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# IN THE FOURTH DISTRICT COURT OF THE STATE OF UTAH, IN AND FOR UTAH COUNTY

## PROVO RESERVOIR COMPANY

A CORPORATION--PLAINTIFF

VS.

Provo City, Lincoln School District, The Provo Bench Canal & Irrigation Company, The Lake Bottom Canal Company, The Little Dry Creek Irrigation Company, The Upper East Union Irrigation Company, The Timpanogas Canal Company, the West Union Canal Company, The East River Bottom Water Company, Provo Pressed Brick Company, Utah-Idaho Sugar Company, Zion's Savings Bank & Trust Company, Spring Dell Resort Company, Wildwood Resort Company, South Fork Trout Company, Sego Irrigation Company, Knight Woolen Mills, Provo Ice & Cold Storage Company, Smoot Investment Company, E. J. Ward & Sons Company, Wasatch Irrigation Company, Timpanogas Irrigation Company, Extension Irrigation Company, North Field Irrigation Company (Reorganized), Midway Irrigation Company, Charleston Irrigation Company, Pioneer Irrigation Company, Sage Brush Irrigation Company, Spring Creek Ditch Irrigation Company, Sunrise Irrigation Company, South Kamas Irrigation Company, Washington Irrigation Company, Utah Power and Light Company, First Ward Pasture Company, corporations.

Ruth Hatch and A. C. Hatch, as executors of the last will and testament of Abram Hatch, deceased.

Pauline Schemensky, Stephen Jones, F. T. Carter, Amos Carter, Permelia Young, D. G. Calder, J. E. Smith, Owen A. Baum, Joseph T. Carter, Edith R. Buss, Wilford Penrod, William Gammon, Abram L. Smith, A. L. Penrod, J. M. Buckner, T. J. Smith, W. P. Richins, B. P. Alger, Clara M. Stubbs, J. C. Ivie, Ann Carter, Thomas Thornley, John H. Carter, D. W. Baum, Richard Carter, D. N. Greer, Leo Baum, D. N. Penrod, Leo E. Smith, B. W. Baum, A. L. Tanner, Eliza Carter, as administratrix of the estate of Anron Carter, deceased; Cora A. Shirts, as administratrix of the estate of Benjamin Shirts, deceased; E. L. Dodder, J. W. Smith and Lettie York, jointly, as members of a voluntary association, not incorporated, under the name and style of the Smith Ditch Company, and also as individual tenants in common in the Smith Ditch and the right to the use of water therein.

James L. Meldrum, John E. Booth, George James, Merrill Holden, Louis James, Isaiah B. Lott, Benjamin B. Richmond, Joseph Faucett, Walter Lott, Ada J. Hickman, and Elmer Meldrum, jointly as members of a voluntary association, not incorporated, under the name and style of Faucett Field Ditch Company and individually as tenants in common in the Faucett Field Ditch and in the right to the use of waters flowing therein.

Upton Hoover, W. E. Hoover, Webster Hoover and Frank Hoover, as partners doing business under the name of Excelsior Roller Mills; George Baum, Hetty Young Goodman, L. W. Nuttall, David S. Park, Verinus Carter, Matilda A. Carter, R. G. Carter, John H. Carter, Jr., H. E. Young, Mary Ann Emmons, Levi York, James M. Downs, James M. Bonny, Joseph Williamsen, Evan Williams, Mary E. Davis, Frederick J. Pullham, N. H. Greer, Albert Snyder, Maggie Pearl Brown, Emily E. Forsythe, Alma Brown, Charles H. Davis, J. Joseph Johnson, Marva May Spencer, Louisa J. Brown, Joseph M. Brown, Parley Lewis Jacobson, Alma J. Jorgensen, C. S. Rasmussen, Elizabeth A. Farrer, Ashted Taylor, Olive Smith, E. D. Partridge, Arthur C. Candland, Mattie C. Madsen, David H. Madsen, P. M. Madsen, Caroline H. Madsen, Parley W. Madsen, Wilhelmina Madsen, George H. Madsen, George A. Madsen, Alma J. Madsen, John W. Clark, LeRoy Dixon, George A. Clark, Minnie Hamilton, Robert Kinnear, John E. Nielson, John E. L. Nelson, Elizabeth Perry, John E. Lewis, John Ritchie, James Fisher, Anna T. Nelson, Rachel C. Ferre, Daniel H. Halladay, Enoch S. Goddard, Henry W. Goddard, Hannah M. Cook, Hansina N. Jepperson, Rudolph Riard, Ada Young Littley, D. B. McBride, Robert Corbier, Samuel Carter, David Carter, Lafayette Carter, R. D. Young, Mary E. Downs, John H. Emmons, William A. York, Esthara Tanner, Arthur Clyde, David Gourley, Isabell West, Hugh L. Syme, Mary A. Brown, Rachel E. Davis, E. V. Vincent, Wilmarth H. Brown, V. L. Bunnell, Lars Jacobson, as administrator of the estate of Lars Jacobson, deceased; James F. Clyde, Albert Jacobson, Sarah Z. Williams, Earl J. Glade as administrator of the estate of James R. Glade, deceased; Robert Birkin, Arthur N. Taylor, Mathias Knudsen, Major Pierce, N. O. Spaulding B. H. Knudsen, Reed J. Knudsen, Milton H. Knudsen, Andrew Knudsen, Herman Knudsen, W. D. Lewis, Sam E. Bunnell, Lewis Marriott, John D. Dixon, Ellen C. Johnson, George I. Taylor, Mary A. Cook, D. L. Vincent, Dominicus Snow, S. E. Perry, Franklin Spencer, Jr., Mary E. Cox, Walter Cox, Isaac P. Nelson, James E. Fisher, George W. Halladay, Robert Boardman, John J. Massey, J. W. Bates, George T. Peay, Sr., Samuel S. Bailey, Hannah C. Leonard, Edwin S. Hineckley, Charles Conrad, James R. Hooks, John W. Hoover, Daniel Peay, J. A. Spencer, Lucien N. Hineckley, Hyrum Heiselt, Charles Giles, Charles Thomas, W. W. Frembrack, Alexander Cardner, John H. Gordon, Rose Gordon, John H. Gordon, Jr., James A. Loless, Jr., Joseph V. Smith, Henry V. Smith, Jr., Henry V. Smith, James C. McClellan, John R. Stubbs, W. W. Ferguson, Peter Boyce, Charles H. Taylor, J. C. Whitner, Wilford Van Wagenen, Edward V. Vincent, administrator of the estate of Charles Vincent, deceased.

Heber City, Midway Town Corporation and Town of Charleston, acting as a voluntary associ-

tion, not incorporated, and doing business under the name of Heber Light and Power Plant; Emma Wherritt, Joseph Hatch, Mary Davis, Jacob Berg, Frank Fraughton, Anton Olson, Andrew Olson, Mary A. Davis, John W. Carlile, Joseph Wright Murray, S. C. Peterson, James Duncan, Mary Ann White, as administratrix of the estate of Thomas White, deceased; William Lewis, John Swift, John Leffler, Abe Leffler, Henry Bisel, Abe Leffler, Jr., Hyrum Moon, Millie Leffler, Mary A. White, Heber Moon, Frank Turnbow, Leslie Murphy, Benjamin Turnbow, Marshall Leffler, Louis Bisel, Nephi Moon, William Moon, Henry Fraughton, Fleming Barrows, Frederick Peterson, Milton O. Turnbow, George Sizemore, William Sizemore, Charles Fraughton, Alvin Leffler, Mrs. Julia Potts, Lyman Gines, Riley Fitzgerald, Owen Ellis, Samuel Gines, Jr., Esther Webb, Rasmus Larsen, Ola W. Larsen, Niels Larsen, William Larsen, Mims Lark, as administrator of the estate of William Lark, deceased; William Lemon, Mary Hunter, Jack Bates, Harold C. Best, C. T. Swan, Timothy M. Murphy, Julia M. Davis, Fannie E. O. Spencer, John Buttery, Joseph Morris, Waldemer H. Peterson, Mary Davis, Thomas S. Lowery, Samuel Lowery, Richard Wellington, George B. Jordon, Isaac R. Baum, John Burrows, Adolphus Sessions, Bishop Corbet, Mrs. Frances Page, John Bradshaw, Annie Jones, Mrs. Julia Padfield and Sons, Ernest Prescott, Alma Nielsen, Vincent Sheppard, William Sheppard, James Ure, Richard Lambert, B. H. Knudsen, George O. Ellis, James Leffler, Mary Pace, Ernest Turnbow, James A. Knight, Joseph Abegglen, Frederick Remund.

Mark Jeffs, George Nelson, E. R. Bronson, James B. Hamilton, Jesse Nelson, Jesse Nelson, Jr., Orson Hicken, Alfred L. Alder, James T. Alder, W. W. Alder, J. M. Casper, James Casper, William N. Casper, George R. Carlile, Elisha Webster, J. R. Allen, John Allen, Arthur Allen, T. W. Allen, John H. Murdock of Charleston, Samuel McAfee, John M. Ritchie, Henry F. Watson, George Edwards; George Daybell, George W. Daybell, Fred Daybell and Robert Daybell, as partners, doing business under the firm name of George Daybell and Sons; William Daybell, Charles Thacker, Joseph R. Murdock, John O. Edwards, P. W. Edwards; John B. Fowers and Elizabeth Fowers, as executors of the last will and testament of John Fowers, deceased; George Edwards, Thomas Winterton, Joseph Wright, William Winterton, James L. Wright, Hyrum Winterton, William L. Van Wagoner, Phillip L. Ford, Effie Haws, John Sweifel, T. DeVera Smith, as administrator of the estate of Phillip L. Smith, deceased; Ulric Abegglen, Chris Mitchell, Felix Martin, J. E. Peterson, John Buhler, William Bonner, John Huber, John Kummer, Gotlieb Buehler, O. P. Mathews, Alice Schaer, Henry Watkins, Nephi Huber, Joseph Huber, J. Brigham Wilson, Andreas Burgener, Frederick Forrer, D. A. Gibson, Jacob Kummer, David McGimpsey, Thomas Monks, Henry Zenger, Mary Schoni, Joseph Schoni, Maria Mitchell, Cordelia Wilson, George Wilson, James Wilson, George H. Prescott, Amos Prescott, Jed Prescott, Heber Prescott, Mrs. Thomas McNeil, Emily Prescott, Mrs. O. A. Page, B. G. Kirkham, Mrs. J. W. Kirkham, Thomas Naylor, Ernest H. Horton, Erminnie C. Cummings, Lavina E. Murdock, William T. Averett, Addison E. Averett, Joseph D. Averett, Eustatia Averett, John H. Averett, Edna A. Murdock, Leona A. Bonner, Rosina Kummer, Edward Kummer, John Kummer, Frederick Kummer, Elizabeth Hamilton, Salina Foreman, Henry T. Coleman, as administrator of the estate of Nathan Springer, deceased; C. A. Springer, Jane McD. Johnston, William Johnston, John A. Johnston, Henry T. Coleman, Defendants.

ANSWER OF WILFORD VAN WAGONEN.

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Comes now the defendant, Wilford Van Wagonen, appearing for himself alone and not for the other defendants, and for his answer to plaintiff's complaint, filed herein, admits, denies and alleges as follows:

1. This defendant admits all of the allegations of said complaint from the first paragraph thereof to the twenty-seventh paragraph thereof inclusive.

2. This defendant also admits the thirty-first, thirty-eighth and thirty-ninth paragraphs of said complaint and the allegations therein contained.

3. Answering the twenty-eighth paragraph of said complaint to the thirtieth paragraph inclusive, also the thirty-second, thirty-third and thirty-fourth paragraphs of said complaint, this defendant denies that he has any knowledge or information sufficient to form a belief as to the matters therein contained.

4. Answering paragraph thirty-five of said complaint, this defendant, answering for himself only, denies said paragraph and the allegations therein contained, but as to the matters therein alleged against and concerning the other defendants in this action, this defendant denies that he has any knowledge or information sufficient to form a belief.

5. Answering the thirty-sixth paragraph of said complaint, this defendant admits that many of the defendants, having a right prior in point of time of appropriations to the plaintiff's right to the use of said waters, have been using the water wastefully as alleged in said paragraph, but as to the extent to which said water has been wasted and the extent of the injury caused thereby, or the effect the same may have in general or in particular, this defendant has no knowledge or information sufficient to form a belief.

6. Answering the thirty-seventh paragraph of said complaint and the allegations therein contained, this defendant admits the rendition of the Decrees rendered in 1889 and 1905 as described in said paragraph. As to the remaining allegations in said paragraph, this defendant denies that ~~he~~ has any knowledge or information sufficient to form a belief concerning the same.

7. Further answering said complaint, this defendant denies generally each and every paragraph thereof and the allegations contained therein, except such as are herein admitted or denied.

For a further defense and by way of counter-claim for affirmative relief, this defendant alleges:

1. That Derr creek is a natural stream of water rising

*Paragraph  
112*

That in the year 1897 the predecessors in interest of the said Wilford Van Wagenen entered upon the banks of the said Deer Creek and began the construction of a canal to divert the water of said Deer Creek; that at the time of commencing said construction the said predecessors duly filed notice of their intention to appropriate sufficient water from said Deer Creek to irrigate 200 acres, and duly posted a copy of said notice, at the point of diversion and one at the nearest post office; that the said canal was completed within a reasonable time, and was diligently prosecuted to completion after the beginning of said construction work, and the waters of said Deer Creek applied to a beneficial purpose.

waters thereof and conducted the same through said ditch running in a southeasterly direction a distance of approximately three miles to and upon lands owned by him which in their natural state were desert and barren and applied said waters to the irrigation thereof and by means of said irrigation has rendered said lands fruitful and productive, and, ever since the said year 1904, has

6. Answering the thirty-seventh paragraph of said complaint and the allegations therein contained, this defendant admits the rendition of the decrees rendered in 1889 and 1905 as described in said paragraph. As to the remaining allegations in said paragraph, this defendant denies that ~~he~~ has any knowledge or information sufficient to form a belief concerning the same.

7. Further answering said complaint, this defendant denies generally each and every paragraph thereof and the allegations contained therein, except such as are herein admitted or denied.

For a further defense and by way of counter-claim for affirmative relief, this defendant alleges:

1. That Derr creek is a natural stream of water rising in the Wasatch mountains, flowing in an easterly direction and naturally emptying into Provo river and is a tributary thereof. That said stream is fed by melting snows and springs and varies in volume of flow one year with another and at different times in the same year and during the irrigation season of each and every year. That said stream, near its head, is an intermittent stream and during the low water season of each and every year ceases to flow throughout the entire length of the channel, but the headwaters cease and become lost.

2. That in the year 1904 the defendant, Wilford Van-Wagonen, entered upon the banks of said Derr creek near the headwaters thereof and above the point where the stream sinks and becomes lost, and placed a dam in the channel of said creek and constructed a ditch leading therefrom and thereby diverted the waters thereof and conducted the same through said ditch running in a southeasterly direction a distance of approximately three miles to and upon lands owned by him which in their natural state were desert and barren and applied said waters to the irrigation thereof and by means of said irrigation has rendered said lands fruitful and productive, and, ever since the said year 1904, has

continued to so divert and use said waters for the purposes aforesaid, and the quantity so diverted has been a varying quantity approximately from nine cubic feet per second during the early part of the irrigation season to approximately four cubic feet per second during the latter part or low water season of said creek and irrigation season, and the use of said quantity of said waters has been necessary for the purposes aforesaid and the same have been used carefully and economically and by reason of said appropriation and use, said defendant has become the owner of the right to the use of said waters and the same is a vested right and not subject to curtailment or diminution.

3. This defendant further alleges that prior to his said appropriation, as above set forth, the waters appropriated by him were surplus and unappropriated and that by said appropriation he did not interfere with or infringe upon the prior rights of any other person or corporation to the waters of said river.

4. This defendant further alleges that the claim of plaintiff in this action, as against him, is without foundation of right and is a cloud upon his title and that by reason of the appropriation aforesaid and the use aforesaid, the title of this defendant to the waters appropriated by him, as hereinbefore set forth, is a valid, existing, vested right as against each and all of his co-defendants in this action.

WHEREFORE, this defendant prays judgment that his right to the use of the quantity of water claimed by him as above set forth, be adjudicated and determined and that the same be declared a valid, existing and vested right and that the plaintiff and his co-defendants be forever enjoined from asserting any claim of right or right to the use of the waters of said Deer creek adverse to the said rights of this defendant, and that he have such other and further relief as may be just and equitable and that he recover his costs herein.

  
Defendant.

State of Utah,            I  
                                  :    ss  
County of Salt Lake    I

Wilford Van Wagonen, being first duly sworn, on his oath says that he is one of the defendants above named, that he has read the foregoing answer, knows the contents thereof and that the same is true of his own knowledge except as to matters therein stated upon information and belief and as to such matters he believes it to be true.

Wilford Van Wagonen

Subscribed and sworn to before me this 23th day of March  
1904.

J. E. Barman  
Notary Public.

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ANSWER OF MIDWAY IRRIGATION COMPANY.

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Comes now the defendant, Midway Irrigation Company, appearing for itself alone and not for the other defendants, <sup>except as hereinafter stated,</sup> /for its answer to plaintiff's complaint, filed herein, admits, denies and alleges as follows:

1. ~~This~~ defendant ~~s~~ admits all of the allegations of said complaint from the first paragraph thereof to the twenty-seventh paragraph thereof inclusive.

2. This defendant also admits the thirty-first, thirty-eighth and thirty-ninth paragraphs of said complaint and the allegations therein contained.

3. Answering said complaint from the twenty-eighth paragraph thereof to the thirtieth paragraph inclusive, also the thirty-second, thirty-third and thirty-fourth paragraphs of said complaint, this defendant denies that it has any knowledge or information sufficient to form a belief as to the matter therein stated.

4. Answering paragraph thirty-five of said complaint, this defendant, answering for itself only, denies said paragraph and the allegations therein contained, but as to the matters therein alleged against and concerning the other defendants in this action, this defendant denies that it has any knowledge or information sufficient to form a belief.

5. Answering the thirty-sixth paragraph of said complaint, this defendant admits that many of the defendants, having a right prior in point of time of appropriations to the plaintiff's right to the use of said waters, have been using the water wastefully as alleged in said paragraph, but as to the extent to which said water has been wasted and the extent of the injury caused thereby, or the effect the same may have in general or in particular, this defendant has no knowledge or information sufficient to form a

belief.

6. Answering the thirty-seventh paragraph of said complaint and the allegations therein contained, this defendant admits the rendition of the decrees rendered in 1889 and 1905 as described in said paragraph. As to the remaining allegations in said paragraph, this defendant denies that it has any knowledge or information sufficient to form a belief concerning the same.

7. Further answering said complaint, this defendant denies generally each and every paragraph thereof and the allegations contained therein, except such as are herein admitted or denied.

For a further defense and by way of counter-claim for affirmative relief, this defendant alleges:

1. That it is a corporation doing business in Wasatch County, Utah as an irrigation company, managing, controlling and distributing a portion of the waters of Provo river and its tributaries among its stockholders according to their respective rights.

2. That more than twenty-five years ago the predecessors in interest of the defendant, Midway Irrigation Company, and the following named individual defendants, William Bonner, Henry T. Coleman, Frederick Ferrer, John H. Buhler, Felix Martin, David A. Gibson, John Huber, James B. Hamilton, Jacob Kummer, Gottlieb Buhler, David Hollingsey, Orson P. Mathews, Thomas Honks, Frederick Lokand, Alice Schear, Henry Watkins, Nephi Huber, Joseph Huber, Stephen H. Smith, Heber Mercantile Company, a corporation, Cordelia Wilson, George Wilson and James Wilson, heirs of George Wilson, deceased; Mary Schoni, Joseph Schoni and Maria Hitchell, heirs of Christiah Schoni, deceased; Rosina Kummer, Edward Kummer, Elizabeth Hamilton and Salina Forman as heirs of John Kummer, deceased; Henry T. Coleman, as administrator of the estate of Nathan G. Springer, deceased; and Andreas Burgoner, entered upon the banks of Snake Creek and by means of dams constructed therein and of ditches therefrom diverted of the flowing waters of Snake creek sufficient thereof

to irrigate a portion of the lands owned by them which, in their natural state are desert and barren, but which when watered by artificial irrigation produce abundantly of agricultural crops, and by means of the use of said waters, said lands have been rendered fruitful and productive, farms and homes have been made and the Town of Midway built up. That the quantity of water so diverted from Snake creek during the early part of the irrigation season of each and every year has been sufficient to fill the irrigation ditches so constructed as aforesaid to their carrying capacity the same being one hundred cubic feet per second, or thereabouts, and said quantity of water has been necessary for the proper irrigation of the said land when used economically and without waste.

Snake creek is a natural stream of water arising on the eastern slope of the Wasatch range of mountains, west of what is commonly known as Provo Valley in said Wasatch County, and flows easterly towards and into said valley and is a natural tributary of the Provo river. That said stream is fed by mountain snows and springs and fluctuates greatly in volume one year with another and at different times in the irrigation season of each year, and as defendants are thereby dependent upon a fluctuating supply of water varying from the amount of the capacity of their ditches as aforesaid in the early part of the irrigation season down to forty second feet or thereabouts in the low water season in the years of little precipitation and by reason of such fluctuation of supply, it is necessary and essential that these defendants have large supply of water during the early part of the irrigation season and it is by reason thereof to establish a fixed duty of water for the irrigation of the said lands.

That by reason of the appropriation and use as aforesaid, the right to the use of the quantities of water from said Snake creek became a vested right more than twenty-five years ago and is not now subject to diminution or curtailment.

That in or about the year <sup>1893</sup>~~1900~~ the Midway Irrigation Company entered upon the banks of the Provo river and by means

of a tight dam in said river and a ditch leading therefrom, commonly known as the "Island Ditch" diverted of the flowing waters of said river, during the high water season thereof, sixteen cubic feet per second or thereabouts. That said Provo river fluctuates in volume of flow one year with another and at different times during the same season and as the high waters of said river recede down to the low water flow thereof, this defendant, by means of said dam and ditch has diverted all of the waters flowing in said river at said point during the irrigation season of each and every year since the construction thereof and the waters so diverted have been used for the irrigation of the lands of its stockholders with prudence and economy and the quantity available has been no more than sufficient to render the lands fruitful and productive.

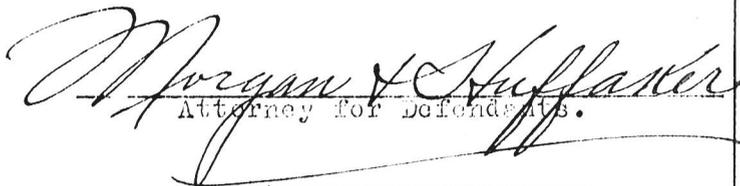
That more than twenty-five years ago the predecessors in interest of the defendant, Midway Irrigation Company, and the individual defendants above named, entered upon the banks of the Provo river and placed a dam in said river and constructed a ditch leading therefrom commonly known as the "River Ditch." That on or about the year 1900 said ditch was enlarged to a carrying capacity of substantially thirty-four cubic feet per second and ever since said date, said defendants, during the high water season of each and every year have diverted of the waters of said Provo river through said ditch, substantially thirty-four cubic feet of water per second thereof, and, as the waters of said river receded from the high water flow, such quantity has been diverted as was available for diversion at that point, the same at no time being less than eight cubic feet per second, including the five and one-half cubic feet per second hereinafter mentioned, and the same has been applied to the beneficial use of the irrigation of the lands of said company's stockholders and of the said individual defendants, and the same has been necessary, with economical use, to render the said lands fruitful and productive. That on or about the year 1902 the said defendant, Midway Irrigation Company, became the owner by

purchase of five and one-half cubic feet per second of the waters of the Ontario Drain Tunnel, discharged from said tunnel into the Provo river at a point about one mile above the ditch in this paragraph described and ever since the said purchase, said five and one-half cubic feet per second of water have been recaptured in the natural channel of the Provo river and diverted by said defendant through said ditch for the irrigation of the lands of its stockholders and the same have been necessary for said purpose.

3. These answering defendants further allege that prior to their respective appropriations, as above set forth, the waters appropriated by them were surplus and unappropriated and that by said appropriations they did not interfere with or infringe upon the prior rights of any other person or corporation to the waters of said river.

4. Defendants further allege that the claim of plaintiff in this action, as against these defendants, is without foundation of right and is a cloud upon the title of these defendants and that by reason of the appropriations aforesaid and the use aforesaid the title of these defendants to the waters appropriated by them as hereinbefore set forth, is a valid, existing, vested right as against each and all of their co-defendants in this action.

WHEREFORE, these answering defendants pray judgment that their rights to the use of the quantity of water claimed by them as above set forth, be adjudicated and determined and that the same be declared a valid, existing and vested right and that the plaintiff and their co-defendants be forever enjoined from asserting any claim of right or right to the use of the waters of said Snake creek and said Provo river adverse to the said rights of these defendants, and that the defendants have such other and further relief as may be just and equitable and that they recover their costs herein.

  
Attorney for Defendants.

State of Utah,                    Y  
  :        ss  
County of Salt Lake        Y

Wilford Van Wagonen, being first duly sworn, on his oath says that he is an officer of the Midway Irrigation Company, one of the defendants in the above entitled cause, to-wit, the president, and as such makes this verification in its behalf, that he has read the foregoing answer, 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 such matters he believes it to be true.

*Wilford Van Wagonen*

Subscribed and sworn to before me this 28th day of  
March, 1914.

*F. E. Barum*  
Notary Public.

