

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

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Lloyd Garrison, State Engineer, )  
Plaintiff, )

vs

R.E. Davis; A.W.Lofthouse; Charlotte )  
E. Hubbard, administratrix of Est. of )  
D. C. Hubbard, deceased; John H. Zundel, )  
admin. of Est.of Abraham Zundel, deceased; )  
M.Hymus Dalton;Caroline K.Perry;adminix. )  
of Est.of L.D. Perry, deceased; Wm. T. )  
Edward; J.P.Kunzler; J.H.Mason; Appollas )  
Taylor; Robt. H.Morgan, admin. of Est.of )  
Edward Morgan, deceased; D.D.McKay; Abigail )  
Zundel, )  
Defendants. )

Decree of all  
Rights to Waters of  
Mill Dam Ditch System  
Boxelder County  
as provided in  
Chapter 67, Session  
Laws of Utah, 1919.

Mill Dam Dist.

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This case having taken its due course as provided by  
Chapter 67, Session Laws of Utah, 1919, State of Utah, to a point  
in procedure where a hearing by this Court was necessary inasmuch  
as there were objections filed to the Proposed Determination of  
Water Rights by the State Engineer, which objections were not all  
settled by stipulation, and said hearing being held, after due  
notice was given to all parties, in the Court House at Brigham at  
10 A. M. on the 28th day of March, 1927, and the files of the case and  
the evidence heard in open court, the rights on the Mill Dam Ditch  
System are

ORDERED, ADJUDGED AND DECREED BY THIS COURT AS FOLLOWS:

I.

That the Mill Dam Ditch System embraces parts of Secs. 15, 16,  
21, 22 and 23, T. 8 N., R. 2 W. in Boxelder County, State of Utah. The  
headwaters of the Mill Dam Ditch System comes from springs and a swamp  
and slough area situated in the E $\frac{1}{2}$  Sec. 22 and the W $\frac{1}{2}$  Sec. 23, T. 8 N.,  
R. 2 W., also from the high waters of Willard Creek. The waters from

said source commingle in a natural channel to form the Mill Dam Ditch System. The said channel flows westerly from the source of supply and empties into the Great Salt Lake.

II.

That this Court shall retain jurisdiction of the waters of the Mill Dam Ditch System for a period of five years from the date hereof for the purpose of determining the proper duty should the duty hereinafter set forth be found not to be the proper duty, and also for the purpose of making minor corrections which may be found necessary, after which time the decree shall become final and certificates issued by the Clerk of this Court as provided by Sec. 33, Chapter 67, Session Laws of Utah, 1919.

III.

That the title to the right to the use of said waters, as herein decreed, is hereby quieted against each and every other party to this action and each and every party hereto, their successors, assigns and their agents, servants and employees are hereby forever enjoined from in any manner or at all interfering one with the other in the full, free and unrestricted use of the quantities of water herein decreed to them and from in any manner or at all interfering with each others canals, dams or headgates or from any manner or at all interfering with the distribution of said waters by the water commissioner or his agents or assistants.

IV.

That the owner or owners of each and every ditch shall, on or before the first day of June, 1927, construct weirs and headgates of a design approved by the State Engineer of this State and maintain the same in their respective canals and ditches for the purpose of actually distributing and measuring the quantity of

water decreed to them and hereafter shall at all times maintain and keep all weirs, dams and headgates, flumes, canals and other means by which said water is diverted or conveyed in a high state of repair, to the end that no unnecessary loss from seepage or leakage may occur and that the water be economically applied to the uses for which it is awarded, and no other, without the proper change of point of diversion and place and nature of use as required by law, and all water diverted from said Mill Dam Ditch System shall be measured at or near the point or points of diversion; providing, that the party or parties having a domestic or stock water right, during the non irrigation season, shall be allowed to divert sufficient water from the source to insure the amount set out in this decree at their place of use for said purpose.

V.

That the cost of providing weirs and headgates, as above set forth, shall be borne by the water users under the various ditches in proportion to the number of acres of land irrigated under said ditches as set forth in the Schedule of Rights included in and made a part of this decree.

VI.

That if on or before the first day of April of each and every year, the owners of water rights in this said Mill Dam Ditch System shall not have appointed a water commissioner by mutual agreement to have direct charge of the distribution of the waters as set forth in this decree, then the State Engineer shall so be notified and shall proceed to appoint a commissioner as provided in Chapter 100, Session Laws of Utah, 1925.

VII.

That the rights herein decreed are founded on appropriation of water for beneficial uses and the rights are subject

to the condition that they are required and necessary for beneficial uses, and such rights are subject to the limitation and condition that the same are used beneficially, economically and without waste.

VIII.

That whenever or wherever any person's name is used in this decree as a party, the same shall include his heirs, administrators, executors, assigns and grantees of said person.

IX.

Each of the parties hereinafter set forth in the Schedule of Rights being owners of the rights described is decreed to be entitled to the exclusive use of said waters of the Mill Dam Ditch System according to the dates of their appropriation subject, however, to a strict compliance with the orders herein made, and the first in point of time in appropriating said water is entitled to the first right to the waters of said stream as herein set forth and so on successively to the last appropriator.

X.

That nothing in this decree is construed as limiting or depriving any of the parties hereto of the right to enter into agreements for the distribution of water herein decreed, providing such agreements do not interfere with or infringe upon the rights of the others to the use of the waters of said Mill Dam Ditch System, and do not permit the waste of water.

XI.

That in cases where the quantity of water determined to the various individuals or companies are too small for practical irrigation purposes such rights may be combined wherever possible and rotated among the various users both upon the stream and the various canals in such a way as to deliver to each user in the most effective manner the total quantity of water which he would

receive if distribution was made on a basis of continuous flow as outlined in the Schedule of Rights hereinafter set forth.

XII.

That A. W. Lefthouse, party defendant, having filed his claim in and to the use of the waters from the Mill Dam Ditch System is decreed to have no right, title, interest or claim in or to any of the waters of the said system except by contract or agreement with one or more of the parties defendant that have rights to the use of the waters thereof or by succeeding to the title thereof.

XIII.

That the various parties to this suit having rights to the use of the waters from the said Mill Dam Ditch System are hereby decreed to have such rights as are set forth in the Schedule of Rights on said system which are as follows:









Date of Priority	Acreage	Duty	Amount	Period of Use	Point of Diversion
	Claim #9, Edward Morgan Est. 2/3 Robt. H. Morgan, Adm.		10.4 Ac. 6.1 "	N1/2NW1/4 Sec. 22, T. 8 N., R. 2 W. N1/2SE1/4 Sec. 21, " " " "	
	Claim #10 Mary B. Brunker		28.0 "	S1/2NW1/4 Sec. 22, " " " "	
	Claim #12 R. E. Davis		22.0 "	N1/2SW1/4 Sec. 22, " " " "	
	Total		156.0 Acres.		
(b) 1890	176.5	70	2.53 c.f.s.		
	J. H. Mason		37 Acs.	N1/2SE1/4 & S1/2SE1/4 Sec. 21, T. 8 N., R. 2 W. Said water is diverted at a point 2350'S. of the NE Cor. Sec. 21.	
	John P. Kunzler		24.3 "	S1/2SE1/4 Sec. 21, T. 8 N., R. 2 W. Said water is diverted at a point 2350'S. of the NE Cor. of said Sec. 21.	
	R. E. Davis		27.4 "	N1/2SE1/4 Sec. 21, T. 8 N., R. 2 W. Said water is diverted at a point 2350'S. of the NE Cor. of said Sec. 21.	
	Appolios Taylor		20.6 "	S1/2NW1/4 Sec. 21, T. 8 N., R. 2 W. Said water is diverted at a point 1000'S. 600'E. of NW Cor. Sec. 22, T. 8 N., R. 2 W.	
	Edw. Morgan Est. 2/3 Robt. Morgan Adm.		15.1 "	N1/2NW1/4 Sec. 21, T. 8 N., R. 2 W. Said water is diverted at a point 1450'S. and 350'E. of the NW, Cor. Sec. 22, T. 8 N., R. 2 W.	
	Mary B. Brunker,		52.1 "	S1/2NE1/4 Sec. 21, T. 8 N., R. 2 W. Said water is diverted at a point 1800'S. 320'E. of NW Cor. Sec. 22, T. 8 N., R. 2 W.	
	Total		176.5 Acres		

Said water to be prorated to the owners of the right to the use thereof, for periods of time in proportion as their respective acreage bears to the whole acreage.

<u>Date of Priority</u>	<u>Agency</u>	<u>City</u>	<u>Amount</u>
(e) 1932	Stock Water		0.01 c.f.s.

Period of Use Point of Diversion Place of Use 11.

From Jan. 1 to Dec. 31.  
 Said water to be diverted as described in paragraphs "a" and "b" of this company rights and used for stock watering purposes at the farms of the claimants.  
 Note:- Stock watering rights are entitled to divert a sufficient amount of water to insure a full and undiminished right at the point of delivery.

Date- April 1, 1927.

*Revised Ownership  
 6/19/30*