

IN THE FOURTH JUDICIAL DISTRICT COURT OF THE STATE OF UTAH, IN AND FOR
UTAH COUNTY. No. 2888 Civil.

Provo Reservoir Company,
a corporation,

Plaintiff,)

vs.)

Provo City et al.,

Defendants.)

AMENDMENT TO DEFENDANT,
Timpanogus Irrigation
Company's Answer.

(copy)

Comes now the above named defendant, Timpanogus Irrigation Company, and by leave of court first had and obtained and amends its answer on file herein by inserting therein immediately following Section 4 of defendant's Counterclaim for Affirmative Defense to make the same conform to the proofs heretofore offered and admitted in evidence, to be known as Section 4 $\frac{1}{2}$ reading as follows, to wit:

Section 4 $\frac{1}{2}$. In addition to the rights set forth in the preceding paragraphs, the defendant Timpanogus Irrigation Company alleges that under application #944a to the State Engineer of the State of Utah, dated June 14, 1906, Corrected Application dated September 8, 1906, and approved May 14, 1910, defendant appropriated of the theretofore unappropriated waters of Shingle Creek and Beaver Creek, tributaries of the Weber river water system, 5,000 acre feet from Shingle Creek and 2,500 acre feet from Beaver Creek located in Summit County, Utah; that under said application the defendant expended large sums of money in the construction of canals, dams and diverting methods and thus and thereby diverted said water from said Shingle Creek and Beaver Creek to Provo River where said water was commingled with the waters of said Provo River and thus commingled with the said waters of Provo River was floated down said Provo River to the intake of defendants said canal and was distributed to its stockholders and was used for the irrigation of the lands belonging to its said stockholders.

That said water so diverted and used was and is necessary for the beneficial and economical irrigation of said lands and during all the times that said water was so used the same has been beneficially and economically used and husbanded..

Wm. S. Willey
Attorney for Defendant.