

snow and springs, and flowing in a southeasterly direction through Wayne County, Utah; the volume of water flowing in said river varying in quantity one year with another and in different parts of the same season.

## III.

That Fish Lake is a natural body of water, the head of one of the tributaries of said Fremont River, and in about the year 1883 the plaintiff herein and its predecessors in interest, by means of dams constructed by them, made said lake a reservoir, and by means of said dam the flow of water therefrom to the said Fremont River has been regulated and controlled according to the necessities of the plaintiff and persons entitled to the rights of the use of the water thereof.

## IV.

That during the year 1899, by means of a dam placed in the natural channel of the Left Hand Fork of said Fremont River, the plaintiff herein constructed and created a reservoir capable of impounding and storing approximately five thousand acre feet of water, which said water, so impounded by means of said dam and said reservoir, has been controlled and regulated so as to equalize and maintain the flow of the water of said Fremont River according to the necessities of the plaintiff herein.

## V.

That for more than twenty years next prior to the commencement of this action the plaintiff and its predecessors in interest and the defendants and their predecessors in interest and Jesse H. A. Tanner and his predecessors in interest had been the owners of, and still are the owners, by appropriation and use, of all of the waters of said Fremont River and its tributaries and said Fish Lake and the