

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF GOODING.

DAVID W. KASSENS, L. J. HUGHES,
E. BELL, JOHN BRENNIS, C. A. LITTLE,
L. G. DUNN, BERT FLETCHER, S. C.
WALSTRA, C. E. WRIGHT, ABRAHAM
BRANCH, M. W. RAYSINGER, P. J.
PETERSON, HYNUM J. CHATTERTON, C. J.
NISHNER, P. CARLTON, W. CARLTON, G.
E. BOWERS, A. R. BOWERS, RAYMOND HALL,
W. F. PENFOLD, AND NORTH SIDE WATER
USERS' PROTECTIVE ASSOCIATION, a cor-
poration,

Plaintiffs,

vs.

FINAL DECREE.

TWIN FALLS NORTH SIDE LAND AND WATER
COMPANY, a corporation, TWIN FALLS
NORTH SIDE INVESTMENT COMPANY, LIMITED,
a corporation, and CONTINENTAL NATIONAL
BANK AND TRUST COMPANY OF CHICAGO, a
corporation, the latter as Trustee for
the bondholders of the Twin Falls North
Side Land and Water Company; and NORTH
SIDE CANAL COMPANY, LIMITED, a corpora-
tion,

Defendants.

This cause coming regularly on before the court for
hearing, issues having been joined upon plaintiffs' complaint and
defendants' answer, the additional parties plaintiff and defendant
who had been brought into the action by stipulation and appear-
ance having joined in said pleadings, and it appearing to the
court that the parties hereto have, by a stipulation in writing
herein, waived written Findings of Fact and Conclusions of Law,
and agreed on the form of judgment to be entered;

And the court, being fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND
DECREED AS FOLLOWS:

I.

That on or about July 27, 1921, a contract was entered
into between the defendant Land and Water Company and the defend-
ant North Side Canal Company, providing, among other things, for
the sale by the Land and Water Company of 15,000 shares of stock
of the North Side Canal Company additional to the 170,000 shares
provisionally limited by the terms of a certain decree entered in
the District Court of the United States for the District of Idaho,

Southern Division, wherein Oliver Hill, et al, were plaintiffs, and Twin Falls North Side Land and Water Company, et al, were defendants, said additional 15,000 shares representing water rights for 15,000 acres of land; that said right (as hereinafter set out in paragraph II hereof) and the water stock representing the same, has been surrendered for cancellation; and, accordingly, such right on the part of the Land and Water Company to sell said 15,000 shares or any part thereof, for the irrigation of any land is hereby cancelled and annulled. At the time of the surrender above referred to, the defendants Twin Falls North Side Land and Water Company (hereinafter for brevity called the Land and Water Company), the Twin Falls North Side Investment Company (hereinafter for brevity called the Investment Company), and the Continental National Bank and Trust Company (hereinafter for brevity called the Trustee), were the sole owners of the right so surrendered and hereby cancelled and of the shares of stock representing the same.

II.

That prior to the entry of this decree, the Land and Water Company, and others, have made, executed and delivered a written conveyance to the North Side Canal Company, Limited, conveying and quitclaiming unto the latter all of the right or title of the said Land & Water Company to sell or keep sold any shares of stock of the North Side Canal Company in excess of 170,000 shares, and has transferred to the said North Side Canal Company, Limited, for immediate cancellation:

(a) Certain shares of stock heretofore issued and made appurtenant to land, aggregating in all 2052.475 shares, the number of the respective stock certificates evidencing said stock, the number of shares embraced in each certificate, and the land to which the shares in each certificate have been made appurtenant, being as follows:

Stock Certif. Number	No. Shares	Land description				
		Sub-division	Sec.	Twp. S.	R.E.B.M.	County
9122-	16	SW SE	26	6	14	Gooding
7981	10	NE NE	13	8	14	Gooding
8695	40	SW SW	9	5	11	Elmore
8695	34.19	SW SE	8	5	11	Elmore

Stock Certif. Number	No. Shares	Land Description				County
		Sub-Division	Sec.	Twp. S.	R. E. B. M.	
7930	30	NE SE	24	5	11	Elmore
7931	35	SW SE	24	5	11	Elmore
7936	35	SE SE	24	5	11	Elmore
7903	32	SW NE	31	5	13	Gooding
7934	13	Lot 2	10	6	12	Gooding
7935	13	Lot 3	10	6	12	Gooding
7497	13	SE SE	4	6	13	Gooding
7669	35	SW SW	17	6	14	Gooding
7651	35	SW SW	33	6	14	Gooding
7652	35	SE SW	33	6	14	Gooding
7653	40	SW SE	33	6	14	Gooding
7780	35	SE SE	33	6	14	Gooding
7610	35	SE SE	1	7	14	Gooding
8103	25	SE SE	19	7	15	Gooding
7655	25	NE SW	24	6	14	Gooding
7693	40	SE NE	27	8	14	Gooding
7894	35	SW NE	27	8	14	Gooding
7978	31.96	Lot 2	30	6	15	Gooding
7986	25	NE NW	7	9	16	Gooding
7358	36	Lot 2	4	9	16	Jerome
7359	39	Lot 1	4	9	16	Jerome
7360	15	SE NW	4	9	16	Jerome
7361	20	SW NE	4	9	16	Jerome
5933	73.95	NW 1/4	13	5	11	Elmore
7929	10	SE SW	21	5	11	Elmore
7693	30	NE NE	26	5	11	Elmore
7693	35	NE NW	26	5	11	Elmore
7694	40	SE NE	26	5	11	Elmore
7685	40	NW NW	26	5	11	Elmore
8991	40	SE NW	26	5	11	Elmore
8992	40	NW SW	26	5	11	Elmore
9302	21	SW SW	1	6	11	Elmore
9183	40	SW NW	20	5	12	Gooding
7664	35	SW SE	20	5	12	Gooding
7665	35	NW SE	20	5	12	Gooding
7666	35	NE SE	20	5	12	Gooding
7932	20	SW SW	32	5	13	Gooding
7795	25	SE SW	32	5	13	Gooding
7659	15	SE SW	3	6	13	Gooding
7658	22	NE SW	4	6	13	Gooding
7852	25.81	Lot 6	6	6	13	Gooding
9106	20	NE NW	7	6	13	Gooding
7687	20	NW NW	10	6	13	Gooding
7176	25	SW SW	12	6	13	Gooding
7941	30	NE SE	15	6	13	Gooding
7942	32	NW SE	15	6	13	Gooding
7896	35	SW SE	15	6	13	Gooding
9803	40	SE SE	22	6	13	Gooding
9119	10	N 1/2 SE	25	6	13	Gooding
7680	20	NW NE	27	6	13	Gooding
7681	30	NE NE	27	6	13	Gooding
7682	25	SE NE	27	6	13	Gooding
7516	40	SE SW	36	6	14	Gooding
7904	35	NW SW	20	6	14	Gooding
7907	30	SW SW	20	6	14	Gooding
7759	35	NE SW	4	7	14	Gooding
7854	18	N 1/2 SE SW	4	7	14	Gooding
7954	40	NE NW	34	7	14	Gooding
7955	30	NW NW	34	7	14	Gooding
9805	4.52	Lot 3	19	7	15	Gooding
9840	22.5	NW NE	30	10	21	Jerome
9509	4	NW SW	22	7	16	Jerome
9517	3	NE NE	11	9	16	Jerome

Stock Certif. Number	No. Shares	Land Description			County
		Sub-Division	Sec.	Twp. 3. R. 5. E. N.	
9432	7.5	Being water appurtenant to the gravity portion and the following acreage of the following lands, to-wit: 1.7 acres of NE SE, .7 acres of NE SW, and 5.1 acres of NW SE, all in Sec. 7-10-21			Jerome
9807	28.96	Formerly issued to North Side Pumping Co., and appurtenant to 3.72 acres of NE SE, 8.44 acres of NE SW, and 16.80 acres of NW SE, all in Sec. 7-10-21, and a part of said No. Side Pumping Company project			Jerome
9507	56	Being a part of the water right heretofore appurtenant to NE NE and NE NW of Sec. 19-9-17; leaving a water right of 40 shares still appurtenant to said land			Jerome
9802	1.085	Being a part of the water right heretofore appurtenant to SW SW Sec. 8-8-16, leaving 25.915 shares appurtenant to said land			Jerome
9717	40	Being a part of the water right heretofore appurtenant to E NE Sec. 8-9-19, leaving 30 shares appurtenant to said land			Jerome

(b) Certificate number 9799 for 12947.525 shares, being stock heretofore issued to The Land and Water Company preliminary to resale to land owners on the project, but not yet made appurtenant to any land. The total of stock shown in subdivisions (a) and (b) is 15,000 shares.

And it is hereby ORDERED, ADJUDGED AND DECREED that the said capital stock, mentioned in subdivisions "a" and "b" of this paragraph, and all of the same, is hereby cancelled and annulled, and shall not hereafter represent any water rights or any interest in or to said irrigation project; and that the shares of stock described in subdivision "a" of this paragraph, which have become appurtenant to the lands above listed, shall no longer be appurtenant to said land, or any land, as a water right, or otherwise, and that the said shares of stock and the water right evidenced thereby are hereby severed and divested from such land and held for naught.

IT IS FURTHER ORDERED AND DECREED that the capital stock of the defendant North Side Canal Company, Limited, be and it is hereby

reduced from 200,000 shares to 170,000 shares.

III.

That each and every of the 170,000 shares of the capital stock of the North Side Canal Company, Limited, remaining after the cancellation of the shares mentioned in the last paragraph preceding, including those now or hereafter owned by the defendants, or their successors, are hereby decreed to be valid and subsisting shares of stock, and each of them is and shall forever represent the right to participate as heretofore in the water supply and irrigation works of said defendant North Side Canal Company, Limited.

IT IS FURTHER DECREED that the Land and Water Company and its successors, has and shall retain the right to sell or keep sold (as the case may be) said 170,000 shares of stock (representing the right to irrigate 170,000 acres of land), and collect the proceeds thereof, which right includes the right to re-sell any shares of said stock re-acquired by it or its successors through foreclosure or proceedings in lieu thereof. The defendants are and each of them is hereby perpetually enjoined and restrained from selling or keeping sold (as the case may be) more than said 170,000 shares of said stock. All other parties to this action, and all persons for or on whose behalf this action is prosecuted, or who are represented by any of the parties to this action, are forever enjoined and debarred from interfering with the exercise of any of the rights and privileges given and granted unto the said Land and Water Company, and its successors, in this paragraph.

That the water rights now appurtenant to each and all and every part of the lands described in the lists which are attached to plaintiffs' complaint and marked Exhibits "E", "F", and "G", and in the lis pendens filed in connection with this case (except only those lands which are particularly described, and whose water rights are specifically cancelled in Subdivision (a) of Paragraph II hereof), and each and every share thereof, are valid and subsisting water rights, and are a part of the gross total of 170,000 shares referred

to above; and that said lands described in said Exhibits #K, "F" and "G" and in said lis pendens, and all of them (except only those lands particularly described in Subdivision (a) of Paragraph II hereof) do now have valid and subsisting water rights in said irrigation project.

IV.

Plaintiffs and each of them, and all other water users similarly situated, are barred, estopped and enjoined from asserting in this or any other suit with respect to said 170,000 acres of land, or any part thereof, that water rights or shares have been dedicated thereto, or to any part thereof, beyond the carrying capacity of said irrigation works, or in excess of the appropriation of water therefor, and are so barred, estopped and enjoined from asserting that the defendant Land and Water Company has not fully complied with each and every condition and covenant by it to be performed by the terms of any state contracts, or the terms of any outstanding contracts for the sale of shares of water stock to land owners. And said parties have no claim or demand whatsoever against the defendants or any of them based upon any of such assertions.

V.

That those certain lis pendens which were recorded in Book 25 at page 350 of the records of Elmore County, Idaho, and Book E of Lis Pendens at Page 501 of the Records of Gooding County, Idaho, and Book 29 at Page 490 of the Records of Jerome County, Idaho, respectively, be, and they are, each and all and every of them, released, discharged and cancelled and declared to be of no force or effect whatsoever.

VI

That each of the parties hereto shall pay their own costs and that no costs are taxed or awarded by this decree.

DATED this 22nd day of November, 1933.

(Signed) D. H. Sutphen

District Judge.

STATE OF IDAH
County of Jerome,

} ss.

I, Oliver Hill, Clerk of the District Court and Ex-Officio Recorder in and for the County of Jerome, State of Idaho, do hereby certify that the annexed is a full, true and correct copy of the original
..... Amended Articles of Incorporation of the North Side Canal
..... Company Limited,
now on file in my office, as the same appears on the Records of said Jerome County, State of Idaho, in
Book..... at page.....

IN TESTIMONY WHEREOF, I have set my hand and affixed my official seal

this... 26th day of... January..... A. D. 1921.

Oliver Hill

Clerk-Ex-Officio Recorder

By.....
Deputy