said premises.

and that the plaintiff Alice Teater, a widow, is the owner of the following described real estate situated in Canyon County, Idaho, and adjoining the above described lands of the plaintiffs, Lawson L. McManus and Edith L. McManus, husband and wife, containing approximately 83 acres of land, to-wit:

Commencing at the Southeast corner of Section 12, Township 4 North, Range 4 West of the Boise Meridian, in Canyon County, State of Idaho; thence North on the section line a distance of 880 feet to a point; thence North $49^{\circ} 40'$ West 150 feet; thence North $36^{\circ} 0'$ West 250 feet; thence North $31^{\circ} 20'$ West 465 feet; thence North $45^{\circ} 5'$ West 525 feet; thence North $53^{\circ} 10'$ West 53.25 feet to the real point of beginning; thence North $26^{\circ} 40'$ East 1421.95 feet; thence North $4^{\circ} 10'$ West 323.14 feet; thence North $18^{\circ} 15'$ West 500 feet; thence North $54^{\circ} 20'$ West 465 feet; thence South $83^{\circ} 35'$ West 485 feet; thence South $74^{\circ} 35'$ West 436 feet; thence South $59^{\circ} 30'$ West 770 feet; thence South $71^{\circ} 45'$ West 330 feet;

thence South 14° 20' East 125 feet;
thence South 36° 45' East 490 feet;
thence South 44° 45' East 330 feet;
thence South 69° 35' East 415 feet;
thence South 58° 55' East 575 feet;
thence South 65° 10' East 392 feet;
thence South 53° 10' East 206.75 feet to
the real point of beginning.

Together with all water, water rights, ditches and
rights of way for ditches appurtenant thereto or in
anywise appertaining.

That the plaintiffs and their predecessors in interest
have continually since the 1st day of April, 1910, diverted water
from the natural flow of the Boise River to irrigate the said land
of approximately 168 inches measured under a four inch pressure,
and that the same has been continually applied to the said land
for the beneficial purpose, that of irrigating the same, annually
thereafter during the irrigation season; and

It is further ORDERED, ADJUDGED and DECREED, and this
does ORDER, ADJUDGE and DECREE, that there shall be allowed to
flow to the said land, diverted from the Boise River and its tribu-
taries, for the use of the irrigation of the said land for the
benefit of the plaintiffs and their successors in interest lawfully
entitled thereto priority of 168 inches of water measured under a
four inch pressure, dated from the 1st day of April, 1910, provided
that this decree shall at all times be subject to the terms of the
original decrees of the Boise River, as follows:

That certain decree entered by the Judge of the District
Court of the Seventh Judicial District of the State of Idaho in and
for the County of Canyon in the case of Farmers Co-Operative Ditch
Company, a corporation vs. Riverside Irrigation District Ltd.,
dated January 18, 1906, which is commonly referred to and known as
the "Stewart Decree" of the natural flow of said river or stream;
and subject also to the terms and conditions of that certain decree
made and entered in the District Court of the Seventh Judicial
District of the State of Idaho in and for the County of Canyon in

Association, et al., dated February 14, 1929, commonly known as the "Bryan Decree;" in which decrees were adjudicated the priorities of the natural flow of the water and of the flood waters of the Boise River; and

It is hereby further ADJUDICATED and DECREED that the above named defendant as Water Master of the Boise River and his successors in office shall allow to flow to the said lands of the plaintiffs for irrigation purposes and for the benefit of the plaintiffs herein and their successors in interest, who may be lawfully entitled thereto by virtue of the appropriation, in an amount of 168 inches of water per second measured under a four inch pressure, dated from the 1st day of April, 1910, and the said Water Master of the Boise River and his successors in interest shall distribute to them the said water in accordance therewith in the same manner and effect as thereof their said rights had been included in the said decree commonly known as the "Bryan Decree" hereinabove referred to, and with the same priority as if the same had been included.

Done in open Court this 12th day of January, 1962.

Robert B. Hume
District Judge

Louise D. McMahon
and Edith D. McMahon
at wit et al

20 -

Edwin B. Horn

Judgment

3:50	1002
June 1902	

m. 33

3.5/3

32-20