

**No. 338 AVERY IRRIGATION COMPANY**

Priority: 1880. Acreage: 504.0. Amount: 12.60 c.f.s. Claim No. 403. Diversion No. 417. Rights as hereinafter described.

The above rights of the SPRING HILL IRRIGATION COMPANY, F. J. HEPPLER, and the AVERY IRRIGATION COMPANY, are modified and set forth as follows:

The upper or southerly pond at an early date was small. Thereafter, it increased in size and in the amount of water. The amount is variable reaching high points between 1920 and 1925 and diminishing thereafter. During high water periods, or when there is excessive irrigation above the ponds, the said pond increased to such an extent that there was a surplus water and that the surplus water so accumulating was at times used by the Avery Irrigation Company and whenever there arises surplus water in said pond the Avery Irrigation Company, is entitled to the use of such surplus.

The Spring Hill Irrigation Company, has a diversion point from the said upper or southerly pond, and has diverted waters from this point of diversion upon lands owned by the Spring Hill Irrigation Company. The diversion channel being of the approximate capacity of 10 sec. ft. of water.

The court finds that the Spring Hill Irrigation Company is entitled to divert water from the upper or southerly pond when the pond is at its normal height and its normal flow up until they have received water to the capacity of their canal. Thereafter, the surplus water above the capacity of said canal shall flow down the cut into the old drain used by the Avery Irrigation Company.

A gate and weir should be placed in said pond at the location of the old drain. This gate to be under the supervision of the Water Commissioner appointed by this court to be constructed under the supervision of the Water Commissioner in such a way that it will not interfere with the original right of the Spring Hill Irrigation Company, but will permit the drawing off of the surplus and high water from the southerly or upper pond and also afford a means of measuring said surplus water.

The Spring Hill Irrigation Company is entitled to the waters from the second pond. The company is required to place a gate and weir between the second or center pond, and the lower or northerly pond of the said three ponds. And the water from the center of second pond is to be measured into and out of the lower or third pond. Said gate and weir between the second or center pond and the third or northerly pond shall be constructed at the expense of the Spring Hill Irrigation Company, due allowance is authorized for loss and evaporation in the measurement of the water going into and out of the third or lower pond.

The Spring Hill Irrigation Company, may at its option, either before the installation of such gate and weir or at any time thereafter, divert the waters of said second or center pond directly into