

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

3 PROVO RESERVOIR COMPANY, a : Civil No. 2888
4 corporation, :
5 Plaintiff, :
6 vs. : TEMPORARY ORDER
7 PROVO CITY, et al., :
8 Defendants. :
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10 This matter came on regularly for hearing before the
11 above entitled Court, setting without a jury on the 30th day of
12 August, 1960 at the hour of 10:00 a.m., the Honorable Maurice
13 Harding, District Judge, presiding. The defendant David Long
14 appeared in person and by and through his attorney Edward W. Clyde
15 of the Firm of CLYDE & MECHAM, Attorneys at Law, Salt Lake City,
16 Utah; defendant Alton B. Giles voluntarily appeared in person and
17 by and through his attorney J. Rulon Morgan of the Firm of MORGAN
18 & PAYNE, Attorneys at Law, Provo, Utah; Wayne D. Criddle as State
19 Engineer of the State of Utah appeared by and through Richard Boyle,
20 Assistant Attorney General of the State of Utah; defendants Provo
21 Bench Canal & Irrigation Company, Timpanogas Canal Company, Upper
22 East Union Irrigation Company, West Union Canal Company, East River
23 Bottom Water Company, Fort Field Irrigation Company, Little Dry
24 Creek Irrigation Company, Smith Ditch Company, Faucett Field Ditch
25 Company, Riverside Irrigation Company, and Lake Bottom Canal Com-
26 pany voluntarily appeared by and through their attorney Joseph
27 Novak of the Firm of CHRISTENSON, NOVAK, PAULSON & TAYLOR, Attorneys
28 at Law, Provo, Utah; and the defendant Utah Power and Light Company
29 voluntarily appeared by and through its attorney Robert B. Porter,
30 Attorney at Law, Salt Lake City, Utah.

31 This matter was brought to the attention of the Court on
32 the motion of Wayne D. Criddle as State Engineer of the State of

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1 Utah, for an injunction against defendant David Long to enjoin and
2 restrain him from interfering with the administration and distri-
3 bution of the waters of the South Fork of the Provo River and its
4 tributaries. It was stipulated and agreed among the above named
5 parties appearing herein by and through their respective attorneys,
6 that the Court might make and enter a Temporary Order herein, pend-
7 ing a trial on the merits, based upon the arguments of counsel for
8 each of the respective parties above named. The Court having heard
9 the arguments of counsel for the respective parties who have
10 appeared herein, and being advised in the premises now makes and
11 enters the following Temporary Order:

12 NOW THEREFORE, IT IS HEREBY ORDERED:

13 1. That defendant David Long shall forthwith construct
14 and maintain, free from obstruction, an open ditch of sufficient
15 depth, width and capacity to convey the waters emanating from Birch
16 Spring from the point where such waters presently enter the West
17 line of his property, along a direct route across his lands to the
18 natural channel of the South Fork of the Provo River. The location
19 of said ditch shall be such that a portion of the waters conveyed
20 thereby can be delivered into the existing concrete box, situated
21 at the head of the existing pipe line which extends easterly to the
22 cabin owned by defendant David Long. The depth, width, capacity,
23 alignment and construction of said ditch shall be under the direc-
24 tion and supervision of the Provo River Water Commission.

25 2. The Provo River Water Commission shall distribute
26 into the existing pipeline of defendant David Long, an amount of
27 water from said ditch which can be beneficially used to supply the
28 culinary requirements at the said cabin of defendant David Long,
29 and the Provo River Water Commissioner shall deliver all of the
30 remaining waters emanating from Birch Spring and conveyed by means
31 of said ditch directly into the natural channel of the South
32 Fork of the Provo River.

1 3. Defendant David Long, his agents, servants and em-
2 ployees be and they are hereby enjoined and restrained from taking
3 or diverting any waters from said ditch or from obstructing, re-
4 tarding or in any manner interfering with the waters flowing in
5 said ditch, or with any of the waters emanating from Birch Spring
6 or with the distribution thereof by the Provo River Water Commiss-
7 ioner.

8 4. Defendants David Long and Alton B. Giles shall forth-
9 with construct and maintain, free from obstruction, an open ditch
10 of sufficient depth, width and capacity to convey the waters of
11 Bunnel's Fork separate from the waters emanating from Birch Spring,
12 from the point where such waters presently enter the West line of
13 defendant David Long's property along the same general route which
14 such waters presently follow to the existing cabins of defendant
15 Alton B. Giles and from there along a direct route to the natural
16 channel of the South Fork of the Provo River.

17 5. Defendant Alton B. Giles shall be permitted to take
18 from said ditch, by dipping therefrom an amount of water which
19 reasonably can be beneficially used for culinary purposes at the
20 existing cabins which are owned, operated, leased or managed by
21 him, situated along the route of said ditch. The Provo River Water
22 Commissioner shall deliver all of the remaining waters of Bunnel's
23 Fork conveyed by means of said ditch directly to the natural channel
24 of the South Fork of the Provo River.

25 6. Defendant David Long and Alton B. Giles, their agents,
26 servants and employees hereby enjoined and restrained from taking
27 or diverting any water from said ditch, except as provided for in
28 paragraph 5 hereinabove, or from obstructing, retarding or in any
29 manner interfering with the waters flowing therein or with any of
30 the waters of Bunnel's Fork or with the distribution thereof by the
31 Provo River Water Commissioner.

32 7. That defendants David Long and Alton B. Giles are

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1 further enjoined and restrained from in any manner interfering
2 with the distribution by the Provo River Water Commissioner of the
3 waters of the South Fork of the Provo River and all tributaries
4 thereto, either surface or underground.

5 8. That this Temporary Order is made to govern the conduct
6 of the parties during the pendency of this action and is made with-
7 out prejudice to the rights, duties, claims or defenses of any of
8 the parties which may be asserted or made at the trial on the merits,
9 but shall remain in full force and effect until otherwise modified
10 or set aside by further order of the Court.

11 Dated this 14th day of September, 1960.

12 BY THE COURT

13 Maurice Harding
14 JUDGE
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16 CHRISTENSON, NOVAK, PAULSON
17 & TAYLOR
18 ATTORNEYS AT LAW
19 PROVO, UTAH
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RECORD 30.
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FOURTH JUDICIAL DISTRICT COURT OF
THE STATE OF UTAH
IN AND FOR UTAH COUNTY

FILED

SEP 1 1900

MARK F. BOYACK, Clerk

Wm J. [Signature] Deputy