

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

Provo Reservoir Company, :
a corporation, : No 2888 Civil
Plaintiff. :
vs :
: AFFIDAVIT
Provo City, a municipal :
corporation, and :
Wasatch Irrigation Com- :
pany, et-al, :
defendants.

State of Utah,

County of Wasatch. ss

Thomas W. Moulton being first duly sworn on his oath says: that he is one of the defendants named in the above entitled action and that he is president of the Wasatch Irrigation Company, one of the defendants in said action. That he makes this affidavit for himself and as president and agent of the said Wasatch Irrigation Company.

Without specifically referring to each paragraph of plaintiff's affidavit and petition, affiant denies generally that he individually and/or as agent of the Wasatch Irrigation Company has taken or used any of the waters of the plaintiff corporation. Denies that he or his corporation has damaged plaintiff corporation.

Affiant knows nothing of the waters of the Weber River referred to in plaintiff's affidavit and described as the waters of Shingle Creek and Beaver Creek, tributaries of the Weber River. Likewise affiant knows nothing of Application 944 in the State Engineers Office to appropriate certain waters of the Weber River and its tributaries. If plaintiff has such a filing for such waters it is welcome to the same so far as this affiant is concerned.

Affiant, for and on behalf of the Wasatch Irrigation Company, and other old primary rights on the Provo River, claims the right to the use of the waters of Shingle Creek, a natural tributary of the Provo River, which waters have been beneficially used by the Wasatch Irrigation Company, and other old appropriators on the Provo River, for the past forty years and more. That at no time have any of the waters of said Shingle Creek passed the dam of the Wasatch Irrigation Company, except when the canal of said company was filled to its decreed capacity.

That if Application No 944 in the State Engineer's Office is for any of the waters of Shingle Creek a natural tributary of the Provo River, said application would be of no effect since all of the waters of the Provo River was appropriated and being put to a beneficial use long prior to 12th day of June, 1906, in fact there was no unappropriated waters in the Provo River and its tributaries, and particularly in Shingle Creek, one of said tributaries, at that time.

Wherefore affiant prays that plaintiff's petition be denied and that the action of the Provo River Water Commission in refusing to pass by said waters be sustained.

Subscribed and sworn to before me this 17 day of April 1934.



Thomas W. Moulton
Thomas W. Moulton

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IN DIST. COURT
UTAH CO., UTAH
* FILED *

APR 18 1934

Frank Salisbury Clerk
Maudie Hamilton Deputy