

*307*

SUPERIOR COURT OF KERN COUNTY,  
STATE OF CALIFORNIA

FARMERS CANAL COMPANY, et al.,

Plaintiffs,

-vs.-

J. R. SIMMONS, et al.,

Defendants.

DECREE.

X

*Filed Aug 6, 1900*  
*A. L. Miller*  
*Clerk*  
*By Deane Smith*  
*Deputy Clerk*

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1 In the Superior Court of Kern County, State of California.

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4 Farmers Canal Company, Pioneer Canal Company,  
5 Buena Vista Canal Company, Kern Island Irrigating  
6 Canal Company, James Canal Company, Anderson Canal  
7 Company, Stine Canal Company, Plunkett Canal Company,  
8 Meacham Canal Company, James & Dixon Canal Company,  
9 Joice Canal Company, Kern River Canal and Irrigating  
10 Company, and Central Canal Company,  
11 (Plaintiffs)

12 -vs.-

13 J. R. Simmons, Henry Miller, Henry Miller as  
14 surviving partner of the late firm of Miller & Lux,  
15 Miller & Lux (a corporation), Bloomfield Land Association  
16 (a corporation), George Krafts, Solomon Jewett, Philo D. Jewett,  
17 H. H. Fish, George Daggett, H. A. Blodgett, Celia Holtby,  
18 Celia Holtby as administratrix of the estate of L. M. Holtby,  
19 deceased, P. E. Stark, Lida Reed, Virginia Stark, Frances  
20 Packard, Ella Stoner, May Stark, Wible Orchard & Vineyard  
21 Company, Charles Kerr, Wilmot Lowell, (Defendants), and  
22 William S. Tevis, Balfour, Guthrie Investment Company,  
23 Kern County Land Company, Kern County Canal and Water  
24 Company, Lowell Land and Improvement Company, (Defendants  
25 to the Cross Complaint of Miller & Lux.)

26

27

28

29 DECREE.

30

31 This cause having been regularly tried before the Court  
32 without a jury, Messrs E. J. McCutchen and P. W. Bennett appearing  
33 as attorneys for the plaintiffs; Messrs. Houghton & Houghton  
34 appearing as attorneys for the defendants Henry Miller, Henry Miller  
35 as surviving partner of the late firm of Miller & Lux, and for Miller  
36 & Lux, a corporation, substituted as defendant instead of the two  
37 defendants named next before said Miller & Lux; Mr. C. W. Willard  
38 appearing for the Balfour, Guthrie Investment Company, Kern County  
39 Land Company, Lowell Land and Improvement Company and William S. Tevis,  
40 and Mr. J. W. P. Laird

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1 appearing for the Kern County Canal and Water Company, which  
2 was substituted as defendant instead of the Bloomfield Land As-  
3 sociation, George Krafts, J. R. Simmons, Celia Holtby, Celia  
4 Holtby as administratrix of the estate of L. M. Holtby, deceased,  
5 Frances Packard, P. E. Stark, Virginia Stark, May Stark, Ella  
6 Stoner, H. A. Blodgett, Lida Reed, Solomon Jewett, H. H. Fish,  
7 George Daggett and Wilmot Lowell, and Mr. J. C. Campbell appear-  
8 ing for said Wible Orchard & Vineyard Company, Charles Kerr and  
9 Philo D. Jewett, and the other parties to this action failing  
10 to appear, and the Court, after hearing the evidence and the  
11 argument of counsel, and having filed its decision in writing  
12 upon the issues submitted; now therefore, IT IS ORDERED, AD-  
13 JUDGED AND DECREED BY THE COURT: J

14 1. That said Meacham Canal Company take nothing by this action,  
15 and that as to said plaintiff this action be dismissed.

16  
17 2. That the plaintiff Farmers Canal Company is the owner of a  
18 certain water ditch or canal known as the Farmers Canal, with  
19 the lateral branches thereof, which said canal commences on the  
20 South bank of Kern River, in Kern County, State of California,  
21 subject to the rights, as hereinafter decreed, of the defendants  
22 Wible Orchard & Vineyard Company, Charles Kerr, Philo D. Jewett  
23 and Miller & Lux to have water conducted to their lands there-  
24 by; that said Pioneer Canal Company is the owner of that certain  
25 water ditch or canal known as the Pioneer Canal, with the lat-  
26 eral branches thereof, which said canal commences on the North  
27 bank of said Kern River; that said Buena Vista Canal Company is  
28 the owner of that certain water ditch or canal known as the  
29 Buena Vista Canal, with the lateral branches thereof, which  
30 said canal commences on the South bank of said Kern River; that

1 that said Kern Island Irrigating Canal Company is the owner of  
2 that certain water ditch or canal known as the Kern Island Irrigating  
3 Canal, with the lateral branches thereof, which said  
4 canal commences on the South bank of said Kern River; that said  
5 James Canal Company is the owner of that certain water ditch or  
6 canal known as the James Canal, with the lateral branches thereof,  
7 of, which said canal commences on the South bank of said Kern  
8 River; that said Anderson Canal Company is the owner of that  
9 certain water ditch or canal known as the Anderson Canal, with  
10 the lateral branches thereof, which said canal commences on  
11 the South bank of said Kern River; that the said Stine Canal  
12 Company is the owner of that certain water ditch or canal known  
13 as the Stine canal, with the lateral branches thereof, which  
14 said canal commences on the south bank of said Kern River; that  
15 the said Plunkett Canal Company is the owner of that certain  
16 water ditch or canal known as the Plunkett Canal, with the lateral  
17 branches thereof, which said canal commenced on the South  
18 bank of said Kern River; that the said James & Dixon Canal Company  
19 is the owner of that certain water ditch or canal known  
20 as the James & Dixon Canal, with the lateral branches thereof,  
21 which said canal commences on the North bank of said Kern River;  
22 that the said Joice Canal Company is the owner of that certain  
23 water ditch or canal known as the Joice Canal, with the lateral  
24 branches thereof, which said canal commences on the North bank  
25 of said Kern River; that the said Kern River Canal and Irrigating  
26 Company is the owner of that certain water ditch or canal  
27 known as the Beardsley Canal, with the lateral branches thereof,  
28 which said canal commences on the North bank of said Kern River;  
29 that the said Central Canal Company is the owner of that certain  
30 water ditch or canal known as the Calloway Canal, with the lateral

1 eral branches thereof, which said canal commences on the North  
2 bank of said Kern River.

3  
4 2. That said Farmers Canal Company is, and ever since the  
5 20th day of April, 1873 (subject to the rights of other part-  
6 ies hereto herein decreed to be prior rights) has been the own-  
7 er and entitled to divert and appropriate from said Kern River,  
8 by means of and through its said canal, one hundred and fifty  
9 cubic feet per second of the waters of said river, and that  
10 each of the defendants herein be and they are hereby forever  
11 enjoined and prohibited from in any manner or by any means or  
12 agency obstructing, hindering or interfering with the use and  
13 enjoyment by said plaintiff of its rights aforesaid and herein  
14 described and declared, except as in this decree particularly  
15 stated.

16  
17 3. That said Pioneer Canal Company is, and has been ever since  
18 the first day of August, 1873 (subject to the rights of other  
19 parties hereto herein declared to be prior rights) the owner of  
20 and entitled to divert and appropriate from said Kern River, by  
21 means of and through its said canal, one hundred and thirty  
22 cubic feet per second of the waters of said river, and that each  
23 of the defendants herein be and they are hereby forever enjoin-  
24 ed and prohibited from in any manner or by any means or agency  
25 obstructing, hindering or interfering with the use and enjoyment  
26 by said plaintiff of its right aforesaid and herein described  
27 and declared, except as in this decree particularly stated.

28  
29 4. That the said Buena Vista Canal Company is, and has been  
30 ever since the 15th. day of July, 1870 (subject to the rights

1 of other parties hereto herein declared to be prior rights )  
2 the owner of and entitled to divert and appropriate from said  
3 Kern River, by means of and through its said canal, eighty cubic  
4 feet per second of the waters of said river, and that each of  
5 the defendants herein be and they are hereby forever enjoined  
6 and prohibited from in any manner or by any means or agency ob-  
7 structing, ~~hindering~~, or interfering with the use and enjoyment  
8 by said plaintiff of its said right aforesaid and herein de-  
9 scribed and declared, except as in this decree particularly  
10 stated.

11  
12 5. That the said Kern Island Irrigating Canal Company is, and  
13 has been, ever since the first day of January, 1870, the owner  
14 of and entitled to divert and appropriate from said Kern River,  
15 by means of and through its said canal, three hundred cubic  
16 feet per second of the waters of said river, and that each of  
17 the defendants be and they are hereby forever enjoined and pro-  
18 hibited from in any manner or by any means or agency obstructing,  
19 hindering or interfering with the use and enjoyment by said  
20 plaintiff of its right aforesaid and herein described and de-  
21 clared, and the said right of the said plaintiff is hereby de-  
22 clared to be prior and paramount to the rights of any and all  
23 the parties to this action.

24 Said Kern Island Irrigating Canal Company is also the own-  
25 er of and entitled to divert and appropriate from said Kern  
26 River, by means of and through its said canal, fifty-six cubic  
27 per second of the waters of said river in addition to said  
28 three hundred cubic feet per second last above mentioned, and  
29 such right is subject to the rights of <sup>the</sup> other parties to this  
30 action as herein decreed and established, and that each of the

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1 defendants herein be and they are hereby forever enjoined and  
2 prohibited from in any manner or by any means or agency obstruct-  
3 ing, hindering or interfering with the use and enjoyment by  
4 said plaintiff of its said last named right, except as in this  
5 decree particularly stated.

6  
7 6. That said James Canal Company is, and has been ever since  
8 the 15th. day of October, 1871, (subject to the rights of other  
9 parties hereto herein declared to be prior rights) the owner of  
10 and entitled to divert and appropriate from said Kern River, by  
11 means of and through its said canal, one hundred and twenty  
12 cubic feet per second of the waters of said river, and that  
13 each of the defendants herein be and they are hereby forever  
14 enjoined and prohibited from in any manner or by any means or  
15 agency obstructing, hindering or interfering with the use and  
16 enjoyment by said plaintiff of its right aforesaid and herein  
17 described and declared, except as in this decree particularly  
18 stated.

19  
20 7. That said Anderson Canal Company (subject to the rights of  
21 other parties hereto herein declared to be prior rights) is,  
22 and ever since the 9th day of October, 1872, has been the owner  
23 of and entitled to divert and appropriate from said Kern River,  
24 by means of and through its said canal, twenty cubic feet per  
25 second of the waters of said river, and is and has been, ever  
26 since March, 1874, the owner of and entitled to divert and ap-  
27 propriate from said Kern River, by means of and through its  
28 said canal, ten additional cubic feet per second of the waters  
29 of said river, making in all from said last mentioned date  
30

1 thirty cubic feet per second of the waters of said river, and  
2 that each of the defendants be and they are hereby forever en-  
3 joined and prohibited from in any manner or by any means or  
4 agency obstructing, hindering or interfering with the use and  
5 enjoyment by said plaintiff of its right aforesaid and herein  
6 described and declared, except as in this decree particularly  
7 stated.

8  
9 8. That said Stine Canal Company is and has been, ever since  
10 the 15th. day of December, 1872, (subject to the rights of other  
11 parties hereto herein declared to be prior rights) the owner of  
12 and entitled to divert and appropriate from said Kern River, by  
13 means of and through its said canal, one hundred and fifty cubic  
14 feet per second of the waters of said river, and that each of  
15 the defendants herein be and they are hereby forever enjoined  
16 and prohibited from in any manner or by any means or agency  
17 obstructing, hindering or interfering with the use and enjoyment  
18 by said plaintiff of its right aforesaid and herein described  
19 and declared, except as in this decree particularly stated.

20  
21 9. That the said Plunkett Canal Company is and has been, ever  
22 since the first day of June, 1873, (subject to the rights of  
23 other parties hereto herein declared to be prior rights) the  
24 owner of and entitled to divert and appropriate from said Kern  
25 River, by means of and through its said canal, forty cubic feet  
26 per second of the waters of said river, and that each of the  
27 defendants herein be and they are hereby forever enjoined and  
28 prohibited from in any manner or by any means or agency ob-  
29 structing, hindering or interfering with the use and enjoyment  
30 by said plaintiff of its right aforesaid and herein described



1 and declared, except as in this decree particularly stated.

2

3 10. That the said James & Dixon Canal Company is and has been,  
4 ever since the first day of January, 1874 (subject to the rights  
5 of other parties hereto herein declared to be prior rights) the  
6 owner of and entitled to divert and appropriate from said Kern  
7 River, by means of and through its said canal, forty cubic feet  
8 per second of the waters of said river, and that each of the  
9 defendants herein be and they are hereby forever enjoined and  
10 prohibited from in any manner or by any means or agency ob-  
11 structing, hindering or interfering with the use and enjoyment  
12 by said plaintiff of its right aforesaid and herein described  
13 and declared, except as in this decree particularly stated.

14

15 11. That the said Joice Canal Company is and has been, ever  
16 since the 2d. day of June, 1873 (subject to the rights of other  
17 parties hereto herein declared to be prior rights) the owner of  
18 and entitled to divert from said Kern River, by means of and  
19 through its said canal, forty cubic feet per second of the wat-  
20 ers of said river, and that each of the defendants herein be  
21 and they are hereby forever enjoined and prohibited from in any  
22 manner or by any means or agency obstructing, hindering or in-  
23 terfering with the use and enjoyment by said plaintiff of its  
24 right aforesaid and herein described and declared, except as  
25 in this decree particularly stated.

26

27 12. That the said Kern River Canal and Irrigating Company  
28 (subject to the rights of other parties hereto herein declared  
29 to be prior rights ) is and has been, ever since the 2d. day of  
30 December, 1873, the owner of and entitled to divert and appro-

31

1 priate from said Kern River, by means of and through its said  
2 canal, sixty cubic feet per second of the waters of said river,  
3 and is and has been, ever since the year 1882, the owner of and  
4 entitled to divert and appropriate from said Kern River, by  
5 means of and through its said canal, one hundred and fifteen  
6 cubic feet per second additional of the waters of said river,  
7 and is and has been, ever since the year 1891, the owner of and  
8 entitled to divert and appropriate from said Kern River, by  
9 means of and through its said canal, one hundred and twenty-  
10 five cubic feet per second additional of the waters of said  
11 river, making in all from said last mentioned date, three hun-  
12 dred cubic feet per second of the waters of said river, and  
13 that each of the defendants herein be and they are hereby for-  
14 ever enjoined and prohibited from in any manner or by any means  
15 or agency obstructing, hindering or interfering with the use  
16 and enjoyment by said plaintiff of its right aforesaid and  
17 herein described and declared, except as in this decree particu-  
18 larly stated.

19  
20 13. That the said Central Canal Company is and has been, ever  
21 since the 4th day of May, 1875 (subject to the rights of other  
22 parties hereto herein declared to be prior rights) the owner of  
23 and entitled to divert and appropriate from said river, by means  
24 of and through its said canal, eight hundred and fifty cubic  
25 feet per second of the waters of said river, and that each of  
26 the defendants herein be and they are hereby forever enjoined  
27 and prohibited from in any manner or by any means or agency  
28 obstructing, hindering or interfering with the use and enjoy-  
29 ment by said plaintiff of its right aforesaid and herein de-  
30 scribed and declared, except as in this decree particularly

1 stated.

2

3 14. That the right of each of said plaintiffs to divert and  
4 appropriate said waters includes the right to use the same and  
5 furnish the same to others to be used for domestic, agricultu-  
6 ral, stock, mechanical and manufacturing purposes, but not to  
7 suffer the same to be wasted, and that as between themselves,  
8 when there is not sufficient water available for all of said  
9 plaintiffs, the order of right and priority shall be as follows:

10 First. The right of Kern Island Irrigating Canal Company  
11 to three hundred cubic feet per second;

12 Second. The right of Buena Vista Canal Company to eighty  
13 cubic feet per second;

14 Third. The right of James Canal Company to one hundred  
15 and twenty cubic feet per second;

16 Fourth. The right of Anderson Canal Company to its first  
17 twenty cubic feet per second;

18 Fifth. The right of Stine Canal Company to one hundred  
19 and fifty cubic feet per second;

20 Sixth. The right of Farmers Canal Company to one hundred  
21 and ~~twenty-five~~<sup>fifty</sup> cubic feet per second;

22 Seventh. The right of Plunkett Canal Company to forty  
23 cubic feet per second;

24 Eighth; The right of Joice Canal Company to forty cubic  
25 feet per second;

26 Ninth. The right of Pioneer Canal Company to one hundred  
27 and thirty cubic feet per second;

28 Tenth. The right of Kern River Canal and Irrigating Com-  
29 pany to its first sixty cubic feet per second;

30 Eleventh. The right of James & Dixon Canal Company to

1 forty cubic feet per second;

2 Twelfth. The right of Anderson Canal Company to its ad-  
3 ditional ten cubic feet per second;

4 Thirteenth. The right of Central Canal Company to its  
5 eight hundred and fifty cubic feet per second;

6 Fourteenth. The right of Kern River Canal and Irrigating  
7 Company to its additional two hundred and forty cubic feet per  
8 second;

9 Fifteenth. The right of Kern Island Irrigating Canal  
10 Company to its additional fifty-six cubic feet per second.

11

12 15. That nothing in any part of this decree shall be taken  
13 or construed to affect or impair any right which any party here-  
14 to may have subordinate to the rights of plaintiffs to take  
15 and receive water from any of the plaintiffs through any of  
16 their said canals and under the rules and regulations of such  
17 plaintiff unless it is expressly so declared herein.

18

19 16. That the defendant Wible Orchard & Vineyard Company is  
20 the owner of and entitled to have and receive, of the waters  
21 of Kern River, sufficient water for the irrigation of, and for  
22 domestic use and the watering of stock on, lands in Kern Coun-  
23 ty, State of California, described as the North half of the  
24 North half, and the Southeast quarter of the Northwest quar-  
25 ter of Section 14, containing two hundred acres, more or less,  
26 all in Township 30 South, Range 27 East, Mount Diablo Base  
27 and Meridian, to be taken or delivered from Panama Slough  
28 at some point below where said Farmers Canal Company begins to  
29 use said slough as a part of its canal, and to be delivered

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1 <sup>or taken by said Wells Orchard and Vineyard be from said river through said Farmers</sup>  
 by the said Farmers Canal Company, and to be taken or delivered  
 2 <sup>at said land, or ditch of said defendant</sup>  
 in heads of not less than five nor more than eight cubic feet  
 3 per second, at the option of said defendant, at such times and  
 4 for such periods as may be necessary, by the use of reasonable  
 5 means and diligence, for the reasonable irrigation of said land  
 6 and no longer, and only while so used, and in the meantime to  
 7 take or receive from <sup>and through</sup> said Farmers Canal so much of such water  
 8 only as may be reasonably necessary for domestic use and for  
 9 the watering of stock upon said land, and only while so used,  
 10 or while necessary for said uses; the said water ~~to be appropriate~~  
 11 ~~next to said land, and in no case to exceed the equivalent of~~  
 12 a continuous flow of one ~~and one~~ <sup>and one</sup> fourth cubic feet per sec-  
 13 ond, and to be apportioned at the rate of one cubic foot per  
 14 second for each one hundred and sixty acres thereof. Said  
 15 right shall be at all times subject and subordinate to the right  
 16 of the Kern Island Irrigating Canal Company to take, divert  
 17 and appropriate from said river three hundred cubic feet per  
 18 second of the waters thereof, and to the rights of Miller &  
 19 Lux to have delivered, at the second point of measurement pro-  
 20 vided for in the contract dated July 28, 1888, set forth at  
 21 length in said findings, and known as the "Miller-Haggin con-  
 22 tract," the full one-third, without diminution, of all water  
 23 flowing in said river during the months of March, April, May,  
 24 June, July and August of each year at the first point of mea-  
 25 surement provided for in said contract in excess of the three  
 26 hundred ~~xxx~~ cubic feet per second thereof belonging to said  
 27 Kern Island Irrigating Canal Company, and said right of said  
 28 defendant is coequal with the right of its co-defendants Charles  
 29 Kerr, Philo D. Jewett and Miller & Lux to water for use on  
 30 lands along and near Panama Slough as herein decreed. But the

1 said right of said defendant is prior and paramount to all the  
2 other rights to the waters of Kern River herein decreed and  
3 established, and each and every of the parties to this action  
4 is hereby forever enjoined from in any manner or by any means  
5 or agency interfering with, hindering, obstructing or impair-  
6 ing the right of said Wible Orchard & Vineyard Company to the  
7 water of said river as herein decreed and described and accord-  
8 ing to the priority herein decreed and established; and in the  
9 event that the surplus, after the rights of said two parties  
10 are supplied, is not sufficient to supply the water herein  
11 decreed to said defendant and to its co-defendants Charles  
12 Kerr, Philo D. Jewett and Miller & Lux for use on lands along  
13 and near Panama Slough, then the share of said defendant there-  
14 of is declared to be in the proportion of five to forty-two,  
15 and that said defendant has no interest in or right to use said  
16 Panama Slough above its junction with said Farmers Canal on  
17 Section 25, Township 30 South, Range 27 East, nor any interest  
18 in or right to said South Furk channel.

19  
20 17. That the defendant Charles Kerr is the owner of and en-  
21 titled to have and receive, of the waters of Kern River, suf-  
22 ficient water for the irrigation of, and for domestic use and  
23 the watering of stock on, the lands in Kern County, State of  
24 California, described as the Southwest quarter of the Southwest  
25 quarter, the Southwest quarter of the Northwest quarter, and  
26 the North half of the Southwest quarter of Section 14, in Town-  
27 ship 30 South, Range 27 East, Mount Diablo Base and Meridian,  
28 containing one hundred and sixty acres, more or less, to be  
29 **1405** taken or delivered from Panama Slough at some point below where  
30 said Farmers Canal Company begins to use said slough as a part  
31 **1134** of its canal, and to be delivered by the said Farmers Canal **113**  
32 Company, ~~and to be taken or taken~~ by said Charles Kerr from said  
33 River through said Farmers Canal, and to be taken **1913**

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<sup>at said land, or ditch of said defendant</sup>  
 1 or delivered, in heads of not less than five nor more than  
 2 eight cubic feet per second, at the option of said defendant,  
 3 at such times and for such periods as may be necessary, by th  
 4 use of reasonable means and diligence, for the reasonable irr  
 5 gation of said land, and no longer, and only while so used,  
 6 and in the meantime to have, take or receive from <sup>and through</sup> said Farmer  
 7 Canal so much of ~~xxxix~~ such water only as may be reasonably  
 8 necessary for domestic use and for the watering of stock upon  
 9 said land, and only while so used, or while necessary for sai  
 10 uses; the said water ~~to be appurtenant to said land, and in n~~  
 11 case to exceed the equivalent of a continuous flow of one  
 12 cubic foot per second. The said right shall be at all times  
 13 subject and subordinate to the right of the Kern Island Irri-  
 14 gating Canal Company to take, divert and appropriate from  
 15 said river three hundred cubic feet per second of the waters  
 16 thereof, and to the rights of Miller & Lux to have delivered,  
 17 at the second point of measurement provided for in the con-  
 18 tract dated July 26, 1888, set forth at length in said find-  
 19 ings, and known as the "Miller-Haggin contract", the full one  
 20 third, without diminution, of all the water flowing in said  
 21 river during the months of March, April, May, June, July and  
 22 August of each year, at the first point of measurement pro-  
 23 vided for in said contract in excess of the three hundred  
 24 cubic feet per second thereof belonging to said Kern Island  
 25 Irrigating Canal Company, and said right of said defendant is  
 26 co-equal with the right of his co-defendants Wible Orchard &  
 27 Vineyard Company, Philo D. Jewett and Miller & Lux to water  
 28 for use on lands along and near Panama Slough as herein de-  
 29 creed. But the said right of said defendant is prior and  
 30 paramount to all the other rights to the waters of Kern River

1 herein decreed and established, and each and every one of the  
2 parties to this action is hereby forever enjoined from in any  
3 manner, or by any means or agency, interfering with, hinder-  
4 ing, obstructing or impairing the right of said Charles Kerr  
5 to the water of said river as herein decreed and ~~established~~ <sup>described, and</sup>  
6 according to the priority herein decreed and established; and,  
7 in the event that the surplus, after the rights of said two  
8 parties are supplied, is not sufficient to supply the water  
9 herein decreed to said defendant and to his co-defendants,  
10 Wible Orchard & Vineyard Company, Philo D. Jewett and Miller &  
11 Lux, for use on lands along and near Panama Slough, then said  
12 defendant's share thereof is declared to be in the proportion  
13 of four to forty-two. *And that said defendant has no interest in, or right to use*  
14 *said Panama Slough above its said junction with said Farmers Canal, nor any*  
*interest in or right to said South Fork Channel.*

15 18. That the said defendant Philo D. Jewett is the owner of  
16 and entitled to have and receive, of the waters of Kern River,  
17 sufficient water for the irrigation of, and for domestic use  
18 and the watering of stock on, the lands in Kern County, State  
19 of California, described as the south half of the northeast  
20 quarter, the southeast quarter of the southwest quarter, and  
21 the whole of the southeast quarter of Section 14, in Township  
22 30 South, Range 27 East, Mount Diablo Base and Meridian, con-  
23 taining two hundred and eighty acres, more or less, to be tak-  
24 en or delivered from Panama Slough at some point below where  
25 said Farmers Canal Company begins to use said slough as a part  
26 of its canal, and to be delivered by the said Farmers Canal  
27 Company, *or taken by said Philo D. Jewett from said river through said Farmers Canal*  
*and to be taken or delivered in heads of not less*  
28 than five nor more than eight cubic feet per second, at  
29 the option of said defendant, at such times and for such pe-  
30 riods as may be necessary, by the use of reasonable means and

L.S.



1 diligence, for the reasonable irrigation of said land, and no  
2 longer, and only while so used, and in the meantime to have,  
3 take or receive from, <sup>and through</sup> said Farmers Canal so much of such water  
4 only as may be reasonably necessary for domestic use and for  
5 the watering of stock upon said land, and only while so used,  
6 or while necessary for said uses; the said ~~xxx~~ water ~~to be~~  
7 ~~appurtenant to said land, and in no case to exceed the equiva-~~  
8 ~~lent of a continuous flow of one and three-fourths cubic feet~~  
9 ~~per second, and to be apportioned at the rate of one cubic~~  
10 ~~foot per second for each one hundred and sixty acres thereof.~~  
11 The said right shall be at all times subject and subordinate  
12 to the right of the Kern Island Irrigating Canal Company to  
13 take, divert and appropriate from said river three hundred  
14 cubic feet per second of the waters thereof, and to the rights  
15 of Miller & Lux to have delivered, at the second point of  
16 measurement provided for in the contract dated July 23, 1888,  
17 set forth at length in said findings, and known as the "Miller  
18 Haggin contract", the full one-third, without diminution, of  
19 all the water flowing in said river during the months of March,  
20 April, May, June, July and August of each year, at the first  
21 point of measurement provided for in said contract, in excess  
22 of the three hundred cubic feet per second thereof belonging  
23 to said Kern Island Irrigating Canal Company, and said right  
24 of said defendant is co-equal with the right of his co-defend-  
25 ant's Wible Orchard & Vineyard Company, Charles Kerr and Miller  
26 & Lux to water for use on lands along and near Panama Slough  
27 as herein decreed. But the said right of said defendant is  
28 prior and paramount to all the other rights to the waters of  
29 Kern River herein decreed and established, and each and every  
30 one of the parties to this action is hereby forever enjoined

d. d.  
f. f.

1 from in any manner, or by any means or agency, interfering  
2 with, hindering, obstructing or impairing the right of said  
3 Philo D. Jewett to the water of said river as herein decreed  
4 and described, and according to the priority herein decreed  
5 and established; and, in the event that the surplus, after  
6 the rights of said two parties are supplied, is not sufficient  
7 to supply the water herein decreed to said defendant and to  
8 his co-defendants Charles Kerr, Wible Orchard & Vineyard Com-  
9 pany and Miller & Lux for use on lands along and near Panama  
10 Slough, then said defendant's share thereof is declared to be

*f. s.* 11 in the proportion of seven to forty-~~four~~ <sup>two</sup>. *And that said de-*  
12 *pendant has no interest in, or right to use said Panama Slough above its*  
13 *said junction with said Farmers Canal, nor any interest in or right*  
14 *to said South Fork Channel.*

15 19. That the defendant Miller & Lux, a corporation, is the  
16 owner of and entitled to have and receive, of the waters of  
17 Kern River, sufficient water for the irrigation of, and for  
18 domestic use and the watering of stock on lands in Kern Coun-  
19 ty, State of California, described as the southeast quarter  
20 and the east half of the southwest quarter of Section 22,  
21 the southwest quarter of Section 23, and the whole of Section  
22 26, all in Township 30 South, Range 27 East, Mount Diablo  
23 Base and Meridian, and containing one thousand and forty  
24 acres, more or less, to be taken or delivered from Panama  
25 Slough at some point below where said Farmers Canal Company  
26 begins to use said slough as a part of its canal, and to be  
27 *or taken by said Miller & Lux from said river through said Farmers Canal*  
28 delivered by the said Farmers Canal Company, and to be taken  
29 *at said lands or ditch of said defendant*  
30 or delivered in heads of not less than five nor more than  
eight cubic feet per second, at the option of said defendant,  
at such times and for such periods as may be necessary, by  
the use of reasonable means and diligence, for the reasonable  
irrigation of said land, and no longer, and only while so used

*f. s.*

*f. s.*

L.S.

L.S.

1 and in the meantime to have, take or receive <sup>and through</sup> from said Farmers  
2 Canal so much of such water only as may be reasonably necessa-  
3 ry for domestic use and for the wateri ng of stock on said  
4 land, and only while so used, or while necessary for said  
5 uses; the said water ~~to be appurtenant to the said lands, and~~  
6 in no case to exceed the equivalent of a continuous flow of  
7 six and one-half cubic feet per second, and to be apportioned  
8 at the rate of one cubic foot per second for each one hundred  
9 and sixty acres thereof. Said right shall be at all times  
10 subject and subordinate to the right of the Kern Island Irri-  
11 gating Canal Company to take, divert and appropriate from said  
12 river three hundred cubic feet per second of the waters there-  
13 of, and to the rights of Miller & Lux to have delivered, at  
14 the second point of measurement provided for in the contract  
15 dated July 26, 1888, set forth at length in said findings, and  
16 known as the "Miller-Haggin contract", the full one-third,  
17 without diminution, of all the water flowing in said river  
18 during the months of March, April, May, June, July and August  
19 of each year, at the first point of measurement provided for  
20 in said contract, in excess of the three hundred cubic feet  
21 per second thereof belonging to said Kern Island Irrigating  
22 Canal Company; ~~and~~ and said right of said defendant is  
23 co-equal with the right of its co-defendants Charles Kerr,  
24 Philo D. Jewett and Wible Orchard & Vineyard Company to water  
25 for use on lands along and near Panama Slough as herein de-  
26 creed. But the said right of said defendant is prior and  
27 paramount to all the other rights to the waters of Kern River  
28 herein decreed and established, and each and every of the par-  
29 ties to this action is hereby forever enjoined from in any  
30 manner, or by any means or agency, interfering with, hindering,

S.S.

S.S.

1 and in the meantime to have, take or receive <sup>and through</sup> from said Farmers  
2 Canal so much of such water only as may be reasonably necessa-  
3 ry for domestic use and for the wateri ng of stock on said  
4 land, and only while so used, or while necessary for said  
5 uses; the said water ~~to be appurtenant to the said lands, and~~  
6 in no case to exceed the equivalent of a continuous flow of  
7 six and one-half cubic feet per second, and to be apportioned  
8 at the rate of one cubic foot per second for each one hundred  
9 and sixty acres thereof. Said right shall be at all times  
10 subject and subordinate to the right of the Kern Island Irri-  
11 gating Canal Company to take, divert and appropriate from said  
12 river three hundred cubic feet per second of the waters there-  
13 of, and to the rights of Miller & Lux to have delivered, at  
14 the second point of measurement provided for in the contract  
15 dated July 26, 1888, set forth at length in said findings, and  
16 known as the "Miller-Haggin contract", the full one-third,  
17 without diminution, of all the water flowing in said river  
18 during the months of March, April, May, June, July and August  
19 of each year, at the first point of measurement provided for  
20 in said contract, in excess of the three hundred cubic feet  
21 per second thereof belonging to said Kern Island Irrigating  
22 Canal Company; ~~and in~~ and said right of said defendant is  
23 co-equal with the right of its co-defendants Charles Kerr,  
24 Philo D. Jewett and Wible Orchard & Vineyard Company to water  
25 for use on lands along and near Panama Slough as herein de-  
26 creed. But the said right of said defendant is prior and  
27 paramount to all the other rights to the waters of Kern River  
28 herein decreed and established, and each and every of the par-  
29 ties to this action is hereby forever enjoined from in any  
30 manner, or by any means or agency, interfering with, hindering,

1 obstructing or impairing the right of said Miller & Lux to  
2 the water of said river as herein decreed and described and  
3 according to the priority herein decreed and established; and  
4 in the event that the surplus, after the rights of said two  
5 parties are supplied, is not sufficient to supply the water  
6 herein decreed to said defendant and to its co-defendants  
7 Charles Kerr, Philo D. Jewett and Wible Orchard & Vineyard  
8 Company for use on lands along and near Panama Slough, then  
9 the share of said defendant thereof is declared to be in the  
10 proportion of twenty-six to forty-~~four~~ *five*. *And that said defend-*  
11 *ant has no interest in, or right to use, said Panama Slough above its said*  
*junction with said Farmers Canal, nor any interest in or right to said South*  
*Fork Channel.*  
12 20. This decree is not to be construed as defining or deter-  
13 mining the rights of any of the parties in or to the waters  
14 of Kern River which the owners of the Castro Ditch or canal  
15 *or any other canal not herein mentioned* and the McCord Canal <sup>are</sup> entitled to divert, <sup>and</sup> the rights  
16 of any party hereto as owner of an interest in said Castro  
17 *or other canal not herein mentioned* ditch or McCord Canal <sup>and</sup> the waters which the owners thereof  
18 claim the right to divert, <sup>thereby</sup> shall be in nowise affected by any  
19 provisions of this decree, and nothing contained in this de-  
20 cree shall be construed to fix or define the rights of Miller  
21 & Lux as successors of certain of the parties of the first  
22 part named in the said "Miller-Haggin Contract" to the waters  
23 of Kern River, nor to fix or define the obligations of the  
24 plaintiffs under said contract.

S.S.

S.S.

S.S.

S.S.

25  
26 21. Nothing in this decree is to be construed as determin-  
27 ing the respective rights of the parties of the second part to  
28 said "Miller-Haggin contract", as between each other, to the sur-  
29 plus of the waters of Kern River over and above the amounts  
30 necessary to supply the quantity due to the Kern Island Irrigat-

1 ing Canal Company under said contract and necessary to supply  
2 the parties of the first part under said contract and necessary  
3 to supply those of the parties of the second part to said con-  
4 tract who are hereby decreed to have the right to specific quan-  
5 tities of water from said Kern River; and as to said surplus  
6 it is hereby decreed that the rights of the parties of the sec-  
7 ond part to said "Miller-Haggin contract" thereto are as deter-  
8 mined by the provisions of said contract. It is further de-  
9 creed that the rights of the parties of the first part to the  
10 said "Miller-Haggin contract" to have delivered at the second  
11 point of measurement provided for in said contract the full  
12 one-third, without diminution, of all water flowing in said  
13 river during the months of March, April, May, June, July and  
14 August of each year at the first point of measurement provided  
15 for in said contract in excess of the three hundred cubic feet  
16 per second thereof belonging to the Kern Island Irrigating Ca-  
17 nal Company is prior and paramount to the rights of the plaint-  
18 iffs herein decreed to the specific quantities of water to  
19 which they are declared to be entitled, except the right of  
20 said Kern Island Irrigating Canal Company to said three hundred  
21 cubic feet per second.

22  
23 22. That so long as the said Farmers Canal Company shall  
24 continue to deliver to the said Wible Orchard & Vineyard Compa-  
25 ny, Charles Kerr, Philo D. Jewett and Miller & Lux the amount  
26 of water of Kern River herein decreed to be due to said defend-  
27 ants respectively, the said Farmers Canal Company shall have  
28 exclusive management and control of the said Farmers Canal for  
29 the purpose of carrying said water to the said defendants and  
30 to other persons and lands entitled to receive water therefrom;

20

1 but if said Farmers Canal Company shall at any time fail or  
2 refuse to deliver the water to which the said defendants are  
3 entitled, or either of them respectively, to them at their said  
4 lands respectively, then in that event the said defendants or  
5 either of them have the right to use and control the said Far-  
6 mers Canal so far as may be necessary to enable them to divert  
7 the water to which they are hereby declared to be entitled from  
8 Kem River through the headgate of said canal and conduct the  
9 same to their respective tracts of land or places of diversion  
10 from said canal. Said defendants each, respectively,  
11 shall make the dam and headgate or other works  
12 by which to divert the water to which he  
13 is entitled, from said Slough or Canal  
14 and said <sup>Farmers Canal</sup> Company shall deliver said water  
15 at said headgate without charge, and  
16 shall not be under obligation to deliver  
17 ~~such water to such defendant~~ at any other place.  
18 None of the parties have any rights to the waters of  
19 Kem River other than as herein decreed, declared  
20 or reserved.  
21 Done in open Court this 6<sup>th</sup> day of Aug  
22 gust 1900.

23  
24  
25  
26  
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29  
30  
Lucien Shaw  
Judge

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