

6. Answering paragraph 36 of plaintiff's complaint, these defendants deny that they or their predecessors in interest have used any water or waters from the Provo river or its tributaries in a wasteful manner and deny that they have diverted any water whatsoever in excess of the amount actually necessary to properly and beneficially irrigate the land to which the waters diverted by them are appurtenant, and these defendants deny that they have in any manner interfered with, prevented or hindered the plaintiff or any of its water users from receiving and using any water to which the plaintiff or any of its water users or assigns are entitled, and these defendants allege that they have no knowledge or information sufficient to form a belief as to whether other defendants in this action use water in a wasteful manner or as to whether other defendants interfere with, prevent and hinder plaintiff and its water users from receiving and using water to which it is entitled.

7. These defendants admit that the decrees of the Fourth Judicial District Court of the State of Utah, were entered as alleged in paragraph 37 of plaintiff's complain and allege that these defendants have no knowledge or information sufficient to form a belief as to the other allegations contained in said paragraph 37.

8. These defendants deny each and every allegation of said complaint not hereinbefore specifically admitted or denied.

FURTHER ANSWERING said complaint, and by way of Counterclaim, these defendants allege:-

1. That the said defendant, Betsey Olson is now the owner of the South one-half of Lot 1, Block 75, Heber City Survey of Building lots, and that said defendant Anton Olson, is now the owner of the North one-half of said Lot 1, Block 75, Heber City Survey of Building lots in Wasatch County, State of Utah.

2. That said Lot 1, Block 75 Heber City Survey of Building Lots, now is and for more than thirty years last past has been, irrigated by reason of the primary or lot water right acquired by appropriation and use from the low water of Provo river, about the year 1884, and that ever since the appropriation and use of said low water, that these defendants and their predecessors in interest have used from the high or flood water of the Provo river to irrigate said land as well as the low water hereinabove in this paragraph referred to.

3. That the said waters, both low and high water, used to irrigate said Lot 1, Block 75 of Heber City survey, have been appropriated and diverted through the canal of the Wasatch Irrigation Company, a corporation, a defendant herein, and that said waters have been distributed to these defendants and their predecessors in interest by the officers of said Wasatch Irrigation Company, a corporation, and that said diverting and distributing of said waters through said canal and by said officers has been at all times done by and through the mutual consent of said canal company and these defendants and their predecessors in interest.

4. That owing to the nature of the soil, the conditions and situation of the lands embraced within said Lot 1, Block 75, of Heber City Survey of Buildings Lots, it requires water at the rate of 1 sec. ft. of water to 40 acres, to properly ~~xxx~~ irrigate said lands.

5. That the right to the use of the water of said Provo river, belonging to these defendants as hereinabove set forth, and as heretofore used upon said lands, have never been used continuously, but has been applied and distributed to these defendants for use, once a week during the growing season, for irrigating said Lot 1, Block 75 Heber City Survey of Building Lots, and when so used has been used in large quantities that the same might be economically and beneficially applied to the said lands for their proper irrigation, and that owing to the nature and kind of soil of said lands, it is impracticable and impossible to properly and

beneficially irrigate the same with a stream less than 2 sec. ft. as a small stream percolates through the soil and evaporates and cannot be distributed or flooded over the said lands so as to properly irrigate the same.

6. That neither these defendant nor their predecessors in interest were made parties to either of the actions set forth and alleged in paragraph 37 of plaintiff's complaint herein and that the rights of neither of these defendants nor their predecessors in interest have been determined by either of said causes of action.

WHEREFORE these defendants pray judgment;-

1. That the defendant Betsey Olson be decreed to be the owner of _____ sec. ft. of primary or low water right in said Provo river, as and for water right to the said South one-half of Lot 1, Block 75 Heber City Survey of Building Lots, in Wasatch County, State of Utah.

2. That said defendant Anton Olson, be decreed to be the owner of _____ sec. ft. of primary or low water right of said Provo river, as and for the water right to the said North one-half of Lot 1, Block 75 Heber City Survey of Building Lots in Wasatch County, State of Utah.

3. That in addition to the primary rights above prayed for, that each of these defendants be decreed _____ sec. ft. of the high water of said Provo river as and for the water right to said Lot 1, Block 75 Heber City Survey of Building Lots.

4. That it be decreed that any Water commissioner who may be appointed by the Court to distribute the water of Provo river to the parties entitled thereto shall be decreed to distribute the water belonging to these defendants through the canal belonging to the Wasatch Irrigation Company, a corporation, a defendant herein, and that said commissioner distribute to these defendants, large quantities of water at regular intervals, the quantity to be proportionate to the rights of these defendants to the use of waters of said river, so that their lands may be properly and economically irrigated.

5. These defendants pray for such other and further relief as may be just and equitable and for their costs herein expended.

Chase Hatch
Attorney for defendants, Betsey Olson
and Anton Olson.

STATE OF UTAH,

County of Wasatch, ss,

Anton Olson being first duly sworn, deposes and says, that he is one of the defendants named in the foregoing Answer and Counterclaim; that he has read the same and knows the contents thereof and that the same is true of his own knowledge, except as to matters and things therein stated on information and belief and that as to those matters he believes it to be true.

Anton Olson

Subscribed and sworn to before me this 27 day of January, A.D. 1916.
My commission expires on the 14 day of Oct, A.D. 1916

Chase Hatch
Notary Public.

Due and legal service of the above answer is hereby accepted this 5th day of June 1916.

Jacob Evans.
attys for D & C.

2558

IN DIST. COURT
UTAH CO., UTAH,

* FILED *

JUN 5 1916

E. A. Peterson Clerk.

W. H. ... Deputy.