

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

4-8

PROVO RESERVOIR COMPANY,
a Corporation,
Plaintiff,

vs.

PROVO CITY, et al,
Defendants.

No. 2888 Civil.

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Order of the Court made in open court on Monday, May 25th, 1914, pursuant to stipulations heretofore made in open court by counsel for respective parties, as corrected and amended in open court May 25th, 1914.

THE COURT: In this cause, No. 2888 Civil, Provo Reservoir Company, a corporation, plaintiff, against Provo City and others, the parties to said action having entered into stipulations, the Court will make the following order based upon said stipulations:

That whenever the natural flow of the waters of Provo River shall recede in volume to a quantity not exceeding 17,960 cubic feet per minute of time, measured at the measuring gates of the parties using water in Utah County under former decrees of this court, said flow of 17,960 feet per minute not to include the water which plaintiff has turned into said river from the Ontario Drain Tunnel, from the Weber River, or from the plaintiff's reservoir or other sources, then the plaintiff shall cease to use any of said waters, except such as has been heretofore decreed by this Court and succeeded to by the plaintiff herein; provided, that it is distinctly understood that none of the orders herein set forth shall affect the plaintiff's right to use at all times the waters derived from the Ontario Drain Tunnel, its reservoirs, the Weber River, or any other source that the plaintiff shall have

added to said river.

In the event, however, that it should be determined by the water commissioner, upon the complaint of any party to this action using water under said decrees, that he is not receiving sufficient water for his reasonable necessities under said decrees, then the water commissioner is authorized, and it shall be his duty, to take from the plaintiff such quantity of its high water in said river as may be necessary to supply such deficiency. Provided, any party who is dissatisfied with the distribution made by the water commissioner may appeal to the Court from the decision of such commissioner.

It is further ordered that what is known as the high waters of Provo River in Wasatch and Summit counties are all the waters of said river in excess of the quantity distributed under a decree of this Court known as the Fulton Decree, exclusive of the waters of the Ontario Drain Tunnel, the Weber River, and reservoirs of all parties, and other sources which may have been added to the flow of the river.

It is further ordered that during such period of high water the parties to this suit using the waters of Provo River in Wasatch County and Summit County, and including the plaintiff in Utah County, shall be permitted to use the same pro rata, according to the number of acres irrigated by each.

Nothing in this order shall be construed as attempting to settle the rights of the parties to any specific quantity of the waters of Provo River.

It is further ordered that four per cent of the water turned over the Wasatch Company's Dam in Wasatch County by the plaintiff be deducted; and that the plaintiff be allowed two second feet at the head of its canal, to represent the water it owns coming from the Wright Estate and the Round Valley Creek and springs. Provided, that said Wright Estate water and Round Valley Creek and

spring water shall not be used at two or more places at the same time.

It is further ordered that \$200.00 per month, payable monthly, and reasonable expenses connected with the services, for Frank Denning, commissioner, and \$175.00 per month, payable monthly, and reasonable expenses, for T. F. Wentz, deputy commissioner, will be reasonable compensation for them respectively, and that they receive such amount, as ordered, to be paid by the parties to this action.

It is further ordered that John D. Dixon shall continue to use the water which has heretofore been decreed to him and Caleb Tanner, as he used it last year, 1913, it being understood that the amount which was turned to him was two and one-half cubic feet per second.

It is further ordered that Isaac R. Baum, who purchased from Henry Walker ten shares of water right decreed to said Walker in what is known as the Fulton Decree, be permitted to use said water right on his land located below the Wasatch Dam, where he has been using it for a number of years last past; ten per cent of said water to be deducted from said right on account of change of place of diversion.

In respect to the rights of the following named parties, Pioneer Irrigation Company, T. W. Allen, J. W. Allen, A. T. Allen, Samuel McAfee, J. H. Murdock and John Ritchie, who take water from the Provo River above the Wright Ranch near Charleston and below the Midway Dam, and which rights have never been determined by decree of any court, it is ordered that said parties shall use the water in quantities as heretofore, as nearly as may be, subject to the right of the commissioner to require said parties to irrigate on turns or in succession, so that the amount may be regular as to times of use, and subject to the further right of the commissioner to determine the amount reasonably required by

said parties for the beneficial irrigation of the lands under irrigation by them.

And the order made as to the last named parties shall also apply, as to the right of the commissioner to regulate, to all other water users whose rights have not been determined by decree of court, who divert water at points between what is known as the Wright Ranch and the Dam of the Wasatch Irrigation Company in Wasatch County.

It is ordered that provision be made for the payment of the commissioner and his deputies every thirty days during the time that their services occupy, the amount to be paid to them by the clerk of this court in Utah County, from money to be deposited with the clerk by the respective parties for that purpose, and that the basis of the assessment to be made against the respective parties and the payments to be made by the respective parties to be the quantity of water diverted by the several water users. Provided, that the Court shall determine what proportion of the total expenses shall be paid by the power companies named as follows, to-wit, The Utah Power Company, the so-called Murdock Power and Light Company and the Heber Power and Light Company, and said amounts paid by said companies are to be deducted from the other water users; that if there be some extraordinary or additional expense incurred, as shown by the report of the commissioner, occasioned by any party to the action, that the Court may equitably fix such proportion of the expense in excess of the other expenses, to that particular party.

It is further ordered that two deputy commissioners be appointed, instead of three, to assist the general commissioner; that the jurisdiction of the deputy commissioner on what is known as the lower section or division of the river, shall extend from Utah Lake over the Provo River and its tributaries to, but not including, the Wasatch Dam; that is, the dam of the Wasatch Irri-

gation Company, in Wasatch County; and the jurisdiction of the deputy commissioner on what is known as the upper section or division of the river shall extend from said Wasatch Dam and over said river and its tributaries to and including the reservoirs of the parties.

It is understood that this order is to be in effect and in force pen dente lite during the present irrigation season of 1914, and may be subject to amendment after that time.

It is further ordered that the commissioner shall have authority, under the order of the Court, to withhold the water from any party who neglects or refuses to pay his proportion of the expenses of the commissioner and his deputies after five days' notice given by the commissioner of the amount due from such party.

It is further ordered that the commissioner and deputy commissioners shall not be required to give bond, but that they shall take the oath required by law, and that they be deemed officers of the Court. The term of employment of said commissioner and his deputies shall be from the First day of June, 1914, to the Fifteenth day of September, 1914, unless otherwise ordered by the Court.

It is further ordered that when the natural flow of the waters of Provo River shall recede in volume to a quantity not exceeding 17,960 cubic feet per minute of time, exclusive of the waters turned into the river by the plaintiff from the Ontario Drain Tunnel, from the Weber River, or from the plaintiff's reservoir or other sources, that then the waters of Provo River, measured at the gates of the various users at or near the mouth of Provo Canyon, shall be distributed by the commissioners under the decrees of this Court, as heretofore made and entered by the Court, among the parties entitled thereto. That the commissioner having jurisdiction over the waters of the Provo River under this order, so far as they distribute the waters of the river in Wasatch and

Summit counties, distribute them under what is known as the Fulton Decree, which was made by this Court in and for Wasatch County.

It is further ordered that the reporter transcribe these orders of the Court and file a transcript with the Clerk of the Court, and deliver three copies thereof to the commissioner appointed by the Court, and that each of the deputy commissioners appointed shall receive a copy thereof from the commissioner.

STATE OF UTAH,

County of Utah.

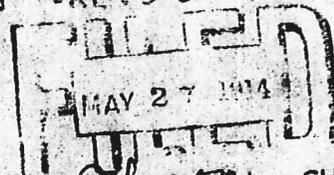
I, D. H. Roberts, Official Stenographer of the Fourth Judicial District Court, hereby certify that the above and foregoing consisting of six pages, including this page, constitutes a full, true and correct transcript of the orders of the Court made in the above entitled cause on Monday, May 25, 1914, in open court.

Witness my hand this 26th day of May, A.D. 1914.

D. H. Roberts

Transcript of
Orders

AT PROVO CITY, UTAH



Ar. Robinson CLERK
E. *Orin Boylance* DEPUTY