

UTAH COUNTY DEED RECORD ~~218~~ 220

Entry No. 462 Filed Jan. 20, 1923 at 4:25 P.M.

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

STRAWBERRY HIGH LINE CANAL COMPANY,
a, corporation,
Plaintiff,

-vs-

PAYSON CITY, a municipal corporation, GEORGE COWAN,
FRANCIS WILSON, IVAN W. WILSON, LYDIA MOORE, VINA MOORE,
SARAH L. PERRY, CLARENCE MOORE, BERT PERRY, JESSE HALLA-
DAY, IVAN MONK, HYRUM WILSON, ISIAH HOLLADAY, HENRY OPEN-
SHAW, CHARLES HOWARD HOLLADAY, MARY HOLLADAY, EDWARD L.
PERRY, MILLEY G. GRIGG, JOHN H. TAYLOR, MARY A. HOLLADAY,
GENEVA D. MOORE HOLLADAY, jointly and as members of a
voluntary association not incorporated under the name and
style of UPPER HOLLADAY FIELD DITCH, AND individually;
GEORGE COWAN, ISIAH HOLLADAY, MARY HOLLADAY, ~~ZOELLA HOLLADAY~~
~~XXX~~, ZOELLA HOLLADAY JACKSON, and voluntary association
not incorporated under the name and style of LOWER HOLLA-
DAY FIELD DITCH, and individually; JAMES S. McBETH, CHARLES
H. WHITE, ARTIMESIA WHITE, NEWELL K. WHITE and CLARA HARDY.
Defendants.

D E C R E E.

This cause came on regularly for hearing before the Court this 9 day of November, A. D. 1922; the plaintiff appearing by its attorneys Messrs. Parker & Robinson and submitting its evidence, and none of the defendants having appeared, the rights of all of the defendants having been stipulated to, with the exception of the defendants, Charles H. White, Artimesia White, Newell K. White and Clara Hardy, and the default of the said Charles H. White, Artimesia White, Newell K White and Clara Hardy having been duly regularly entered; and the Court having heard the proof of the plaintiff; and having considered the stipulations filed in said cause, and the cause having been submitted to the Court for its decision, and the Court having rendered its decision and filed in writing its Findings of Fact and Conclusions of Law herein, NOW THEREFORE, on motion of the attorneys for the plaintiff, it is hereby ordered, adjudged and decreed.

1. That the following named persons are the owners, and the only owners, of the water rights and the rights to the uses of the water that flows into, or is diverted by the Upper Holladay Field Ditch, which said ditch is particularly described in paragraph ten of the Findings of Fact and Conclusions of Law on file herein-to-wit: George Cowan, Francis Wilson, Ivan Wilson, Lydia Moore, Vina Moore, Sarah L. Perry, Clarence Moore, Bert Perry, Jesse Halladay, Ivan Monk, Hyrum Wilson, Isiah Holladay, Henry Openshaw, Charles Howard Holladay, Mary Holladay, Edward L. Peery, Milley G. Grigg, John H. Taylor, Mary A. Holladay, and Geneva D. Moore Holladay.

2. That the following named persons are the owners, and the only owners of the water rights, and the rights to the use of the water that flows into, or is diverted by the Lower Holladay Field Ditch, which said ditch is particularly described in paragraph ten of the Findings of Fact and Conclusions of Law on file herein, to-wit: George Cowan, Isiah Holladay, /
Mary Holladay
Francis Wilson and Zoella Holladay Jackson.

3. That the said defendants named in paragraphs one and two hereof are the owners of and in the possession of the following described tract of land situated in Utah County, State of Utah, and particularly described as follows, to-wit:

Beginning at a point which lies west 21.77 chains and south 20.99 chains from the northeast corner of section 25, township 9 south, range 1 east, Salt Lake base and meridian; thence North 65° east, 2.94 chains; thence north 74½° east, 2.73 chains; thence north 88½° east, 3.40 chains; thence North 64½°, 1.80 chains; thence south 1.43 chains; thence east 4.29 chains; thence east 1.72 chains; more or less to the west boundary of the lands of Zoella Holladay

Jackson, defendant; thence south 4.15 chains to the southwest corner of the said lands; thence south 89°22' east, 5.45 chains; thence south 89° east, 7.14 chains; thence south 1° west, 5.60 chains; thence east along the county road 13.75 chains, more or less to the southeast corner of the lands of Hyrum Wilson, defendant; thence north 75° east along the said Upper Holladay Field Ditch, 36.75 chains; more or less to the east boundary of the land of Clarence L. Moore defendant; thence North 1-3/9° east, 12.05 chains; thence north 85° east, 6.13 chains; thence north 6° west, 2.15 chains; thence west 12.07 chains more or less to a point 13.18 chains east of the southwest corner of the southeast quarter of section 19, township 9 south, range 2 east Salt Lake base and Meridian; thence North 1°25' east, 6.28 chains; thence south 55° west, 2.13 chains; thence north 75° west, 2.03 chains; thence north 53° west, 2.08 chains; thence north 48° west, 2.23 chains; thence north 86° west, 2.98 chains; thence north 50½° west, 2.95 chains; thence south 8½° west, 1.00 chains; thence south 33½° east, 1.10 chains; thence south 1-3/4° west, 8.28 chains; thence north 67° west along said channel 10.60 chains; thence north 30° west along said channel 6.40 chains; thence north 10° west along said channel 9.90 chains more or less to the North boundary of the land of Henry Openshaw, defendant, thence north 89-3/4° west 2 chains more or less to the northwest corner of the said lands of Henry Openshaw; thence south 7/8° west, 14.18 chains; thence north 29°59' west, 6.34 chains; thence north 7/8° west, 14.22 chains; thence north 89-3/4° west, 10.26 chains, more or less to the west boundary of the southwest quarter of section 19, aforesaid; thence north 89-3/8° west, 25.05 chains, more or less to a point 6.66 chains east and 2.70 chains south 3/4° west and south 89-3/8° east, 8.29 chains from the northwest corner of the southeast quarter of section 24, township 9 south, range 1 east of Salt Lake base and Meridian; thence south 4-3/4° east, 11.66 chains; thence south 83½° east, 4.30 chains; more or less to the northeast corner of the lands of John A. Johnson; thence south 7-3/4° east, 7.46 chains; thence south 9° east, 10.66 chains; to the southwest corner of the lands of Mary Holladay, defendant, thence north 89° east along the public road 4.37 chains, more or less to the west boundary of the lands of George Cowan, defendant; thence south 1° west, 4.84 chains; thence north 84-3/4° west 0.13 chains; thence south 1° west, 2.43 chains; thence west 4.96 chains; thence south 36½° west, 7.64 chains; thence south 62½° west, 1.80 chains; thence south 27-3/4° west, 2.63 chains; thence south 9° east 1.89 chains; thence south 54½° east, 3.26 chains; thence south 2° east 2.90 chains; thence south 19° west, 2.60 chains; thence south 17° east, 2.43 chains to the place of beginning.

Excepting from the above the following described tract of land, beginning 10 chains east and 6.95 chains, north ½° west of the southwest corner of the southwest quarter of section 19, township 9 south, range 2 east, Salt Lake base and Meridian; thence north 1° west 4.76 chains; thence north 88° east, 10.13 chains; thence south 1/8° east, 5.13 chains; thence west 10.10 chains to the place of beginning. Area 5 acres.

4. IT IS FURTHER ORDERED, ADJUDGED AND DECREED, in accordance with stipulation filed in the above entitled cause, between the plaintiff and the defendants, George Cowan, Bert Peery, Jesse H. Holladay, Geneva D. Moore Holladay, Edward L. Peery, Francis M. Wilson, J. Ivan Wilson, Ivan Monk, Lydia Moore, Hyrum Wilson, Clarence L. Moore, Sarah L. Peery, Mary A. Holladay, Vina Moore, Zoella Holladay Jackson, John H. Taylor and Milley G. Grigg; that the plaintiff, the Strawberry High Line Canal Company, a corporation is the owner and entitled to the use of any and all drainage, seepage, percolating, or waste waters which arises on or flows from or which shall hereafter arise on or flow from said above particularly described land or ditches.

5. IT IS FURTHER, ORDERED, ADJUDGED AND DECREED, that whenever there is water in the Upper Holladay Field Ditch, which the owners thereof, the defendants last above named do not

desire to use on their said land, then that portion of said water which will flow into the Lower Holladay Field Ditch as above described shall be permitted so to flow therein and shall be used, if desired by the owners of the Lower Holladay Field Ditch, on their said land and that portion which will not flow into said Lower Holladay Field Ditch shall become and is the property of the plaintiff, the Strawberry High Line Canal Company, a corporation.

6. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that whenever there is water in the Lower Holladay Field Ditch, which the owners thereof above named, do not desire to use, on their said land then said water shall become and is the property of the plaintiff, the Strawberry High Line Canal Company, a corporation and the owners, the defendants above named shall divert said water into the west branch of Spring Creek.

7. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all waste, seepage, drainage and percolating water arising on or flowing from, or which may hereafter arise on, or flow from the following described tract of land, situated in Utah County, State of Utah, belongs to and is the property of the afore mentioned owners of the Upper Holladay Field Ditch, to be used by them as a part of the water rights of said ditch:

Beginning at a point which lies 21.77 chains west and 20.99 chains south of the northeast corner of section 25, township 9 south, range 1 east, Salt Lake base and Meridian; thence west 18.23 chains, more or less, to the west boundary of the northeast quarter of section 25, aforesaid; thence south 80 chains, more or less to the Strawberry High Line Canal; thence easterly along said canal 98.00 chains, more or less to the east boundary of the southwest quarter of section 31, township 9 south, range 2 east, Salt Lake base and Meridian; thence north 105.00 chains; more or less to the south boundary of the tract of land first particularly described above; thence westerly along the south boundary of the said particularly described tract of land to the point of beginning.

8. IT IS FURTHER ORDERED, ADJUDGED AND DECREED, in accordance with the stipulation on file in the above entitled cause, between the plaintiff, the Strawberry High Line Canal Company and the defendants Payson City, a municipal corporation. That the said Payson City, a municipal corporation has the right to the use of all waste, seepage, percolating, or spring water arising on, or flowing from, or which might or may hereafter arise on, or flow from the following described tract of land, situated in Utah County, State of Utah, to-wit:

Beginning at a point which lies east 19.97 chains and south $1\frac{3}{8}^{\circ}$ west, 24.73 chains from the northwest corner of the northeast quarter of section 30, township 9 south range 2 east, Salt Lake base and Meridian; thence south $9^{\circ}30'$ east, to the Strawberry High Line Canal; thence Northerly and easterly along said canal to a point straight east from a point which lies 900 feet south and 850 feet west of the northeast corner of section 30, aforesaid; thence west to said point which lies 900 feet south and 850 feet west of the northeast corner of section 30, aforesaid thence southwesterly to the point of beginning.

10. IT IS FURTHER, ORDERED ADJUDGED AND DECREED in accordance with the stipulation between the plaintiff and the defendants, Payson City, a municipal corporation. That the plaintiff the Strawberry High Line Canal Company, a corporation, has the right to the use of all waste, seepage, drainage, percolating and spring water arising on or flowing from or which may hereafter arise on or flowing from all land tributary to spring creek, the east branch of which is a natural channel which leads from said spring lake and which creek is more particularly described in paragraph six of the Findings of fact and Conclusions of Law filed herein, excepting therefrom the land particularly described in paragraph eight hereof.

11. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Charles H. White, Artemesia White, and Newell K. White are the owners of and entitled to the use of 99.44 acres^{feet} of water from

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GEO. D. BARNARD STATIONERY CO., ST. LOUIS

Spring Creek each year, to be diverted by them from said creek at the following point of diversion, to-wit: 1350 feet east and 250 feet north of the center of section 13, township 9 south, range 1 east, Salt Lake base and Meridian. The said water to be diverted according to the following schedule, and in the amount named hereih, and not otherwise, from May 1st at eight o'clock A.M. to May 4th at 12:30 A.M., a three second foot stream; from May 10th at 11:30 A.M. to May 13th at 4 A. M., a three second foot stream, from May 19th at 3 P.M. to May 22nd at 7:30 A.M., a three second foot stream; from May 28th at 6:30 P.M. to May 31st at 11 A.M., a three second foot stream; from June 6th at 10 P.M. to June 9th at 2:30 P.M. a two second foot stream ; from June 16th at 1:30 A. M. to June 18th at 6:00 P.M. a two seconf foot stream; from June 25th at 4:30 A. M. Until June 27th at 9 P.M., a one second foot stream; from July 4th at 8 A.M. until July 7th at 12:30 A.M., a one-half foot/^{Second}stream; from July 13th at 11:30 A.M. until July 16th at 4 A.M., a one-half second foot stream; from July 22nd at 3:00 P.M. until July 25th at 7:30 A.M. a one-half second foot stream, said water being appurtenant to the land of Charles H. White, Artimesia White and Newell K White, which lies in the southeast quarter of section 12, ~~township 12x~~ township 9 south, range 1 east of the Salt Lake base and Meridian.

12. IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Clara Hardy is the owner of and entitled to the use of 13.2 acre feet of water from Spring Creek each year, to be diverted by them from said creek at the following point of diversion, to-wit: 1350 feet east and 250 feet north of the center of section 13, township 9 south, range 1 east, Salt Lake base Meridian. The said water to be diverted according to the following schedule, and in the amount named herein, and not otherwise, from May 4th at 12:30 A.M. to May/^{4th at}9 A.M., three second feet; May 13th at 4 A.M. to May 13th at 12:30 P.M., three second feet; May 22nd at 7:30 A.M. to May 22nd at 4 P.M., three second feet; May 31st at 11 A.M. to May 31st at 7:30 P.M., three second feet; June 9th at 2:30 P.M. to June 9th at 11 P.M., two second feet; June 18th at 6:00 P.M. to June 19th at 2:30 A.M. two second feet; June 27th at 9 P.M. to June 28th at 5:30 A.M., one second foot; July 7th at 12:30 A.M. to July 7th at 9 A.M., one-half second foot; July 16th at 4 A.M. to July 16th at 12:30 P.M. one-half second foot; July 25th at 7:30 A.M. to July 25th at 4:00 P.M. one-half second foot; The said water being appurtenant to the land of Clara Hardy, which lies in the southeast quarter of section 12, township 9 south, range 1 east of the Salt Lake base and Meridian;

13. IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the plaintiff, The Strawberry High Line Canal Company, a corporation, is the owner of, and entitled to the use of all of the waters of Spring Creek, including all the branches thereof, and water rights heretofore described, or which may hereafter/^{be}developed, except such portion of said waters as are owned by the defendants herein, as above described and set forth, and decreed to said defendants.

14. IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that each and all of the parties hereto be and they are enjoined and restrained from in any wise interfering with the water, or water rights, or other rights herein decreed to each other.

Done in open court this 12th say of January, A.D. 1923.

Elias Hansen, JUDGE.

CLERK'S CERTIFICATE.

STATE OF UTAH,)
) ss.
 County of Utah) I, Wallace M. Hales, County clerk and ex-officio Clerk of the Fourth Judicial District Court, in and for the County of Utah, State of Utah, do hereby certify that the foregoing is a full, true and correct copy of the original Decree in the case of Strawberry Highline canal company, a corporation, vs. Payson City, a municipal

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Corporation, Francis M. Wilson, et-al as appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Provo City, Utah. this 12th day of January A. D. 1923.

(SEAL)

Wallace M. Hales
Clerk.

GENEVIEVE RICHARDSON COUNTY RECORDER

By Priscilla Christensen
Deputy Clerk.

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Entry No. 474 Filed Jan. 22, 1923 at 1:34 P.M.

WARRANTY DEED.

ELLA M. JOHNSON, Grantor of Lehi City, in the County of Utah, State of Utah, hereby conveys and warrants to H. R. NEWMAN Grantee of Springville City, Utah County, State of Utah, for the sum of Four Thousand (\$4000.00) DOLLARS the following described tract of land in Utah County, State of Utah, to-wit:

Commencing 7.40 chains South of the Northwest corner of Section 28, Township 7 South, Range 3 East of the Salt Lake Meridian; Thence South 19.25 chains; thence East 1° South 8.66 chains; thence North 11.26 chains; thence South 89° East 4.44 chains; thence North 7.99 chains; thence West 1° North 13.10 chains to the place of beginning. Area 19.17 acres. Together with independent water right.

Conveyed subject to a mortgage of \$1500.00 in favor of Lee Charles Miller, which mortgage is recorded in book 134, page 643, records of Utah County, Utah, also subject to a mortgage of \$294.15 in favor of A. Viele, recorded in book 140 age page 136, in the records of Utah County, Utah, of which the Grantee assumes and agrees to pay.

Witness the hand of said grantor this 1st, day of November A.D. nineteen hundred and twenty-two.

Signed in Presence of

Edward Southwick

State of Utah,)
) ss.
County of Utah,)

E. M. J.
11/1/22
2 dollars

Ella M. Johnson.

On this 1st day of November A.D. nineteen hundred and twenty

two personally appeared before me Ella M. Johnson, the signer of the above instrument, who duly acknowledged to me that she executed the same.

My commission expires April, 18th, 1926. (SEAL)

Edward Southwick Notary Public

GENEVIEVE RICHARDSON COUNTY RECORDER

Lehi, Utah.

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Entry No. 492 Filed Jan. 23 1923 at 1 P.M.

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

In the matter of the estate) ORDER AUTHORIZING ADMINISTRATOR
of Stephen Markham, deceased.) TO EXECUTE AND CONVEY.

The petition of Leo L. Gardner praying for an order of this court authorizing and directing J. D. Wadley Jr. administrator of the estate of Stephen Markham, deceased, to execute and deliver a Quit Claim Deed conveying all the right, title and interest of the said estate to lands described in said petition, came on for hearing this 26th day of December, 1922 and it appeared to the court that due and legal notices of such hearing has been given and it further appeared from inventory filed in said matter that the said estate claims no right, title or interest in and to the property described in said petition, and after hearing the evidence offered in support of said petition the court finds that Leo L. Gardner is entitled to have a quit claim deed made and delivered to him conveying all the interest of said estate in and to