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IN THE DISTRICT COURT OF SALT LAKE COUNTY, STATE OF UTAH

LOUIS WAYMAN; MARK BAILEY and MILDRED BAILEY, his wife; EDWARD HOBBS; W. J. NORTON and CLEONE NORTON, his wife; FRANK LaROCCO and CAROL LaROCCO, his wife,	AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW
Plaintiffs,	Civil No. 137,776
vs.	
MURRAY CITY CORPORATION, a municipal corporation of the State of Utah; and WAYNE D. CRIDDLE, State Engineer of the State of Utah (HUBERT C. LAMBERT, successor to Wayne D. Criddle as State Engineer),	
Defendants	

This cause having come on regularly for trial before the above entitled Court, sitting without a jury, with the Honorable Aldon J. Anderson, then District Judge, presiding and E. J. Skeen appearing as attorney for the plaintiffs, Joseph Novak appearing as attorney for the defendant Murray City Corporation and Dallin W. Jensen appearing as attorney for defendant Wayne D. Criddle, State Engineer of the State of Utah (since succeeded by Hubert C. Lambert as State Engineer of the State of Utah); and the said Honorable Aldon J. Anderson, then District Judge, after having heard the evidence adduced, made and entered herein Findings Of Fact and Conclusions Of Law and Decree on the 20th day of October, 1967 and, pursuant to a written Stipulation dated the 13th day of February, 1968, made and entered herein Amendment to Findings Of Fact on the 13th day of February, 1968; that thereafter an appeal having been taken to the Utah Supreme Court, and its Opinion having been filed on the 16th day of September, 1969 as reported in 23 Utah 2d 97, 458 P.2d 861, thereby remanding this case for further proceedings and settlement of the rights of the parties in conformity with the

principles set forth in its Opinion, and the remittitur having been accordingly filed and this matter having been assigned to the Honorable _____, District Judge, and the Court now being fully advised in the premises and based upon the record and the evidence now before it makes and enters the following

AMENDED FINDINGS OF FACT

1. That defendant Murray City Corporation is a municipal corporation of the State of Utah and defendant Wayne D. Criddle has been succeeded in office by Hubert C. Lambert as State Engineer.

2. That plaintiffs are the owners of underground water rights evidenced by Underground Water Claims tabulated below, and were the owners of such rights when the defendant Murray City Corporation filed its Change Application No. a-3887 and drilled the 16-inch diameter well pursuant thereto.

Name	Underground W. C. No.	Priority	Diameter In Inches	Depth In Feet	Claimed Flow in G.P.M.
Wayman	3369	1929	3	460	100
Bailey	5263	1895	1½	110	25
Bailey	5264	1915	2	104	25
Bailey	5262	1915	2	441	50
Hobbs	9665	1922	3	110	20
Norton	App. 29637	1958	2	50-250	6.7
Norton	3428	1910	2	110	35
LaRocco	11754	1915	2	Unknown	7.5

All of the wells covered by the above described claims were drilled into the Murray Artesian Basin and provided water for culinary use in homes and for watering lawns, shrubs and garden plots.

2(a) That the maximum quantities of water necessary to supply the reasonable beneficial use requirements of the plaintiffs having been agreed upon by Stipulation, and based thereon, it is hereby determined that the total maximum quantities of water to which the respective plaintiffs are entitled annually from all sources combined for their culinary uses in their homes and for watering their lawns, shrubs and garden plots be, and the same are fixed as follows:

(1) Louis Wayman - 1.50 acre feet per year;

(2) Mark Bailey and Mildred Bailey, his wife - 1.50 acre feet per year;

(3) Edward Hobbs - 1.30 acre feet per year;

(4) W. J. Norton and Cleon Norton, his wife - 4.00 acre feet per year;

(5) Frank LaRocco and Carol LaRocco, his wife - 1.00 acre feet per year.

3. That defendant Murray City Corporation is the owner of underground water rights evidenced by Underground Water Claims tabulated below, hereinafter referred to as the "Baker" wells; and all of the wells covered thereby were drilled into Murray Artesian Basin:

Underground W. C. No.	Priority	Diameter In Inches	Depth In Feet	Claimed Flow in G.P.M.
4237	1931	3½	90	100
4238	1900	2	85	50
4239	1926	3	90	90
4240	1931	3½	93	120
4241	1926	3	90	120
4242	1932	3½	95	180
4243	1932	3½	110	90

The above listed wells were used for fish culture and for sub-irrigation of 8.8 acres of pasture but for several years had not furnished the permitted 750 gallons per minute, and by 1959 the flow therefrom had diminished to approximately 220 gallons per minute.

4. That on March 30, 1961 defendant Murray City Corporation filed its Change Application No. a-3887 to change the point of diversion, place and nature of use of water from the seven small Baker wells described in paragraph 3 to a new single 16-inch diameter well to be located between approximately 130 feet and 1,000 feet closer to the plaintiffs' wells than were the Baker wells and that defendant Murray City Corporation drilled its new well in May, 1961 pursuant to written permission obtained from the State Engineer on April 10, 1961, but prior to the approval of Change Application No.

a-3887, test pumped its well in the same month, connected it into the Murray City municipal water line and has each year since pumped variable flows of water into its line for municipal use.

5. That Change Application No. a-3887 was advertised, was protested and was approved by the State Engineer, and this action was filed to review the Decision of the State Engineer pursuant to Section 73-3-14, Utah Code Annotated 1953.

6. That plaintiff Wayman's 3-inch well covered by Underground Water Claim No. 3369 ceased flowing on approximately May 25, 1961 and on May 29, 1961 he connected to the Murray City water system and thereafter used said water for his house use; that said plaintiff connected a portable pump to his well in July of 1961 and since that time has had sufficient water from his well with the use of the pump to water his garden; that during the month of November, 1964 said plaintiff's well flowed and had a pressure in excess of seven feet above the ground surface during which period the Murray City well was operated continuously; and that there is no evidence that said well was ever cleaned except that said well replaced a shallower well when it ceased to flow.

7. That plaintiffs Baileys' two shallow wells covered by Underground Water Claims Nos. 5263 and 5264 ceased flowing in 1931 and since that time have intermittently flowed and the waters therefrom were used to water their garden; that during the earlier years there was sufficient flow to water their whole garden and during later years they could water their garden only when the wells flowed; that said plaintiffs have had no garden since 1958; that the deeper well covered by Underground Water Claim No. 5262 supplied said plaintiffs' house use and watered their lawn; that said deeper well ceased flowing in May, 1961 but had not ceased flowing prior to that time and was never equipped with a pump or pressure tank; that said plaintiffs connected onto the Murray City water system on June 1, 1961; that the flow of the deeper well came back later in 1961 and flowed during the forepart of the summer of 1962 but stopped flowing on July 14, 1962; that during the month of November, 1964 said deeper well flowed and had a pressure in excess

of eight feet above ground surface during which period the Murray City well was operated continuously; and that said plaintiffs have never cleaned any of their wells.

8. That plaintiffs Hobbses' 3-inch well covered by Underground Water Claim No. 9665 was drilled in 1922 and flowed only at the basement level; that in 1924 or 1925 said well was equipped with a pump connected to a pipe which extended 21 feet down the well, and that said plaintiffs have since had sufficient water for their house use both before and after the Murray City well was drilled; that said plaintiffs' well is equipped with a second pump outside at ground surface which is used for watering their lawn and flowers; that in 1936 or 1938 the outside pump was changed at about the time the well ceased flowing to the ground surface during the late summer or fall, which condition continued every year thereafter; that after the Murray City well was installed in 1961 the said Hobbses' well would not produce sufficient water for outside use with the pump at ground surface; that thereafter the connection from the outside pump to the well casing was lowered seven feet below ground surface and said well has pumped sufficient water for their use ever since.

9. That plaintiffs Nortons' 2-inch well covered by Underground Water Claim No. 3248 ceased flowing in the summer of 1934 and a pump was installed in 1955; that said plaintiffs' 2-inch well covered by Application No. 29637 was drilled in 1958 and has never been equipped with a pump; that in 1961 both wells flowed except when the Murray City well was being test pumped, and in 1962 both wells flowed a little bit with 1963 being comparable to 1962; that in 1965 the new well was flowing at the time of the trial while the Murray City well was operating and flowed during the month of November, 1964 while the Murray City well was operating; that both of said wells were used to water their garden; that said plaintiffs had previously connected onto the Murray City water system in 1950 for house use and lawn watering; and that said plaintiffs have never cleaned their wells since at least the year 1948.

10. That plaintiffs LaRoccos' 2-inch well covered by

Underground Water Claim No. 11754 has been equipped with a 1/4 h.p. electric motor driven pump since prior to 1940; that the elevation of the water in the well has been near ground surface but has not flowed since 1924; that in May, 1961 the well sputtered but was again producing water by June 4, 1961; that the well stopped flowing on the morning of June 15, 1962, being two days prior to the date on which the Murray City well was turned on, but began flowing that same evening and continued until June 29, 1962 at low pressure when said plaintiffs connected into the Murray City water system; that during the summer of 1963 the well was producing sufficient water on the only two occasions it was checked; that there was no evidence offered as to whether the well flowed or not during 1964; and that said well has not been cleaned since at least prior to 1940.

11. That prior to 1935 over 2730 wells having diameters of 6 inches or larger and a large but undetermined number of lesser diameter wells were drilled into the Cottonwoods Ground Water District, of which the Murray Artesian Basin is a part, whereby the claimants thereunder claim the right to divert in excess of 246 second feet (110,700 gallons per minute) of water; that from 1938 to 1964 in excess of 160 large diameter wells were drilled into the Cottonwoods Ground Water District which actually produced in excess of 190 second feet (85,300 gallons per minute) of water; that such development increased the production of ground water from said District from approximately 18,000 acre feet annually in 1957 to over 30,000 acre feet annually in 1963 while there was in excess of 34,000 acre feet of water annually overflowing or leaking directly into the Jordan River channel from that portion of the Cottonwoods Ground Water District between 6400 South Street and 3300 South Street, Salt Lake County, Utah.

12. That the general ground water development of the Cottonwoods District has resulted in the reduction of ground water pressures within the Murray Artesian Basin, causing the old Baker wells of defendant Murray City Corporation to decrease in flow to 220 gallons per minute in 1959 and causing reductions in the pressures within the plaintiffs' wells; that in order to obtain its entitlement

of 750 gallons per minute of water defendant Murray City Corporation created a more efficient method of obtaining its water from the Basin by means of a 16-inch diameter well, but that the operation thereof interfered with the flows of water from plaintiffs' wells and each of them by further reducing the artesian pressures therein to the point where less water flowed therefrom, and in some instances some of the plaintiffs' wells at times did not flow.

13. That the aquifers which supply plaintiffs' wells at all times have remained full of water and the pressures therein have always been sufficient to maintain the minimum elevation of the ground waters in plaintiffs' wells to within ~~a few~~ 10 feet below the natural ground surface or higher and that plaintiffs at all times were able to, or would have been able to obtain the respective quantities of water to which they and each of them were entitled by equipping their wells with small pumps and by maintaining their respective well casings clean and operable and that the use of artesian pressure exclusively as a method of diversion of ground water within this Basin is not a reasonable and efficient means of diversion.

14. That the interference with the flows of water from plaintiffs' wells resulting from the reductions in ground water pressures in the aquifers which supply plaintiffs' wells, caused by the operation of defendant Murray City Corporation's 16-inch diameter well, is not an unreasonable interference with the flows of plaintiffs' wells when considered in light of the total situation, i.e. that the aquifers which supply plaintiffs' wells have remained full of water and the pressures therein have maintained the water levels in plaintiffs' wells and each of them to an elevation within a few feet of the natural ground surface, that there has been sufficient recharge into the ground water basin to supply the overall development and withdrawal of in excess of 30,000 acre feet of water annually therefrom with at least 34,000 acre feet of water leaking or overflowing annually therefrom directly into the Jordan River channel, and when further considered in light of the overall objective of promoting and encouraging the most efficient use of

the available ground waters within this Basin.

15. That although the Court expressly finds that the past reductions in the ground water pressures in plaintiffs' wells and each of them caused by the operation of defendant Murray City Corporation's 16-inch well have not been unreasonable, the evidence is insufficient upon which to base a Finding as to the extent to which the ground water pressures may be further reduced in the Murray Artesian Basin in the vicinity of plaintiffs' wells to provide for the maximum development of the Basin consistent with the reasonable exercise of the rights of all users therefrom, and likewise the evidence is insufficient upon which to base a Finding as to the depths below which it will become unreasonable to require plaintiffs and each of them to pump water by means of their respective wells for their established uses.

From the foregoing Amended Findings Of Fact, the Court now makes and enters the following

CONCLUSIONS OF LAW

1. That plaintiffs have no absolute right to artesian pressure as a method of diversion of water by means of their several wells, nor do plaintiffs or any of them have a vested right to have the ground water levels in their several wells maintained at elevations above which their respective wells can be pumped by reasonable and efficient means.

2. That the interference with the flows of water from plaintiffs' wells caused by the reduction in ground water pressures in the aquifers which supply their wells resulting from the operation of defendant Murray City Corporation's 16-inch diameter well has not been an unreasonable interference with the rights of the plaintiffs or any of them under the facts of this case.

3. That the Decree of this Court should be entered approving Change Application No. a-3887 upon the condition that, in the event the ground water levels in plaintiffs' existing wells shall recede to below an elevation which is unreasonable for them to pump their existing wells by reasonable and efficient means, defendant Murray City Corporation should at its sole cost and expense

replace to plaintiffs and each of them at the ground surface of their respective wells the quantities of potable water to which plaintiffs are entitled to divert by means of their wells only during such periods and at such times when the water levels in plaintiffs' wells shall remain below such unreasonable pumping levels and provided that plaintiffs and each of them shall maintain their respective wells in operable condition and in a reasonable state of repair; and that in all other respects the Decision of defendant Wayne D. Criddle, then State Engineer, dated May 28, 1962, should be affirmed.

4. That defendant Hubert C. Lambert, as successor to defendant Wayne D. Criddle, as State Engineer, should be ordered and directed by this Court to conduct such further investigations and studies as may be necessary to analyze the total situation of the underground basin herein, including the quantities of water available, the average recharge in the basin, the existing rights and their priorities, and to determine the elevations of the water levels in plaintiffs' respective wells below which it shall be unreasonable for plaintiffs to pump water by reasonable and efficient means so as to supply their requirements as set forth in the Amended Findings Of Fact herein and still provide for the maximum development and beneficial use of the waters of the Basin without unnecessary waste, and to submit his recommendations thereon to this Court for its determination and adjudication.

5. That defendant Hubert C. Lambert, as successor to defendant Wayne D. Criddle, as State Engineer, should be ordered to allocate and distribute the underground waters among the parties herein on the basis of his determination of the reasonable pumping levels pending the final determination and adjudication thereof by this Court.

6. That this Court should retain jurisdiction of this matter solely for the purpose of determining and fixing the reasonable pumping levels for the respective wells of plaintiffs, and in all other respects the issues between the parties herein are hereby finally adjudicated and settled.

7. That each party shall bear his and its own costs.

Dated this _____ day of August, 1972.

BY THE COURT

_____
District Judge