

Provo Reservoir Company :

vs. :

2888 Civil.

Provo City et al :

Supplemental Brief Of Plaintiff.

Subject: Provo Pressed Brick Company.

1. The defendant Provo Pressed Brick Company made an application to the State Engineer of the State of Utah, under date of February 28, 1907, to change certain water courses and to put into one channel the waters of three races then existing upon its premises, and to combine the flow of these three streams and use the water for the propelling of machinery, and after such use the water to be divided into three streams as originally, and each returned, by the construction of a by-pass to its original channel at designated points below its original head.
2. About the year 1904, the defendant enlarged the channel of the East Union, and combined the waters of the Factory Race with the waters of the East Union, and conveyed them to a point near its plant, where the waters of these two races were divided and the waters of the Factory Race used for power purposes and returned to old channel immediately below the penstock, that is the penstock of the defendant was built upon the old channel of the Factory Race, and between the East Union and Factory Race.
3. The waters irrigating the Western portions of Provo City flowed through the City and Tanner Races, on the West side of the railway track, and these races also ran across the lands of the said defendant. These races together with the Factory Race and East Union derived their supply from City Creek which is diverted from Provo River some five miles above, near the mouth of Provo Canyon. The gates dividing City Creek into these four streams were situated on the West side of the railway and near the North end of the property of the defendant. There existed from these gates to the site of the penstock of the defendant's plant a fall in the contour of the land of some fifteen feet. This difference in elevation and this running water showed on its face sufficient energy to warrant the enlargement of the East Union channel and the construction of a by-pass to return the waters to their allotted courses. So the defendant applied to the State Engineer