

COURT MINUTES

Thursday, February 26, 1914.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al :

The Provo Bench Canal Company and clients of Harvey Cluff are hereby given to and including April 1, 1914, in which to prepare, serve and file answer or otherwise plead.

A. B. Morgan, Judge.

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March 23rd, 1914.

Provo Reservoir Co. :  
2888 vs :

Provo City et-al : R. W. Barnes, George Hardman, Samuel Gines Sr, James Prescott, Ellen Gines and Abe Gines are made parties defendant herein and the demurrers of clients of J. H. McDonald and Thomas and Soule which were set for hearing this date and the names of said defendants read into the record, are hereby overruled and ninety days given in which to perpare, serve and file answer.

A. B. Morgan, Judge.

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March 30, 1914.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al :

Demurrer heretofore set for this date continued until April 6, 1914.

A. B. Morgan, Judge.

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April 6, 1914.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al :

In this cause the defendant's attorney, J. H. McDonald is given to and including April 13, 1914 to enter his demurrer.

Provo Reservoir Co. :  
2888 vs :  
Provo City et-al :

On motion of Jacob Evans, plaintiff was given until May, 1, 1914 to file replys to counter-claims of defendants, Wilford VanWagenen, Midway Irrigation Co., Provo Bench Canal and Irrigation Co., Timpanogas Irrigation Co., and the Extension Irrigation Co., respectively. Thereupon came on to be heard the separate demurrer of the Knight Woollen Mills. After hearing the arguments of counsel, the court took the matter under advisement.

A. B. Morgan, Judge.

2

Monday, February 8th, 1915.

No. 2888 Civil.  
Provo Reservoir Co. :  
vs :  
Provo City et-al : In this cause it is hereby ordered that the  
Order heretofore issued requiring commiss-  
ioners to report be continued for hearing until 10 o'clock a. m. Monday,  
February 15th, 1915.

A. B. Morgan, Judge.

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February 15, 1915.

No. 2888 Civil.  
Provo Reservoir Co. :  
vs :  
Provo City et-al : In this cause it is hereby ordered that hear-  
ing on Order requiring commissioners to report  
be continued until 10 o'clock a. m. Monday, March 1, 1915.

A. B. Morgan, Judge.

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March 6th, 1915.

No. 2888 Civil.  
Provo Reservoir Co. :  
vs :  
Provo City et- al : Upon application being made, it is hereby  
ordered that the above case be and it is hereby  
set for hearing for Wednesday March 31st. 1915. at 10 o'clock a. m. of  
said day. The matters to be heard at said time being, the hearing of the  
reports of the commissioners for the year 1914. the appointment of a  
commissioner for the purpose of distributing the water for the year 1915.  
and the quantity of water to which each defendant is entitled to have  
distributed to him for the year 1915. and the amount of seepage to be  
charged, if any to the plaintiff, by reason of co-mingling the plaintiffs  
water with the natural flow of Provo River.

The Clerk of this Court is hereby directed to give notice  
to all attorneys representing both plaintiffs and defendants of the setting  
of said cause, and to state in said notice the purposes of the hearing.

A. B. Morgan, Judge.

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March 31, 1915.

No. 2888 Civil.  
Provo Reservoir Company :  
vs :  
Provo City et al : This cause coming on regularly for hearing  
before the Court upon the hearing of the  
reports of the commissioners for the year 1914. the appointment of a  
commissioner for the purpose of distributing the water for the year 1915.  
and the quantity of water to which each party is entitled to have dist-  
ributed to him for the year 1915. and the amount of seepage to be charged,  
if any to plaintiff, by reason of comingling the plaintiffs water with  
the natural flow of Provo River. Mr. A. G. Hatch, Jacob Evans, A. J. Evans,  
and A. L. Booth attorneys being present in Court and representing plaintiff,  
and S. R. Thurman, M. H. Thomas, Grant C. Bagley, Harvey Cluff, E. E.  
Corfman, Jacob Coleman, J. H. McDonald, J. E. Booth, J. w. N. Whitecotton,  
William S. Willis, Charles J. Walquist, w. W. Ray, and Mr. Hufacre,  
attorneys also being present in Court and representing defendants. and the  
Court having heard the report of commissioners, further hearing is hereby  
ordered continued until 2 o'clock p. m. Thursday, April 1st. 1915.

A. B. MORGAN, JUDGE



Monday, May 18, 1914.

Provo Reservoir Company :  
2888 vs :  
Provo City et al : Demurrers of Provo City, Little Dry Creek  
Irrigation Co., Provo Ice & Cold Storage  
Co., Knight Woolen Mills Co., Smoot Investment Co., E. J. Ward & Sons.  
Co., First Ward Pasture Co., Spring Dell Resort Co., Upton Hoover, W.  
E. Hoover, Webster Hoover, Frank Hoover, doing business under the name  
of Excelsior Roller Mills Co., are overruled and the defendants given  
to and including June 10, 1914 in which to answer.

Motion to appoint commissioner in this cause came on regularly  
and it is ordered that further consideration of said appointment of  
commissioner be continued until Friday, May 22, 1914 at 10 A. M.

A. B. Morgan, Judge.

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Friday, May 22, 1914.

Provo Reservoir Company :  
2888 vs :  
Provo City et-al : Further consideration of the motion  
to appoint a water commissioner came on  
regularly and court being now fully advised, it is hereby ordered that  
Frank Demming be and is hereby appointed general water commissioner to  
supervise the distribution of the waters of Provo River and Frank Wentz  
is hereby appointed deputy water commissioner to distribute the waters  
of the Utah County subdivision of the waters of Provo River.

A. B. Morgan, Judge.

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Saturday, May 23, 1914.

Provo Reservoir Company :  
2888 vs :  
Provo City et al : The further consideration of this cause  
resumed after consultation and conference  
between counsel representing parties hereto it is now hereby ordered  
that the central division which compromises the district between the  
Wasatch Irrigation Dam and the Washington Irrigation Co. Dam and that  
district situated between the Washington Irrigation Dam and the Reservoir  
of the plaintiff, shall be immersed into one district, which shall be  
known as the Upper District. It is ordered that the commissioners be not  
asked to furnish bond but that they be required to take the oath and be  
considered as officers of the court.

A. B. Morgan, Judge.

5.

Monday, May 25, 1914.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al :      In this cause the court, in pursuance of the stipulation entered into by respective counsel in open court on May 23, 1914, as amended and corrected on this day, made its order in open court. It was thereupon ordered that the court reporter transcribe the order of the court made and file a copy thereof with the clerk, and also to furnish three copies thereof to the water commissioner, Frank Demming, he to furnish each of the deputy commissioners with a copy thereof.

A. B. Morgan, Judge.

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Thursday, May 28, 1914.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al :      Came on for the appointment of deputy commissioner for the upper district. On motion of Thomas & Soule and Jacob Evans and there being no objections, it is ordered that J. F. Taylor be appointed as deputy commissioner for the Upper District; his salary and responsibilities to be determined by the order made by the court heretofore from stipulations of respective counsel.

A. B. Morgan, Judge.

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Monday, June 22, 1914.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al :      Hearing in this cause is hereby continued until June 29, 1914.

A. B. Morgan, Judge.

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Monday, June 29, 1914.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al :      Petition of Ernest White et al is hereby stricken from the calendar.

A. B. Morgan, Judge.

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Tuesday, July 28, 1914.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al :      Hearing on protest of Order made by Water Commissioner set for Saturday, August 1, 1914.

A. B. Morgan, Judge.

6

Saturday, August 1, 1914.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al : This cause came on to be heard on protest of order made by Water Commissioner, Frank Demming, and after hearing the testimony of witnesses and arguments of counsel, further hearing was continued without date.

A. B. Morgan, Judge.

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Monday, August 3, 1914.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al : The demurrer of L. L. Donan is hereby overruled on the theory of being waived. Defendant to have thirty days to serve and file answer.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al : In open court, it was stipulated between counsel for plaintiff and defendant that the further hearing on the protest of plaintiffs to report of water commissioner be continued subject to call, one days notice to be given by Court.

A. B. Morgan, Judge.

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Friday, August 14, 1914.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al : Protest of the defendants residing in Wasatch County against the expense bill of Geo. F. Taylor heard and after being fully advised, Court orders that the board bill while in Heber, that being the home of the Commissioner, Geo. F. Taylor, be disallowed.

A. B. Morgan, Judge.

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Saturday, August 15, 1914.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al : In this cause, the Clerk of the court is authorized to turn over all money he now has on hand to Frank W. Demming, Water Commissioner, to be by him paid out in accordance with stipulation on file herein.

A. B. Morgan, Judge.

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Tuesday, December 15, 1914.

Provo Reservoir Co. :  
2888 vs :  
Provo City et al : The hearing on the motion that the Water Commissioners be ordered to make a report of their findings on Provo River being had, it is ordered that the Water Commissioners each make a report of their findings and the expense of same to be apportioned to the several water users of the River.

A. B. Morgan, Judge.

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April 1st. 1915.

No. 2888 Civil.

Provo Reservoir Company :

vs

Provo City, et-al :

This cause was resumed before the Court sitting without a jury, and after hearing the statement of counsel of record for plaintiffs and defendants, regarding the probability of all parties interested stipulating on all points of present hearing herein. It is hereby ordered that Court stand adjourned until 10 o'clock A. M. Friday April 2nd, 1915.

A. B. Morgan, Judge.

Friday, April 2, 1915.

No. 2888 Civil.

Provo Reservoir Company, a corporation. :

vs.

Provo City, a Municipal Corporation et-al :

All of the parties to this action being duly represented by their respective counsel having entered into a stipulation this day, that the court make the following orders in this cause, it is therefore ordered by the court,

1. That T. F. Wentz, of Provo, Utah, be, and is hereby appointed water commissioner in this cause for the Provo River water system, which includes all of the parties to this action and all of their claims and rights in and to the waters of Provo River and its tributaries; his services as such commissioner to begin at once and to continue until the 31st day of October, 1915. unless otherwise ordered by the Court, at which time he shall file his report with the clerk of this court, but said report shall not be binding upon any of the litigants in this case.

It is further ordered that his compensation for said services shall be the sum of Two Hundred \$200.00 Dollars per month, together with reasonable allowance for office rent, stationery, postage, telephone services and actual necessary traveling expenses; said compensation to be paid monthly as the services are rendered.

2. It is further ordered that the court may appoint such assistants to said commissioner as may be necessary, and as to the time of making said appointments and the persons to be appointed, the said commissioner may make recommendations for the consideration of the Court, that said assistants shall be paid such compensation as shall be fixed by the court, and shall be paid in the same manner as herein provided for the compensation of said commissioner; the employment of said assistants to continue until the 15th day of September 1915. unless the court otherwise orders.

3. It is further ordered that the commissioner and deputy commissioners be paid by the clerk of this court in Utah County. from money to be deposited with said clerk by the respective parties for that purpose, and that the basis of the assessment to be made against the respective parties be the quantity of water diverted by the several water users; provided, the court shall determine what proportion of the total expenses shall be paid by the power companies.

That in the event some extraordinary or additional expense be incurred, as shown by the report of the commissioner, occasioned by any party to this action, that the court may equitably fix such portion of the expense in excess of the other expenses to that particular party.

4. It is further ordered that suitable measuring gates shall be forthwith constructed by parties not already provided with adequate devices, at their own expense. but under the supervision of the said water commissioner.

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5. It is further ordered that what is known as the high waters of Provo River in Wasatch County and Summit County, are all waters of said river in excess of the quantities distributed under a decree of this court known as the Fulton Decree, exclusive of the waters of the Ontario Drain Tunnel, the Weber River and the reservoirs of all parties, and other sources which may have been added to the flow of the river

It is further ordered that during such period of highwater the parties to this suit using the waters of Provo River in Wasatch County and Summit County, and including the plaintiff in Utah County, shall be permitted to use the same prorate according to the number of acres irrigated by each.

6. It is further ordered that whenever the said highwaters are exhausted in said Wasatch County and Summit County, the users of said waters, parties hereto, shall thereafter take and use under said Fulton Decree, and in accordance with the terms thereof.

7. It is further ordered that in the event, however, that it should be determined by the water commissioners, upon the complaint of any party to this action using the water under the said Fulton Decree, that he has not received sufficient water for his reasonable necessities under said decree; then the water commissioner is authorized and it shall be his duty to take from the plaintiff such quantity of its high water in the said river in said Wasatch or Summit County as may be necessary to supply such deficiency; provided any party who is dissatisfied with the distribution made by the water commissioner may appeal to the court from the decision of the commissioners.

8. It is further ordered that whenever the natural flow of the waters of Provo River shall recede in volume to a quantity not exceeding 17,960 cubic feet per minute of time, measured at the measuring gates of the parties using water in Utah County under former decrees of this court, said flow if 17,960 feet per minute not to include the which plaintiff has turned into said river from the Ontario drain tunnel, from the Weber River or from the plaintiffs reservoir or other sources, then the plaintiff shall cease to use any of said waters, except such as has been heretofore decreed by this court and succeed to by the plaintiff herein, provided, that it is distinctly understood that none of the orders herein set forth shall affect the plaintiff's right to the use at all times the waters derived from the Ontario Drain Tunnel, its reservoirs, the Weber River, or any other source that the plaintiff shall have added to said river.

In the event, however, that it should be determined by the water commissioner upon complaint of any party to this action using water under said last named decrees, that he is not receiving sufficient water for his necessities, then the water commissioner is authorized and it shall be his duty to take, first, the excess, if any, from other primary water users under said decrees to supply such deficiency, and if no excess is had by said primary water users, then it shall be his duty to take from the plaintiff such quantity of its high water as may be necessary to supply such deficiency; provided any party who is dissatisfied with the distribution made by the water commissioner, may appeal to the Court from the decision of said commissioner.

9. It is further ordered that four per cent of the water turned over the Wasatch Company's dam in Wasatch County by the plaintiff be deducted; and that the plaintiff be allowed two second feet at the head of it's canal, to represent the water it owns coming from the Wright Estate and the Round Valley Creek and Springs. Provided, that said Wright Estate water and the Round Valley Creek and spring water shall not be used at two or more places at the same time.

10. It is further ordered that John D. Dixon shall continue to use the water which has heretofore been decreed to him and Caleb Tanner, as he used it last year, 1914, it being understood that the amount which was turned to him was two and one-half cubic feet per second.

11. It is further ordered that Isaac R. Baum, who purchased from Henry Walker ten shares of water right decreed to said Walker in what is known as the Fulton decree, be permitted to use said water right on his land located below the Wasatch Dam, where he has been using it for a number of years last past; ten per cent of said water to be deducted from said right on account of change of place of diversion.

12. In respect to the rights of the following named parties, Pioneer Irrigation Company, T. W. Allen, J. W. Allen, A. T. Allen, Samuel McAffe, J. H. Murdock and John Richie, who take water from the

Provo River above the Wright Ranch near Charleston and below the Midway Dam, and which rights have never been determined by decree of any Court, it is ordered that said parties shall use the water in quantities as heretofore, as nearly as may be, subject to the right of the commissioner to require said parties to irrigate on turns or in succession, so that the amount may be regular as to times of use, and subject to the further right of the commissioner to determine the amount reasonably required by said parties for the beneficial irrigation of the lands under irrigation by them.

And to order made as to the last named parties shall also apply as to the right of the commissioner to regulate, to all other water users whose rights have not been determined by decree of Court, who divert water at points between what is known as the Wright Ranch and the dam of the Wasatch Irrigation Company in Wasatch County; and that the water used heretofore by L. L. Donnan at Upper Falls shall be used as heretofore, subject to the right of the commissioner to determine the amount reasonably required by the said Donnan.

13. It is further ordered that the commissioner shall have authority, under the order of the Court, to withhold the water from any party who neglects or refuses to pay his proportion of the expenses of the commissioner and his assistants, after five days notice given by the clerk of the court in Utah County of the amount due from such party.

14. It is further ordered that the commissioner and his assistants shall not be required to give bond, but that they shall take the oath required by law, and that they be deemed officers of the Court.

15. It is further ordered that the foregoing orders based upon the stipulations, as aforesaid, are temporary only, and shall expire by their own limitations at the end of the year 1915, and no stipulation upon which these orders are based shall prejudice the rights of any of the parties to this action after the year 1915.

The reporter is ordered to make copies of these orders and file one with the clerk of the Court, and deliver three copies thereof to the commissioner.

Done in open Court this 2nd day of April 1915.

Further ordered that commissioner's claims for the year 1914 be allowed.

Further ordered that hearing of this cause be set for 10 o'clock A. M. Monday, Nov. 1st. 1915.

A. B. Morgan, Judge.

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Tuesday, June 1st, 1915.

No. 2888 Civil.

Provo Reservoir Company :

vs :

Provo City et-al :

E. T. Palfreyman Clerk of the Fourth District Court, Provo, Utah. You are hereby authorized

to pay the Taylor Paper Company \$7.20 and the New Century Printing Company, \$18.40 as per claims submitted and O.K'd. by Commissioner T.F. Wentz, and you may also pay to Mr Wentz on his account for April 1915. amounts as collected.

A. B. Morgan, Judge.

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Monday, October 4, 1915.

No. 2888 Civil.

Provo Reservoir Company :

vs :

Provo City et-al :

This Cause is hereby ordered re-set for hearing at 10 o'clock a.m. Tuesday December

14th. 1915.

A. B. Morgan, Judge.

Monday, October 25th, 1915.

No. 2888 Civil.  
 Provo Reservoir Co. :  
 vs :  
 Provo City, et-al : This cause coming on regularly for hearing before the Court upon motion of Jurisdiction of the Court, Mr. Jacob Evans, A. C. Hatch, A. L. Booth, And A. J. Evans, attorneys appearing for the plaintiff and Mr. Mathina Thomas, J.W.N.Whitecotton, J. H. McDonald, Jacob Coleman, Elmer E. Corfman, Grant C. Bagley, W. S. Stewart, Harvey Cluff, J. E. Booth, E. A. Wedgwood, appearing for the defendants and after hearing the evidence and arguments of counsel the matter is taken under advisement.

A. B. Morgan, Judge.

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 Monday, November 29, 1915.

No. 2888 Civil.  
 Provo Reservoir Co. :  
 vs :  
 Provo City et-al : This cause having been heretofore argued before the Court upon the issue raised as to disqualification of Presiding Judge, and taken under advisement, and now the Court being fully advised in the matter and the premises, therefore it is now held that the presiding Judge of the above entitled Court is not disqualified to hear and determine the issues raised in this action.

A. B. Morgan, Judge.

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 Monday, February 14th 1916.

No. 2888 Civil.  
 Provo Reservoir Co. :  
 vs :  
 Provo City et-al : This cause is hereby ordered set for hearing at 10 o'clock a.m. Tuesday February 29th. 1916.

A. B. Morgan, Judge.

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 Monday, February 28, 1916.

No. 2888 Civil.  
 Provo Reservoir Company :  
 vs :  
 Provo City et-al : This cause coming on regularly for hearing before the Court., Mr. Jacob Evans and Mr. A. J. Evans attorneys appearing for plaintiff and Elmer E. Corfman, Grant C. Bagley, S. R. Thurman, Harvey Cluff, J. H. McDonald, J. E. Booth, Jacob Coleman, Matt. Thomas, George Steigmeyer and J. W. N. Whitecotton attorneys appearing for defendants.  
 Stipulation entered into April 1915 continued in force for 1916 until the further order of the Court.  
 Ordered that the Fort Field Irrigation Co., and the Upper East Union Canal Co. file answers to plaintiffs complaint.  
 Ordered that T.F.Wentz water commissioner be and he is hereby authorized to withhold the water from all parties who are in arrears with their assessments, after five days notice by the Clerk of this Court to such parties of the amount of such arrears, and notice that such action will be taken if such arrears are not paid within said five days.  
 Further ordered that cause be continued for hearing until 10 o'clock a.m. Monday June 5, 1916.

C.W.Morse, Judge presiding.

Monday June 5th 1916.

March 1, 1916.

Hon. C. W. Morse,  
Salt Lake City, Utah.  
Dear Sir:

Again referring to the case of Provo Reservoir Company vs. Provo City, the attorneys for the various parties to this suit are anxious that you try the case. In view of all the circumstances, I will appreciate it very much if you will endeavour to arrange your appointments so that you will be able to accomodate Judge Morgan and the litigants in this matter by presiding in the trial of this case.

Very respectfully,

William Spry, Governor.

No. 2888 Civil.

Provo Reservoir Company :

vs :

Provo City, Utah. :

: This cause coming on regularly for hearing before the Court sitting without a jury,

Mr. A.C. Hatch, Mr. Jacob Evans, Mr. A. L. Booth and Mr. A. J. Evans, attorneys appearing for the plaintiffs and Mr. Jacob Coleman, Mr. Elmer E. Corfman, Mr. Mathoniah Thomas, J. B. Tucker, Chas. J. Walquist, Chase Hatch, Grant C. Bagley, W. W. Ray, J. H. McDonald, S. A. Thurman, William S. Willis, S. D. Huffaker, Wm. H. King and William Storey Jr. attorneys appearing for the defendants. and the Court having heard the evidence in part further hearing is hereby ordered continued until 9.30 o'clock a.m. Tuesday, June 6th. 1916.

C. W. Morse, Judge Presiding

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Tuesday, June 6th, 1916.

No. 2888 Civil.

Provo Reservoir Company :

vs :

Provo City, et-al. :

: This cause was continued before the Court sitting without a jury, counsel for the plaintiff and

for the defendant appearing same as of yesterday, and after hearing the evidence in part further hearing is hereby ordered continued until 9.30 o'clock a. m. Wednesday, June 7th. 1916.

C. W. Morse, Judge Presiding

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Wednesday, June 7th, 1916.

No. 2888 Civil.

Provo Reservoir Company :

vs :

Provo City, et-al :

: This cause was resumed before the Court sitting without a jury Hon. C.W.Morse Judge Presiding,

counsel appearing same yesterday and after hearing the evidence in part further hearing is hereby ordered continued until 9.30 o'clock a. m. Thursday, June 8th. 1916.

C. W. Morse, Judge Presiding

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Thursday, June 8, 1916.

No. 2888 Civil.

Provo Reservoir Company :

vs :

Provo City et-al :

: This cause was resumed before the Court sitting without a jury, Hon. C.W.Morse Judge

presiding, counsel for plaintiff and for defendant appearing same as of yesterday, and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a.m.

Friday June 9th 1916.

C. W. Morse, Judge Presiding.

Friday June 9th. 1916.

No. 2888 Civil.

Provo Reservoir Company :  
vs :

Provo City et-al :

This cause was resumed before the Court sitting without a jury Hon. C.W.Morse, Judge presiding, counsel for plaintiff and for defendant appearing as of yesterday, and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock A. M. Monday June 12th 1916.

C. W. Morse, Judge Presiding

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Monday June 12th 1916.

No. 2888 Civil.

Provo Reservoir Company :  
vs :

Provo City, et-al :

This cause was resumed before the Court sitting without a jury, and after hearing the evidence in part, further hearing is hereby ordered continued until 10 o'clock a. m. Tuesday June 13th. 1916.

C.W.Morse, Judge Presiding

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Tuesday, June 13th, 1916.

No. 2888 Civil.

Provo Reservoir Company :  
vs :

Provo City, et-al :

This cause was resumed before the Court sitting without a jury, and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a. m. Wednesday June 14th. 1916.

C. W. Morse, Judge Presiding.

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Wednesday, June 14th 1916

No. 2888 Civil

Provo Reservoir Company :  
vs :

Provo City et-al :

This cause was resumed before the Court sitting without a jury, and after hearing the evidence further hearing is hereby ordered continued until 10 o'clock a. m. Thursday June 15th. 1916.

C. W. Morse, Judge Presiding

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Thursday, June 15th. 1916.

No. 2888 Civil.

Provo Reservoir Company :  
vs :

Provo City et-al. :

This cause was resumed before the Court sitting without a jury, and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a.m. Friday June 16th. 1916.

C.W.Morse, Judge Presiding.

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June 16, 1916.

No. 2888 Civil.

Provo Reservoir Company :  
vs :

Provo City, Utah :

This cause was resumed before the Court sitting without a jury and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a.m. Monday June 19th. 1916.

C.W.Morse, Judge Presiding.

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Monday June 19th, 1916

No. 2888 Civil.

Provo Reservoir Company :

vs

Provo City, et-al :

This cause was resumed before the Court sitting without a jury, and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a. m. Tuesday June 17th. 1916.

C.W.Morse, Judge Presiding.

Tuesday June 20th. 1916.

No. 2888 Civil.

Provo Reservoir Company :

vs

Provo City et-al :

This cause was resumed before the Court sitting without a jury and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock A. M. Wednesday, June 21st. 1916.

C.W.Morse, Judge Presiding.

Wednesday June 21st, 1916.

No. 2888 Civil.

Provo Reservoir Co. :

vs

Provo City et-al :

This cause was resumed before the Court sitting without a jury Hon. C.W.Morse Judge presiding and officers of the Court, and after hearing the evidence the testimony of witnesses in part further hearing is hereby ordered continued until 10 o'clock a. m. Thursday June 22nd, 1916.

C.W.Morse, Presiding Judge.

Thursday June 22nd. 1916

No. 2888 Civil.

Provo Reservoir Co. :

vs

Provo City et-al :

This cause was resumed before the Court sitting without a jury Hon. C. W. Morse Judge presiding and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a. m. Friday June 23rd, 1916.

C.W.Morse, Judge Presiding.

Friday June 23rd, 1916

No. 2888 Civil.

Provo Reservoir Co. :

vs

Provo City et al :

This cause was resumed before the Court sitting with a jury Hon. C.W.Morse Judge Presiding and officers of the Court. and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a. m. Monday June 26th. 1916.

C.W.Morse, Judge Presiding.

Monday June 26th. 1916.

No. 2888 Civil.

Provo Reservoir Co. :

vs

Provo City, et al :

This cause was resumed before the Court sitting without a jury Hon. C.W.Morse Judge Presiding and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a.m. Tuesday June 27th 1916.

C.W.Morse, Judge Presiding.

June 27, 1916.

No. 2888 Civil.  
Provo Reservoir Co. :

vs

Provo City, et-al :

This cause was resumed before the Court sitting without a jury Hon. C.W. Morse Judge Presiding, and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a.m. Wednesday June 28th. 1916.

C.W.Morse, Judge Presiding.

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 Wednesday June 28th. 1916.

No. 2888 Civil.  
Provo Reservoir Co. :

vs

Provo City, et-al :

This cause was resumed before the Court sitting without a jury Hon. C.W.Morse Judge Presiding, and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a.m. Thursday June 29th, 1916.

C.W.Morse, Judge Presiding.

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 Thursday June 29th. 1916.

No. 2888 Civil.  
Provo Reservoir Co. :

vs

Provo City, et-al :

This cause was resumed before the Court sitting without a jury Hon. C.W.Morse Judge Presiding, and after hearing the evidence in part further hearing is hereby ordered continued until 2' o'clock p. m. Monday August 21st. 1916. at Heber City, Wasatch County, for the purpose of taking the evidence of the parties living in Wasatch and Summit Counties, and the cause is ordered resumed in this Utah County on Monday August 28th. 1916. at 10 o'clock a. m.

C.W.Morse, Judge Presiding.

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 August 28th, 1916.

No. 2888 Civil.  
Provo Reservoir Co. :

vs

Provo City, et-al :

This cause was resumed before the Court sitting without a jury Hon. C.W.Morse Judge Presiding, Mr. A. C. Hatch, Mr. Jacob Evans, Mr. A.L.Booth and Mr. A.J.Evans attorneys appearing for plaintiff, and Mr. Jacob Coleman, Mr. Elmer E.Corfman, Mr. Mathoniah Thomas, Mr. Charles J. Walquist, Mr. Grant C. Bagley Mr. W.W. Ray Mr. S.R.Thurman Mr. William S. Willis, Mr. J.E.Booth attorneys appearing for defendant, and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a.m. Tuesday August 29th 1916.

C.W.Morse, Judge Presiding.

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 Tuesday, August 29th, 1916.

No. 2888 Civil.  
Provo Reservoir Co. :

vs

Provo City et-al :

This cause was resumed before the Court sitting without a jury, Hon. C.W.Morse Judge presiding and counsel for plaintiff and defendant appearing same as of yeaterday, and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a. m. Wednesday August 30th. 1916.

C.W.Morse, Judge Presiding.



hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a.m. Thursday November 16, 1916.

C.W.Morse, Judge Acting

Thursday, November 16th. 1916.

No. 2888 Civil.  
 Provo Reservoir Co. :  
     vs :  
 Provo City et-al : This cause was resumed before the Court sitting without a jury, counsel for plaintiff and for defendant appearing same as of yesterday, and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a.m. Friday Nov. 17th. 1916.

C.W.Morse, Judge Acting.

Friday, Nov. 17th. 1916.

No. 2888 Civil.  
 Provo Reservoir Co. :  
     vs :  
 Provo City et-al : This cause was resumed before the Court sitting without a jury counsel for plaintiff and for defendant appearing same as of yesterday, and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a. m. Monday December 11th. 1916.

C.W.Morse, Judge Acting.

Monday, Dec. 11, 1916.

No. 2888 Civil.  
 Provo Reservoir Co. :  
     vs :  
 Provo City et-al : This cause was resumed before the Court sitting without a jury, counsel of record for plaintiff and for defendant appearing, and after hearing the evidence in part further hearing is hereby ordered continued Until 10 o'clock a.m. Tuesday Dec. 12th. 1916.

C.W.Morse, Judge Acting.

Tuesday, Dec. 12th, 1916.

No. 2888 Civil.  
 Provo Reservoir Co. :  
     vs :  
 Provo City et-al : This cause was resumed before the Court sitting without a jury, counsel for plaintiff and for defendant appearing as of record. and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a.m. Wednesday, Dec. 13, 1916.

C.W.Morse, Judge Acting.

Wednesday, Dec. 13th. 1916.

No. 2888 Civil.  
 Provo Reservoir Co. :  
     vs :  
 Provo City, et-al : This cause was resumed before the Court sitting without a jury, counsel for plaintiff and for Defendant appearing as of record. and after hearing the evidence in part further hearing is hereby ordered continued until 10 o'clock a.m. December 27th. 1916.

C.W.Morse, Judge acting.

December 13, 1916.

No. 2888 Civil.

Provo Reservoir Co. :  
vs :

Provo City, et-al : Default having heretofore been entered in open court against the following defendants, J. W. Allen, A. P. Allen, W. R. Allen, Henry Bisel, John Bradshaw, Louis Bisel, Bishop Corbet, appearing by demurrer as M.L. Corbet, C.N. Doty Owen Ellis Lyman Gines, James B. Hamilton, Heber Light & Power Co. Mary Hunter, Annie Jones, Mins Lark, as administrator, as administrator, of the estate of William Larsen deceased, Timothy Murphy, Julia Murphy, Frances Page, Julia Radfield & Sons, S.E. Peterson, Mrs. O. A. Page, Now on motion of counsel for the plaintiffs it is hereby ordered that the default be set aside and defendants granted 10 days in which to prepare and file answer herein.

C.W.Morse, Judge Acting.

Wednesday, Dec. 27th, 1916.

No. 2888 Civil.

Provo Reservoir Company a corporation  
vs Plaintiff  
Provo City, Lincoln School District et-al

## Stipulation appointing Judge Pro Tempore.

Whereas, the Honorable C. W. Morse, Judge of the Third Judicial District Court of the State of Utah, was appointed by the Governor of this State to hear, try and determine the issues of law and fact involved in the above entitled cause; and,

Whereas, the said C. W. Morse entered upon the performance of said duty and has been engaged at different periods of the time aggregating several weeks in hearing the testimony and other matters presented by the parties to said cause and has not yet been able to hear all the testimony that must and will be submitted; and

Whereas, the term of office of the said C.W.Morse as Judge of the said Third Judicial District Court will expire on the first Monday in January, 1917; and

Whereas, it is improbable that he can in justice to all parties and to himself reach a final determination in the said cause prior to the expiration of his said term of office; and

Whereas, it is desired by all of the parties hereto and their attorneys of record, that the said C.W.Morse shall continue as Judge of said Cause and try the issues thereof, both law and fact to a final determination, and even after a final judgment in said cause in the event that a motion for new trial is made or other proceedings desired by any of the parties hereto, it is desired that he shall continue as Judge of said cause for the purpose of determining such motion for new trial, or any question that may arise in the District Court concerning the same, including any bill of exceptions or other order that may be necessary for the purpose of appealing said cause to the Supreme Court of this State; and,

Whereas, the said C.W.Morse is a member of the bar of the State of Utah and therefore is competent to act as Judge pro tempore.

Now Therefore, it is hereby stipulated and agreed by and between the undersigned attorneys of record in said cause and the parties not represented by attorneys that the said C.W.Morse be and is hereby appointed Judge pro tempore for the trial of said cause to a final determination and for the purpose and to the extent hereinbefore set forth.

It is further stipulated and agreed by and between the attorneys of record in said cause and the parties in said cause not represented by attorneys, that the compensation of said Judge pro tempore shall be twenty five Dollars per day for every day necessary occupied by him in the trial of said cause and other proceedings necessary prior to appealing as above set forth and in addition thereto his necessary traveling expenses, which together with reasonable compensation for court stenographer compensation and expenses shall be taxed as costs by the court against all of the parties herein and shall be paid by them according to the apportionment heretofore made for the payment of the water commissioner in this cause.

Dated this 16 day of November, 1916.

Thurman Wedgwood & Irvine, Stewart Stewart and Alexander, Pierce Critchlow & Barrette, William H. King, Thomas & Soule, Mathoniah Thomas, King & Nibley, J.E. Booth, Rawlins Ray & Rawlings, A.C.Hatch, S.R.Thurman, Jacob Evans, A.J.Evans, J.H.McDonald, Alfred L.Booth, E.E.Corfman, Harvey Cluff, Jacob Coleman, Richard W. Young, U.S.Sugar Co. Wm. S. Willes,

Story & Steigmeyer, Morgan Huffaker & Bradford, William W. Ray, Parker & Robinson, O. P. Soule, E. A. Wedgwood, Chase Hatch, Charles J. Walquist, Coleman & Tucker, J. B. Tucker, Henry Shields attorney for Julia M. Davis, and for John E. Berg her successors in interest.

State of Utah )  
 ) SS  
 County of Utah )

I, C.W.Morse, being first duly sworn do say that I will faithfully try and determine the issues joined between the parties plaintiff and defendants appearing in the above entitled cause.

C.W.Morse

Subscribed and sworn to before me this 27 day of December A.D. 1916.

(Seal)

E.T.Palfreyman, Clerk  
 By Elias A.Gee, Deputy

No. 2888 Civil.  
 Provo Reservoir Co. :  
 vs :  
 Provo City et-al :

This cause was resumed before the Court, Hon. C.W.Morse Judge presiding, counsel for plaintiff and for defendant appearing, the following defaults are ordered entered, W. R. Allen, Louise Bisel, M. L. Corbet, named in the complaint as Bishop Corbet, Owen Ellia, James B. Hamilton, Mary Hunter, Annie Jones, Mimms Lark, as administrator of the estate of William Larsen deceased, Timothy Murphy, Julia Murphy, Mrs. Frances Page, Julia Radfield & Sons, S.E.Peterson, Adolphus Sessions, J. R. Allen, George Baum, Louis J. Brown, Robert Birkin, John Burrows, Samuel E. Bunnell, Gotlieb Buhler, Andreas Burgner, Peter Boyce, Jack Bates, Flemming, (Flemon) Barrows, John Buttery, John W. Clark, Arthur C. Candland, Robert Cordner, Samuel Carter, George A. Clark, Mary A. Cook, Henry T. Coleman as administrator of the estate of Nathan Springer, Henry T. Coleman, Arthur Glyde, John W. Carlile, LeRoy Dixon, John H. Emmons, Mary Ann Emmons, Elizabeth A. Farrer, Emily E. Forsythe, Frederick Farrer, W.W. Ferguson, Henry J.W.Goddard, D. A. Gibson, Edwin S. Hinckley, John W. Hoover, Nephi Huber, Lucian N. Hinckley, Lars Jacobson, Jr. as administrator of the estate of Lars Jacobson, Deceased, Mark Jeffs, Jane Mc D. Johnston, William Johnston, Mathias Knudsen, Reed J. Knudsen, Edward Kummer, Rosina Kummer, Herman Knudsen, W.D.Lewis, Niels Larsen, Millie Leffler, Richard Lambert, Parley W. Madsen George A. Madsen, Lewis Marrott, Wilhelmina Madsen, James F. McClellan, Maria Mitchell, David Mc Gimpsey, Thomas Monks, O. P. Matthews, Leslie Murphy, Daniel Peay, George T. Peay Sr. Major Pierce, Julia Radfield, Emily Prescott, Amos Prescott, C.A. Springer, Joseph V. Smith, Henry V. Smith, T. DeVera Smith, as administrator of the estate of Phillip Smith, Deceased, N. O. Spaulding, Joseph Schoni, John Sweifel, Mary Schoni, Hugh L. Symes, John R. Stubbs, George Sizemore, William Sizemore, Vincent Sheppard, William Sheppard, William Sheppard, Charles Thacker, James Ure, E.V.Vincent, as administrator of the estate of Charles Vincent, Deceased, D.L.Vincent, James L. Wright, Joseph Williamson, George Wilson, James Wilson, Henry Watkins, Cordelia, Wilson, Brigham J. Wilson, Isabella West, Esther Webb, Richard Wellington, Elisha Webster, Levi, York, William A. York, H.E.Young, Henry Zinger, Ordered that further hearing be continued until 10 o'clock a.m. Monday Jan. 8, 1917.

C.W.Morse, Judge Presiding.



January 23rd, 1917.

No. 2888 Civil.

Provo Reservoir Co.  
a corporation

vs

Provo City, a corporation et al :

Trial of this cause was resumed, Jacob Evans, A. C. Hatch, A. L. Booth, A. J. Evans appearing as attorneys for plaintiff, W. W. Ray, Mathonihah Thomas, James Tucker, Harvey Cluff, I. E. Willes and J. H. McDonald attorneys for defendants. Testimony was taken on behalf of the following defendants. John Kummer Estate, rebuttal of Upper East Union Canal Co's claim and of Provo City's claim. The Court having heard the testimony, further hearing is hereby ordered continued until January 24, 1917.

C.W.Morse, Judge Acting.

January 24th, 1917.

No. 2888 Civil.

Provo Reservoir Co.  
a corporation

vs

Provo City a corporation et-al :

Trial of this cause was resumed before the Court, Jacob Evans, A. C. Hatch, A. L. Booth, A. J. Evans, S. R. Thurman appearing as attorneys for plaintiff and W. W. Ray, Mathonihaha Thomas, James Tucker, Harvey Cluff, I. E. Willes, J. H. McDonald, W. H. King attorneys for defendants. Testimony was taken in behalf of J. R. Allen and Wilford D. Wright and they were permitted to use all of the water of the McFee springs as per stipulation. Further testimony was taken in rebuttal of Provo City's claim. Further hearing is hereby ordered continued until Thursday, January 25, 1917.

C.W.Morse, Judge Acting.

January 25, 1917.

No. 2888 Civil.

Provo Reservoir Co.,  
a corporation

vs

Provo City, a corporation et-al :

This cause came on for further hearing Jacob Evans, A. C. Hatch, A. L. Booth, A. J. Evans, S. R. Thurman appearing as attorneys for plaintiff and W. W. Ray, Mathonihaha Thomas, James Tucker, Harvey Cluff, I. E. Willes, J. H. McDonald, W. H. King and Durmont Huffaker as attorneys for defendants. Further testimony was taken in rebuttal of Provo City's claim. Mathonihaha Thomas Esq. atty for L. L. Donnan, appearing for the interest of his client to quiet title on the water used at Donnans resort at Provo Canyon, the water taken from Provo River, Further hearing is hereby continued until Tuesday, February 20, 1917 at ten o'clock A. M.

C.W.Morse, Judge Acting.

April 12th, 1917.

No. 2888 Civil.

Provo Reservoir Company,  
a corporation

vs

Provo City, corporation  
et- al

This cause came on duly and regularly for hearing before the Court, A. C. Hatch, Jacob Evans, S. R. Thurman, and A. J. Evans appearing as counsel for plaintiff, and S.E.Huffaker, J.H.McDonald, W.W.Ray, James Tucker, and Story, Esqs., appearing as counsel for defendants. There was a dispute between the plaintiff and Mr. Story, Esq., representing the Utah Power & Light Company. Evidence was taken regarding the Provo Pressed Brick Company's water right, and evidence taken relative to storage water. Stipulation was entered into between the plaintiff and Spring Creek and Sage Brush Irrigation Companies. Order appointing T.F.Wentz water commissioner for the year 1917, and order of water distribution was made.

C.W.Morse, Judge Acting.

Friday, April 20, 1917.

No. 2888 Civil.  
 Provo Reservoir Co.  
 a corporation

vs  
 Provo City, et-al  
 corporation

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 : This cause came on duly and regularly for hearing  
 : before the Court, A. C. Hatch, Jacob Evans, A. J.  
 : Evans, and A. L. Booth, Esq., appearing as counsel  
 for plaintiff and W. W. Ray, James Tucker, Mat. Thomas, Harvey Cluff, and Mr.  
 Story Esq., appearing as counsel for defendants. Further evidence was taken in  
 this cause and the following witnesses testified on behalf of plaintiff:  
 Frank Wentz, L. K. Tanner, and S. Q. Cannon. Joseph W. Loveless was sworn  
 as a witness and gave evidence in behalf of defendant, Provo City and L.N.  
 Pharis on behalf of defendant, Utah Power & Light Co. It is agreed by the  
 attorneys herein that the evidence is all submitted at this time and the court  
 orders that arguments will commence in this cause of the 30th day of April  
 1917, at ten o'clock A. M. in Salt Lake City. The Clerk is hereby ordered to  
 have all of the evidence, Stipulations, and exhibits of the within cause  
 in Salt Lake City on the morning of the 30th day of April 1917 at ten o'clock  
 A. M.

C.W.Morse, Judge Acting.

November 26, 1917.

No. 2888 Civil.

Provo Reservoir Co. et al

vs  
 Provo City, et-al

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 : DECISION OF THE JUDGE  
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This cause came on for hearing before the Court the following att-  
 orneys being present and representing the plaintiffs: A.C.Hatch, A.J.Evans,  
 Jacob Evans, and A.L.Booth. The following counsel appearing for the defendants:  
 J.H.McDonald, J. B. Tucker, W. S. Willis, Chase Hatch, W. W. Ray, Wm.  
 Story, Harvey Cluff, J. W. Robinson and J. E. Booth. Certified copy of app-  
 lication \$1221 of Provo Pressed Brick Company was admitted as evidence and  
 copies of the decision of the court was furnished each of the attorneys.

Court adjourned until December 15, 1917, at which time attorneys  
 may present recommendations for modification of the general provisions for  
 administration of the decision.

C.W.Morse, Judge Acting.

December 15, 1917.

No. 2888 Civil.

Provo Reservoir Co. et-al

vs  
 Provo City, et-al

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This cause came on for hearing before the Court this 15th day of  
 December, 1917. By motion of James Tucker, Esq., Messrs, Richards & Richards were  
 admitted as counsel for Provo City. Attorney Chase Hatch made motion to amend  
 decision as regards certain defendant, J. E. Booth Made motion to ammend  
 decision in case of Wild Wood Resort Co, J. D. Dixon the East River Bottom  
 Water Company and Faucett Field. Harvey Cluff made motion to make amendment in  
 the Giles Thomas Spring. Motion was made by Attorney Richards for further time  
 for Provo City. Objections on behalf of the Utah Power & Light Company made  
 by Attorney Storey. Provo Reservoir by its attorney Jacob Evans asks for a  
 modification in the decision in regard to Provo Pressed Brick Company. Court  
 makes order that the reporter make a transcript of the transaction of the day  
 and have the same charged to costs. Motion was made by W. W. Ray that the  
 water commissioner be ordered to pay to the U.S.Geological survey the costs  
 of installing two automatic water stage registers on Provo river in Provo Canyon  
 and that the costs above referred to shall be assessed against and be borne  
 by the parties to this action in the same ratio as the distribution of water is  
 made.

C.W.Morse, Judge Acting.

February 20, 1917.

No. 2888 Civil.  
 Provo Reservoir Co. :  
       vs :  
 Provo City et-al :

This cause came on for hearing before the Court this 20th day of February, 1917, Some amendments to the Heber City Stipulation were made and the same accepted as amended by the following counsel for the parties they represent; W. W. Ray, Esq., and John E. Booth, Esq., accepts for all his clients except John D. Dixon. S. R. Thurman, A. C. Hatch, and J. H. McDonald, accepts for all his clients except Sage Brush Irrigation Company, and Spring Creek Ditch Irrigation Company. M. Thomas, Esq., accepts for Provo City and all the parties represented by Messrs. Thomas & Soule. J. W. Robinson, Chase Hatch and Charles Wahlquist and W. W. Ray accepts for clients of Mr. Story. The upper East Union Canal Company introduces evidence in rebuttal by the following witnesses: Thomas Ashton, T.F.Wentz and T.H.Cluff. J. H. McDonald asked for continuance of the case until his clients could make soil examination to determine the water duty under the Spring Creek and Sage Brush Canals.

C.W.Morse, Acting Judge.

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 April 30, 1917

Court convened at Salt Lake City, pursuant to adjournment. Present Hon C.W.Morse, acting judge and officers of the Court.

No. 2888 Civil  
 Provo Reservoir Co. :  
       vs :  
 Provo City, et-al :

This cause came on for hearing before the Court this 30th day of April 1917. Whereupon arguments of counsel are made to the court by A.C.Hatch, S.R.Thurman and Jacob Evans.

C.W.Morse, Acting Judge.

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 May, 1, 1917.

Court convened at Salt Lake City, pursuant to adjournment. Present Hon. G. W. Morse, Acting Judge, and officers of the Court.

No. 2888 Civil.  
 Provo Reservoir Co. :  
       vs :  
 Provo City, et-al :

This cause came on for hearing before the Court this 1st day of May 1917. Whereupon arguments of counsel are made to the Court by A.C.Hatch, S. R. Thurman, Jacob Evans, Charles Wahlquist, and Chase Hatch.

C.W.Morse, Acting Judge.

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 May 2, 1917.

Court convened at Salt Lake City, Pursuant to the adjournment. Present, Hon. C.W.Morse, Acting Judge and officers of the Court.

No. 2888 Civil.  
 Provo Reservoir Co. :  
       vs :  
 Provo City et-al :

This cause came on for hearing before the Court this 2nd day of May 1917. Whereupon arguments are made to the Court by M. Thomas, J. B. Tucker, J. H. McDonald, and Harvey Cluff.

C.W.Morse, Acting Judge.

May 3, 1917

Court convened at Salt Lake City, pursuant to the adjournment.  
Present Hon. C.W.Morse, acting Judge and officers of the Court.

No. 2888 Civil.  
Provo Reservoir Co. :  
vs :  
Provo City, et-al :

This cause came on for hearing before the Court this 3rd day of May 1917.

The following statements were made by Mr. Ray and Mr. Thomas.

MR.RAY: As I understand, Mr. Thomas, while as a matter of law the plaintiff in this case is not bound by res adjudicata by the old decrees, the old decrees were founded in fact on a appropriation and were notice to all the world of the existance of a specific claim to the right the use of a specific amount of water. Is that your contention? I understand Mr. Thomas, in conversation with with him out of the court room, to admit that with that notice to the plaintiff and with that notice to this defendant, that whatever this court shall find in this case to be the right of Provo City as against this plaiatiff, it will measure its full right, being a prior right, is the right which it has to the use of water as against this defendant. Is that right, Mr. Thomas?

MR. THOMAS: Yes, Pardon me, I don't know I quite understand your last statement. Do you refer to both your clients?

MR. RAY: That is when the adjudication as to your right and necessities are all measure by by such basid right to the use of water and your primary right.

MR. THOMAS: Yes, I understand.

Whereupon arguments were made to the Court by W. W. Ray, Henry Shields, John E. Booth, Wm. Story and James B. Tucker.

C.W.Morse, Acting Judge.

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May 4, 1917

Court convened at Salt Lake City, pursuant to the adjournment,  
Present: Hon. C.W.Morse, acting Judge and officers of the Court.

This Cause came on for hearing before the Court this 4th day of May, 1917. Whereupon arguments are made to the court by S.R.Thurman, J. W. Robinson, and A. C. Hatch.

C.W.Morse, Acting Judge.

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January 28, 1918.

No. 2888 Civil.  
Provo Reservoir Co. :  
vs :  
Provo City et-al :

This cause came on for hearing before the Court this 28th day of January, 1918. Upon motion of J. H. McDonald, the answer of Charleston Irrigation Company as to acreage is amended to conform to the Heber City stipulation.

Messrs. Richards & Richards, attorneys for Provo City, asked for extension of time for the Court reporter to finish transcripts of testimony and for them to become advised in the matter.

Mr. Story asked permission to submit additional argument on behalf of the Utah Power & Light Company,

Mr. Soule asked permission to submit additional argument on behalf of the Washington Irrigation Company, regarding amount of Storage water.

Mr. Soule proffers to submit in writing some corrections to decision.

On motion of W. W. Ray, T. F. Wentz, was nominated for commissioner for one year. On motion of F. S. Richards, Scott Stewart was nominated for the same position. Mr. John E. Booth and Mr. J. B. Tucker object to the appointment of Mr. Wentz. Upon the evidence presented and arguments of counsel, the court appoints T.F.Wentz at a salary of \$2400.00 per year.

C.W.Morse, Acting Judge.

May 22, 1918

No. 2888 Civil.  
 Provo Reservoir Co. :  
 vs :  
 Provo City, et-al :

This cause came on for hearing before the Court this 22nd day of May, 1918. Harvey Cluff, in behalf of Provo Pressed Brick Company, by T.F. Wentz, submits tabulation of discharge of the several races leading to Provo City; also oral evidence by S.H. Belmont in regard to application to appropriate water of the Provo Pressed Brick Company; also oral evidence by Hyrum F. Thomas in regard to distribution of water in the several races leading to Provo City.

The attorneys for plaintiff and Provo Pressed Brick Company, present oral arguments and are given time to submit briefs in this matter.

C.W. Morse, Acting Judge.

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 June 26, 1918.

No. 2888 Civil.  
 Provo Reservoir Co. :  
 vs :  
 Provo City et-al :

This cause came on for hearing before the Court this 26th day of June 1918. On motion of Mr. Willis, the appearance of Elizabeth Koomer Hamilton is entered as successor to the estate of John Koomer, deceased.

Mr. Story presents a motion for modification of the decision regarding the rights of the Utah Power & Light Company, and the Provo Reservoir Company as successor in interest to the rights of the Blue Cliff Canal Company; and also objects to the method of distribution being made by the commissioner at the present time. Whereupon the motion and objection are argued and said attorneys are given the privilege of submitting briefs. On motion of Mr. Soule, permission was given to verify answer on behalf of Summit County parties.

C.W. Morse, Acting Judge.

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 June 27, 1918.

No. 2888 Civil.  
 Provo Reservoir Co. :  
 vs :  
 Provo City, et-al :

This cause came on for hearing before the Court this 27th day of June, 1918. Messrs. Richards & Richards, on behalf of Provo City, ask for modification of the decision and Permission to introduce further evidence regarding the municipal supply of Provo City; and submit a number of affidavits in support of the insufficiency of the supply of water awarded to the city through its water works system to properly supply its necessities. They also ask that the farm lot area of Provo City be placed upon the same duty of water as the city lots. They also request to be permitted to introduce further evidence regarding the duty of water awarded to Provo City. They also move for modification of the decision as to the lot area in Provo City.

By consent of counsel present, and the Court, Provo City and the plaintiff may submit jointly at a later hearing evidence regarding the area of the irrigated city lots in Provo City.

Mr. Tucker on behalf of Provo City, asks permission to submit evidence regarding a modification of the decision extending the time of change of water duty occurring on July 29th, to August 1st.

The application to re-open the case with reference to the duty of water was denied, and the defendant, Provo City excepted; and the application regarding the number of acres in Provo City lots entitled to irrigation and the question of culinary and domestic water for Provo City may be considered and evidence submitted.

Mr. McDonald offers some correction of areas of land belonging to his clients under Spring Creek. Mr. J. E. Booth enters the appearance of Allen T. Sanford Esq., as attorney for Branch Young, Hattie Y. Young, Ida Littley, Rudolph Raird, Daniel B. McBride, Walter W. Nuttall and David S. Park.

A. C. Hatch, offers an amendment to the decision so as to include the Wright ranch in the Wasatch division; and amendment to the decision regarding the Timpanogas Irrigation Company. regarding its application No. 944.

The amendments were allowed by the Court, with permission to W.W. Ray to reopen the matter at a future hearing, if he finds upon investigation that the waters of Shingle Creek are naturally tributary to the Provo River system.

Mr. Sanford makes application to reopen the case as to the duty of water on lands of his clients and the acreage of the lands.

The application to re-open as to the duty of water was denied, and continued for further hearing as to the acreage.

Mr. Sanford advises the Court that since the filing of this action the defendant Rudolph Riard has died, and he had no heirs at law, and Brice McBride, who is now in the military service of the government, is a successor in interest to this property through the State, and Mr. McBride is not a party in this case, and no finding of this court would be binding upon the said McBride.

Mr. Ray makes application to the court for recognition of an additional area of land not included in the decision, and for which a water right was applied for in the original application of the Provo Bench Canal & Irrigation Company to the County Commissioners in about the year 1862, and which right he contends should be recognized ahead of the Blue Cliff Canal right for 46 second feet.

Mr. Sanford applies to the Court for a continuous flow of water in the Park & Nuttall Ditch and the Barton & Young Ditch for culinary use, and advises the Court that means can be provided by a pipe line from the West Union Canal for the supplying of these parties. By consent of J.E.Booth, attorney for the West Union Canal, it is ordered, that they may be permitted to construct said pipe line, provided they supply the water for it.

John E. Booth, requests the Court to modify the decision making the duty of water to the East River Bottoms Water Company and the Faucett Field Ditch Company the same as awarded to the parties using water on the west side of Provo River under the Carter Ditch and Spring Creek. Motion denied by Court.

Mr. Tucker applies for a modification of the decision regarding the quantity of water awarded the First Ward Pasture Company. Motion denied by the Court to which Mr. Tucker excepts.

The Court finds that the award to the Washington Irrigation Company of 500 acre feet conforms to the pleadings and to the application to the State Engineer of the said company, and the motion of Mr. Soule for additional amount of water is by the Court denied.

Ordered that Court stand in recess to 10:00 a.m. July 16, 1918.

C.W.Morse, Acting Judge.

July 16, 1918.

No. 2888 Civil.  
Provo Reservoir Co. :  
vs :  
Provo City, et-al :

This cause came on for hearing before the Court this 16th day of July, 1918.

Mr Story in behalf of the Utah Power & Light Company moves the Court for a modification of the decision regarding the rights of the Utah Power & Light Company and the Provo Reservoir Company, and for an order directing the commissioner regarding the distribution of water to the several claimants in Provo Canyon and submits an affidavit by D.L.Brundige.

Mr. C. C. Richards on behalf of Provo City joins in the motion.

The plaintiff objects to any proceeding being had by reason of the motion at this time. The plaintiff in support of its objection offers in evidence certified copy of the testimony taken in the case resulting in the so-called Chidester decree, which was admitted over the objection and exception of Mr. Story and Mr. Richards.

The plaintiff also offers the files in case No. 957 in the District Court of Utah County, Utah, which were admitted in evidence over the objection and exception of Mr. Story and Mr. Richards.

After an examination of Mr. Wentz by Mr. Story, the Court declined at this time to make any order changing the method of distribution.

Mr. Jacob Evans, for the plaintiff, asks leave of court to amend the complaint to correspond to the proof and decision of the Court, regarding the right of the plaintiff as successor in interest to the Blue Cliff Canal Company, to which application Mr. Story and Mr. Richards object.

Ordered that Court stand in recess to 10:00 A.M. Septemer 3rd, 1918.

C.W.Morse, Acting Judge.

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July 27, 1917.

No. 2888 Civil.  
 Provo Reservoir Co. :  
       vs :  
 Provo City, et-al :

This cause came on for hearing before the Court this 27th day of July 1917. Upon the petition of Provo City for an order of the Court directing the water commissioner to turn to Provo City, and additional quantity of water. The following witnesses were sworn and examined: T. F. Wentz, T. C. Thompson, George C. Swan, Walter Peay, Charles D. Brown, Jesse Curtis, J. I. Jacobson and A. L. Penrod.

After hearing the evidence and arguments of counsel, the Court orders the commissioner to employ such help as is necessary to provide Provo City with a uniform flow of water.

C.W.Morse, Acting Judge.

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September 3, 1918.

No. 2888 Civil.  
 Provo Reservoir Co., :  
       vs :  
 Provo City et-al :

This cause came on for hearing before the Court this 3rd day of September, 1918. John E. Booth, files petition for permission to introduce testimony as to acreage in the River Bottoms. Upon motion of Mr. Sanford, the action as to Rudolph Riard is dismissed. Mr Sanford introduces testimony regarding acreage of his clients under the Barton & Young and Park & Nuttall ditches by John R. Stewart.

On motion of Mr. Sanford, M. B. Cutler, is substituted as successor in interest to L. W. Nuttall. Mr. Cluff introduces testimony regarding acreage of parties on Spring Creek by Geo C. Swan. Mr. Ray argues for a modification of decision regarding the Blue Cliff right of the plaintiff, and Mr. Story joins therein, and objects to a change of the point of diversion of the Wright estate water,

Upon motion of Mr. Story, and agreed upon by the counsel present, the Utah Power & Light Company award of the Ontario Drain Tunnel Water shall be one-half of the amount above 5½ second feet, and the decision to amended accordingly.

Messrs. Richards & Richards, in behalf of Provo City, introduce evidence showing the flow of water in the waterworks system of Provo City, by John R. Stewart, and evidence of the establishment and construction of the water works system by John E. Booth, William K. Farrer, T. E. Thurman and Heber Phillips.

Ordered that Court stand in recess until 10:00 A.M. September 4, 1918.

C.W.Morse, Acting Judge.

September 4, 1918.

No. 2888 Civil.  
 Provo Reservoir Co. :  
 vs :  
 Provo City, et-al :

This cause came on for hearing before the Court this 4th day of September, 1918. Mr. A. C. Hatch for the plaintiff, presents amendments to complaint. Messrs. Richards & Richards present additional evidence regarding the water works supply of Provo City, by H.J.W.Goddard, John R. Stewart and George C. Swan.

It is stipulated between the plaintiff and the defendant, Provo City; first, that the court shall make and enter in its findings and decree awarding to Provo City, all of the waters arising in and flowing from the springs in Provo Canyon claimed by the defendant, Provo City, and flowing into its pipe line and water works system, excepting the waters of the Springs referred to as Maple or Yellow Jacket Spring. Second, that the Court shall find and decree to Provo City 16.5 second feet constant flow of the waters of Provo River flowing in and through the Provo River. Third, that the defendant Provo City withdraws and waives its objections to the classification of the waters of the Blue Cliff right in the proposed decision of the Court.

Ordered that Court stand in recess to 10:00 A.M. September 5, 1918.

C.W.Morse, Acting Judge.

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September 5, 1918.

No. 2888 Civil.  
 Provo Reservoir Co. :  
 vs :  
 Provo City, et-al :

This cause came on for hearing before the Court this 5th day of September, 1918. Messrs. Richards & Richards in behalf of Provo City, introduce evidence regarding the necessity of the total flow of the springs in the water works system for the uses of Provo City by LeRoy Dixon, Thomas E. Thompson, Arthur Snow and James Dugdale.

Ordered that court stand in recess to 10:00 A.M. September 10, 1918.

C.W.Morse, Acting Judge.

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September 10, 1918.

No. 2888 Civil.  
 Provo Reservoir Co. :  
 vs :  
 Provo City et-al :

This cause came on for hearing before the Court this 10th day of September, 1918. Mr. Willis introduces testimony regarding the rights of the Timpanogas Irrigation Company by Joseph R. Murdock.

The plaintiff, by its attorney, Jacob Evans, moves that Sections 29A and 29B of the complaint be stricken and that the following be substituted: "That as heretofore stated, in paragraph 27 thereof, the flow of said river varies in volume season by season, and at different times in the same season, and plaintiff alleges upon information and belief, which information is derived from the records of the flow of said Provo River for many years past, that the normal flow from said river during the low period of each irrigation season is not less than substantially 305 cubic feet per second."

After hearing arguments of counsel for plaintiff, Mr. McClain for the Utah Power & Light Company, and Mr. Ray for the Provo Bench Canal & Irrigation Company, the Court permits the amendment; and announces that sufficient time will be given to parties affected by it, namely, the Provo Bench Canal & Irrigation Company, and the Utah Power & Light Company, to answer the complaint as amended, to which orders the defendant Provo Bench Canal & Irrigation Company, Timpanogas Canal Company and Utah Power & Light Company, by their respective counsel except, and ask, and are given, until October 1st to answer.

Upon motion of Mr. Ray, The Commissioner is ordered to make up an average natural Provo River for the years for which has has data, from 1889

to 1918 inclusive and 1899 to 1905 and 1905 to 1918.

Messrs Richards & Richards in behalf of Provo City, introduce testimony regarding the irrigated area of Provo City, by William M. Bostaph, Scott P. Stewart, Thomas C. Thompson, and LeRoy Dixon, and evidence on the artesian well supply of water to Provo City, by Benjamin Morgan Roberts; Ernest Ekins, W. K. Farrer, Joseph I. Bullock, Joel A. Johnson, and Walter Cox; and evidence as to the supply of water to the Factory race by William M. Bostaph and Scott P. Stewart.

Messrs. Richards & Richards move the Court to have the privilege of submitting additional evidence regarding a modification of the decision changing the time of raise in duty from July 20th to August 1st, to which the plaintiff objected.

After hearing arguments of court, the Court denied the motion, but grants leave to the City to renew the motion at the next session of the Court.

Mr. David H. Jones, President of the Timpanogas Canal Company, (Mr. Ray being absent) also requests that the change in duty be advanced from July 20th, to August 1st, and also states to the Court they are satisfied with the decision and will take no part in the controversy regarding the Blue Cliff right of the plaintiff company.

Mr. Wedgwood in behalf of the plaintiff introduces evidence on the irrigated area of Provo City by Joseph R. Murdock.

Arguments on the matters presented by Provo City deferred until Next session of the Court.

Ordered that court stand adjourned.

C.W.Morse, Acting Judge.

February 19, 1921

No. 2888 Civil.  
Provo Reservoir Company :  
vs : AMENDMENTS AND OBJECTIONS TO PROPOSED FINDINGS  
Provo City, et-al : AND DECREE

This cause came on duly and regularly for hearing before the Court upon the amendments to and objections to the proposed findings of fact, conclusions of law and Decree, herein, Messrs. A. C. Hatch, A. J. Evans, Jacob Evans, and A. L. Booth appearing as counsel for plaintiff and Messrs Chase Hatch, A. B. Morgan, J. H. McDonald, I. E. Brockbank, Ray & Rawlins, C. C. Richards, O. P. Soule, William Storey, and Lee L. Baker appearing as counsel for defendants. Upon motion of I. E. Brockbank, Esq., it is ordered that Brice McBride be reinstated as defendant herein and that his rights be determined, adjudged and decreed as set out in the decree herein. Upon motion of W. W. Ray it is ordered that the firm of Ray & Rawlins be entered as counsel herein for all of the defendants enumerated in the motions to modify findings and decree, prepared and filed herein by Ray & Rawlins. Objections and motions to amend findings and decree were heard and passed on. Further hearing on these matters are hereby continued until Monday, February 21, 1921 at 10 o'clock A.M.

C. W. Morse, Acting Judge.

February 21, 1921

No. 2888 Civil.  
Provo Reservoir Company :  
vs :  
Provo City, et-al :

This cause came on duly and regularly for further hearing before the Court upon the amendments to and objections to the proposed findings of fact, and decree, herein, Messrs, A. C. Hatch, Jacob Evans, A. J. Evans, A. L. Booth and Harvey Cluff appearing as counsel for the plaintiff, and Messrs O. P. Soule, J. H. McDonald, C. C. Richards, I. E. Brockbank and John F. MacLone appearing as counsel for the defendants. Amendments to proposed Findings and decree were considered, passed on and concluded. T. F. Wentz was appointed Commissioner until the further order of the Court, at a salary of Three-Thousand-Dollars per year and expenses. T. F. Wentz was instructed by the Court to prepare Findings and Decree herein.

C.W.Morse, Acting Judge.

June 25, 1921

No. 2888 Civil.  
 Provo Reservoir Co. :  
 vs : MOTION GRANTED  
 Provo City et-al :

Upon motion of J. H. McDonald, Esq., it is ordered that the Motion to Modify and Correct Findings of Fact and Decree herein is hereby set for hearing for Tuesday, July 5, 1921, and the Clerk of this court is hereby directed to give notice of said hearing to the respective counsel herein.

Dilworth Woolley, Judge.

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July 5, 1921

No. 2888 Civil.  
 Provo Reservoir Company  
 a corporation :  
 vs : MOTION GRANTED  
 Provo City et-al :

This cause came on duly and regularly for hearing before the Court upon the motion of B.H. Jolley to correct and amend Findings and Decree herein, J. H. McDonald appearing as counsel for B.H. Jolley, and no one appearing against or in any way objecting to said motion. The Court now after hearing the testimony of B.H. Jolley, and being fully advised in the premises, orders that said motion be granted as prayed for; that an order in accordance herewith be signed and filed.

Elias Hansen, Judge.

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