

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

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PROVO RESERVOIR COMPANY, a	)	
corporation,	(	
	)	ANSWER OF DEFENDANT PROVO
Plaintiff,	(	CITY TO AMENDED PETITION
	)	OF PROVO RESERVOIR WATER
-vs-	(	USERS COMPANY.
	)	
PROVO CITY, et al, T. F.	)	
WENTZ,	(	
	)	
Defendants.	(	

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The defendant Provo City, a municipal corporation, answers on its own behalf the amended petition of the Provo Reservoir Water Users Company herein, and admits, denies and alleges as follows:

1. Answering paragraphs 1, 2, 3, 4 and 5 of said petition, this defendant admits the allegations therein contained.

2. Answering paragraph 6 of said petition, this defendant avers that it has no knowledge, information, or belief sufficient to enable it to answer any of the allegations in said paragraph contained, and therefore, it denies each and every said allegations.

3. Answering paragraph 7 of said petition, this defendant admits that by reason of the provisions of paragraphs 117 and 118 and other provisions of said Decree referred to in said petition, it was at all times mentioned in said petition and now is the duty of the Water Commissioner to permit the storage waters of petitioner to be released from petitioner's reservoirs at the head of Provo River, during the irrigation season of each and every year, into the channel of said Provo River, and there be comingled with the natural flow of said River, and be conducted along the channel of said River to the power dam of the Utah Power and Light Company, located in Provo Canyon a short distance up stream from the point on said river known as the Heiselt Dam, where petitioner's canal diverts from the natural channel of said River; answering every other allegation in said paragraph contained, this defendant denies each and every such allegations.

4. Answering paragraphs 8, 9, 10 and 11 of said petition, this defendant avers it has no knowledge, information, or belief sufficient to enable it to answer the same, and therefore, it denies each and every said allegations.

5. Answering paragraph 12 of said petition, this defendant denies that the conduct of the Water Commissioner in administering the decree in this cause is contrary to and in violation of or either contrary to or in violation of the provisions of said decree; denies that until a hearing and final determination by the Court shall be had upon the matter of loss by seepage and evaporation, the Commissioner is obligated to deduct not more than four per cent in volume of the amount of said storage water turned into said river and commingled with the waters thereof by the plaintiff; answering every other allegation in said paragraph contained this defendant avers it has no knowledge, information, or belief sufficient to enable it to answer the same, and therefore, it denies each and every said allegations.

6. Answering paragraph 13 of said petition, this defendant denies each and every allegation therein contained.

7. Answering paragraph 14 of said petition, this defendant admits that there is at the present time an acute water shortage for irrigation purposes; answering every other allegation in said paragraph contained this defendant avers it has no knowledge, information, or belief sufficient to enable it to answer the same, and therefore, it denies each and every said allegations.

This defendant FOR A FURTHER AND SEPARATE DEFENSE alleges:

That it is informed and believes and upon that ground avers that said Water Commissioner is charging the petitioner with the actual loss by evaporation and seepage in its storage waters turned in and commingled with the waters of the Provo River and that said storage

water has not and is not now bearing more than its actual loss by evaporation and seepage.

WHEREFORE, this defendant prays judgment as follows:

1. That the Amended Petition of the Provo Reservoir Water Users Company be dismissed.
2. For such other and further relief as to the Court seems meet and proper.

*Raymond B. Kolbrook*  
 Attorney for Defendant  
 Provo City

STATE OF UTAH )  
 ) SS.  
 COUNTY OF UTAH)

W. P. WHITEHEAD, being first duly sworn, deposes and says:

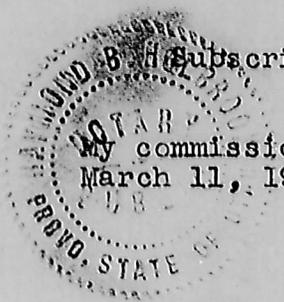
That he is an ~~officer~~ of Provo City, a municipal corporation, the defendant answering herein, to-wit: the Commissioner in charge of water and waterworks; that he has read the foregoing answer to the Amended Petition of the Provo Reservoir Water Users Company and knows the contents thereof; that the same is true of his own knowledge, except as to matters stated therein upon information or belief and as to such matters he believes it to be true.

*W. P. Whitehead*  
 \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_ day of August, 1935.

My commission expires  
 March 11, 1936.

*Raymond B. Kolbrook*  
 NOTARY PUBLIC, residing  
 at Provo, Utah



Receipt of a copy of the foregoing Answer to the Amended Petition of the Provo Reservoir Water Users Company, is hereby admitted this 33rd day of August, 1935.

*Alvin O. Miller*  
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 Attorneys for Petitioner.