



Motion for Summary Judgment; and upon the hearing upon said substitute Motion for Summary Judgment the Court having received in evidence the depositions of Marcellus Johnson, Rex Bauer, Charles Anderson and Willard Mackelprang which depositions were ordered published and which depositions pursuant to stipulation by all parties and their counsel, were considered as having been fully read into and made a part of the record of the Court Reporter; and the parties to this action having heretofore stipulated that there may be received in evidence all of the files and proceedings in the case of St. George and Washington Canal Company, et al., Plaintiffs, vs. Hurricane Canal Company, et al., Defendants, in the District Court of the Fifth Judicial District in and for Washington County, Case No. 270, which proceedings culminated in a decree entered by District Judge Thomas H. Burton on December 12, 1925, and subsequently by a decree implementing the same filed April 21, 1931 by Judge LeRoy H. Cox which proceedings and which decrees are sometimes hereinafter referred to either as the Burton Decree, the Cox Decree, or the Burton-Cox Decree, or the litigation thereof; and the Court having reviewed the files and records in said Burton-Cox Litigation, the interrogatories and Supplemental Interrogatories to Defendants and Responses thereto, and the depositions taken by Plaintiffs of the Defendants witnesses, and having heard arguments and received briefs of counsel, and being fully advised in the premises and having made and entered its Findings of Fact and Conclusions of Law, now therefore;

IT IS ORDERED, ADJUDGED, AND DECREED that the McCarty Decree, the Burton Decree, and the Cox Decree should be interpreted and construed so as to provide an equal or a common priority date for the use of all those waters which were affected by the McCarty Decree and to which the parties to this action, both Plaintiff and Defendant, are entitled as successors in interest of the parties to the McCarty Decree and IT IS ORDERED, ADJUDGED AND DECREED that each and all of said decrees are hereby construed and interpreted as between the parties to this action so to establish those relative rights.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant Glendale Irrigation Company does not have, by reason of either the Burton or the Cox Decree,

any priority or right to the use of water on the East Fork of the Virgin River higher or earlier than is decreed to it in the "McCarty Decree" or higher or earlier than the priorities or rights of the Plaintiffs in this action.

Nothing in this Decree, however, shall affect or be deemed to be a construction or interpretation of any other provisions of the Burton or Cox Decrees, or to affect the classifications of water rights, namely Classes 1, 2, and 3, therein set forth or provided for.

IT IS FURTHER ORDERED AND ADJUDGED that the ruling of the State Engineer Wayne D. Criddle directing his water commissioners, ditch riders, and other agents to distribute water to Glendale Irrigation Company upon a basis giving Glendale Irrigation Company a higher priority than that of the Plaintiffs in this action (except as classifications under Class 1, 2, or 3 may affect such distributions) is hereby rescinded and reversed and the Defendant Wayne D. Criddle, State Engineer of the State of Utah, and his successors in office and all of their employees, agents, instrumentalities, officers and subordinates, are directed to administer the waters of the East Fork of the Virgin River in accordance with this Decree.

IT IS FURTHER ORDERED that the remaining issues are reserved for trial of this cause.

DATED this \_\_\_\_\_ day of January A. D. 196\_\_\_\_\_.

\_\_\_\_\_  
District Judge

Served the within and foregoing Summary Judgment and Decree upon the Defendants by mailing a full, true, and correct copy thereof, U. S. Mail, Postage Prepaid, this 30th day of December, 1964 to the following:

Mr. Sam Cline, Attorney for Glendale Irrigation Company  
Milford, Utah

Mr. Dallin W. Jensen, Assistant Attorney General, Attorney  
for Defendant Wayne D. Criddle, Engineer of the State of Utah,  
State Capitol Building, Salt Lake City, Utah.

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/s/ Ken Chamberlain  
Ken Chamberlain

C O P Y