

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT, STATE OF UTAH,
in and for the COUNTY OF WASHINGTON.

Stephen A. Bunker, James F. Cottam, :
and Caroline B. Cottam, :

Plaintiffs, :

vs. :

Newcastle Reclamation Company, a :
Corporation, The Grass Valley Ir- :
rigation Company, a Corporation, :
James Rencher, and Royal J. Gardner, :

Defendants. :

D E C R E E.

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This cause having been regularly tried, and the Court
having made and entered its Findings of Fact, and Conclusions of Law,
herein makes and enters judgment in pursuance thereof, and it is here-
by ordered, adjudged and decreed:

1. That the plaintiffs are the owners of a Primary water
right from the South Fork of Grass Valley Creek, for sufficient water
to irrigate fifty-one acres of land at the rate of one second foot
to each forty-five acres or one and thirteen hundredths (1.13) second
feet or so much thereof as may be necessary and beneficially applied
and plaintiff's right thereto is hereby quieted and confirmed, and
the said land upon which the said primary right is hereby adjudged and
decreed is that referred to in the testimony as the John A. Gardner
Farm and the plaintiffs' right to the use thereof is hereby quieted and
confirmed, when the flow thereof in the South Fork of said Grass Valley
Creek equals or exceeds the flow of five and two hundredths (5.02)
second feet, but whenever the flow of said South Fork is less than five
and two hundredths (5.02) second feet, said primary right shall be
taken in the proportion of one-fourth of the flow of said stream, when
it is below said quantity of five and two hundredths (5.02) second
feet, as set out in Findings of Fact #14 herein.

2. That the defendant James Rencher is the owner of a primary water right in what is known as the South Fork of Grass Valley Creek, in Washington County, State of Utah, upon his farm in said Grass Valley, consisting of about seventy-five (75) acres of land or sufficient water to irrigate the same at the rate of one second foot of water to every forty-five acres of land, or a flow of one and sixty six hundredths (1.66) second feet, or so much thereof as is necessary when used in connection with the springs on or near his said farm of seventy-five acres, and his right to the use thereof is hereby quieted and confirmed, but whenever the flow of said South Fork is less than five and two hundredths (5.02) second feet, said primary right shall be taken in the proportion of one-half of the flow of said stream, when it is below said quantity of five and two hundredths (5.02) second feet, as set out in Findings of Fact #14 herein.

3. That the defendant Royal J. Gardner is the owner of a primary water right of the South Fork of said Grass Valley Creek, for sufficient water to irrigate fifty-five acres of land at the rate of one second foot to forty-five acres or one and twenty-two hundredths (1.22) second feet, and his right thereto is hereby quieted and confirmed, but whenever the flow of said South Fork is less than five and two hundredths (5.02) second feet, said primary right shall be taken in the proportion of one-fourth of the flow of said stream, when it is below said quantity of five and two hundredths (5.02) second feet, as set out in Findings of Fact #14 herein.

4. That the defendant Royal J. Gardner is the owner of a primary water right in the North Fork of Grass Valley Creek, for sufficient water to irrigate twenty-two acres of land at the rate of One second foot to forty-five acres or five tenths (0.5) of a second foot, and his right to the use thereof is hereby quieted and confirmed, but whenever the flow of said North fork is less than one and twenty-three Hundredths (1.23) second feet, said primary right shall be taken in

the proportion of five tenths to seventy-three hundredths of the flow of said stream, when it is below said quantity of one and twenty-three (1.23) second feet.

IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED, that the "primary water right" herein referred to is adjudged and decreed to be all that quantity of water in said South Fork of said Grass Valley Creek until the flow thereof reaches a flow of five and two hundredths (5.02) second feet, and in the North Fork thereof, until the flow reaches a flow of One and twenty-three hundredths (1.23) second feet or a combined flow of Six and twenty-five hundredths (6.25) second feet, and the owners thereof are entitled to the use thereof as hereinbefore set forth, of their respective proportion of said flow when it is below or less than the flow of six and twenty-five hundredths (6.25) second feet, hereinbefore specified, from the First day of January until the 31st day of December, both inclusive of each year.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that all of the primary water rights hereinbefore referred to shall first be supplied before any owners of secondary water right are entitled to the use of any water from either of said streams, or from the combined flow thereof or until the combined flow thereof exceeds the flow of six and twenty-five hundredths (6.25) second feet, and if said flow exceeds the flow of six and twenty-five hundredths second feet; then that quantity of the flow between said flow of six and twenty-five hundredths second feet and until said flow amounts to Twelve and Ninety-one (12.91) hundredths second feet is hereby designated and defined as the "secondary water right" of said Creek, and it is hereby ordered, adjudged, and decreed that the plaintiffs are the owners of sufficient of said secondary water rights, if the flow of said stream exceeds the flow of six and twenty-five hundredths second feet until it reaches a flow of twelve and ninety-one hundredths second feet and until it again recedes to said quantity of six and twenty-five hundredths second feet

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between the first day of April and the First day of July of each year for sufficient water to irrigate three hundred acres of land, or so much thereof as may be necessary, at the rate of forty-five acres to one second foot, and if the flow of said stream amounts to twelve and ninety-one hundredths second feet, but if said flow is less than twelve and ninety-one hundredths second feet, then from the time the said flow exceeds six and twenty-five hundredths second feet until it reaches the flow of twelve and ninety-one hundredths second feet, the plaintiffs are entitled to all of said flow or so much thereof as there shall be found in excess of six and twenty-five hundredths second feet, during said period from high water until July first of each year and plaintiff's right to the use thereof is hereby quieted and confirmed.

It is further ordered, adjudged, and decreed that the "tertiary or surplus water right" referred to on said Grass Valley Creek, in Washington County, State of Utah, are found and adjudged and decreed to be all that quantity of water from the combined flow of said Creek when the same exceeds twelve and ninety-one hundredths second feet.

Season as specified in application No. 3196 in the office of the State Engineer of the State of Utah.

Said water to be diverted from the Santa Clara River at a point N. 40°55'W. 4334 ft. from the S $\frac{1}{4}$ Cor. Sec. 28, T. 41 S., R. 17 W. S.L.B.& M. into the St. George & Santa Clara Bench Canal and used to irrigate 1300 acres of land described as follows: parts of E $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 3, W. 3/4 Sec. 4 Secs. 5, 6, & 23, except W $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 23, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 7; NE $\frac{1}{4}$, NW $\frac{1}{4}$, SE $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 8, W. 3/4 Sec. 9, E $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 10, S $\frac{1}{2}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$ Sec. 14, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 15, N $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ Sec. 16, T. 42 S., R. 16 W., S.L.B.& M. SW $\frac{1}{4}$, SE $\frac{1}{2}$ NW $\frac{1}{4}$ Sec. 33, S $\frac{1}{2}$ Sec. 32, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$ and NW $\frac{1}{4}$ Sec. 31, lots 8, 9, 10, 11, 12 Sec. 30, T. 41 S., R. 16 W., S $\frac{1}{2}$ Sec. 25, and 26 NE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ Sec. 36, T. 41 S., R. 17 W., also NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 1, T. 42 S., R. 17 W.

(b)
Priority date May 7, 1910 Quantity 5000 ac. ft.

Said water to be stored in a proposed reservoir located in the natural channel of Santa Clara River, just below the town of Pine Valley, amounting 750 acres of land, parts of Secs. 10, 11, 14 and 15, T. 39 S., R. 15 W., S.L.B.& M. The stored water to be released into the natural stream of said river and diverted at said point into said canal and used to irrigate 1666.7 acres of land described as in said paragraph 22 (a). This appropriation which includes both items above of equal priority is founded upon applications to appropriate water No. 3196 filed and of record in the office of the State Engineer of Utah, to which record reference is hereby made.

* 23. VEYO IRRIGATION COMPANY, Veyo, Washington Co. Utah.
Priority date Quantity Point of diversion and place and purpose of use
Mar. 20, 1911 10.00 c.f.s.

Said water to be diverted from Santa Clara River at a point S. 25°31'W. 2555 ft. from the NE Corner of Sec. 23, T. 39 S., R. 16 W., S.L.B.& M. into the Dixie Power Company Canal and used to irrigate 700 acres of land described as follows: Part of the NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 5, NE $\frac{1}{4}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, part of NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 6, part of NW $\frac{1}{4}$ NW $\frac{1}{4}$ part of NW $\frac{1}{4}$ Sec. 7, part of NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 8, T. 40 S., R. 16 W., SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 36, T. 39 S., R. 17 W., part of SE $\frac{1}{4}$ NW $\frac{1}{4}$, part of SW $\frac{1}{4}$ Sec. 1, part of SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 2, part of NW $\frac{1}{4}$ NE $\frac{1}{4}$, part of N $\frac{1}{2}$ NW $\frac{1}{4}$, part of SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 13, part of E $\frac{1}{2}$ NE $\frac{1}{4}$ and part of NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 11, T. 40 S., R. 17 W., S.L.B.& M.

* 24. (a) ST. GEORGE & SANTA CLARA BENCH IRRIGATION CO.
Santa Clara, Washington County, Utah.
Priority date Quantity Point of diversion and place and purpose of use.
Nov. 2, 1911 20.00 c.f.s.

Said water to be diverted from the Santa Clara River at a point N. 40°55'W. 4334 ft. from the S $\frac{1}{4}$ cor. Sec. 28, T. 41 S., R. 17 W. S.L.B.& M. into the St. George & Santa Clara Bench Canal and used to irrigate 1300 acres of land described as follows: E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 3, NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 4, all Secs. 5 and 6,

* 23. Veyo Irrigation Company, season as specified and subject to the rights as set forth in the certificate of appropriation of the State Engineer of the State of Utah, No. 976.
* 24. St. George and Santa Clara Bench Irrigation Company's application No. 4558 in the office of the State Engineer of the State of Utah, having lapsed, no order is made with reference thereto.

NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 7, NE $\frac{1}{4}$ and SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 8, SW $\frac{1}{4}$ Sec. 13, all Sec. 14, E $\frac{1}{2}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 15, NE $\frac{1}{4}$ and NW $\frac{1}{4}$ Sec. 16, E $\frac{1}{2}$ Sec. 22 except W $\frac{1}{2}$ NE $\frac{1}{4}$, all Sec. 23, except W $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ Sec. 24, T. 42 S., R. 16 W., SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 30, all Sec. 31 S $\frac{3}{4}$ Sec. 32, S $\frac{3}{4}$ Sec. 33, T. 41 S., R. 16 W., S $\frac{1}{2}$ Secs. 25 and 26, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 36, T. 41 S., R. 17 W., S.L.B. & M.

This appropriation is founded upon application to appropriate water No. 4336 filed and of record in the office of the State Engineer of Utah, to which record reference is hereby made.

(b)

Priority date Quantity
Mar. 18, 1912 2000 ac. ft.

Said water to be stored in a proposed reservoir inundating approx. 100 acres of land and located in the natural channel of Moody Creek or Wash, a tributary of Magotsu Creek and Santa Clara River, at a point S.30°08'E. 9585 ft. from U. S. Mineral Monument No. 1 in unsurveyed T. 38 S., R. 17 W., in unorganized mining district in Washington Co. Said water to be released from reservoir into the natural channel of said Creek or wash, allowed to flow down to the Santa Clara River and rediverted as stated in paragraph 24 (a) and used to irrigate 666.7 acres of land in parts of Secs. 25, 26, 35 and 36, T. 41 S., R. 17 W., Sec. 1, T. 42 S., R. 17 W., Secs. 30, 31, 32, 33, 34, T. 41 S., R. 16 W., Secs. 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 23 and 24, T. 42 S., R. 16 W., S.L.M.

This appropriation is founded upon application to appropriate water No. 4558 filed and of record in the office of the State Engineer of Utah, to which record reference is hereby made

* 25. DIXIE POWER COMPANY, St. George, Washington Co., Utah.

Priority date Quantity Point of diversion and place and purpose of use.
June 23, 1916 30.00 c.f.s.

Said water to be diverted from Santa Clara River at a point S.25°31'W. 2552.5 ft. from the NE Cor. Sec. 32, T. 39 S., R. 16 W., S.L.B. & M. and used for power purposes and returned to the natural stream of Santa Clara River at a point N.22°10' E. 734 ft. from the S $\frac{1}{2}$ Cor. Sec. 11, T. 40 S., R. 17 W., S.L.B. & M.

This appropriation based on application No. 6815 of record in the office of the State Engineer.

26. GEORGE F. WHITHEAD, St. George, Washington County, Utah.

Priority date Quantity Point of diversion and place and purpose of use.
Apr. 4, 1917 7.00 c.f.s.

Said water to be diverted at a point S.16°18'E. 2137.8 ft. from the SW corner of Sec. 31, T. 42 S., R. 15 W., S.L.B. & M. into the Bloomington Irrigation Company Canal and after conveying said water through said canal a distance of 1 $\frac{1}{2}$ miles said water to be lifted 30 ft. to a high line ditch by means of a pumping station and used to irrigate 420 acres of land described as follows: SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 12, S $\frac{1}{2}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 11, E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 10, N $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 14, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 15, T. 43 S., R. 16 W., S.L.B. & M.

Season as specified in application No. 7239 in the office of the State Engineer of Utah. Cert. No 1767.

This appropriation is founded upon application to appropriate water No. 7239 filed and of record in the office of the State Engineer of Utah, to which record reference is hereby made.

* 25. Dixie Power Company during the season and subject to the rights as are given by State Engineer's certificate of appropriation No. 903

27. ST. GEORGE & SANTA CLARA BENCH IRRIGATION CO.

Priority date Quantity Point of diversion and place and purpose of use.
 Aug. 21, 1918 1000 ac.ft.

Season as specified in application No. 7838 in the office of the State Engineer of the State of Utah.

Said water to be diverted from the Santa Clara River at a point N. 40° 55' W. 4334 ft. from the S $\frac{1}{2}$ corner Sec. 28 T. 41 S., R. 17 W., S.L.B. & M. into the St. George & Santa Clara Bench Canal and stored in a reservoir located in Sec. 36, T. 41 S., R. 17 W., the center of the impounding dam being located S. 27° 00' E. 1830 ft. from the NW corner of said Sec. 36. Said water to be released and returned to the natural channel of the Santa Clara River and used to irrigate 1200 acres of land under the St. George Clara Field Canal Co. and the Santa Clara Field Canal Co. described as follows: parts of N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 16, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 15, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 22, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ Sec. 27, NW $\frac{1}{4}$ N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 26, NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 35, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 36, T. 42 S., R. 16 W., S.L.B. & M.

This appropriation is founded upon application to appropriate water No. 7838 filed and of record in the office of the State Engineer of Utah, to which record reference is hereby made.

28. (a) DIXIE POWER COMPANY, St. George, Washington Co., Utah.

Priority date Quantity Point of diversion and place and purpose of use
 Jan. 13, 1919 30.00 c.f.s.

Dixie Power Company's application No. 7956 in the office of the State Engineer of the State of Utah having lapsed, no order is made with reference thereto.

5 c.f.s. of said water to be diverted from Magotsu Creek, a tributary of Santa Clara River, at a point 3,754 ft. S., and 1386 ft. W. of the E $\frac{1}{2}$ corner Sec. 2, T. 40 S., R. 17 W., S.L.B. & M. and 25 c.f.s. of said water from said Santa Clara River diverted at a point N. 22° 10' E. 879 ft. from the S $\frac{1}{2}$ Cor. Sec. 11, T. 40 S., R. 17 W., used for power purposes and returned to the natural stream of Santa Clara River at a point S. 82° 00' E. 700 ft. from the E $\frac{1}{2}$ cor. Sec. 21, T. 40 S., R. 17 W., S.L.B. & M.

This appropriation is founded upon application to appropriate water No. 7956 filed and of record in the office of the State Engineer of Utah, to which record reference is hereby made.

(b)
Priority date Quantity
 May 1, 1920 25.00 c.f.s.

Said water to be diverted from Santa Clara River at a point N. 66° 08' W., 2300.03 ft. from the SE corner Sec. 15, T. 39 S., R. 16 W., S.L.B. & M. used for power purposes and returned to the canal of Dixie Power Co., at a point S. 54° 35' W. 4298 ft. from the SW corner Sec. 28, T. 39 S., R. 16 W.

29. Dixie Power Company

Season as specified in and subject to such rights as are given by State Engineer's certificate of appropriation No 1293.

This appropriation is founded upon application to appropriate water No. 8083 filed and of record in the office of the State Engineer of Utah, to which record reference is hereby made.

30. Hyrum Jones, Henry Bowler, John Bowler, Mar Bracken, Henry M. Hunt and Albert Trueman are entitled to the use of all the water flowing in the Magotsu Creek and its tributaries at the present diversion points of said parties. But, said parties shall not have the right to divert water at any diversion point lower than the lowest present diversion point.

(a) Hyrum Jones, Gunlock, Washington County, Utah.

| <u>Priority date</u> | <u>Quantity</u> | <u>Point of diversion and place and purpose of use.</u> |
|-------------------------|-----------------|--|
| <u>Prior to</u> 1890 | 0.07 c.f.s. | Said water to be diverted from <u>Magotsu Creek</u> , a tributary of the Santa Clara River at a point approximately 225 ft. N. and 200 ft. E. of the NE cor. Sec. 2, T. 40 S., R. 17 W., S.L.B. & M. into the Crow Field Ditch and used to irrigate 4.2 acres of land in Secs. 1 and 2, T. 40 S., R. 17 W. |

(b) HENRY BOWLER, Gunlock, Washington Co., Utah.

| <u>Priority date</u> | <u>Quantity</u> | <u>Point of diversion and place and purpose of use</u> |
|-------------------------|-----------------|---|
| <u>Prior to</u> 1890 | 0.23 c.f.s. | Said water to be diverted from each either or both of the following points of diversion (a) from the <u>Magotsu Cr.</u> , a tributary of Santa Clara River, at a point approx. 2500 ft. N. and 550 ft. W. of NE cor. Sec. 36, T. 39 S., R. 17 W., S.L.B. & M. into the Bowler Ranch Ditch and used to irrigate 11.7 acres of land in said Sec. 36, (b) from said stream below the junction of Moody Wash and said stream at a point approx. 1250 ft. S. and 300 ft. W., of NE cor. Sec. 2, T. 40 S., R. 17 W., into the Emmet Bottom Ditch and used to irrigate 3.3 acres of land in said Sec. 2. |

(c) JOHN BOWLER, Gunlock, Washington County, Utah.

| <u>Priority date</u> | <u>Quantity</u> | <u>Point of diversion and place and purpose of use</u> |
|-------------------------|-----------------|--|
| <u>Prior to</u> 1890 | 0.62 c.f.s. | Said water to be diverted from each either or all of the following points of diversion (a) from <u>Magotsu Creek</u> , a tributary of Santa Clara River, at a point approx. 2500 ft. N. and 550 ft. W. of NE Cor. Sec. 36, T. 39 S., R. 17 W., S.L.B. & M. into the Bowler Ranch Ditch and used to irrigate 36.0 acres of land in Sec. 35 and 36, T. 39 S., R. 17 W., (b) from <u>said stream</u> at a point approx. 2600 ft. W. and 2100 ft. S. of NE Cor. Sec. 36, T. 39 S., R. 17 W., into an unnamed ditch |

* See footnote next page

and used to irrigate 0.3 acres of land in said Sec. 36, (c) from Moody Wash, a tributary to said stream, at a point approx. 1100 ft. N. and 150 ft. W. of NE Cor. Sec. 2, T. 40 S., R. 17 W., into the Barley Field Ditch and used to irrigate 4.1 acres of land in said Sec. 2.

(d) **MAR BRACKEN**, Gunlock, Washington County, Utah.

Priority date
Prior to
1890

Quantity Point of diversion and place and purpose of use
0.14 c.f.s.

Said water to be diverted from Magotsu Creek, a tributary of Santa Clara River, at a point approx. 2500 ft. N. and 550 ft. W., of NE Cor. Sec. 36, T. 39 S., R. 17 W., S.L.B. & M. into the Bowler Ranch Ditch and used to irrigate 9.0 acres of land in said Sec. 36.

(e) **HENRY HUNT**, Gunlock, Washington County, Utah.

Priority date
Prior to
1890

Quantity Point of diversion and place and purpose of use.
0.17 c.f.s.

(a) 0.08 c.f.s. of said water to be diverted from the Springfield Upper and Lower Springs located in the NW 1/4 Sec. 30, T. 39 S., R. 16 W., S.L.B. & M. and used to irrigate 5.1 acres of land in said Sec. 30, and Sec. 25, T. 39 S., R. 17 W.

(b) 0.09 c.f.s. of said water to be diverted from Magotsu Creek, a tributary of Santa Clara River at a point approx. 2500 ft. N. and 550 ft. W. of SE cor. Sec. 25, T. 39 S., R. 17 W., into the Bowler Ranch Ditch and used to irrigate 5.6 acres of land in said Sec. 25.

(f) **ALBERT TRUMAN**, Gunlock, Washington County, Utah.

Priority date
Prior to
1890

Quantity Point of diversion and place and purpose of use
0.44 c.f.s.

Said water to be diverted from the Magotsu Creek, a tributary of Santa Clara River at a point approx. 450 ft. W. and 250 ft. S. of NE cor. Sec. 19 T. 39 S., R. 16 W., S.L.B. & M. into the Farm Ditch and used to irrigate 28.5 acres of land in said Sec. 19.

The said rights of said Hyrum Jones, Henry Bowler, John Bowler, Mar Bracken, Henry Hunt, and Albert Truman are of equal priority and are designated as Class I rights, and when there is not sufficient water to supply all of said parties they shall take said water in the proportion as follows:

Hyrum Jones, 7/167; Henry Bowler, 25/167;
John Bowler, 62/167; Mar Bracken, 14/167;
Henry Hunt, 17/167; Albert Truman, 44/167.

* So Hyrum Jones, Henry Bowler, John Bowler, Mar Bracken, Henry Hunt and Albert Truman are entitled to such rights as given them under the decree of Nov. 6, 1922.

* 31. Veye Irrigation Company, Veye, Washington County, Utah.
The rights to divert and use with priority date Mar. 5, 1915, at the point and for the purpose specified in paragraph 23 of this Schedule of Rights, an amount of water from said Santa Clara River equal to the amount of water from Moody Wash, a tributary of said Magatsu Creek, saved by means of the works on said Moody Wash constructed by said Veye Irrigation Company under the terms of and as described in application to appropriate water No. 6092 on file and of record in the office of the State Engineer of Utah, to which record reference is hereby made, and discharged into said Santa Clara River; the amount so saved being hereby determined to be 25 per cent of the amount of water flowing in said Moody Wash at the intake of said works constructed by said Veye Irrigation Company on said Moody Wash, when said water is diverted into and carried through said works, which is in excess of 0.5 c.f.s. and not in excess of 2.5 c.f.s. there being no saving by reason of the use of said works when said flow exceeds 2.5 c.f.s. or does not reach 0.5 c.f.s. The actual determination of the amount so saved and discharged into Santa Clara River and the amount which said Veye Irrigation Co., shall be entitled to divert and use hereunder, shall be made by the Commissioner appointed to distribute the waters herein decreed, upon investigation from time to time.

This appropriation is founded upon application to appropriate water No. 6092 filed and of record in the office of the State Engineer of Utah, to which record reference is hereby made.

VIII.

Inflow below their respective points of diversion as herein fixed, due to sudden floods, shall not be considered as entitling either Central Canal & Irrigation Company or Veye Irrigation Company to divert water from Santa Clara River to which they would not otherwise be entitled; and both Central Canal & Irrigation Company and Veye Irrigation Company shall refrain from taking any water from Santa Clara River to which they might otherwise become entitled by reason of any inflow below their respective points of diversion under their appropriations with priority date after 1890, until after the Dixie

* Veye Irrigation Company is entitled to such rights as were given by the decree of November 6, 1922.

Dixie Power Company has received at its point of diversion herein specified all of the water required by it for its power uses up to the maximum amount allowed to it herein when the same is available, provided that this prohibition shall not apply to the Veyo Irrigation Company as to water diverted at its point of diversion herein specified, after said Dixie Power Company shall have received in its ditch used jointly with said Veyo Irrigation Company, 14 c.f.s. of water per second for use for power purposes in its present lower plant on said Santa Clara River, measured at the present weir in said canal a short distance below the Dixie Power Company's present upper plant.

When there is not sufficient water in said Santa Clara River and its tributaries to supply all of the rights hereby decreed, the available water shall be distributed to the various appropriators in accordance with their respective priorities as herein fixed, and no appropriator, except as otherwise specified herein, shall be entitled to divert and use water hereunder for any purpose until said prior appropriations shall have been satisfied in full. Where there are several rights of equal priority and there is not enough water to supply all the rights having such priority, the available water shall be prorated among such appropriations of equal priority in the proportion which the quantity to which they are entitled bears to the entire flow available to rights of the priority in question. In all cases of scarcity of water domestic rights shall be preferred and shall be supplied in full before any water is apportioned on other rights.

X.

The quantity of water distributed to any user or appropriator shall be measured at or near the point where said water is diverted as herein fixed except as is herein otherwise provided and the total flow of water in said Santa Clara River and its tributaries, except as may be otherwise provided herein, shall be determined by measuring the quantity of water diverted at each point of diversion, omitting diversion for power uses, and taking the aggregate amount of water shown by such measurements.

Water Secretary

XI.

By reason of the fact that there is a wide variation in the conditions affecting the lands irrigated from said Santa Clara River and its tributaries, that such conditions vary with the season of the year and from year to year, with the crops grown, and with the temperature and precipitation changes, and that there is not now available sufficient data as to the effect of these changes on the irrigation users requirements, no determination is made at this time as to what limitations should be placed on the irrigation rights herein decreed in order to prevent waste and insure the maximum beneficial use of all available water; but this case is hereby held open to permit the accumulation of data as herein directed and the offering of such further evidence as may be desired, and jurisdiction is hereby expressly reserved to make such further orders herein from time to time and such final decree, supplemental to this decree, determining such limitations, as may be proper under the law and the evidence then before this court; provided that such supplemental final decree herein shall be entered on or before April 1, 1927. Pending such final determination, and until limited in accordance with the terms hereof, each irrigation user shall be entitled to take and use the water herein decreed according to his priority and in the quantity herein set forth at any time he may desire the same; but, for the purpose of determining whether or not there may be seasons, times, or periods when water may be so applied and used by irrigation users that they may be water during such season, times or periods available to junior or subsequent appropriators, the commissioner charged with the distribution of said waters of said Santa Clara River and its tributaries under the terms hereof, is hereby authorized and directed to make a close and systematic study of said river system and the lands irrigated by the waters thereof and to report his findings thereon to this court prior to April 1, 1927; and, if it shall be found that any irrigation user is receiving more water at any time, season or period than is being beneficially used or that any water is being wasted, the

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said commissioner is authorized to change or limit the distribution of water to said user to the end of preventing waste and insuring beneficial use, and to distribute the water so saved to the junior appropriators in order of priority and in accordance with their rights as herein fixed, but any such action by each commissioner shall be subject at all times to review and change by this court. In order to prevent the forfeiture during the period which may elapse before such supplemental final decree is entered herein, of any existing appropriations of the waters of said Santa Clara River or its tributaries which are not now completed but which have been initiated by applications to appropriate water filed in the office of State Engineer of Utah, the time for making final proof of the appropriation of said water under said applications shall be and is hereby extended to April 1, 1927.

XII.

No waivers or adverse claims shall be made growing out of said distribution of said waters for determination purposes by the said commissioner.

XIII.

90% of the compensation and expenses of the said commissioner shall be paid by the said appropriators and users for other than power purposes, in proportion to the quantity of water in acre feet actually diverted to the respective appropriators or users, and the Dixie Power Company, or its successors in interest in its water rights on Santa Clara River or its tributaries, shall pay the other 10% thereof.

XIV.

That M. E. Braeken and Wm. A. Braeken for Estate of J. B. Braeken, in lieu of Lawrence Braeken, administrator of the estate of J. B. Braeken, a party defendant to this suit, filed a claim to the use of sufficient water to irrigate 14.0 acres of land in Pine Valley Fields, undescribed, which is determined to be a part and included with the rights of the Pine Valley Irrigation Company.

XV.

That Harry Hill Bowler, not made a party defendant to this suit, filed a claim to the use of sufficient water for domestic use to supply 6 persons and 12 head of stock and to irrigate 6.5 acres of land at Gunlock, undescribed, which is determined to be a part of land included with the rights of Gunlock Irrigation Company.

See page 38.

XVI.

The following parties to this suit, having been duly served with Notice and Summons and having either filed disclaimer or no answer, motion or other appearance or pleading herein, are determined to have no right, title, interest or claim in or to any of the waters of Santa Clara River System or its tributaries except as stockholders in one or more of the incorporated companies determined as having the right to the use thereof, to-wit: Wilford V. Knight, administrator of the Estate of Samuel Knight, deceased, Marion Gray, administrator of the Estate of Robert Gray, deceased, Robert Gardner, Henry B. Malt, William Bracken, Arthur Bracken, Marcellus Bracken, H. J. Malt, Wallace Bracken, John Chadbourne, Lawrence Bracken, Isaac Burgess, F. J. Bowler, June Chadbourne, Sylvester Wilcox, Ray Burgess, George A. Chadbourne, Reuben Gardner, James Chadbourne, Newcastle Land Company.

Done in open court this 8 day of Nov. 1902.

BY THE COURT

Judge

And the parties consenting thereto, it is further ORDERED,
ADJUDGED AND DECREED:

(a) That in addition to the .25 second feet of water awarded to the Town of Central for culinary and domestic purposes, the said Town of Central shall have the right to take into its canal one second foot additional, making a total diversion into its canal of 1.25 second feet, upon the express condition that the said Town shall return to the natural channel of the stream one second foot of said water and shall install accurate measuring devices at the point of intake of said water into said canal and at the point of discharge therefrom into the stream.

(b) That in addition to the .5 second feet of water awarded to the water users at the Town of Gunlock for culinary and domestic purposes, that said water users at the Town of Gunlock shall have the right to take into their canal the one second foot additional, making a total of diversion into their canal of 1.5 second feet, the point of diversion of which is approximately 600'S., of E $\frac{1}{4}$ Cor. Sec. 21, T. 40 S., R. 17 W., S.L.B. & M., upon the express condition that the said water users at the Town of Gunlock shall return to the natural channel of the stream one second foot of said water and shall install accurate measuring devices at the point of intake of said water into said canal and at the point of discharge therefrom into the stream.

(c) That the last paragraph of subdivision 7 of the schedule of rights contained in paragraph 7 of the decree of November 6, 1922, awarding water to Pine Valley Irrigation Company, be amended to read as follows:

"Said water is to be used for the irrigation of 475.5 acres of land in Pine Valley in Washington County, Utah and for domestic use at Pine Valley for 50 persons and 500 head of stock and shall be used only on land in said Pine Valley. No part of such water shall ever be subject to a change of place of use from land in Pine Valley to any other land.