

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

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WELLSVILLE EAST FIELD IRRIGATION)
 COMPANY, a corporation; NEW)
 WELLSVILLE EAST FIELD IRRIGATION)
 COMPANY, a corporation, HYRUM)
 IRRIGATION COMPANY, a corporation,)
 and SOUTH CACHE WATER USERS)
 ASSOCIATION,)

Plaintiffs,)

-vs-)

LINDSAY LAND AND LIVESTOCK COMPANY,)
 a corporation; ARTHUR SUMMERS,)
 EDWARD KNOWLES, JAMES KNOWLES, O. H.)
 PULSIFER, OLE OLSEN, JESSE COOKE,)
 GEORGE NUHN, SAMUEL BANKHEAD,)
 WILLIAM RICHMOND, LESLIE C. NUHN)
 WILLIAM PULSIFER and LELAND)
 PULSIFER,)

Defendants. (

I N T E R L O C U T O R Y

D E C R E E

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This cause having been heretofore brought on for trial and the court having made its findings of fact and drawn its conclusions of law and being sufficiently advised in the premises,

IT IS ORDERED, ADJUDGED, AND DECREED:

1. That the decree of this court made and entered in the case of Utah Power & Light Company vs. Richmond Irrigation Company, dated 21st day of February 1922, as to all parties to said proceeding asserting and claiming rights in and to the waters of Little Bear River, excepting as to certain possible high waters rights prior to July first of each year, is a valid and enforceable decree and plaintiffs are hereby decreed rights to divert water from Little Bear River in amounts and with priorities as follows:

LITTLE BEAR RIVER

Date of priority	Amount in Second Feet	Point of Diversion and place of use.
262 Wellsville East Field Irrigation and Canal Company (a) 1860--April 1	30 c.f.s.	Said water to be diverted from Little Bear River at a point in the Northeast quarter of Section 7, Township 10 North, Range 1 East, S. L. M. and used throughout the irrigation season of each year for the irrigation of 3075 acres of land in Section 6, Town-

Date of Priority	Amount in Second Feet	Point of Diversion and Place of Use
		ship 10 North, Range 1 East, Section 31, Township 11 North, Range 1 East Sections 1 and 2, Township 10 North, Range 1 West, Sections 13,14, 15, 22, 23, 24, 25, 26, 35 and 36, Township 11 North, Range 1 West.
(b) 1878--April 1	15 c.f.s.	Said water to be diverted from Little Bear River at the point of diversion described in paragraph (a) immediately above, and used for the irrigation of the lands therein described.
(c) 1860--May 1	10 c.f.s.	Said water to be diverted from Little Bear River at the point of diversion described in paragraph (a) immediately above, between the dates of October 1st and October 10th inclusive of each year and used for the irrigation of the lands therein described.
Hyrum Irrigating Company:		
(a) 1860--April 1	3 c.f.s.	Said water to be diverted from Little Bear River at a point in the Southeast quarter of Section 17, Township 10 North Range 1 West, and used for the irrigation of 200 acres of land in sections 8, 9, 16, and 17, said township and range.
(b) 1860--May 1	30 c.f.s.	Said water to be diverted from Little Bear River at a point in the south-east quarter of Section 15, Township 9 North, Range 1 East, and from the East Fork of said Little Bear River at a point in the Southeast quarter of Section 10, Township 9 North, Range 1 East, throughout the irrigation season of each year, and used for the irrigation of 2820 acres of land in Sections 3, 4, 5, 6, 7, 8, 9, 10, Township 10 North, Range 1 East, and Sections 31, 32, 33 and 34, Township 11 North, Range 1 East.
(c) 1878--April 1	15 c.f.s.	Said water to be diverted from Little Bear River at the point described in paragraph (b) immediately above and used throughout the irrigation season of each year for the irrigation of the lands therein described.
(d) 1890--May 1	15 c.f.s.	Said water to be diverted from Little Bear River at the point of diversion described in paragraph (b) immediately above, between the dates of April 1st and July 1st of each year and used for the irrigation of 1000 acres of land in Sections 9, 16, 21 and 28, Township 10 North, Range 1 East, S.L.M.

Date of Priority	Amount in Second Feet	Point of Diversion and Place of Use
(e) 1860—May 1	10 C.F.S.	Said water to be diverted from Little Bear River at the point of diversion described in paragraph (b) immediately above, between the dates of October 1st and October 10th inclusive of each year and used for the irrigations of the lands therein described.

2. That the plaintiffs herein are now the owners of the right to use all of the waters decreed by this court to them by said decree dated February 21st, 1922, except as to high waters prior to July First of each year, and the defendants and each of them, except as stockholders of the Hyrum Irrigation Co., their officers, agents, employees, and successors in interest are hereby forever enjoined and restrained from, in any respect, interfering with the diversion and use of waters adjudged to belong to the plaintiffs by the said decree and the said defendants, and each of them, their agents, employees and successors in interest are forever enjoined from diverting from the Little Bear River or any of its tributaries any water whatsoever in excess of the water decreed to them or either of them except that the defendant, Bar B. Company, is decreed the right to divert one 2d foot for 30 hours each 14 days in addition to its decreed rights prior to July 1 of each year, to water its meadows; and its claims to summer waters determined to be superior to those de-rainged from State Engineer's filing Nos. 10528 and 10529; and the said Arthur Summers, Leslie C. Nuhn and William Pulsifer, Jr., shall be permitted as against these plaintiffs to divert from Little Bear River certain high water through the diversion below the Hyrum canal diversion dam prior to July First of each year and thereafter as to rights initiated by State Engineer's filings No. 10528 and 10529. Nothing herein contained shall be construed as depriving any defendant of any water as a stockholder of the Hyrum Irrigation Co.

3. The defendants and their agents and successors in interest herein are hereby enjoined and restrained from diverting or withdrawing by any means whatsoever, any water from the Hyrum Company canal except in their capacity as stockholders of said corporation.

4. The decree hereby entered is an interlocutory decree and the court hereby expressly continues its jurisdiction of this cause and of all parties hereto for the purpose of conducting a complete adjud-

ication and determination of all of the right to divert and use water of the Little Bear River stream system. The State of Utah is hereby made a party defendant to this proceeding. The Clerk of this Court is directed to notify the State Engineer of the State of Utah of the entry of this decree and the said State Engineer is directed to prepare and file with the court, as expeditiously as possible, a statement giving the names and addresses of the claimants to the use of the water from the Little Bear River system involved in this proceeding and hereafter all proceedings herein shall be conducted in accordance with Title 100 of the Revised Statutes of Utah as amended.

5. That the plaintiff, South Cache Water Users Association, is entitled to the waters awarded to it under its application filed with the State Engineer of the State of Utah as No 10528 for right to store in the Hyrum Reservoir fifteen thousand five hundred acre feet of water, which said application was approved and recorded in Book 1-31 of the Applications to Appropriate Water at page 430 to 432 in the records in the office of the State Engineer of the State of Utah, but that said rights so far as spring and summer waters are concerned, are junior to those claimed by defendants by adverse user. Also, under its application No 10529 to the State Engineer of the State of Utah, to appropriate twenty thousand acre feet of water to be stored in the Hyrum Reservoir, which said application was duly approved and recorded in the office of the State Engineer of the State of Utah in Book 1-31 of Applications to Appropriate Water at page 434 to 436, but that said rights, so far as spring and summer waters are concerned, are junior to those claimed by defendants by adverse user.

6. That the defendant, Bar B. Company, as successor in interest of the Lindsay Land & Livestock Company is the owner of the water rights decreed to the Lindsay Land & Livestock Company by the Utah Power & Light Co. vs. Richmond Irrigation Co. et al decree and, in addition thereto is awarded the right to divert from Little Bear River or its tributaries one second foot of water for thirty hours each fourteen days prior to July first of each year for the irrigation of its meadows. As to the summer waters said Bar B Company's rights are decreed as superior to those decreed from any State Engineers filings which were referred to in this record.

7. That the defendants, Arthur Summers, William Pulsifer Jr. and Leslie Nuhn, in addition to their rights as stockholders under the Hyrum Irrigation canal have the right to divert, as against any of the State Engineer's filings referred to in this record, any and all waste, seepage, or drainage waters which may be found in the natural channel of Little Bear River at their point of diversion which is below the diversion dam of the Hyrum Irrigation Co., but said defendants, their agents, servants, and employees are hereby enjoined from in any manner interfering with or touching the diversion works in Little Bear River of the Hyrum Irrigation Co. after July first of each year.

8. That the exact status of certain of the defendants in their capacity as stockholders of the Hyrum Irrigation Co. is not determined in this interlocutory decree and is expressly reserved for future determination at a time prior to the entry of final decree but in the meantime the the said Hyrum Irrigation Co., is hereby directed to respect the stockholder claims of said defendants in accordance with their respective testimony, provided, that said parties promptly pay any uniform Company assessment's against stockholders for the year 1941 and each and every year thereafter that they may continue to use said waters as stockholders the regular Company assessments therefor.

Dated this 11th day of April 1941

LEWIS JONES
District Judge

Filed April 11, 1941,
N. J. Crookston, Clerk,
By Elizabeth Scrowther, Deputy Clerk.

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

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STATE OF UTAH,)
 (ss.
County of Cache,)

I, N. J. CROOKSTON, Clerk of the District Court of the First Judicial District of the State of Utah, in and for the County of Cache, do hereby certify that the above and foregoing is a full, true and correct copy of the original FINDINGS OF FACT AND CONCLUSIONS OF LAW ON INTERLOCUTORY DECREE and INTERLOCUTORY DECREE in the case of WELLSVILLE EAST FIELD IRRIGATION COMPANY, a corporation; NEW WELLSVILLE EAST FIELD IRRIGATION COMPANY, a corporation; HYRUM IRRIGATION COMPANY, a corporation; and SOUTH CACHE WATER USERS ASSOCIATION, Plaintiffs, vs LINDSAY LAND & LIVESTOCK COMPANY, a corporation; ARTHUR SUMMERS, EDWARD KNOWELS, JAMES KNOWELS, O. H. PULSIFER, WILLIAM PULSIFER, LELAND PULSIFER, OLE OLSEN, JESSE COOKE, GEORGE NUHN, SAMUEL BANKHEAD, WILLIAM RICHMOND, and LESLIE C. NUHN, Defendants, as the same appears on file and of record in this office.

WITNESS my hand and the seal of said Court affixed this 25th day of April, A. D., 1941.

N. J. CROOKSTON,
Clerk,

By Elizabeth Scrawther
Deputy Clerk.

