

A PROCEEDING BEFORE THE STATE ENGINEER
OF THE STATE OF UTAH.

MAR 26 1920

.....
CEDAR CREEK HIGH WATER IRRIGATION
COMPANY, A CORPORATION,

PLAINTIFF,

VS.

TWIN CREEK IRRIGATION COMPANY,
A CORPORATION,

DEFENDANT.
.....

PETITION FOR THE APPOINTMENT OF A COMMISSIONER.

TO THE HONORABLE STATE ENGINEER OF THE STATE OF UTAH:

The petition of the Cedar Creek High Water Irrigation Company, a Corporation of the State of Utah, having its principal place of business at Mount Pleasant, Utah, respectfully represents:

1. That the Cedar Creek High Water Irrigation Company, is a Corporation organized and existing under and by virtue of the laws of the State of Utah, for the purpose of distributing to its stockholders, the waters to which they are entitled, from Cedar Creek and Twin Creek, in the County of Sanpete, State of Utah.

2. That Cedar Creek is a natural stream of water which rises in the mountains in a southeasterly direction from the city of Mount Pleasant, Sanpete County, Utah, and flows in a northwesterly direction into and across lands between Spring City and Mount Pleasant, and into the Sanpitch River, and constitutes a part of the Sevier River System of drainage.

3. That Twin Creek is a natural stream of water which rises in the mountains in the eastern section of Sanpete County, Utah, and flows northwesterly into Sanpete Valley between Spring City and Mount Pleasant, and is situated in the Sevier River system of drainage, and empties into Sanpitch River, and it in turn empties into the Sevier River.

4. That the District Court of Sanpete County, State of Utah, on or about the 18th. day of March, 1903, wherein Spring City, a Municipal Corporation, Twin Creek Irrigation Company, a

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Corporation, and predecessors in interest of the Cedar Creek High Water Irrigation Company were plaintiffs, and Spring City Irrigation Company, a Corporation, and predecessors in interest of the Cedar Creek High Water Irrigation Company were defendants, made and entered a DECREE, determining and adjudging the rights of the respective parties thereto, in the use of the waters of Twin Creek and Cedar Creek, in said Sanpete County.

5. That the Cedar Creek High Water Irrigation Company, a Corporation, by virtue of the fact of it being the successor in interest of some of the plaintiffs and some of the defendants in the DECREE referred to as aforesaid, is entitled to divert and use for irrigation purposes Six and 13/70 cubic feet of water per second of time, as a secondary right.

6. That it was ordered and adjudged by the said DECREE that the Water Master of the Twin Creek Irrigation Company, should distribute the waters of the said streams to the persons entitled thereto, according to their respective rights as set forth in said DECREE, but that since the rendition of said DECREE, and for many years thereafter has not, nor does not now during the irrigation ^{season} distribute the waters to the parties entitled thereto according to their respective rights, nor does he perform the duties of water master to the satisfaction of the stockholders of the Cedar Creek High Water Irrigation Company, or to other parties interested, but that the system of distribution is arbitrary and inequitable.

7. That the irrigation season which applies to the aforesaid waters begins about the 15th. day of May, and ends about the 15th. day of July, and is limited to about sixty days of each year.

8. That heretofore and for several years past, the water Master appointed by the said Twin Creek Irrigation Company has been a stockholder in said corporation, and was an interested person, and therefore has not been fair in the distribution of the waters to the parties entitled and especially to the stockholders of the

Cedar Creek High Water Irrigation Company, and on account of the unreliable means of diverting said waters to the said stockholders and of the inaccurate and insufficient measuring devices used, and of the absence of a fair and disinterested person to divert the said waters has caused irreparable loss and injury to the stockholders of the Cedar Creek High Water Irrigation Company, and has caused numerous disputes and dissatisfaction, loss and damage to the owners of the right to the use of the said waters provided for in said Decree, and the same state of circumstances will probably occur in the future unless a commissioner be appointed.

9. That in order to properly divert the waters to which the Cedar Creek High Water Irrigation Company are entitled, and to prevent irreparable loss and damage to the plaintiff herein and other owners of water rights in said creeks, it is essential and necessary that a commissioner be appointed, and that he be a competent and disinterested person, to devote his time, during the irrigation season from the 15th. day of May, to the 15th. day of July of each year, in making observations and proper measurements of the waters to which the parties herein are entitled, and that the said commissioner provide accurate and reliable measuring devices, regulate the quantity of water discharged into the said creeks, and make daily observations of the flow thereof, and justly deal out and distribute to the parties entitled to their equitable share, that is after deducting for loss in transit by evaporation, seepage, and etc.

10. That by reason of the fact that the said Decree provides that the said Twin Creek Irrigation Company shall distribute said waters to the predecessors in interest of the Cedar Creek High Water Irrigation Company according to their respective rights thereto, and of the insufficient and of the inaccurate measuring devices, and the fact that the Twin Creek Irrigation Company are the owners of the greater amount of water, and the fact that the plaintiff herein are the owners of a lesser amount, that each be required to pay its

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proportionate share, and other interested parties be likewise be required to pay their share of the expense of said regulation and measurement according to their respective interests as they may appear.

WHEREFORE, Your petitioner prays that a disinterested person be appointed commissioner to regulate, control, measure and distribute the said waters to the parties entitled, and that each of the parties interested be required to pay their proportionate share of the expense of said regulation and compensation of said commissioner.

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Cedar Creek High Water Irrigation Company.

By Alfred Johnson Jr. President.

By E. H. Swenson Secretary.

By Christian Rasmussen Director.

E. W. Berglund

Attorney for Petitioner.

E. W. Berglund

_____ , being first duly sworn upon their oaths depose and say; that they and each of them are officers in hte Cedar Creek High Water Irrigation Company, the petitioner named in the above petition, that they and each of them have read the foregoing petition and know the contents thereof and that the same is true of their best knowledge except matters therein stated upon information and belief, and as to such matters they believe it to be true.

Alfred Johnson Jr.
E. H. Swenson
Christian Rasmussen

Subscribed and sworn to before me this 20th. day of March, 1920.

E. W. Berglund
Notary Public.

My Commission expires
January 22nd. 1921.

