

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT IN AND FOR THE COUNTY OF UTAH, STATE OF UTAH.

STRAWBERRY HIGH LINE CANAL COMPANY,  
a corporation,

Plaintiff,

-vs-

PAYSON CITY, a municipal corporation,  
GEORGE COWAN, FRANCIS WILSON, IVAN  
W. WILSON, LYDIA MOORE, VINA MOORE,  
SARAH L. PEERY, CLARENCE MOORE,  
BERT PEERY, JESSE HALLADAY, IVAN MONK,  
HYRUM WILSON, ISIAH HOLLADAY, HENRY  
OPENSHAW, CHARLES HOWARD HOLLADAY,  
MARY OPENSHAW, CHARLES HOWARD HOLLADAY,  
MARY A. HOLLADAY, GENEVA D. MOORE  
HOLLADAY, jointly and as members of  
a voluntary association not incor-  
porated under the name and style of  
UPPER HOLLADAY FIELD DITCH, and indi-  
vidually GEORGE COWAN, ISIAH HOLLADAY,  
MARY HOLLADAY, ZOELLA HOLLADAY JACKSON,  
and voluntary association not incor-  
porated under the name and style of  
LOWER HOLLADAY FIELD DITCH, and indivi-  
dually; JAMES S. MCBETH, CHARLES H.  
WHITE, ARTIMESIA WHITE, NEWELL K. WHITE,  
and CLARA HARDY,

Defendants.

DECREE

This cause came on regularly for hearing before the Court this 9th day of November, A. D. 1922; the plaintiff appearing by its attorneys Messrs. Parker and Robinson and submitting its evidence, and none of the defendants having appeared, the rights of all of the defendants having been stipulated to, with the exception of the defendants Charles H. White, Artimesia White, Newell K. White and Clara Hardy, and the default of the said Charles H. White, Artimesia White, Newell K. White and Clara Hardy having been duly and regularly entered; and the Court having heard the proof of the plaintiff; and having considered the stipulations filed in said cause, and the cause having been submitted to the Court for its decision, and the Court having rendered its decision and filed in writing its Findings of Fact and Conclusions of Law herein, NOW, THEREFORE, on motion of the attorneys for the plaintiff, it is hereby ordered, adjudged and decreed:

1. That the following named persons are the owners, and the only owners of the water rights and the rights to the use of the water that flows into, or is diverted by the Upper Holladay Field Ditch, which said ditch is particularly described in paragraph Ten of the Findings of Fact and Conclusions of Law on file herein, to-wit: George Cowan, Francis Wilson, Ivan Wilson, Lydia Moore, Vina Moore, Sarah L. Peery, Clarence Moore, Bert Peery, Jesse Halladay, Ivan Monk, Hyrum Wilson, Isiah Holladay, Henry Openshaw, Charles Howard Holladay, Mary Holladay, Edward L. Peery, Milley G. Grigg, John H. Taylor, Mary A. Holladay, and Geneva D. Moore Holladay.

2. That the following named persons are the owners and the only owners of the water rights to the use of the water that flows into, or is diverted by the Lower Holladay Field Ditch, which said ditch is particularly described in paragraph ten of the Findings of Fact and Conclusions of Law on file herein to-wit: George Cowan, Isiah Holladay, Mary Holladay, Francis Wilson and Zoella Holladay Jackson.

3. That the said defendants named in paragraphs one and two hereof are the owners of and in the possession of the following described tract of land situated in Utah County, State of Utah, and particularly described as follows, to-wit: Beginning at a point which lies West 21.77 chains and South 20.99 chains from the Northeast corner of Section 25, Township 9 South, Range 1 East, Salt Lake Base and Meridian; thence North 65 deg. East, 2.94 chains; thence North  $74\frac{1}{2}$  deg. East, 2.73 chains; thence North  $88\frac{1}{4}$  deg. East, 3.40 chains; thence North  $64\frac{1}{2}$  deg. East, 1.80 chains; thence South 1.43 chains; thence East 4.29 chains; thence East 1.72 chains, more or less to the West boundary of the lands of Zoella Holladay Jackson, defendant, thence South 4.15 chains to the Southwest corner of the said lands; thence South 89 deg. 22 min East 5.45 chains; thence South 89 deg. East, 714 chains; thence South 1 deg. West, 5.60 chains; Thence East along the County road 13.75 chains; more or less to the Southeast corner of the lands of Hyrum Wilson, defendant, thence North 75 deg. East along the said Upper Holladay Field Ditch, 36.75 chains, more or less to the East boundary of the land of Clarence L. Moore, defendant, thence North 85 deg. East, 6.13 chains, thence North 6 deg. West, 2.15 chains; thence West 12.07 chains more or less to a point 13.18 chains East of the Southwest corner of the Southeast quarter of section 19, Township 9 South, Range 2 East, Salt Lake Base and Meridian; thence North 1 deg. 25 min East, 6.28 chains; thence South 55 deg. West, 2.13 chains; thence North 75 deg. West, 2.03 chains; thence North 53 deg. West, 2.08 chains; thence North 48 deg. West, 2.22 chains; thence North 86 Deg. West 2.98 chains; thence North  $50\frac{1}{2}$  deg. West, 2.95 chains; thence South  $8\frac{1}{2}$  deg. West, 1.00 chains; thence South  $33\frac{1}{2}$  deg. East, 1.10 chains; thence South  $1\text{-}\frac{3}{4}$  deg. West 8.28 chains; thence North 67 deg. West along said channel to 10.60 chains; thence North 30 deg. West along said channel 6.40 chains; thence North 10 deg. West along said channel 9.00 chains more or less to the North boundary of the land of Henry Openshaw, defendant, thence North  $89\text{-}\frac{3}{4}$  deg. West 2 chains more or less to the Northwest corner of the said lands of Henry Openshaw; thence South  $\frac{7}{8}$  deg West, 14.18 chains; thence North 89 deg. 59 min. West, 6.34 chains; thence North  $\frac{7}{8}$  deg. West, 14.22 chains; thence North  $89\text{-}\frac{3}{4}$  deg. West, 10.26 chains; the more or less to the West boundary of the Southwest quarter of Section 19, aforesaid, thence North  $89\text{-}\frac{3}{8}$  deg. West, 25.05 chains more or less to a point 6.66 chains East and 2.70 chains South  $\frac{3}{4}$  deg. West and South  $89\text{-}\frac{3}{8}$  deg. East, 8.29 chains from the Northwest corner of the Southeast quarter of Section 24, Township 9 South, Range 1 East of Salt Lake Base and Meridian; thence South  $4\text{-}\frac{3}{4}$  deg. East, 11.66 chains; thence South  $83\frac{1}{4}$  deg. East, 4.30 chains more or less to the Northeast corner of the lands of John A. Johnson, thence South  $7\text{-}\frac{3}{4}$  deg. East, 7.46 chains; thence South 9 deg. East, 10.66 chains to the Southwest corner of the lands of Mary Holladay, defendant,; thence North 89 deg. East along the public road 4.37 chains, more or less to the West boundary of the lands of George Cowan, defendant; thence South 1 deg. West, 4.84 chains; thence North  $84\text{-}\frac{3}{4}$  deg. West 0.13 chains; thence South 1 deg. West, 2.48 chains; thence West 4.96 chains; thence South  $36\frac{1}{2}$  deg. West, 7.64 chains; thence South  $62\frac{1}{2}$  deg. West, 1.80 chains; thence South  $27\text{-}\frac{3}{4}$  deg. West, 2.63 chains; thence South 9 deg. East 1.89 chains; thence South  $54\frac{1}{2}$  deg. East 3.26 chains; thence South 2 deg. East 2.90 chains; thence South 19 deg. West, 2.60 chains; thence South 17 deg. East, 2.43 chains to the place of beginning. Excepting from the above the following described tract of land, beginning 10 chains East and 6.95 chains North  $\frac{1}{2}$  deg. West of the Southwest corner of the Southwest quarter of Section 19, Township 9 South, Range 2 East, Salt Lake Base and Meridian; thence North 1 deg. West, 4.76 chains; thence North 88 deg. East 10.13 chains; thence South  $\frac{1}{8}$  deg. East, 5.13 chains; thence West 10.10 chains to the place of beginning. Area 5 acres.

4. IT IS FURTHER ORDERED, ADJUDGED AND DECREED, in accordance with the stipulation in the above entitled cause, between the plaintiff and the defendants, George Cowan, Bert Peery, Jesse H. Holladay, Geneva D. Moore Holladay, Edward L. Peery, Francis M. Wilson, J. Ivan Wilson, Ivan Monk, Lydia Moore, Hyrum Wilson, Clarence L. Moore, Sarah L. Peery, Mary A. Holladay, Vina Moore, Zoella Holladay Jackson, John H. Taylor and Milley G. Grigg, the plaintiff, the Strawberry High Line Canal Company, a corporation, is the owner of and entitled to the use of any and all drainage, seepage, percolating, or waste waters which arise on or flow from or which shall hereafter arise on or flow from said above particularly described land or ditches.

5. IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that whenever there is water in the Upper Holladay Field Ditch, which the owners thereof, the defendants last above named do not desire to use on their said land, then that portion of said water which will flow into the Lower Holladay Field Ditch as above described shall be permitted so to flow therein and shall be used if desired by the owners of the Lower Holladay Field Ditch on their said land and that portion which will not flow into said Lower Holladay Field Ditch shall become and is the property of the plaintiff, the Strawberry High Line Canal Company, a corporation.

6. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that whenever there is water in the Lower Holladay Field Ditch, which the owners thereof above named do not desire to use on their said land then said water shall become and is the property of the plaintiff, the Strawberry High Line Canal Company, a corporation, and the owners, the defendants above named shall divert said water into the West branch of Spring Creek.

7. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all waste, seepage, drainage and percolating water arising on or flowing from, or which may hereafter arise on, or flow from the following described tract of land, situated in Utah County, State of Utah, belongs to and is the property of the aforementioned owners of the Upper Holladay Field Ditch, to be used by them as a part of the water rights of said ditch: Beginning at a point which lies 21.77 chains West and 20.99 chains South of the northeast corner of Section 25, Township 9 South, Range 1 East, Salt Lake Base and Meridian; thence West 18.23 chains, more or less, to the West Boundary of the Northeast quarter of Section 25, aforesaid; thence South 80 chains; more or less to the Strawberry High Line Canal; thence easterly along said canal 98.00 chains, more or less, to the Strawberry East boundary of the Southwest Quarter of Section 31, Township 9 South, Range 2 East, Salt Lake Base and Meridian; thence North 105.00 chains more or less to the South boundary of the tract of land first particularly described above; thence westerly particularly described above; thence Westerly along the South boundary of the said particularly described tract of land to the point of beginning.

8. IT IS FURTHER ORDERED, ADJUDGED AND DECREED, in accordance with the stipulation on file in the above entitled cause, between the plaintiff, the Strawberry High Line Canal Company, and the defendants Payson City, a municipal corporation. That the said Payson City Municipal Corporation has the right to the use of all waste, seepage, percolating or spring water arising on, or flowing from, or which might or may hereafter arise on, or flow from the following described tract of land, situated in Utah County, State of Utah, to-wit: Beginning at a point which lies East 19.97 chains and South 1-3/8 deg. West, 24.73 chains from the Northwest Corner of the Northeast quarter of Section 30, Township 9 South, Range 2 East, Salt Lake Base and Meridian; thence South 9 deg. 30 min. East, to the Strawberry High Line Canal; thence Northerly and Easterly along said canal to a point straight East from a point which lies 900 feet South and 850 feet West of the northeast corner of Section 30, aforesaid; thence West to said point which lies 900 feet south and 850 feet West of the Northeast corner of Section 30, aforesaid thence Southwesterly to the point of beginning.

10. IT IS FURTHER, ORDERED ADJUDGED AND DECREED in accordance with the stipulation between the plaintiff and the defendants, Payson City, a municipal corporation. That the plaintiff the Strawberry High Line Canal Company, a corporation, has the right to the use of all waste, seepage, drainage, percolating and spring water arising on or flowing from or which may hereafter arise on or flowing from all land tributary to Spring Creek, the east branch of which is a natural channel which leads from said Spring Lake and which Creek is more particularly described in paragraph Six of the Findings of Fact and Conclusions of Law filed herein, excepting therefrom the land particularly described in Paragraph eight hereof.

11. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Charles H. White, Artemesia White, and Newell K. White are the owners of and entitled to the use of 99.44 acres feet of water from Spring Creek each year, to be diverted by them from said Creek at the following point of diversion, to-wit: 1350 feet East and 250 feet North of the center of Section 13, Township 9 South, Range 1 East, Salt Lake Base and Meridian, the said water to be diverted according to the following schedule, and in the amount named herein, and not otherwise, from May 1st at 8 A.M. to May 4th at 12:30 A.M. a three second foot stream; from May 10 at 11:30 A. M. to May 13 at 4 A.M. a three second foot stream; from May 19 at 3 P. M. to May 22 at 7:30 A.M. a three second foot stream; from May 28th at 6:30 P. M. to May 31 at 11:0A.M. a three second foot stream; from June 6 at 10 P. M. to June 9 at 2:30 P.M. a two second foot stream; from June 16 at 1:30 A. M. to June 18 at 6:00 P.M. a two second foot stream; from June 25 at 4:30 A. M. to June 27 at 9 P.M. a one second foot stream; from July 4 at 8:00 A.M. until July 7 at 12:30 A.M. a one-half second foot stream; from July 13 at 11:30 A.M. until July 16 at 4 A.M. a one-half second foot stream; from July 22 at 3 P. M. until July 25 7:30 A.M. a one-half second foot stream; said water being appurtenant to the land of Charles H. White, Artemesia White and Newell K. White, which lies in the Southeast quarter of Section 12, Township 9 south, Range 1 East of the Salt Lake Base and Meridian.

12. IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Clara Hardy is the owner of and entitled to the use of 13.2 acres feet of water from Spring Creek each year, to be diverted by them from said Creek at the following point of diversion, to-wit: 1350 feet East and 250 feet north of the center of Section 13, Township 9 South, Range 1 East, Salt Lake Base Meridian. The said water to be diverted according to the following schedule, and in the amount named herein, and not otherwise, from May 4th at 12:30 A.M. to May 4th at 9 A. M., three second feet; May 13th at 4 A. M. to May 13th at 12:30 P.M., three second feet; May 22nd at 7:30 A.M. to May 22nd at 4 P.M. three second feet; May 31st at 11 A. M. to May 31st at 7:30 P. M. three second feet; June 9th at 2:30 P. M. to June 9th at 11 P.M., two second feet; June 18th at 6:00 P. M. to June 19th at 2:30 A. M., two second feet; June 27th at 9 P. M. to June 28th at 5:30 A. M., one second foot; July 7th at 12:30 A.M. to July 7th at 9 A. M., one-half second foot; July 16th at 4 A. M. to July 16th at 12:30 P. M. one-half second foot; July 25th at 7:30 A. M. to July 25th at 4:00 P. M. one-half second foot the said water being appurtenant to the land of Clara Hardy, which lies in the Southeast quarter of Section 12, Township 9 South, Range 1 East of the Salt Lake Base and Meridian.

13. IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the plaintiff, the Strawberry High Line Canal Company, a corporation, is the owner of, and entitled to the use of all of the waters of Spring Creek, including all the branches thereof, and water rights heretofore described, or which may hereafter be developed, except such portion of said waters as are owned by the defendants herein, as above described and set forth, and decreed to said defendants.

14. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each and all of the parties hereto be and they are enjoined and restrained from in any wise interfering with the waters, or water rights, or other rights herein decreed to each other.

Done in open Court this 12th day of January, A. D. 1923.

ELIAS HANSEN, Judge.