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Trumball Reed, Elmer C. Marion
and Mary Marion, his wife, and
Wallace J. Smith

FILED
AND ENTERED
MAR 13 1957
ALICE E. DAVIS
CLERK OF COURT
BY *Barbara Saunders*
COUNTY OF CALIFORNIA

7 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 IN AND FOR THE COUNTY OF TEHAMA

For SWRCB
Filed

9 JAMES ARCHIE BENNETT, et al,
10 Plaintiffs,
11 vs.
12 CHARLES WESLEY REED, et al,
13 Defendants.

No. 7814

J U D G M E N T

14 The above entitled action having on September 22, 1948,
15 been duly and regularly referred to the Department of Public Works
16 Division of Water Resources of the State of California, as Referee
17 to investigate and report to this court as provided by law; and
18 said Referee having duly investigated and filed herein Findings of
19 Fact and proposed Conclusions of Law, and the Court having, on
20 July 28, 1955, ordered the adoption and approval of said Referee's
21 Report; and the Court being fully advised in the premises and having
22 made its written Findings of Fact and Conclusions of Law and dir-
23 ected that Judgment be entered in accordance therewith;

24 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND
25 DECREED as follows:

26 1. That LOETA BENNETT and ULRICA RONEY, also known as
27 ULRICA BENNETT RONEY, the successors in interest to plaintiff
28 JAMES ARCHIE BENNETT in and to the property formerly owned by said
29 JAMES ARCHIE BENNETT and the subject of this action, are entitled
30 to all the rights accruing to, and are bound by all of the obliga-
31 tions imposed on, said plaintiff JAMES ARCHIE BENNETT under this
32 judgment to the same extent that said plaintiff JAMES ARCHIE BENNETT

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1 would be if living.

2 2. That plaintiffs ULRICA RONEY and LOETA BENNETT and
3 defendants ELWIN A. RONEY and GEORGE U. RONEY, EUGENE EDGAR and
4 RILLA JOY EDGAR, FRANK H. DUNCAN and JANE DOE DUNCAN, JAMES BATES
5 and JANE DOE BATES, and MARSE SPEEGLE and DELLA SPEEGLE have no
6 right to the water of Pine Creek or in and to the use thereof.
7 LOETA BENNETT and ULRICA RONEY, successors to plaintiff JAMES
8 ARCHIE BENNETT, and defendants FRED BROWN and JESSICA BROWN have
9 only such rights to the use of the water of Pine Creek as inure to
10 their lands by virtue of the riparian character of such lands,
11 which rights are subordinate and subject to the other rights which
12 are hereinafter adjudged and decreed to belong to the parties to
13 these actions and to their successors in interest.

14 3. That E. E. WILSON and NINA JUNE WILSON, successors to
15 the interest of ALBERT C. AIKEN as set forth in the case of Aiken
16 vs. Harris, Superior Court, Tehama County, No. 3296, and successors
17 in interest to plaintiff S. A. GATES, are the owners of the Phillips
18 Ditch, and are entitled to enter upon the lands of defendants
19 GRACE TRUMBULL REED and ELMER C. MARION and MARY MARION and of all
20 other persons whose land is traversed by said Phillips Ditch for
21 the purpose of making all reasonable repairs to said ditch and to
22 keep said ditch clean so that the flow of water therein is not
23 interrupted.

24 4. That defendants ELMER C. MARION and MARY MARION are
25 entitled to divert the amounts of water to which they are entitled
26 as hereinafter set forth in Paragraph 5 through the Phillips Ditch
27 and to redivert from said ditch said amounts of water and no more
28 at a point approximately two hundred sixty feet below the head of
29 said ditch within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, T 24 N, R 1 E, M.D.B.
30 & M., provided, however, that said ELMER C. MARION and MARY MARION
31 shall at all times maintain an adequate and proper control structure
32 and measuring device at the said point of rediversion.

1 5. The plaintiff GEORGE W. ROY and WALLACE J. SMITH
 2 and ELEANOR M. SMITH, successors to defendants LEE STEPHENSON,
 3 C. E. SHIVES, C. F. PETERS and JANE DOE PETERS, and defendants
 4 GRACE TRUMBULL REED, ELMER C. MARION and MARY MARION, and said
 5 E. E. WILSON and NINA JUNE WILSON are entitled to rights in and to
 6 the use of the natural flow of Pine Creek, during the seasons
 7 hereinafter stated in Paragraph 6, for domestic, stockwatering
 8 and irrigation purposes upon their respective lands as shown on
 9 the Division of Water Resources Map incorporated as Plate 1 in the
 10 Report of Referee on file herein, which map is by this reference
 11 incorporated herein and made a part hereof, and as described under
 12 their respective names in Schedule 1 appended hereto and by this
 13 reference incorporated herein and made a part hereof, in accordance
 14 with the acreages to be supplied and quantities of water allotted,
 15 at the points of diversion as numbered and through the diversion
 16 systems as set forth after their respective names, to wit:

18 Name of Partys	: Acreage: : to be : Supplied:	: Diver- : sion : Number: : as per: : D.W.R.:	: Name of : Diversion : System	: Allotments			
				: Cubic Feet per Second:			
19	20	21	22	23	24	25	26
				First Priority	Second Priority	Third Priority	Total
George W. Roy	7.0	1	Jones	0.20			0.20
Wallace J. Smith and Eleanor M. Smith	84.0	2	Scofield & Houseman	0.50		1.20	1.70
Grace Trumbull Reed	94.2	3	Reed	0.30		0.90	1.20
Elmer C. Marion and Mary Marion	49.5	4 5	Phillips Marion Pump	0.50		0.30	0.80
E. E. Wilson and Nina June Wilson	157.4	4	Phillips		1.50		1.50
Totals	392.1			1.50	1.50	2.40	5.40

31 Said rights in "first priority class" are equal in priority
 32 and correlative in right, but are superior in priority and in right

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1 to all other rights on said Pine Creek, and at all times when the
2 available water supply of Pine Creek is inadequate to supply all of
3 said rights in "first priority class", then during the continuance
4 of such shortage, the owners of such rights shall prorate the avail-
5 able water supply in accordance with the respective allotments in
6 said "first priority class" as set forth herein. Said right in
7 "second priority class" is subject and inferior to said rights in
8 "first priority class", but is superior in priority and in right to
9 all other water rights on said Pine Creek. Said rights in "third
10 priority class" are equal in priority and correlative in right,
11 are subject and inferior to said rights in "first priority class"
12 and "second priority class", but are superior in priority and in
13 right to all other water rights on said Pine Creek, and at all
14 times when the available water supply of Pine Creek is inadequate
15 to supply all of said rights in "third priority class", then during
16 the continuance of such shortage, the owners of such rights shall
17 prorate the available water supply, if any, in excess of the quan-
18 tity required to supply said prior rights in accordance with their
19 respective allotments in said "third priority class" as set forth
20 herein, provided however, that said E. E. WILSON and NINA JUNE
21 WILSON are entitled to divert no greater portion of the 1.50 cubic
22 feet per second allocated herein than is necessary to deliver 0.75
23 cubic foot per second at the point where the Phillips Ditch enters
24 their lands in the E $\frac{1}{2}$ of Lot 1 of Section 3, T 23 N, R 1 W, M.D.B.
25 & M.

26 6. That all allotments set forth in "first priority class"
27 and "second priority class" shall be for continuous usage during the
28 season from March 1 to October 31, both dates inclusive, of each
29 and every year for domestic, stockwatering and irrigation purposes
30 and throughout the remainder of the year for domestic and stock-
31 watering purposes.

32 That all allotments set forth in "third priority class"

1 shall be for continuous usage during the season from March 1 to
2 October 31, both dates inclusive, of each and every year for gener
3 irrigation purposes.

4 7. That the points of measurement of all allotments of
5 water herein set forth shall be at or near the respective points of
6 diversion from Pine Creek.

7 8. That although all quantities of water herein allotted
8 to the several parties for direct application to beneficial use
9 are severally expressed in terms of continuous flow, nevertheless,
10 nothing herein contained shall be construed as limiting or restrict
11 the rights of any such parties to rotate in the use of water, or
12 the right of any party hereto to divert for limited periods of time
13 convenient "irrigation heads" and thus apply water to his lands at
14 a greater rate than that indicated by the continuous flow so allote
15 provided, that such practice of rotation or use of "irrigation head
16 shall not result in the use by any such party of a total quantity
17 of water during any thirty day period in excess of the equivalent
18 of such party's continuous flow allowance for thirty days; and pro-
19 vided further, that such practice of rotation or such use of "irriga
20 tion heads" shall not impair or infringe the right of any other suc
21 party.

22 9. That nothing herein contained shall, or shall be constr
23 to, prevent any of the parties hereto, who jointly use a ditch, when
24 there is a continuous flow allotment for use through said ditch, fro
25 employing by agreement of such joint users of said ditch a system of
26 rotation in use as among themselves or prevent any party hereto who
27 has allotments to two or more ditches, from using all or any portion
28 of the summation of such allotments through each or any of said
29 ditches on all or any portion of his lands; provided the total quan-
30 tity of water diverted by said party at any time shall not exceed
31 said summation of such allotments; and provided further, that such
32 practice of "pooling allotments" shall not impair or infringe the

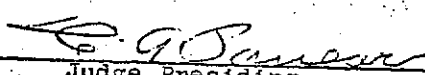
1 rights of any other such party.

2 10. That each of the parties shall be, and they, jointly and
3 severally, hereby are perpetually enjoined and restrained from
4 doing any act or thing in violation of the provisions of this
5 decree, or from diverting any water from said Pine Creek at any
6 time in violation of the terms hereof, or from diverting any of
7 such water at any time in excess of a quantity of water reasonably
8 necessary for and being put to beneficial use, or from doing any-
9 thing, directly or indirectly, that will obstruct or interfere with
10 any other right adjudged and decreed herein.

11 11. The court hereby retains continuing jurisdiction of the
12 parties hereto and their successors in interest, and of the subject
13 matter hereof, and also jurisdiction to review this or any further
14 decree and to change and modify the same as the interests of justice
15 may require, upon application of any party hereto or his successor
16 in interest.

17 12. Each party to this action shall bear his own costs of
18 suit, and those parties named in Chapter VI, page 28b, of the
19 Report of Referee on file herein shall bear the costs therein
20 charged against them respectively.

21 Done in Open Court this 13th day of March, 1957.

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24 Judge Presiding
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SCHEDULE 1

DESCRIPTION OF PLACES OF USE

James Bates and Jane Doe Bates (Undeveloped)

South central portion of Lot 1 of Section 3, T 23 N, R 1 W,
M.D.B. & M.
Northwesterly portion of NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 3, T 23 N, R 1 W,
M.D.B. & M.

Glenn Beauchamp, et al. (Stock water)

Lot 3 of Section 31, T 24 N, R 1 E, M.D.B. & M.

James Archie Bennett (Stock water)

Lot 1 of NE $\frac{1}{4}$ of Section 2, T 23 N, R 1 W, M.D.B. & M.
Lot 2 of NE $\frac{1}{4}$ of Section 2, T 23 N, R 1 W, M.D.B. & M.
Lot 1 of NW $\frac{1}{4}$ of Section 2, T 23 N, R 1 W, M.D.B. & M.
Lot 2 of NW $\frac{1}{4}$ of Section 2, T 23 N, R 1 W, M.D.B. & M.
SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, T 24 N, R 1 W, MD.B. & M.
SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 36, T 24 N, R 1 W, M.D.B. & M.

Fred Brown and Jessica Brown (Stock water)

NW $\frac{1}{4}$ of Section 36, T 24 N, R 1 W, M.D.B. & M.
NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, T 24 N, R 1 W, M.D.B. & M.
NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 36, T 24 N, R 1 W, M.D.B. & M.
S $\frac{1}{2}$ of NW $\frac{1}{4}$ of Section 36, T 24 N, R 1 W, M.D.B. & M.

E.E. Wilson and Nina June Wilson

61.9 acres in Lot 1 of NE $\frac{1}{4}$ of Section 3, T 23 N, R 1 W, M.D.B.
& M.
43.9 acres in Lot 2 of NE $\frac{1}{4}$ of Section 3, T 23 N, R 1 W, M.D.B.
30.8 acres in Lot 1 of NW $\frac{1}{4}$ of Section 3, T 23 N, R 1 W, M.D.B.
& M.
20.8 acres in NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 3, T 23 N, R 1 W, M.D.B. & M.
157.4 acres - Total

Elmer C. Marion and Mary Marion

14.5 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31, T 24 N, R 1 E, M.D.B. & M.
13.9 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, T 24 N, R 1 E, M.D.B. & M.
19.9 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, T 24 N, R 1 E, M.D.B. & M.
1.2 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, T 24 N, R 1 E, M.D.B. & M.
49.5 acres - Total

Grace Trumbull Reed

13.8 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, T 24 N, R 1 E, M.D.B. & M.
12.4 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, T 24 N, R 1 E, MD.B. & M.
33.0 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, T 24 N, R 1 E, M.D.B. & M.
35.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, T 24 N, R 1 E, M.D.B. & M.
94.2 acres - Total

George W. Roney

0.8 acre in SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, T 24 N, R 1 E, M.D.B. & M.
6.2 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, T 24 N, R 1 E, M.D.B. & M.
7.0 acres - Total

1 Elwin A. Roney and George U. Roney (stock water)

2 NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, T 24 N, R 1 W, M.D.B. & M.

3 SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, T 24 N, R 1 W, M.D.B. & M.

4 SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 36, T 24 N, R 1 W, M.D.B. & M.

4 Wallace J. Smith and Eleanor M. Smith

5 6.8 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, T 24 N, R 1 E, M.D.B. & M.

6 14.8 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, T 24 N, R 1 E, M.D.B. & M.

7 12.4 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, T 24 N, R 1 E, M.D.B. & M.

8 19.2 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, T 24 N, R 1 E, M.D.B. & M.

9 16.0 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, T 24 N, R 1 E, M.D.B. & M.

10 14.8 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, T 24 N, R 1 E, M.D.B. & M.

11 84.0 acres - Total

9 W. Webster and Etta Webster

10 13.2 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, T 23 N, R 1 W, M.D.B. & M.

11 9.2 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, T 23 N, R 1 W, M.D.B. & M.

12 22.4 acres - Total

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