



its decree determining the relative rights of the various claimants to the waters of Sevier River and its tributaries, therein and whereby this court determined the water rights of claimant Vermillion Irrigation Company, and said claimant Vermillion Irrigation Company, a corporation, having thereafter appealed to the Supreme Court of the State of Utah from said respective decrees, and said Supreme Court of the State of Utah having ordered that said decrees be reversed and the cause remanded, with instructions to make new findings, conclusions and decree in conformity with the decision of said Supreme Court of the State of Utah as expressed in its said decision:

NOW, THEREFORE, upon application of the aforesaid claimant and objectors, through their respective attorneys, and in conformity with the mandate of the Supreme Court, it is hereby ORDERED, ADJUDGED and DECREED that the findings of fact, conclusions of law and decrees heretofore made and entered herein, as affecting Vermillion Irrigation Company, be and the same are vacated and set aside, and in lieu thereof the following findings of fact, conclusions of law and decree be and the same are hereby substituted:

#### FINDINGS OF FACT

##### 1.

The court finds that on or about February 20, 1931 said parties made and entered a stipulation, Exhibit "C" herein, to which reference is hereby made and by which reference the same is made a part hereof, wherein and whereby it was stipulated and agreed as to the rights of said respective parties in and to the waters of Sevier River; that as a part of said stipulation the right of Vermillion Irrigation Company, otherwise known as Vermillion Canal Company, as one of the primary rights Section A, Sevier County, was described as follows:

"All the water of Sevier River accumulating therein between the Annabella Dam and the Vermillion Dam, not exceeding 37,80 c.f.s. with period of use from January 1st to December 31st in each and every year; provided, however, that whenever the water yielded between the Annabella Dam and the Vermillion Dam shall not be sufficient to supply to said Vermillion Irrigation Company the said 37.80 c.f.s., then the rights hereinbefore mentioned and set out as primary rights under Section A shall pro rate equally with the said Vermillion Irrigation Company.

##### II.

The court finds that it was the intention of the parties signing the stipulation

dated February 20, 1931, Exhibit "C" herein, that Vermillion Irrigation Company should not and did not part with any of its rights awarded it under the Decree made and entered in the Sixth Judicial District Court in and for Sevier County, in the case of "Richfield Irrigation Canal Company, et al, vs. Circleville Irrigation Company, et al," under date of May 16, 1906, and known as the "Morse Decree", but that it retained unimpaired all the rights granted to it under that Decree.

III.

That under and pursuant to the said Morse Decree, Vermillion Irrigation Company is entitled to 37.80 c.f.s. of the primary direct flow of the Sevier River in Zone A, from January 1st to December 31st in each and every year, both inclusive, whenever it can beneficially use the same, to be diverted from the Sevier River at the Vermillion Dam, as now located, through its canal for use for domestic, culinary, stock watering and irrigation purposes, on the lands under its said canal.

IV.

That pursuant to the terms and provisions of said stipulation, Exhibit "C", as subsequently modified, certain of the primary users of the Sevier River in Zone A in Sevier County consented to a limitation upon the period of use of said primary water for irrigation purposes, to a period of time from April 1st to September 30th, inclusive, of each and every year, in exchange for the right to store water in the Piute Reservoir and call for the use of same, all as set forth and contained in said stipulation as modified and as provided for and as defined in the decree dated November 30, 1936, herein, and that said Sevier Bridge Reservoir Companies and the Piute Reservoir & Irrigation Company have succeeded to the rights of substantially all of the other users of primary water in Zone A during the non-irrigation season from October 1st to March 31st of each year, and are entitled to take, store and use the same.

V.

That at the time said stipulation dated February 20, 1931, Exhibit "C" herein, was entered into the parties thereto in using the language employed to define the Vermillion Irrigation Company's right, and particularly in using the words "accumulated and yielded", intended that the Vermillion Irrigation Company should retain its rights as theretofore decreed and set forth in that certain decree known as the Morse Decree, made and entered May 16, 1906, from January 1st to December 31st of each and every year.

VI.

That at the time said stipulation Exhibit "C" was entered into the parties thereto intended that when, during the period from April 1st to September 30th there is not sufficient water to satisfy the primary first class rights awarded in Section A, Sevier County", as set forth in the printed decree in the General Adjudication case dated November 30, 1936, including the Vermillion right, all said primary first class rights shall pro rate; and that whenever during the period from October 1st to March 31st next succeeding, inclusive, the primary direct flow in said Sevier River in Zone A which would have been available for satisfying the rights entitled to use water during said period as set out in paragraph III, Section A, subdivision 1 of said Morse Decree, said rights aggregating a total 356.86 second feet, is insufficient to satisfy said rights then the Vermillion Irrigation Company shall be and is entitled to its pro rata share of said primary flow delivered to it at its point of diversion, to-wit, the Vermillion Dam, to the same extent and as fully as though said other primary rights had not been conveyed, transferred or relinquished, and the Sevier Bridge Reservoir companies and the Piute Reservoir & Irrigation Company, which companies have succeeded to substantially all of the balance of said 356.86 second feet of such direct primary flow, for such period, shall be entitled to take and store their pro rata share of such water in either the Piute Reservoir or the Sevier Bridge Reservoir.

*356.86 cfs  
is primary  
April 1 - Sept 30  
+ 60 cfs to SV.  
60 cfs was in  
Morse Decree  
Oct 1 to April 1  
SV gave up all but  
short period for  
summer storage*

VII.

That in determining Vermillion Irrigation Company's proportionate right during the period from October 1st to March 31st next succeeding, inclusive, in the primary direct flow of the river, the 22 c.f.s. stipulated in the said decree in the General Adjudication Case as the make of the river between the two Kingston gauging stations and the gauging station known as "Sevier River below the Piute Dam" shall be taken into account in computing the amount of the primary flow.

CONCLUSIONS OF LAW

As conclusions of law, from the foregoing findings the court concludes that in the decree to be entered in the General Adjudication case there should be awarded to Vermillion Irrigation Company the same rights to the use of water to the Sevier River as fixed by said Morse Decree, with the right of pro ration when the waters available to supply said water rights shall be insufficient, as hereinbefore set forth.

DECREE

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED:

That in the said decree dated November 30, 1936, on file herein, the provisions determining and declaring the rights of the Vermillion Irrigation Company, sometimes called Vermillion Canal Company, are hereby modified to conform to the terms and provisions hereinafter set forth, to-wit;

II.

That the water right of said Vermillion Irrigation Company, sometimes called Vermillion Canal Company, as one of the primary rights, Section A. Sevier County, is as follows:

"All the water of Sevier River accumulating therein between the Annabella Dam and the Vermillion Dam, not exceeding 37.80 c.f.s. with period of use from January 1st to December 31st in each and every year; provided, however, that whenever the water yielded between the Annabella Dam and the Vermillion Dam shall not be sufficient to supply to said Vermillion Irrigation Company the said 37.80 c.f.s., then the rights hereinbefore mentioned and set out as primary rights under Section A shall pro rate equally with the said Vermillion Irrigation Company.

III.

That said water right of Vermillion Irrigation Company (sometimes called Vermillion Canal Company) as hereinbefore described, is for domestic, culinary, stock watering and irrigation purposes on the lands under its canal, and is the same as the rights awarded to it under the decree made and entered in the Sixth Judicial District Court in and for Sevier County in the case of Richfield Irrigation Canal Company, et.al. vs. Circleville Irrigation Company, et.al., under date of May 16, 1906, and known as the "Morse Decree".

IV.

That whenever during the period from April 1st to September 30th, inclusive, there is not sufficient water to satisfy the rights hereinbefore mentioned and set out as primary or first class water rights under Section A, Sevier County, including the Vermillion rights, then all said primary or first class rights shall pro rate.

Whenever during the period from October 1st to March 31st, next succeeding, inclusive, the primary flow in said Sevier River in Zone A which would have been available to satisfy the rights entitled to use water during said period as set out in paragraph III, Section A, subdivision 1 of said Morse Decree, said rights aggregating a total of 356.86 section feet, is insufficient to satisfy said rights, then the Vermillion Irrigation Company shall be and is entitled to its pro rata share of said primary flow delivered to it at its point of diversion, to-wit, the Vermillion Dam, to the same extent and as fully as though other primary rights in said Zone A had not been conveyed, transferred or relinquished as herein set forth, and the Sevier Bridge Reservoir companies and the Piute Reservoir & Irrigation Company, which companies have succeeded to substantially all of the balance of said 356.86 second feet of such direct primary flow, for such period, shall be entitled to take and store their pro rate share of such water in either the Piute Reservoir or in the Sevier Bridge Reservoir.

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VI.

That in determining Vermillion Irrigation Company's proportionate right during the period from October 1st to March 31st, next succeeding, inclusive, in the primary direct flow of the river, the 22 c.f.s. stipulated in the said decree in the General Adjudication Case as the make of the river between the two Kingston gauging stations and the gauging station know as "Sevier River below the Piute Dam" shall be taken into account in computing the amount of the primary flow.

Dated this 26 day of March, 1941.

s/ Will L. Hoyt

JUDGE

STATE OF UTAH )  
COUNTY OF MILLARD ) ss

I, Dale Ashman County Clerk and ex-officio Clerk of the Fifth Judicial District Court in and for Millard County, State of Utah, hereby certify that the foregoing is a full, true and correct copy of the original Judgment Modifying and Amending Findings of Fact, Conclusions of Law and Decrees heretofore Made and Entered Herein. in the matter therein entitled, and now on file and of record in my office.

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Witness my hand and seal of said District Court at my office in Millard County this 16th day of September, A.D. 19 55

/s/ Dale Ashman  
Clerk,

By \_\_\_\_\_  
Deputy.