

UNITED STATES OF AMERICA
DISTRICT OF KANSAS

SS

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS
FIRST DIVISION.

The Southwestern Irrigation Company,
a corporation, Complainant

vs.

No. 6759

The Southwest Kansas Land and Irriga-
tion Company, Limited, a corporation,
Defendant.

The Finney County Water Users
Association, a corporation,
Complainant

vs.

No. 9013

The United States Irrigation
Company, et al., Defendants.

Now on this 8th day of April, 1912, comes The United States Irrigating Company, a defendant in the last above entitled cause, and as successor in interest to the complainant, in the first above entitled cause by William Easton Hutchison, and K. C. Schuyler, its attorneys, and The Kearny County Farmers Irrigation Association, a defendant in said last above entitled cause, and as the successor in interest to the defendant in the first above entitled cause, comes by E. R. Thorpe and Edgar Foster, its attorneys, and also comes The Finney County Water Users Association, complainant in the last above entitled cause, by Lee Monroe and O. H. Foster, its attorneys and The Garden City Irrigation Association another defendant in said last above entitled cause, comes also by C. E. Vance, its attorney, both of which said causes were heretofore transferred from the Second Division

of the Circuit Court of the United States in and for the District of Kansas to the First Division of said Circuit Court by agreement of the parties thereto. Thereupon The United States Irrigating Company, aforesaid, being the party which removed the last above entitled action from the District Court of Kearny County, Kansas, to the said Second Division of said Circuit Court, moves and requests the Court to set aside the ruling and order heretofore made by said Circuit Court sitting in and for the First Division thereof in said last above entitled cause on the 27th day of November, 1911, wherein the said Circuit Court sustained a motion to remand said last above entitled cause to the District Court of Kearny County, Kansas, and also moves the Court to reinstate said cause for the reason that the said The United States Irrigating Company desires to be heard upon said motion to remand, and the Court having heard the reasons assigned therefor by the said The United States Irrigating Company and being fully advised in the premises sustains said application and motion and sets aside its aforesaid ruling and order heretofore made on the 27th day of November, 1911, and reinstates said last above entitled cause for further hearing and consideration upon said motion to remand, which motion coming on for further hearing is by the said The Finney County Water Users Association, which filed the same, by leave of the Court withdrawn, and the Court, having taken and hereby taking jurisdiction of said last above entitled cause upon removal from the District Court of the State of Kansas within and for the County of Kearny to the Second Division of said Circuit Court and from said Second Division to this First Division thereof, on motion of said appearing

parties orders that said causes be consolidated for the purpose of this decree and said causes are hereby consolidated for such purposes only. Thereupon, it is by said appearing parties stipulated and by them agreed in open court that the following permanent decree be entered in said above entitled causes so as aforesaid consolidated for such purpose:

THEREFORE, IT IS ORDERED AND DECREED, upon such stipulation and agreement as follows:

1. That for the purpose of making this decree and of carrying the same into full effect, that certain decree of March 14, 1911, entered by said Circuit Court in the first hereinabove-entitled cause, may be and hereby is modified as hereinafter provided. And it is ORDERED that except as hereby modified said decree of March 14, 1911, shall in all respects remain in full force and effect, and the provisions thereof extend to and bind all parties hereto and their hereinafter described ditches.

2. The decree of March 14, 1911, entered in the first above-entitled cause, is hereby modified or supplemented by adding to the list of ditches, therein mentioned, the Farmers Ditch, the property of The Finney County Water Users Association, and by increasing the amount of water considered as the basis of distribution by two hundred fifty (250) cubic feet, which said last amount is to be attributed to the Farmers Ditch; the total amount of water for the basis of distribution as between the parties being one thousand and fifty (1050) cubic feet, which shall be, without reference to any question or priority of right between the parties, distributed and rotated in all respects subject to the method, rules, manner, terms and conditions set forth and specified in said decree of March 14, 1911, except that the amount apportioned in rotation to each ditch specified in Paragraph 1 of the decree of March 14, 1911,

shall be as follows to-wit:

To the Amazon Ditch - sixteen eighty-fourths (16/84)

To the South Side Ditch - sixteen eighty-fourths (16/84)

To the Great Eastern Canal - twenty-three eighty-fourths (23/84)

To the Farmers Ditch - twenty-one eighty-fourths (21/84)

To the Garden City Ditch - eight eighty-fourths (8/84)

and the rotation or water in acre feet provided and set forth in Paragraph 3 of said decree of March 14, 1911, shall be in the order and of the amount as follows, to-wit:

1. The Amazon Ditch - three thousand (3,000) acre feet;
2. The South Side Ditch - three thousand (3,000) acre feet;
3. The Great Eastern Ditch - four thousand three hundred twelve and one-half ($4312\frac{1}{2}$) acre feet, to be used by The United States Irrigating Company either for Storage in its reservoir, or for direct irrigating;
4. The Farmers Ditch - three thousand nine hundred thirty-seven and five-tenths (3937.5) acres feet;
5. The Garden City Ditch - one thousand five hundred (1,500) acres feet;

The provisions of this decree and that of March 14, 1911 shall extend to and embrace all of the waters of the Arkansas River to which any of the parties hereto are now or may hereafter become entitled.

3. Save as hereinabove expressly modified, said decree of March 14, 1911, shall be and remain in all its terms, provisions and conditions binding upon all the parties thereto and upon the Finney County Water Users Association and the

successors and assigns of each and all of said parties; and each and all of said parties, their successors and assigns are enjoined, required and commanded to perform and faithfully keep and abide by the terms and conditions of said decree of March 14, 1911, as modified by this permanent decree, and to refrain from any act or action which shall constitute a departure from or interference with the effectual performance of the acts and things in said decree of March 14, 1911, as modified by this permanent decree, ordered and adjudged; and the jurisdiction of the officer appointed by said Circuit Court by said decree of March 14, 1911, is extended over the subject matter of this decree and the enforcement thereof, in conjunction with the said decree of March 14, 1911; but such extension of authority shall not be construed as increasing his salary above thirteen hundred dollars (\$1300.00) nor shall said salary be increased above said sum without the consent of all the aforesaid appearing parties.

By the Court.

John C. Pollock, Judge.

O. K.

K. C. Schuyler,

Wm. Easton Hutchison,
Attorneys for The United
States Irrigating Company.

O. K.

E. R. Thorpe

Edgar Foster
Attorneys for the Kearny County
Farmers Irrigation Association.

O. K.

O. H. Foster and

Lee Monroe
Attorneys for the Finney County
Water Users Association.

O. K.

C. E. Vance

Attorney for The Garden City
Irrigation Association.

Endorsed: #9013. No. 6759. The Southwestern Irrigation
Company a corporation, Complainant, V. The Southwest Kan-
sas Land and Irrigation Company, Limited, a corporation,
Defendant, No. 9013 The Finney County Water Users Associa-
tion, a corporation Complainant v. The United States Irrig-
ation Company, et al Defendants.

Decree: Filed Apr. 8, 1912, Morton Albaugh, Clerk.

UNITED STATES OF AMERICA)
DISTRICT OF KANSAS) SS

I, MORTON ALBAUGH, Clerk of the District Court of the United States of America for the District of Kansas, do hereby certify the within and foregoing to be a true, full and correct copy of Stipulation filed April 8, 1912 and Decree filed November 9, 1914 in the suits of The Southwestern Irrigation Co. vs The Southwest Kas. Land Irrigation Co., Limited Case No. 6759 and The Finney County Water Users Association Vs. The United States Irrigation Co., et al, Case No. 9013 in said court.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at my office in Topeka, in said District of Kansas, this 11th day of February, 1916.

Morton Albaugh,

Clerk

By F. Campbell,

Deputy Clerk

(Seal)

(Revenue stamp cancelled)