

*DONALD C.*  
*File: Price Continuous*  
*file*

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT COURT  
OF THE STATE OF UTAH, IN AND FOR CARBON COUNTY, UTAH

THE TIDWELL CANAL COMPANY,	)
a Corporation, et al,	)
	)
Plaintiffs,	)
	)
vs.	)
	)
THE PIONEER DITCH COMPANY, No. 1,	)
et al,	)
	)
Defendants.	)

D E C R E E

This cause came on for hearing on the fifteenth day of December, A.D. 1902 before Judge C. W. Morse, acting by request of Judge Jacob Johnson, the Judge of said court, upon the complaint of the plaintiffs and the answers of the several defendants, and the complaints and answers in intervention, John B. Milner, Esq. appearing for the Farnham Ditch Company, a corporation, and Albert E. McMullen, for himself and the inhabitants of the town of Wellington, and J.W.N. Whitecotton and Charles DeMoisey, Esqs. appearing for the Tidwell Canal Co., a corporation, the Wellington Canal Co., a corporation, the Alred Ditch Co., a corporation, the Pioneer Ditch Co. No. 2, a corporation, and Price Water Co., a corporation, and W. D. Livingston, Esq., appearing for Robert A. Powell, Robert W. Powell, S. C. Powell, John T. Rowley, C. H. Cook, James Gourley, David Gourley, George Smith, Ray Cook, T. H. Auphund, E. D. Fulmer, James Nielsen, Mary J. Tollon, H. J. Stowell, William Miller, J.C.H. Sonberg, Hiram Bellows, Idona Fulmer, Emily Perkins, Norah Miller, F. M. Ewell, John Keim, James Hansen, Hiram Hansen, John Bryner, Thomas Rhoades, Matt Plautz, E. T. Jones, J. H. Vanatta, Brig Hamilton, Charles Lind, James Bessetto, James Bryner, Spring Glen Canal Company, a corporation, Mammoth Reservoir Company, a corporation; and Messrs. W. D. Livingston and Willon & Smith, appearing for R. G. Miller and Wesley Gentry; and Messrs. Wilson & Smith appearing for R. G. Miller, Joseph Castle, D. W. Holdaway, Robert McKechney, Jr., Jessie B. Burrows, W. L. Burrows, David C. Burrows, W. C. Burrows, J. J. Houston, James Christensen, Peter Christensen, Amasa Morley, John E. Inglis, O. G. Kimball, John L. Price, Harriet Lloyd Wilson, Admr. of the Estate of John X. Lloyd, deceased, Isaih Llewellyn, Thomas Llewellyn, Mattie Noakes,

whose true name is Martha A. Noakes, J. W. Metcalf, Anthun W. Madsen, Neils M. Madsen, Frank D. Kimball, John Eccles, S. J. Harkness, T. H. Thomas, Andrew Smith, O. G. Kimball and Frank Kimball, jointly, Union Pacific Coal & Coke Co., a corp., William H. Gardner and B. R. Taylor, jointly, John E. Inglis, Trustee for the Members of the Church of Jesus Christ of Latter Day Saints, residing in Scofield Ecclesiastical Ward, J. J. Craner; and Thomas C. Hanford, Esq. and M. P. Braffet, Esq. appearing for Oren E. A. Elmer, and Thomas C. Hanford, Esq. appearing for Charles H. McKindrick; and M. P. Braffet Esq., S. R. Thurman, Esq., appearing for the Pleasant Valley Coal Company, a corp.; and Samuel R. Thurman, Esq. appearing for the Rio Grande Western Railway Company, a corp.; and M. P. Braffet and W. D. Livingston Esqs. appearing for John F. Keim, for his individual claim; and J. W. Warf, Esq. appearing for the Pioneer Ditch Company No. 1, a corporation, Sides Rhoades, William Morgan, Linda Morgan, Price Reservoir & Irrigation Co., a Corp., Albert Grames, Charles Grames, John Crocket, and Alfred Grames, jointly, Joseph Vacher, Lee Vacher and Charles Vacher, jointly; and L. O. Hoffman, Esq. appearing for Robert A. Snyder, Daniel Morgan, Joseph Tidwell, Ann Thomas, Jacob Kofford, Joseph Sheya, Henry Bryner and J. Tom Fitch; and A. Saxey, Esq. and Samuel R. Thurman, Esq. appearing for Henry Gardner, Niel Gardner, Serenus Gardner, Sylvester Bradford, Theodore Dedrickson, Pleasant Bradford, P. J. Bradford, Charles Bradford, and George Hansen.

The default of the following named parties who were duly served having been entered, to-wit: Lehi Jessen, Jed Raby, Sid Raby, John Doe Raby, J. Rolando, Dominick Oberto, William Featherstone, Hiram Wilcox, George Green, William Potter, J. J. Hoge, James McCune, Mary Doe Goldberg, W. H. Tidwell, Bert Birch, George Perkins, Price Trading Company, a corp.

Whereupon it was stipulated that the testimony taken at the former hearing of this cause before the Honorable Jacob Johnson, Judge, be admitted and considered as evidence by the court, and divers stipulations by all the parties in said cause were duly filed, and made in open court, as to what the testimony would be of said parties respecting their several rights in and to the waters of said Price River and its tributaries; and it was finally stipulated in open court that said stipulations as to the testimony of the parties in said cause should be made the basis of a

decree of this court determining the rights of said parties and all of them; and that said decree be made and entered in accordance with the pleadings and all of the stipulations made in said cause.

Whereupon the cause was by all of said parties submitted for the decision of the court. Findings of Fact and Conclusions of Law having been expressly waived by all the parties.

WHEREFORE, in accordance with said stipulations, testimony and proofs submitted, IT IS ORDERED, ADJUDGED AND DECREED,

That all the water of the said Price River and its tributaries are hereby awarded to and distributed among the following named classes and persons, to-wit:

FIRST CLASS

The Farnham Ditch Company, through the Farnham Ditch, sufficient water to irrigate 340 acres.

Robert A. Snyder, through the Snyder Ditch, sufficient water to irrigate 90 acres.

Daniel Morgan, through the Snyder Ditch, sufficient water to irrigate 20 acres.

Tidwell Canal Company, through the Tidwell Canal, sufficient water to irrigate 616 acres.

The Alred Ditch Company, through the Alred Ditch, sufficient water to irrigate 500 acres.

The Pioneer Ditch Company No. 2, through Pioneer Ditch No. 2, sufficient water to irrigate 389 acres.

The Price Water Company, through Price Water Company canal, sufficient water to irrigate 617.5 acres.

The Pioneer Ditch Company No. 1, through Pioneer Ditch No. 1, sufficient water to irrigate 485 acres.

Sidse Rhoades, through Pioneer Ditch No. 1, sufficient water to irrigate 80 acres.

Linda Morgan, through Pioneer Ditch No. 1, sufficient water to irrigate 20 acres.

William Morgan, through Pioneer Ditch No. 1, sufficient water to irrigate 15 acres.

S. C. Powell, through Pioneer Ditch No. 1, sufficient water to irrigate 6 acres.

Robert W. Powell, through Pioneer Ditch No. 1, sufficient water to irrigate 6 acres.

Robert A. Powell, through Pioneer Ditch No. 1, sufficient water to irrigate 70 acres, and in addition one-tenth of a second foot of water.

Henry Bryner, through the Hill Ditch, sufficient water to irrigate 12 acres.

John T. Rowley, through Cook-Gourley Ditch, sufficient water to irrigate 8 acres.

C. H. Cook, through Cook-Gourley Ditch, sufficient water to irrigate 12 acres.

James Gourley, through Cook-Gourley Ditch, sufficient water to irrigate 17 acres.

George Smith, through Cook-Gourley Ditch, sufficient water to irrigate 20 acres.

David Gourley, through Cook-Gourley Ditch, sufficient water to irrigate 14 acres.

C. H. Cook, through Cook Ditch, sufficient water to irrigate 16 acres.

John T. Rowley, through Simmons Ditch, sufficient water to irrigate 30 acres.

C. H. Cook, through Simmons Ditch, sufficient water to irrigate 3 acres.

John F. Rowley, through Little or Stowell Ditch, sufficient water to irrigate 20 acres.

E. D. Fulmer, through Little or Stowell Ditch, sufficient water to irrigate 2 acres.

James Nielsen, through Little or Stowell Ditch, sufficient water to irrigate 2 acres.

H. J. Stowell, through Little or Stowell Ditch, sufficient water to irrigate 30 acres.

William Miller, through Little or Stowell Ditch, sufficient water to irrigate 3 acres.

J. C. H. Sonberg, through Little or Stowell Ditch, sufficient water to irrigate 1 acre.

Ray Cook, through Little or Stowell Ditch, sufficient water to irrigate 2 acres.

T. H. Auphund, through Little or Stowell Ditch, sufficient water to irrigate 3 acres.

Mary J. Tollan, through Little or Stowell Ditch, sufficient water to irrigate 15 acres.

E. D. Fulmer, through the Gay Ditch, sufficient water to irrigate 35 acres.

James Nielsen, through the Gay Ditch, sufficient water to irrigate 20 acres.

J. C. H. Sonberg, through the Gay Ditch, sufficient water to irrigate 3 acres.

Hiram Bellows, through the Gay Ditch, sufficient water to irrigate 10 acres.

Idona Thompson, through the Gay Ditch, sufficient water to irrigate 9 acres.

Emily Perkins, through the Gay Ditch, sufficient water to irrigate 7 acres.

Norah Miller, through the Gay Ditch, sufficient water to irrigate 8 acres.

Spring Glen Canal Co., through Spring Glen Canal, sufficient water to irrigate 309 acres.

Rio Grande Western Railway Company, through Spring Glen Canal, sufficient water to irrigate 40 acres.

J. T. Fitch, through Spring Glen Canal, sufficient water to irrigate 17 acres.

J. T. Fitch, through Pratt East Ditch, sufficient water to irrigate 20 acres.

Rio Grande Western Railway Company, through Pratt East Ditch, sufficient water to irrigate 5 acres.

F. M. Ewell, through Pratt-Ewell Ditch, sufficient water to irrigate 40 acres.

J. F. Keim, through Pratt-Ewell Ditch, sufficient water to irrigate 20 acres.

J. T. Fitch, through Pratt-Ewell Ditch, sufficient water to irrigate 7 acres.

James Hansen and Hyrum Hansen, through Bryner-Hansen Ditch, sufficient water to irrigate 30 acres.

John Bryner, through Bryner-Hansen Ditch, sufficient water to irrigate 33 acres.

Thomas Rhoades, through Bryner-Hansen Ditch, sufficient water to irrigate 18 acres.

Matt Plautz, through Bryner-Hansen Ditch, sufficient water to irrigate 5 acres.

E. T. Jones, through Bryner-Hansen Ditch, sufficient water to irrigate 13 acres.

J.H. VanNatta, through Bryner-Hansen Ditch, sufficient water to irrigate 12 acres.

Charles Lind, J.B. Bassetta (jointly) sufficient water to irrigate 8 acres through the Lind Ditch.

John J. Craner, from Spring Creek, sufficient water to irrigate 100 acres.

James Houston, from Tabyune Creek, sufficient water to irrigate 48 acres.

The following named parties, sufficient water from Fish Creek and its tributaries, to irrigate land as follows, to-wit:

O. G. Kimball and F. G. Kimball (jointly)	50 acres
J. E. Inglis	40 "
O. G. Kimball	30 "
Joseph Castle	25 "
D. W. Holdaway	50 "
Robert McKechney, Jr.	100 "
Jesse B. Burrows	80 "
W. L. Burrows	75.233 Ac.
David C. Burrows	80 acres
William C. Burrows	80.233 "
<u>James Christensen</u> , Peter Christensen, & Amisa Morley (Jtly.)	80 acres
<u>Thomas Llewellyn</u>	50 "
Isiah Llewellyn	74 "
John L. Price	80 "
Harriet Lloyd Wilson, Adm. Est. of John X. Lloyd Dec.	30 "
Reuben G. Miller	147 "
Martha A. Noakes	80 "
Antone W. Madsen & Niel M. Madsen (jointly)	383 "
(60 acres of which is subject to 63 acres of F. D. Kimball and to 15 acres of Andrew Smith)	
Frank D. Kimball	373 "
Andrew Smith	15 "
John Eccles	70 "
Union Pacific Coal Company	7.169 ac.
John E. Inglis, as Trustee for the Church of Jesus Christ of Latter Day Saints, Scofield Ward.	1.486 "
S. J. Harkness	110 acres
T. H. Thomas	25 "

The following named parties sufficient water from Gordon Creek, to irrigate land as follows, to-wit:

Ann Thomas	115 acres
Jacob Kofford	40 "
Charles H. McKindrick	50 "
Albert Grames	20 "
Joseph Sheya	9 "
Joseph Vacher, Lee Vacher & Charles Vacher	85 "
John Crocket and Alfred Grames	2 "

R. G. Miller, from Trail Canon Fork, sufficient water to irrigate 10 acres.

R. G. Miller, from Bob Wright Fork, sufficient water to irrigate 63 acres.

R. G. Miller, from First Water Fork, sufficient water to irrigate 20 acres.

R. G. Miller, from First Corner North Fork, sufficient water to irrigate 10 acres.

R. G. Miller, from Mud Water Fork, sufficient water to irrigate 10 acres.

Pleasant Valley Coal Company, for mechanical, mine, agricultural and culinary uses in Carbon County .994 of a second foot of water continuous flow, from Price River and tributaries.

The Rio Grande Western Railway Company, for mechanical, railway and culinary uses in Carbon County, one second foot of water, continuous flow from Price River and tributaries.

SECOND CLASS

Daniel Morgan, through Snyder Ditch, sufficient water to irrigate 5 acres.

Joseph Tidwell, through Snyder Ditch, sufficient water to irrigate 25 acres.

Tidwell Canal Company, through Tidwell Canal, sufficient water to irrigate 120 acres.

Wellington Canal Company, through Wellington Canal, sufficient water to irrigate 650 acres.

Ann Thomas, through Hill Ditch, sufficient water to irrigate 20 acres.

Mary J. Tollan, through Little or Stowell Ditch, sufficient water to irrigate 7 acres.

Charles Lind and James Bassetto, through Lind Ditch, sufficient water to irrigate 2 acres.

Oren E. A. Elmer, from Spring Creek, sufficient water to irrigate 7 acres.

Oren E. A. Elmer, from Price River, sufficient water to irrigate 18 acres.

J. W. Metcalf, from Fish Creek and tributaries, sufficient water to irrigate 75 acres.

R. G. Miller, from Fish Creek and tributaries, sufficient water to irrigate 25 acres.

Pleasant Valley Coal Company, for mechanical, mine, agricultural and culinary use, two tenths of a second foot of water in Carbon County, continuous flow from Price River and its tributaries.

Rio Grande Western Railway Company, for mechanical, railway and culinary uses 1/2 second foot of water, continuous flow, from Price River and its tributaries.

Jacob Kofford, from Gordon Creek, sufficient water to irrigate 5 acres.

Joseph Sheya, from Gordon Creek, sufficient water to irrigate 9 acres.

Charles Grames, from Gordon Creek, sufficient water to irrigate 20 acres.

R. G. Miller, from Bob Wright Fork, Gordon Creek, sufficient water to irrigate 10 acres.

R. G. Miller from Corner Canon Fork, Gordon Creek, sufficient water to irrigate 30 acres.

Wesley Gentry, from Corner Canon Fork, Gordon Creek, sufficient water to irrigate 30 acres.

THIRD CLASS

David Gourley, through Cook-Gourley Ditch, sufficient water to irrigate 4 acres.

Rio Grande Western Railway Company, from Price River and its tributaries, 24/100 of a second foot of water continuous flow.

FOURTH CLASS

E. T. Jones, through Bryner-Hansen Ditch, sufficient water to irrigate 7 acres.

Rio Grande Western Railway Company, from Price River and its tributaries, 24/100 of a second foot of water continuous flow.

FIFTH CLASS

John Bryner, through Bryner-Hansen Ditch, sufficient water to irrigate 7 acres.

James Bryner, through Bryner-Plautz Ditch, sufficient water to irrigate 15 acres.

SIXTH CLASS

T. H. Auphant, through Little or Stowell Ditch, sufficient water to irrigate 6 acres.

SEVENTH CLASS

Ray Cook, through Little or Stowell Ditch, sufficient water to irrigate 6 acres.

Pleasant Valley Coal Company, for mechanical, mine, agricultural and culinary uses in Carbon County, 228/1000 of a second foot of water continuous flow, from Price River and its tributaries.

The classes and parties entitled to water hereinbefore named are only entitled to the same in the order above set forth, and none of said classes or parties therein named are entitled to any of said waters until all of the preceding classes and parties therein named have been supplied with water to which they are entitled as above set forth; and whenever the waters distributed to any one class are insufficient to supply all of the parties in said class with the water to which they are entitled, then said waters shall be distributed to said parties prorata according to their respective rights as above set forth.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Mammoth Reservoir Company has the right to store and use in its reservoir system, all the waters of Gooseberry Creek, including Cabin Hollow Creek, its tributary, the said creeks being tributary to Price River, subject to the right however of the other parties to this action to 1600 acres feet of water from said sources each year, which shall be distributed by said parties, after being distributed by said company from said reservoir in such quantities and at such times as may be determined by the water commissioner, or other officer provided by this decree to regulate and distribute the waters involved in this action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Henry Gardner, Neil Gardner, Serenus Gardner, Sylvester Bradford, Theodore Dedrickssen, Pleasant Bradford, P. J. Bradford, Charles Bradford and George Hansen, jointly, known as the White River Irrigation Company, have the primary right to the use of all the water of the upper or left hand fork of White River, a tributary of Price River, during the irrigation season of each year up to and including June 15th, provided that after June 15th of each year said water shall be turned into the channel of said Price River for the use of

the other defendants herein during the remainder of the irrigating season, according to their respective rights under this decree, and provided further that in any year when by reason of any extension of the high water period beyond June 15th, there shall be water more than sufficient for the supply of the parties hereto according to their rights as herein set forth, then the said White River Irrigation Company shall be entitled also to the surplus of said tributary during the time such excess shall exist.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Price Reservoir and Irrigation Company have the right to store 1950 acre feet of the waters of Kyune Creek, a tributary of said Price River, for reservoir and irrigation purposes and for the propagation of fish.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that T. H. Thomas has the right to have one-tenth of a second foot of water flow through his fish pond from Winter Quarters Creek for the maintenance of such a pond, provided the same after flowing through said pond and supplying the same is discharged into said creek for the benefit of the other parties to this action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Oren E. A. Elmer has the right to have one-half second foot of water flow through his fish pond, from below the second dam of J. J. Craner above said fish pond of the waters of Spring Creek, a tributary of Price River, for the maintenance of said pond, providing the same after flowing through said pond and supplying the same is discharged into said creek for the benefit of the other parties to this action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Rio Grande Western Railway Company has the right to maintain its reservoir near Colton for the purpose of making ice from certain springs which have hitherto supplied the same, said springs being tributary to Price River, provided that after the ice has been removed therefrom in each and every year, the water in said reservoir during the irrigation season shall be turned into said Price River, for the use of the other parties hereto at such times and under such regulations as may be determined by the water commissioner or other officer charged with the duty of regulating and distributing the waters involved in this action, provided further that

nothing in this decree shall be construed to prevent said company from discharging the whole of said <sup>water</sup> into Price River whenever it may be necessary to clean out or repair said reservoir in order to render it safe and secure or suitable for making ice.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Union Pacific Coal Company, for the purpose of supplying water for the culinary uses of its tenants at Scofield, has the right to a continuous flow of one-tenth of a second foot of the waters of Mud Creek, a tributary of Price River, provided that whatever portion of said water is not consumed for such purpose shall be permitted to flow back into the channel of said Mud Creek.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that William H. Gardner and David R. Taylor are entitled to the use of all the waters from Beaver Dam Springs on George A. Creek, a tributary of Price River.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that for the purposes of this cause the irrigation season shall commence on the first day of March and end on the thirtieth day of November of each and every year, and the distribution of the waters involved in this action as provided herein for irrigation purposes, applies only to said irrigation season as herein defined.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the duty of water per acre for the lands irrigated by the parties to this action during the irrigation season of 1903 shall be one second foot of water for each sixty-five acres of land, except as hereinafter provided. That a water commissioner for said year 1903 shall hereafter be appointed by order of the Court whose compensation shall be fixed in such order, and his duty shall be to measure and determine from time to time the quantity of water flowing in said river, its tributaries and in the ditches diverting water therefrom, and distribute said water equitably among the persons entitled thereto under this decree, using the said duty of water as a basis of said distribution during said year, provided that if said commissioner upon careful inquiry and observation shall find that said duty of water is too high or too low for any specific parcel or parcels of land he may in his discretion decrease or increase said quantity of water so as to sufficiently irrigate said parcel or parcels of land, provided the quantity of water in said river and its tributaries is

sufficient to enable him to do so without injury to other parties equally entitled thereto. Said commissioner shall perform any duty or duties respecting the control, measurement, regulation and distribution of said waters as may be required by the court from time to time for the said year 1903, and shall report as often as may be required by the court his proceedings in the discharge of his said duties, and render to the court full information concerning the same as the court may from time to time require. Said commissioner shall have such assistants in the discharge of his said duties, and as may be ordered and directed by the court. It is further decreed that as to the permanent duty of water and the regulation, distribution and management of the same, after the year 1903, this decree is not final, and the court may after the close of the irrigation season of 1903 hear further testimony relating to the duty of water, and to the control, regulation and distribution of the same, and upon those matters only, and may enter final decree thereon, and for said purpose only jurisdiction of said cause is hereby retained. It is further decreed that the said commissioner appointed by this court as above stated shall give a good and sufficient bond for the faithful performance of his duties in such sum as the court may determine to be sufficient to be approved by the court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the costs of court, service of process, and the transcribing of testimony in this cause shall be paid by the parties hereto in proportion to their interests in said water as provided in this decree; and the compensation, costs and expenses of said commissioner in the discharge of his duties as herein defined, shall be paid by the parties hereto prorata according to their interests in the waters distributed by this decree, and at such times as may be hereafter ordered by the court.

Done in open court this Eighteenth day of December, A.D. 1902.

/s/ C. W. MORSE  
\_\_\_\_\_  
Judge

IN THE DISTRICT COURT, SEVENTH JUDICIAL DISTRICT, STATE OF UTAH  
IN AND FOR THE COUNTY OF CARBON

---

THE TIDWELL CANAL COMPANY,  
a Corporation,  
Plaintiff,

vs.

THE PIONEER DITCH COMPANY, No. 1,  
et al,  
Defendants.

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ORDER CORRECTING DECREE

The petition of John U. Bryner, asking that the Decree herein made and entered on the 18th day of December, A.D. 1902, be corrected to correspond to the stipulations made and signed by all parties to said action, and upon which said decree was made and signed, coming on regularly for hearing this 28th day of November, A.D. 1904, and it appearing to the court that due and legal notice of the time and place of hearing said motion has been given to all parties to said action, and that the stipulation by the several parties to this action, the said John U. Bryner, was stipulated as being entitled to water for forty three acres, first class water right, and seven acres second class water right from the Price River, through what is known as the Bryner-Hansen Ditch.

That in drawing said decree in accordance with said stipulation on file herein through inadvertance or mistake the said John U. Bryner, was given but thirty-three acres of first class, and five acres of second class water right, thus omitting ten acres of and seven acres of second class water right from the provisions of said decree. Therefore, it is hereby ordered that said decree be and the same is modified and amended to give John U. Bryner, from Price River through what is known as the Bryner-Hansen Ditch, forty-three acres of first class water right, and seven acres of second class water right, and seven acres of fifth class water right, instead as ordered in said Decree as originally ordered.

/s/ C. W. MORSE  
Judge

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Dated: November 28th, 1904

IN THE DISTRICT COURT, SEVENTH JUDICIAL DISTRICT, STATE OF UTAH  
IN AND FOR THE COUNTY OF CARBON

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THE TIDWELL CANAL COMPANY,  
a Corporation,  
  
Plaintiff,  
  
vs.  
  
THE PIONEER DITCH COMPANY,  
No. 1, et al,  
  
Defendants.

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SUPPLEMENTAL DECREE

In accordance with the foregoing Findings of Fact and Conclusions of Law, IT IS ORDERED, ADJUDGED AND DECREED, as supplemental to the original decree in this action,

1. That all of the parties to this action were given and received due and legal notice of the time and place of the hearing upon which this supplemental decree is based.

2. That the future permanent duty of the waters of the Price River and its tributaries involved in this action for the lands mentioned in the original decree in this action, and owned by the parties to this action and their successors in interest and irrigated thereby, is hereby fixed and determined to be one cubic foot per second for each sixty acres thereof, and the original decree in this action is hereby modified accordingly.

3. That, as between themselves and without prejudice to the rights of the other parties to this action or their successors in interest, the following named parties and their successors in interest, to-wit:

Frank Jerome, Robert A. Powell, Sr., S. C. Powell, S. C. Harmon, Leonard Piro, successor in interest of Robert W. Powell, A. Elegante, successor in interest of James Hansen, Hiram Hansen, Enoch Bryner and Alma Bryner, successors in interest of John Bryner, Lorona Donato, successor in interest to Matt Plantz, Charles Carrera, successor in interest to Thomas Rhoades, E. T. Jones, Henry Van Natta and other heirs of J. H. Van Natta, deceased, Paul Pesetto, successor in interest to Charles Lund and John Pessetto, James Bryner, Price Realty Company, successor in interest to Sidse Rhoades and Jacob Kofford, Robert Snyder, William H. Tidwell, successor of Joseph

Tidwell and Daniel Morgan, James F. Pace, successor to Ann Thomas, Henry Bryner and J. T. Fitch, Price Water Company, Union Pacific Coal Company, Rio Grande Western Railroad Company, Utah Fuel Company, successor in interest of the Pleasant Valley Coal Company, Pioneer Ditch Company No. 1, S. J. Harkness, J. H. Eccles, O. G. Kimball, Frank Kimball, Isiah Llewellyn, J. W. Metcalf, Joseph Castle, T. H. Thomas, William C. Burrows, W.L.Burrows, Madsen Brothers, R.G.Miller, John L. Price, John E. Inglis, Christensen Brothers and Morley, Andrew Smith, Nettie Noakes, Taylor and Gardner, J.E. Inglis, Trustee, Jesse Burrows, David C.Burrows, D.W.Holdaway, W.H.Donaldson, Thomas Llewellyn, Harriet Loyd Wilson, J.H.Cramer, Orin Elmer and Neil M. Madsen, Spring Glen Irrigation Co., J. H. Rowley, C.H. Cook, David Gourley, George Smith, E.D.Folmer, James Nielson, H.J.Stohl, William Miller, J.C.H. Sinberg, Ray Cook, T.H.Auphand, Mary J. Tollen, Hiram Bellows, Charles Senberg, Adone Thompson, Milo Perkins, Norg Miller, F.M.Ewell, J. N. Kline, James Martello, Tidwell Canal Co., Allred Ditch Co., Pioneer Ditch Co. No. 2, Price Reservoir and Irrigation Co., Sheckrey Shea and Joseph Sheya, successors in interest of Joseph Vetcher, Lee Vetcher, Charles Vetcher, John A. Crockett, Alfred Grames, Albert Grames, Charles Grames, George Smith, Melinda Morgan, George Ryland, successor in interest of William Morgan and N. S. Nielson, successor in interest of R. C. Miller's interest on Gordon Creek, are, when there is sufficient water flowing in said Price River and its tributaries so to do, entitled to fill their respective canals to their carrying capacity, and when the said waters shall have become reduced so that they are insufficient to so fill said canals, then each of said parties shall be entitled to, and shall have the right to take and have distributed to him or it, through said canals, a prorata share of the flowing waters of said river and its said tributaries in proportion to the number of acres of land, as stated in the original decree herein to be owned by him or it, and as the waters of said river and tributaries fall, the quantity ~~flowing~~ to each shall be reduced proportionately according to the acreage owned by each, as stated in said decree and when said waters shall become reduced so that the same shall not be equivalent in quantity to one cubic foot per second for each sixty acres of said lands, then junior rights shall be cut off in the order provided in said decree, and when the said waters shall become reduced to a quantity less than one cubic foot per second for each sixty acres of said

land, specified in said decree to be entitled to a prior right to the use of water, then the said waters shall be distributed to the owners of such prior rights in proportion to the number of acres owned by each as specified in said decree.

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a water commissioner shall by the order of the court be appointed during each irrigation season and the compensation of said commissioner shall be fixed in said order. The duties of said commissioner shall be to measure and determine from time to time the quantity of water flowing in said Price River, its tributaries, and the ditches diverting therefrom, to distribute said water equally among the persons entitled thereto under this decree, using the said duty of water as herein fixed as a basis of said distribution. Said commissioner shall perform any duty or duties respecting the control, measurement and distribution of said water as may be required by the court from time to time during the irrigation season and shall report as often as may be required by the court his proceeding in the discharge of his said duties, and render to the court full information concerning the same, as the court may from time to time require. Said commissioner shall have such assistants in the discharge of his duties as may be ordered and decreed by the court.

IT IS FURTHER ORDERED that the said commissioner appointed by this court as above stated shall give a good and sufficient undertaking to be approved by the court for the performance of his duties in such sum as the court may order; the compensation, cost and expenses of said commissioner in the discharge of his duties shall be paid by the parties hereto pro-rata according to their interest in the water distributed by the decree and at such times as may be hereinafter ordered by the court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that at any time should the parties to this action, and their successors in interest agree to dispense with the services of said commissioner and provide and agree upon other means of distribution of the water provided in the decree, the court may revoke the appointment of the commissioner and confirm the means proposed by the parties to this action and their successors in interest for the distribution of the water herein.

IT IS FURTHER ORDERED that each party shall pay his own cost.

/s/ C. W. MORSE  
Judge

Done in open court this 6th day of  
May, A.D. 1910.