

Ben Norseth has the original photo Ben



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

BURNS BENCH IRRIGATION COMPANY, :

Plaintiff, :

-vs-

IRA BURTON, et al, :

Defendants. : Civil No. 3315

PETITION TO APPOINT
WATER COMMISSIONER

Comes now the Burns Bench Irrigation Company, and by and through its President, Ed Curfew, one of the parties to the above entitled action, and on behalf of the owners of the decreed water rights of Brush Creek and its tributaries, and the owners of other water rights entitled to the use of the waters of Brush Creek, and alleges as follows:

1. That in the above entitled action a Decree of the Court was entered on August 12, 1896, dividing and setting forth the several and respective rights of the parties to the said action in and to the waters of Brush Creek and its tributaries.

2. That since the said date, the rights of the respective parties of the said suit have been administered under the direction of this Court through a Water Commissioner appointed annually by this Court as provided in the said decree; that the said decree provides that a Water Commissioner be appointed annually by the District Court each year at the request of the parties to said action; that said Commissioner be authorized, empowered and directed to make division of all the waters of Brush Creek where the same are taken from the natural channel thereof; and that under his direction there be constructed all dams, weirs, and so forth necessary for the proper and correct measurement and division of the waters covered by said Decree.

3. That since the date of said decree several persons who were not parties to the original action have acquired, developed or claim a right to use

some of the waters of Brush Creek and its tributaries; and that said parties so far as Petitioner can determine have been, by Order of this Court made parties to this action.

4. That on the 26th day of May, 1959, by Order of this Court, Distribution Engineer of the State Engineer's Office on the State of Utah was appointed Commissioner of the waters of Brush Creek and its tributaries, which said Commissioner has administered and distributed the waters of Brush Creek since said time.

5. At a meeting of the water users of Brush Creek held March 30, 1964, wherein the following companies or individuals were represented: Burns Bench Irrigation Company, Murray Ditch Company, Burton Ditch Company, Upper Brush Creek Users, and the Sunshine Canal Company, it was decided by a majority vote of those present that a Petition would be filed on behalf of the users of Brush Creek requesting that the distribution engineer of the State Engineer's Office of the State of Utah be relieved of his responsibilities as Water Commissioner of Brush Creek and its tributaries and that the above entitled Court be requested to appoint David Rasmussen as Commissioner of the said creek for the period of time beginning April 7, 1964 and ending April 6, 1965, that the said David Rasmussen is competent and qualified to act as water commissioner of the said Brush Creek due to the fact that he has, under the direction of the Distribution Engineer of the Office of the State Engineer, distributed said waters of Brush Creek for the past two seasons.

WHEREFORE, Petitioner prays as follows:

1. That David Rasmussen be appointed as Commissioner of Brush Creek for the period beginning April 7, 1964 and ending April 6, 1965, or until further order of this Court.

2. That the said Rasmussen be directed to administer and distribute waters of said Brush Creek in accordance with the Decree of this Court, and the respective rights of the parties hereto as their rights may have been or may be determined.

3. That the said Commissioner shall be directed to name and appoint such deputies as he may need in distributing the water involved in this matter and be authorized to pay reasonable salaries, wages, and automobile mileage to himself and such persons as may be employed in carrying out the provisions of this Decree and Order.

4. That the said proposed Commissioner be directed to immediately submit to this Court for the approval of this Court an estimate of the expenses involved in carrying out the provisions of this Order, said budget to be based upon the respective rights of the users of Brush Creek as determined by this Court in its Order dated May 26, 1959.

5. That the said proposed Commissioner be directed to confer with the Committee heretofore set up known as the Brush Creek Water Users Committee, so far as practical, act in accordance with the recommendations of said Committee.

6. That in all other respects the Decree in this action with its amendments remains the same as it now is.

DATED this 31st day of March, 1964.

BURNS BENCH IRRIGATION COMPANY
One of the Petitioners,

By Ed Curfew
Ed Curfew

I hereby certify that I mailed or delivered personally a copy of the foregoing Petition together with the Notice of the Petition, to Ashley Valley Reservoir Company, San Francisco Chemical Company, Marvin Jackson, Samuel J. Hatch, Robert Shiner, Neldon Shiner, Orial Shiner, Hugh W. Colton, Howard Ainge, Martin Evans, Leon Ainge, Sam Sessions, Albert Murray, Ward Murray, Zinna Murray, Vaughn Wilkins, N. J. Meagher, N. J. Meagher, Jr., Ross B. Snow, Corwin Snow, Reed Taylor, Woodey B. Searle, and Wilford Evans, this 2nd day of April, 1964.

W. J. Meagher

FILED
APR 2 1964
W. J. Meagher