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

CHARLES DOHERTY, Plaintiff, vs. George W. Pratt, Emery G. Johnson, individually, and Emery G. Johnson, as Administrator of the Estate of Catherine West, deceased, and Lorenzo West, her husband, Defendants.	Woods aka Cr. Pratt Cr. No. 1687 DHU-00562

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D E C R E E.

This cause was tried by the Court, without a jury, commencing on the 5th day of May, 1909, and ending on the 8th day of May, 1909; Frank S. Gedney, Esq., appearing as counsel for the plaintiff, and CHARLES B. HENDERSON, Esq., and J.W. DORSEY, Esq., appearing as counsel for the defendants. At the conclusion of the taking of the evidence of and on behalf of the plaintiff herein - no evidence having been introduced or offered by or on behalf of the defendants or any of them - the cause was argued and submitted by the respective counsel for the several parties.

After due consideration of the evidence herein, and of the arguments of counsel, the court made and filed herein complete findings of fact and conclusions of law, thereby directing judgment to be entered herein, in accordance therewith, in favor of the defendant George W. Pratt and of the persons entitled to the estate of Catherine West, one of the original defendants herein, in the matter of her estate, subject to the rights of the administrator of her estate pending the administration thereof.

WHEREFORE, by reason of the law and the premises, the above named court orders, adjudges and decrees, as follows:

FIRST. That the original defendant herein, Catherine West, ever since a time long prior to the earliest date mentioned in the complaint, and at the time of the commencement of this suit, was, and she thereafter up to the time of her death continued to be the owner of the first right to use, and entitled to the first beneficial use of, the waters of Woods Creek, described in the pleadings herein, and was and continued to be, as aforesaid, the owner of the first right to divert and use the waters of and from said stream, (which is also, and, where it passes to and through the lands of the defendants, known as Pratt Creek) to and upon and forthe purpose of irrigating six hundred acres of the land described in the answer herein, situate and lying in Elko County, State of Nevada, and being in Townships forty-one and forty-two, of Range fifty-four East, and in Township Forty-one, of Range fifty-five East, Mount Diablo Base and Meridian; that the proper irrigation of said land requires

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the use of one miners inch of water measured under a six inch pressure for each acre of ground, and the six inch pressure shall be taken as that quantity of water which will flow through an orifice one inch square, the center of which orifice is six inches below the surface of the water; that ever since the death of said Catherine West the said defendant Emery G. Johnson, as the administrator of her estate, and in his own right, and as trustee for the persons entitled to the estate of said deceased in the matter of her estate subject to administration, has been, and he is now, the owner of the right to use said water, and he is entitled to the first right to divert and to beneficially use the same.

SECOND. That the defendant George W. Pratt, ever since a time long prior to the earliest date mentioned in said complaint, and at the time of the commencement of this suit, was, he ever since has been, and now is, the owner of the second right to use, and he is entitled to the second beneficial use of, the waters of said Woods Creek, and he is the owner of the right to divert and use the waters of and from said stream to and upon and for the purpose of irrigating four hundred acres of land described in the answer herein, situate and lying in Townships forty-one and forty-two, of Range fifty-four East, Mount Diablo Base and Meridian; that the proper irrigation of said land requires the use of one miners inch of water under a six inch pressure, measured as aforesaid, and said ownership, right and use was and is subsequent, subordinate and subject to the right of said Catherine West, deceased, and to the right of said defendant Emery G. Johnson, as the administrator of her estate, and in his own right, and as trustee for the persons entitled to the estate of said deceased in the matter of her estate subject to administration.

THIRD. That the plaintiff Charles Doherty has never appropriated, has never acquired, and is not the owner of, any right to use any of the waters of said Woods Creek; he has no title to or interest in the same or any part thereof, and his claim thereto, adverse to the persons entitled to said water, as aforesaid, or to any of them, is unfounded, invalid and without any right whatever.

FOURTH. That the right to use eleven cubic feet per second of the waters of said Wood's Creek, measured at a point west of the land of the said Geo. W. Pratt where the ditch called the New South Ditch leaves said Pratt Creek, and also measured on what is called Pratt's ditch just west of said Pratt's land at the point where the ditches fork; and the ownership of the right to divert a sufficient quantity of the waters of said Wood's Creek at the point of location of the dam where said stream diverges from Pratt Creek to reach the point of measurement and supply the quantity of water, above stated, to-wit, eleven cubic feet per second, be and the same is hereby established, quieted, and confirmed in said defendant George W. Pratt, and in the said persons entitled to the estate of said Catherine West, deceased, in the matter of her estate, subject to the rights of the administrator of her estate pending the administration thereof, as against the adverse claims of said plaintiff; and that said plaintiff, and all persons claiming under him, his attorneys, agents, servants, employees, and all those acting through or for him, be, and they are hereby perpetually restrained, prohibited, and enjoined from asserting said adverse claims, or any thereof,

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against the said persons entitled to the said estate of said Catherine West, in the matter of her estate, or against the administrator of her estate.

FIFTH. That the said plaintiff, and all persons claiming under him, his attorneys, agents, servants, employees, and all those acting through or for him, be, and they are hereby perpetually restrained, prohibited, and enjoined, from diverting, interfering with, or in any manner using, the waters of said Woods Creek, or in any manner interfering with the said dam across said Woods Creek at the point where it flows from Pratt Creek, or any dam or obstruction in either of said Creeks, or from in any manner preventing the flow of waters of Pratt Creek to and past said dam, so as to prevent a sufficient quantity of the waters aforesaid from flowing in the bed or channel of said Pratt Creek, to and past the said dam, to reach the point of measurements located, and to supply the quantity of water decreed to defendants, by subdivision "fourth" hereof, whenever that quantity of water is necessary to irrigate the said Johnson and Pratt lands, or either or any thereof, through the channels and ditches in which the same has hitherto been conveyed; or so as to in any manner deprive the said George W. Pratt and the said defendant Emery G. Johnson, as the administrator of the estate of said Catherine West, and in his own right, and as trustee for the persons entitled to the estate of said deceased in the matter of her estate subject to administration, and the persons in whom said lands shall vest by the decree in the matter of said estate, or any of them, of the use of eleven cubic feet of water per second of time measured at a point west of the land of said George W. Pratt where the ditch called the NEW SOUTH DITCH leaves said Pratt Creek, and also measured on what is called PRATTS DITCH, just west of said Pratt's land at the point where the ditches fork, whenever the same is necessary for the irrigation of said lands, or any thereof, or for the beneficial use of any of the parties entitled thereto as aforesaid.

SIXTH. That the defendants recover their costs from the plaintiff in this behalf sustained, taxed at the sum of $168.25.

Dated this 2nd day of May 1910.

(SIGNED) George D. Brown,

District Judge.

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PLAINTIFFS LAND

S½NE¼ and E½SE¼ Sec. 8, T.41N., R.55E., NW¼SW¼ Sec. 7 T.41N., R.55E., N½S½ Sec. 12, the S½NW¼, the SW¼NE¼, and N½S½ Sec. 11 and SE¼NE¼ Sec. 10, T.41N., R.54E.

DEFENDANTS LAND

1000 acres in T.41 and 42 N, R.54E. and in T.41N., R.55E.

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