

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

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PROVO RESERVOIR COMPANY,) No. 2888 Civil.
Plaintiff,) PETITION OF T. F. WENTZ
) COMMISSIONER, FOR AN ORDER
vs.) ON CONSTRUCTION OF CONTROL
PROVO CITY, ET AL.) GATES.
Defendants.)
)

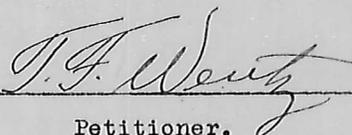
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Comes now, T. F. Wentz, the Commissioner of this Court in the above entitled cause, and respectfully shows:-

1. That the Plaintiff Provo Reservoir Company, and the defendants Utah Power & Light Company, Provo City, Provo Bench Canal & Irrigation Company, Upper East Union Irrigation Company, Little Dry Creek Irrigation Company, First Ward Pasture Company, East River Bottom Water Company, Fort Field Irrigation Company, Lake Bottom Canal Company, Utah Idaho Sugar Company, Alma Jorgensen, West Union Canal Company, Pauline Schemensky, Amos Carter, J. E. Smith, Edith R. Buss, Abram L. Smith, T. J. Smith, Clara M. Stubbs, Thomas Thornley, Richard Carter, D. N. Penrod, A. L. Tanner, Lettie York, Stephen Jones, Permelia Young, Owen A. Baum, Wilford Penrod, A. L. Penrod, W. F. Richins, J. C. Ivie, John H. Carter, D.N. Greer, Leo E. Smith, E. L. Dodder, F. T. Carter, D. G. Calder, Joseph T. Carter, William Gammon, J. M. Buckner, B. F. Alger, Ann Carter, D. W. Baum, Leo Baum, B. W. Baum, J. W. Smith, Sidney Harding successor to the estate of Aaron Carter, David Carter, Verinus Carter, R. G. Carter, R. D. Young, Mary E. Downs, Lafayette Carter, J.M. Downs, James L. Meldrum, Merrill Holden, Benjamin B. Richmond, Ada J. Hickman, Louis James, Walter Lott, George James, Isaiah B. Lott, Joseph Faucett, Elmer Meldrum, I. E. Brockbank administrator of the estate of John E. Booth, deceased, Brice McBride, Ida Young Littley, Hetty Y. Goodwin, M. B. Cutler, Daniel^B McBride, David S. Park, Lafe Baum, Elmer Baum, S. S. Cluff Jr., Jacob A. Baum, James Amicome, William Cluff, Alice Rambaud, Henry V. Smith Jr., Provo Brick & Tile Company successor to Provo Pressed Brick Company, Thomas J. Foote, Esthma Tanner, James M. Bonny, Jane Williamson, Mary E. Davis, James F. Clyde, Evan Williams, Frederick J. Pulham, Hugh L. Syme, N. H. Greer, Andrew Forsythe, Mary A. Brown, A. F. Snyder, Maggie Pearl Brown, Wilmirth H. Brown, Joseph M. Brown, Charles H. Davis, Fred Davies, David Johnson, Isabell West, J. Joseph Johnson, E. D. Partridge, Olive Smith, Ashted Taylor, George Taylor Jr., E. V. Vincent, Louisa J. Brown, J. E. Smith, John D. Dixon, and Caleb Tanner, are each and all decreed the right to the use of waters of Provo River as particularly set out in the decree in this case, below the mouth of Provo Canyon, in the Utah Valley, in Utah County, Utah.

2. That this Court has retained jurisdiction of this action, and the subject matter thereof and all the parties hereto and their successors and assigns, for the purpose of compelling by decree or otherwise the construction of such improvements and appliances as are necessary to carry out its decree herein, and for the purpose of compelling the parties to pay the costs of such improvements, in such proportion as the court may fix.
3. That the defendant The Utah Power & Light Company, in the year 1904, began the operation of the Olmstead Plant, and ever since has diverted and used through said plant the waters that are thereafter used for irrigation and other purposes by the other defendants above named in paragraph 1, and that the plaintiff The Provo Reservoir Company also uses some of the waters that are thereafter used through said Olmstead Plant.
4. That in the year 1904, two sets of timber gates were installed leading from the tailrace of the Olmstead Plant to the said Provo River. And that such gates have been necessary for all the parties above named in paragraph 1.
5. That, said sets of gates are decayed and worn out, and should be replaced before the highwater period of 1922. That such replacement should be of structures of concrete and steel. And that the most opportune time to make this installation is within the next sixty days.
6. That your Commissioner is advised all of the parties above named in paragraph 1, admit all of the allegations in paragraph 5.
7. That none of the parties above named, acknowledge themselves responsible for the payment of the cost of such installation, or any fixed portion thereof. And that it is necessary that an order of this Court be made, binding upon the parties and fixing and determining which of said parties shall pay said cost, or whether the same shall be assessed against all of the parties above named in some fixed proportion and if so what such proportion shall be.
8. That before said Commissioner can proceed in the installation of said improvements, it is necessary that the responsibility for the payment of the costs of the same be fixed and determined and the whole amount assessed against one of the above named parties or a pro rata assessment made against two or more thereof, by an order of this Court.
9. That upon information and belief your Commissioner states that the above matter is properly determinable by this Court, and that this Court is the only tribunal that has the power or jurisdiction to make such determination, and that such determination is necessary in order that the decree of this Court may be properly carried out and enforced.

WHEREFORE, your Commissioner prays that an order of this Court be entered fixing a day for the hearing of the matters herein set forth and directing that a copy thereof be served upon the attorneys of record of said parties, and upon the parties not represented by an attorney, and that at such hearing such order be made in the premises as may to this Court seem just and proper.



Petitioner.

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

T. F. Wentz, being first duly sworn on his oath says that he is the petitioner above named, that he has read the foregoing petition, knows the contents thereof and that the same is true of his own knowledge, except as to matters therein stated upon information and belief and as to such matters he believes it to be true.

T. F. Wentz

Subscribed and sworn to before me this 15th day of September, 1921.

Walter W. Hall

County Clerk of Utah County.



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IN DIST. COURT
UTAH CO., UTAH,
FILED

SEP 15 1917

Wm. Hales Clerk.

..... Deputy