

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

Central Division

GEORGE HIMONAS, MIKE HIMONAS and  
GUST HIMONAS, minors, by ATHENA  
DEMETRA HIMONAS, their guardian  
and GEORGE C. HIMONAS

Plaintiffs.

vs.

Civil No. C-103-56

UNITED STATES STEEL CORPORATION,  
a corporation, KAISER STEEL CORPORA-  
TION, a corporation: JOHN W. GALBREATH  
and THE DENVER & RIO GRANDE WEST-  
ern RAILROAD COMPANY.

Defendants.

GEORGE M. BIGGS and AMELIA MAUD  
BIGGS, husband and wife,

Plaintiffs.

vs.

Civil No. C-102-56

UNITED STATES STEEL CORPORATION,  
a corporation, et al

Defendants.

H. S. KNIGHT and LENA PETERSON  
KNIGHT, husband and wife,

Plaintiffs.

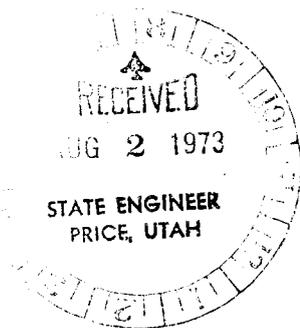
vs.

Civil No. C-104-56

UNITED STATES STEEL CORPORATION,  
a corporation, et al,

Defendants.

DECREE



This matter, having come on before the above entitled court for trial upon the three complaints filed by the plaintiffs, as amended, and the Court having heard the evidence adduced and the stipulations made and entered into by the parties, and having entered its Findings of Fact and Conclusions of Law,

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the water rights on Grassy Trail Creek in East Carbon County, State of Utah, in order of priority are as follows:

(a) George E. Whitmore Right (Whitmore Decree)

Quantity: 5 c.f.s.

Period and Nature of Use: Direct flow for year-around use for irrigation, culinary and domestic purposes.

First application to beneficial use: 1878

Present ownership:

3.5 c.f.s. John W. Galbreath

1.0 c.f.s. Kaiser Steel Corporation

.5 c.f.s. United States Steel Corporation

(b) Joseph R. Sharp Right: (Whitmore Decree)

Quantity: 6 c.f.s.

Period and nature of use: April 1st to October 15th for irrigation, culinary and domestic purposes

First application to beneficial use: 1885

Present ownership: Denver & Rio Grande Western Railroad Co.

(c) M. Peterson Right, Frank Luskman Right & Andrew Larcher Right (Whitmore Decree)

The Peterson Right is for  $7/8$  c.f.s.

The Luskman Right is for  $5/8$  c.f.s.

The Larcher Right is for  $1/4$  c.f.s.

The Period and nature of use for all three rights is from April 1st to October 15th for irrigation and culinary purposes

The Priority for all three rights is equal but secondary to the Whitmore and Sharp Rights noted above.

First Application to beneficial use: No specific date fixed by Whitmore Decree, but prior to 1903.

Present Ownership: Total of 1.75 c.f.s. all owned by Kaiser Steel Corporation.

(d) James M. Peterson Right: (Certificate of Appropriation No. 808)

Quantity per certificate: 2.2 c.f.s.  
Period and Nature of Use: March 15th to December 15th  
for irrigation purposes.  
Priority: June 10, 1913. (Subsequent to all decreed rights set  
forth above:  
Present Ownership: Kaiser Steel Corporation

(e) John McMahon Right: (Certificate of Appropriation No. 2047)

Quantity per certificate: 2.0 c.f.s.  
Period and nature of use: April 1st to December 15th  
for irrigation purposes.  
Priority: January 31, 1924.  
Present Ownership: Kaiser Steel Corporation

(f) John McMahon Right: (Certificate of Appropriation No. 2024)

Quantity per certificate: .5 c.r.s.  
Period and Nature of Use: June 15th to September 15th for  
irrigation purposes.  
Priority: November 7, 1928.  
Present Ownership: Kaiser Steel Corporation

(g) Lena Peterson Knight Right: (Certificate of Appropriation No. 2426)

Quantity per certificate: 1.8 c.f.s.  
Period and Nature of Use: April 1st to July 1st for irrigation  
purposes.  
Priority: July 5, 1937  
Present Ownership: Kaiser Steel Corporation

(h) George M. Biggs Right: (Certificate of Appropriation No. 4137)

Quantity per certificate: 5 c.f.s.  
Period and Nature of Use: April 1st to Sept. 30 for  
irrigation purposes.  
Priority: November 5, 1937  
Present Ownership: United States Steel Corporation

(i) Mike Himonas Right: ( Application to Appropriate No. 13333 )  
Not yet certificated.

Quantity per certificate: 5 c.f.s.  
Period and nature of Use: April 1st to October 15th for irri-  
gation purposes with right of storage from Jan.  
1st to Dec. 31st  
Priority: February 13, 1940  
Present Ownership: Kaiser Steel Corporation

- (j) Defense Plant Corporation Right: (Application to Appropriate No. 15617)  
Quantity: 50 acre feet for storage purposes.  
Period and Nature of Use: Jan. 1st. to December 31st for domestic purposes.  
Priority: December 18, 1943.  
Present Ownership: John W. Galbreath
- (k) Defense Plant Corporation Right: (Application to Appropriate No. 15618)  
Quantity: 5 c.f.s.  
Period and Nature of Use: Jan. 1st to Dec. 31st for municipal purposes.  
Priority: December 18, 1943  
Present Ownership: John W. Galbreath
- (l) Defense Plant Corporation Right: (Application to appropriate No. 15619)  
Quantity: 50 acre feet, for storage  
Period and Nature of Use: January 1st to Dec. 31st for domestic purposes.  
Priority: December 18, 1943.  
Present Ownership: John W. Galbreath
- (m) Defense Plant Corporation Right: (Application to Appropriate No. 15620)  
Quantity: 50 acre feet for storage  
Period and Nature of Use; Jan. 1st. to Dec. 31st for miscl. and industrial purposes  
Priority: December 18, 1943  
Present Ownership: 16.67 acre feet by United States Steel Corporation and 33.33 acre feet by Kaiser Steel Corporation
- (n) Defense Plant Corporation Right: (Application to Appropriate No. 15621)  
Quantity: 50 acre feet for storage  
Period and Nature of Use: Jan. 1st to Dec. 31st for miscl. and industrial purposes.  
Priority: December 18, 1943  
Present Ownership: 16.67 acre feet by United States Steel Corporation and 33.33 acre feet by Kaiser Steel Corporation
- (o) George M. Biggs Right: (Application to Appropriate No. 19041)  
Quantity: 65 acre feet for storage.  
Period and Nature of Use: To be used from May 1st to October 1st to be stored from March 1st to June 1st  
Priority: August 19, 1947  
Present Ownership: United States Steel Corporation

(p) United States Steel Corporation Right: (Application No. 19136 to  
Appropriate)

Quantity: 5 c.f.s.

Period and Nature of Use: Year around for municipal purposes

Priority: September 24, 1947

Present Ownership: United States Steel Corporation

(q) Kaiser Steel Corporation Right: (Application to Appropriate  
No. 20409)

Quantity: 1003 acre feet for storage.

Period and Nature of Use: Year around use for municipal,  
industrial and miscellaneous purposes

Priority: 500 acre feet Dec. 21, 1948, and the remainder  
about December 19, 1951.

Present Ownership: Kaiser Steel Corporation

(r) Kaiser Steel Corporation Right: (Application to Appropriate  
No. 20410)

Quantity: 1000 acre feet

Period and Nature of Use: Year around storage and use for  
miscellaneous and industrial purposes

Priority: Feb. 21, 1949

Present Ownership: Kaiser Steel Corporation

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that neither

Lena Peterson Knight, nor Henry Knight has any right, title, estate or interest in or to the waters of Grassy Trail Creek; that George M. Biggs has no right, title, estate or interest in the waters of Grassy Trail Creek except under a written lease from United States Steel Corporation, dated the 30 day of \_\_\_\_\_, 1957. That the plaintiffs Himonas have no right, title, estate or interest in or to the waters of Grassy Trail Creek, except the right to receive livestock water to the extent of not to exceed ten acre feet of water per year at the time and in the manners which are set forth in detail in the Findings of Fact and Conclusions of Law, which fully reflect the agreement of the parties in this regard.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defend-  
ants shall have the right to change the manner, nature and place of use of any of  
the water rights which they are herein decreed to own, and to add thereto the

right to divert the same into and store the same in the Grassy Trail Creek reservoir, including the right to recapture and re-use the water issuing from the sewage disposal plants, and they shall have no liability to any of the plaintiffs by reason thereof.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiffs Himonas shall not make any water filing on the waters of Grassy Trail Creek upstream from the point of diversion under Application No. 13333, which is described as 7470 ft. East and 3620 feet North of the Northwest corner of Section 15, Township 15 South, Range 12 East, SLB&M, and if the plaintiffs Himonas make any filings on Grassy Trail Creek downstream from said point, it is adjudged and decreed that neither they nor their successors in interest shall have any claim of any kind against any of the defendants for any changes made in the manner or nature of use or the place of use of water herein decreed to be owned by said defendants, including changes in the use of the water issuing from the disposal plants, nor shall they have any right to any waters which originate in Whitmore Canyon, and as to waters originating in Whitmore Canyon, it is adjudged as between these parties that the waters are fully appropriated.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the claims of each of the plaintiffs for money damages, both actual and punitive, shall be and the same are hereby dismissed with prejudice and on the merits, with each party hereto to bear his or its own costs.

Dated this 24 day of September, 1957.

BY THE COURT:

of A. Sherman Christenson  
J u d g e