

The court made a careful examination of the wier over which the water is measured, and was inclined to agree with some of the witnesses who testified, that some of the petitioners who were complaining about the duty had not been receiving 1 second foot of water for 55 acres of land, and this conclusion is born out by the measurements which were taken by the water master and submitted in evidence. The tests which were made during the five years which were allowed to determine as to whether or not one second foot for 55 acres was sufficient and proper were not very enlightening and it does appear to the court from the evidence that the water users were very lax in this respect. The very purpose and object which the court had in view when it retained jurisdiction of the case for a period of five years was to secure definite information in regard to the duty of the water which would be equitable and just to all concerned. The State Engineer through his water commissioner tells the court that it was impossible for him during said five years to obtain the necessary data and information to make an intelligent report on the water really required for the reason that the petitioners had failed to install proper head gates and measuring devices as required by law. At the time the decree was signed the parties by stipulation unanimously agreed and consented that the duty may be fixed at one second foot to 55 acres and the Court feels that after 5 years they are in not much better position, if any, than they were at the time the decree was signed.

After a full and careful consideration of all of the evidence in the case the court is of the opinion that each and all of the petitions praying for a modification of the decree should be and the same are hereby denied. It is therefore ordered adjudged and decreed that the decree in the above entitled matter made and entered in this court on the 2nd day of March 1923 be and the same is hereby confirmed in all respects as it was at the date of its entry and that the duty of water therein fixed at 1 second foot to 55 acres is confirmed and approved.

It is further ordered that the parties hereto shall bear the own their own costs.