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

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| PROVO RESERVOIR COMPANY, A Corporation, Plaintiff, -vs- PROVO CITY, A municipal corporation, et al, and O. K. HANSEN, Mayor, CHARLES HOPKINS and J. ELMER JACOBSEN, City Commissioners of said Provo City. Frank Deming City Engineer. Clark Newell, Superintendent of water works, all as agents, servants, employees and persons acting for, and in behalf of said Provo City, defendant, Defendant's. | No. 2888 Civil. CONTEMPT PROCEEDING. |

State of Utah, :
County of Wasatch, : ss.

R. J. Murdock being first duly sworn upon his oath says, that he is an officer of Provo Reservoir Company, a corporation, the above named plaintiff, to-wit:- the secretary thereof; that he is familiar with the facts hereinafter set forth, and makes this affadavit on behalf of the said plaintiff,-

That on the 2d day of May A. D. 1921, the plaintiff in cause No.2888 Civil, in the Fourth District Court of the State of Utah, in and for Utah County, obtained a Decree of said Court against the above named defendants, wherein it was ordered, adjudged and decreed as follows:-

"That under this decree, the Provo River System is subdivided into divisions, viz;- the Provo Division, and the Wasatch Division. That the Provo Division shall include all that area below and including what is known as, and commonly called the "Wright Ranch"; and,- "That the rights to the use of water in the PROVO DIVISION are herein subdivided according to the date of appropriation, and as stipulated by the parties herein, and such subdivisions as designated Classes, A, B, C, D, E, F, G, H, I, and J." and that in paragraph 35 of said decree the plaintiff herein has awarded and decreed to it, as a class "A" water-right, certain springs tributary to the said Provo River, situated in Utah County, State of Utah, to-wit:- "As successor in interest to the rights of the Blue Cliff Canal Company, a corporation heretofore, and now existing under the laws of the State of Utah, to 50 Sec. feet from January 1st, to December 31st, of each year, which said 50 Sec. feet consists of the Waters of "Maple" or commonly called "Yellow Jacket Spring", "Pony Steele Springs", excepting one-half of the "Joint Spring" and all other springs originally rising in, or discharging their waters into Blue Cliff Canal, and sufficient water from Provo River, which when added to the spring water will aggregate the said 50 Sec. Feet".

"That the point of deversion of all of said waters shall be at the location of the present head-gate, of the present Provo Bench Canal, which is below the tail race of the Utah Power and Light Company's present Olmstead Hydro-electric plant, or at such other point or points as will not interfere with the use of the river portion of said water, by the Utah Power and Light Company through its said Olmstead plant as at present located".

That by said order and decree the sole right to the use of the waters of the springs herein above mentioned was awarded to plaintiff, Provo Reservoir Company, and,-

Paragraph 125 of said decree is as follows:-"125. It is further

ordered, adjudged and decreed that each and all of the parties to this action, and their successors and assigns, and they, and each of their agents, servants and employees, and all persons acting for them, or in their interests, are forever enjoined and restrained from, in any manner, or at all interfering one with the other in the full, free and unrestricted use of the quantity of the waters of said river awarded to them, and from in any manner, or at all, interfering with the distribution of such water by the commissioner to be appointed by the court.

That Provo City is a municipal corporation, in Utah County, State of Utah, and that the other defendants named in the title hereof are officers, agents, servants and employees of the said Provo City, and that said Provo City was one of the principal defendants in the action No. 2888 Civil, in which action the said orders and decrees were made and entered, and that the plaintiff herein was the plaintiff in said action.

That the said decree has never been revised or modified in any manner and is now in full force, virtue and effect.

That by said decree all of the waters of the Provo River and its tributaries, all situated in Summit, Wasatch and Utah Counties, Utah, including the springs above mentioned, awarded to plaintiff by said decree, were by said decree adjudicated and awarded to the several owners to the right to the use thereof.

That on the 1st day of February A. D. 1924, and at divers times prior thereto the defendants, Provo City and its officers, agents, servants and employees, in willful disregard of the said decree and injunction, and in willful contempt of the same, and wrongfully, and in willful disregard of the rights of Provo Reservoir Company, a corporation, plaintiff herein, under said decree, by means of excavations and the collection of the waters of the springs aforesaid into pipe lines, diverted and conveyed the said waters and all of the waters of said springs, except the spring known as "Joint Spring" to and into the pipe lines of the said defendant Provo City, whereby said waters have been brought to Provo City, and by the said defendants converted to the use and benefit of the inhabitants of said Provo City, and have thereby deprived the plaintiff of the use of said waters as awarded to plaintiff by the said decree, and to the use of which the plaintiff was and is entitled by virtue of said decree.

That the plaintiff has at divers times since the beginning of the wrongful acts by the defendants aforesaid, protested against their diversion of the said waters to, and into their pipe lines, as aforesaid, thereby depriving plaintiff of the use and benefit thereof, but that notwithstanding the protests of the plaintiff, the defendants have continued in their wrongful acts aforesaid, and the plaintiff has been obliged to employ counsel to prosecute this action, and plaintiff alleges that unless the defendants are punished for their wrongful acts that they will continue to violate the rights of plaintiff, as aforesaid, and to hold this court and the said decree in contempt, and that plaintiff has been damaged by the acts of the defendants in so wrongfully and contemptuously violating the rights of plaintiff to the use of the said waters in the sum of $1,000.00.

Therefore plaintiff prays that the said defendants and each of them be ordered to appear before this court at such time as the court may appoint, to show cause why they violate the said decree, and to show cause why they should not be punished for contempt of this court; and at the conclusion of said hearing that they may be dealt with in such manner as to the Court may seem just and proper; and that the plaintiff be awarded damages in the sum of $1,000.00, and for its costs in this behalf expended.

R. J. Murdock

Subscribed and sworn to before me this 11th day of September A.D. 1926.
My commission expires on the 19th day of July A. D. 1930.

A. C. Hatch
Notary Public residing at: Heber City, Utah.

A. C. Hatch and
Booth & Brockbank
Attorneys for plaintiff.

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W M Hales.
E B Dastrup