

IN THE FOURTH DISTRICT COURT OF THE STATE OF UTAH  
IN AND FOR UTAH COUNTY.

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THE PROVO RESERVOIR COMPANY, : No. 2888 Civil.  
a corporation,

Plaintiff.

-vs- : Separate Answer of George Schear.

PROVO CITY , et al,

Defendants. :

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Comes now ~~the~~ George Schear, one of the defendants in the above  
entitled cause and answers plaintiff's complaint as follows,-

1. This defendant alleges that he has no knowledge or informa-  
tion sufficient to form a belief as to the rights and claims of the  
plaintiff and of the other defendants herein as to the waters of  
Provo River and its tributaries, and for want of such knowledge and  
information therefor, denies each and every allegation of said complaint  
pertaining to and alleging rights of the parties herein other than this  
defendant and denies the rights of each and every other party hereto  
as alleged.

Further answering said complaint and by way of Counter Claim,  
this defendant alleges,-

1. That this defendant is the owner of twenty acres of land in  
Section 22, Township 3 South, Range 4 East, Salt Lake Meridian, in  
Wasatch County, State of Utah, and that this defendant owns the primary  
or low water right out of the water of Snake Creek, a tributary of  
Provo River, appurtenant to said twenty acres of land, sufficient to  
irrigate ten acres thereof during the entire irrigation season of  
each and every year; that said water right has been used by this de-  
fendant and his predecessors in interest since prior to the year 1870,  
and was acquired prior to said year by appropriation and use upon the  
lands to which said water is now appurtenant, and belonging to said  
defendant George Schear.

2. That in addition to the primary or low water right appurtenant to and used upon the above described ~~XXXX~~ twenty acres of land, situated in Sec. 22, Township 3 South, Range 4 East, Salt Lake Meridian, said defendant and his predecessors in interest have used for more than thirty years last past, sufficient of the high or flood waters of said Snake Creek, a tributary of said Provo River, to irrigate all of said twenty acres of land hereinabove described, twice during such high or flood water period of each year.

3. That the said lands are composed of gravelly loam on the surface with a deep strata of gravel underneath, and that owing to the said nature of the soil it requires water at the ratio of 1 sec. foot. of water for each sixty acres of land, in order to properly irrigate said land, and that during the high and flood waters, it requires water at the ratio of 1 sec. ft. of water to each forty acres of land.

4. That this defendant has never used the waters of Snake Creek continuously, but has applied greater quantities thereon as the crops growing upon such lands required irrigation, at intervals of approximately every two weeks, 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 of less than four or five second feet, as a smaller stream percolates through the soil and evaporates and cannot be distributed or flooded over said lands so as to properly irrigate the same.

WHEREFORE this defendant prays judgments,-

1.

That this defendant be decreed to be the owner of one-sixth sec. feet. of primary or low water right of the waters of Snake Creek, a tributary of Provo River, as and for water right appurtenant to twenty acres of land owned by said defendant and situated in Section 22, Township 3 South, Range 4 East, Salt Lake Meridian.

2.

That this defendant be decreed to be the owner of one-half second feet of the high or flood waters of Snake Creek, a tributary of Provo River, as and for a high water right appurtenant to said twenty acres of land, situated in said Sec. 22, Tp. 3 S. R. 4 E. S. L. M., said one-half sec. foot to be used up to the first day of July, of each year unless the water commissioner appointed to distribute such water, shall give notice to discontinue the use of high water at a earlier date

3.

That it be decreed that any water commissioner who may be appointed by this court to distribute the waters of Provo River and its tributaries to the parties entitled thereto, shall be directed to distribute to these defendants, larger quantities of water at regular intervals, the quantity to be proportionate to the rights of this defendant to the use of waters of said river, and its tributaries, so that his lands may be economically irrigated.

4.

This defendant prays for such other and further relief as may be just and equitable and for his costs herein expended.

Chase Hatch  
Attorney for Defendant.

STATE OF UTAH,

County of Wasatch, ss,

George Schear, being first duly sworn, deposes and says, that he is the defendant named in the above and foregoing Separate Answer; that he has read said Answer and knows the contents thereof, and that the same is true of his own knowledge except as to matters therein stated on information and belief, and as to those matters he verily believes it to be true.

George Schear

Subscribed and sworn to before me this 26 day of December A.D. 1916  
My commission expires on the 6 day of Nov A.D. 1920

Chase Hatch  
Notary Public.



IN DIST. COURT  
UTAH CO., UTAH,

\* FILED \*

DEC 26 1916

*E. J. Safferman* Clerk

*Wm. H. ...* Deputy