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IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WHITE PINE.

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| WASHINGTON ROGERS, Plaintiff, vs. R. A. YELLAND, Defendant. | NO. 2,556. Filed April 1st, 1935. F. D. Oldield, Clerk. By_____ Deputy. |

JUDGMENT AND DECREE.

The above entitled action came on regularly for trial April 3, 1934, in the above entitled court and the same was tried before the Court, Honorable L. O. Hawkins, acting district judge, presiding (a jury having been waived). William M. Kearney, Esq., and James M. Collins, Esq., appeared as attorneys for the plaintiff, Washington Rogers, and B. L. Quayle, Esq. appeared as attorney for the defendant, R. A. Yelland. The trial of the case continued on April 3, 4, 5 and 6, 1934, at which time all of the testimony had not been taken and the hearing was continued to June 5, 1934, on which date the trial of the case was resumed and further testimony was taken on June 5, 6 and 7, 1934. Upon the completition of the taking of testimony and the introduction of evidence, the matter was orally argued to the court and upon request of counsel, briefs were ordered filed, whereupon the case was duly submitted to the court for its decision, and the judge of the court having filed his decision on the merits and rendered his opinion on December 5, 1934, and having heretofore signed his findings of fact and conclusions of law.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the plaintiff, Washington Rogers, is the owner of, in the possession of, and entitled to the possession of the N½ of SW¼ and S½ of NW¼ of Section 35, Township 17 North, Range 67

East, M.D.B. & M.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff, Washington Rogers, be and he is hereby awarded a judgment and decree quieting his title to 1.6 cubic feet per second of the waters of Nigger Creek and its trinutaries, situate in White Pine County, Nevada, for the irrigation of 160 acres of land with a priority of November 27, 1914, measured at the point where his diversion ditch becomes adjacent to the said irrigated land described as the N½ of the SW¼ and S½ of NW¼ of Section 35, Township 17 North, Range 67 East M.D.B. & M., and for stockwatering and domestic purposes as shown by Certificate Record No. 567, Book 4, page 567, Records of the State Engineer of the State of Nevada, and as recorded in Book 86, pages 295-295, Miscellaneous Records, White Pine County, Nevada.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant R. A. Yelland, be and he is hereby awarded a judgment and decree that he is the owner of, in the possession of and entitled to the possession of 320 acres of land described as the N½ of Section 17, Township 16, North, Range 68 East, M.D.B. & M.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant, R. A. Yelland, be and he is hereby awarded a judgment and decree quieting his title to .68 of a cubic foot per second of the waters of Nigger Creek and its tributaries situate in White Pine County, Nevada, for the irrigation of 40.68 acres of land, measured at the following points: When used upon the lands on the South side of Nigger Creek, lying in the canyon, the said water shall be measured at the point where the water is diverted from the High Line Canal; when used upon the lands lying on the North side of Nigger Creek, in the canyon, the water shall be measured at the points of diversion from Nigger Creek and from Yelland Spring, all for use upon lands in the NW¼ of the NW¼ of Section 16 and in the N½ of Section 17, Township 16 North, Range 68 East,

M.D.B. & M., known as the Canyon lands with a priority of the year 1887, which said acreage is shown on a map marked Exhibit "7" and "C" in the above entitled case. The duty of water for said canyon lands is fixed at five acre feet per acre per irrigating season.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant, R. A. Yelland, be and he is hereby awarded a judgment and decree quieting his title to a further and additional water right for 25.95 acres of land amounting to .26 of a cubic foot per second measured at a point or points where such water enters the said irrigated bench lands with a duty of water of three acre feet per acre per irrigating season, with a priority of the year 1911, together with a further and additional water right from the natural channel of Nigger Creek to water 25 head of horse, 50 head of cattle and 3,000 sheep with a priority if the year 1905, together with a water right for domestic purposes from Nigger Creek with a priority of the year 1887.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff, Washington Rogers, is hereby awarded a judgment against the defendant, R. A. Yelland, for damages in the sum of $311.36, together with costs of suit.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff and defendant, their agents, servants, employees and all persons acting for, under, through or by them, or either of them, and each of them, be forever restrained from interfering in any way or manner with the other party in the use of such water herein awarded to the other and from claiming any other or additional right thereto.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the respective amounts of water decreed to each party are established and quieted in the respective parties hereto.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant, R. A. Yelland, be and he is hereby required to repair

the High Line Canal before the beginning of the next irrigation season and to put it in such condition that the loss in transit shall not be unreasonable and, further, that the said defendant, R. A. Yelland, be and he is ~~further~~ ordered, at his own expense, to provide and install at all points fixed by the Court in the findings for measuring his water, adequate and accurate weirs or other measuring devices to correctly measure the water to be diverted by him before the next irrigation season and to at all times thereafter keep them in repair and condition.

DONE IN OPEN COURT, at Ely, White Pine County, Nevada, this 30th day of March, 1935.

L. O. Hawkins,
District Judge.

STATE OF NEVADA, }
COUNTY OF WHITE PINE. } SS.

I, F. D. OLDFIELD, the duly elected, qualified and acting County Clerk and ex-officio Clerk of The Seventh Judicial District Court of the State of Nevada, in and for the County of White Pine;

DO HEREBY CERTIFY that the above and foregoing is a full true and correct copy of the original JUDGMENT AND DECREE in the case of Washington Rogers, Plaintiff vs. R. A. YELLAND, Defendant, which said original now remains on file and of record in my office as clerk of said court in the city of Ely, county of White Pine, State of Nevada, and in my custody and under my control.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said court this 11th day of April, 1935.

SEAL

(Sig.) F. D. Oldfield
CLERK AS AFORESAID.