

BEFORE THE STATE ENGINEER OF OREGON

Wheeler _____ County Y

In the Matter of the Determination of the Relative Rights to the Waters of JOHN DAY RIVER and its Tributaries, a Tributary of Columbia River.

STATEMENT AND PROOF OF CLAIM

(The claimant must submit separate proof as to each ditch through which a water right is claimed.)

I, the undersigned, of Spray, Oregon, being called as a witness in support of this statement of claim, and being first duly sworn, testify as follows:

1. Q.—What is claimant's name and postoffice address? If a corporation, give the place of incorporation and the authority by which you make this proof.

A.— Carl N. Wagner of Spray, Oregon

(If this proof is made by you as agent, or attorney, the written

authorization therefor must be signed by the claimant upon the back hereof.)

2. Q.—Do you claim a right to the waters of the above named stream or a tributary thereof? If from a tributary, give its name.

A.— Yes, from main river and from Ives Creek. Also, spring in NE 1/4 SW 1/4 Sec. 32, Tp. 8 S., R. 25 E., which is piped to the house for domestic use.

3. Q.—What is the nature of the right or use on which this claim to the waters of said stream is based?

A.— Irrigation, domestic and stock.

(Irrigation, power, mining, domestic, stock, etc.)

4. Q.—How was such right initiated, or upon what is it based?

A.— Appropriation

(Appropriation, diversion and use, etc.)

5. Q.—State the date of the initiation of such water right. A.— See sheet attached.

6. Q.—What steps were taken by this claimant or his predecessor in interest to initiate said right? Answer fully, attaching separate sheet if necessary.

A.— See sheet attached.

7. Q.—When was water first used for irrigation, or other beneficial purposes?

A.— See sheet attached.

8. Q.—State the means of utilizing such water, giving the name by which the ditch is most commonly known, if a ditch is used.

A.— Subirrigation and ditches.

9. Q.—State the interest claimant has in such ditch, with the names of any other water users interested therein.

A.— Owner of ditches from Ives Creek; 1/4 interest in main canal from

John Day River. I claim the right to divert water from the John Day River by means of a pumping plant in lieu of the gravity system heretofore used under the date of priority of 1905.

[Proof No. _____]

19. Q.—State the character of the soil and kind of crops cultivated.

A. — Sandy loam, underlain with gravel.

20. Q.—When does the irrigating season begin and when does it end, and if water is used for other purposes, during what months is it used?

A. — April to August, inclusive. Stock throughout the year.

21. Q.—What amount of water do you estimate is necessary for the proper irrigation of the lands which you are irrigating or propose to irrigate, or for any other purpose for which a right is claimed?

A. — 6 acre feet per acre. Continuous flow in the streams for stock water.

22. Q.—Do you accept the maps prepared by the State Engineer as showing correctly the location of said ditch and the lands irrigated therefrom?

NOTE.—In case there is objection to the official plat or a part thereof the parties objecting must, when giving proof, file a written statement of the reasons therefor, and must, within thirty days, file with the State Engineer a map covering the part objected to, with affidavit of surveyor thereon, giving date of survey. Such map should be on tracing linen preferably on a scale of four inches to the mile (20 chains to one inch), and should have marked thereon, within each 40-acre legal subdivision, the area of land which is irrigated. Such map should correspond in size to legal cap paper so as to be easily filed with the claim.

A. — Maps do not show all land that has been farmed.

23. Q.—If water is used for power, state the total fall utilized and the theoretical (not actual) horsepower developed.

NOTE.—Theoretical horsepower equals total quantity claimed in cubic feet per second, times fall in feet, divided by 3.3 (one cubic foot per second falling 3.3 feet equals one theoretical horsepower).

A. —

24. Q.—Describe the nature of the works by which the power is developed, the place where located, and state whether the water is returned to the stream after use and at what point.

A. —

25. Q.—If for mining purposes, describe the location and character of the mines to be served and state whether after use the water is returned to the stream and at what point.

A. —

26. Q.—If water is used for mining or power purposes, state whether there are any diversions between the point of your diversion and the return of such water to the stream.

A. —

27. Q.—Give description of your land as it appears in your deed. (Attach separate sheet if necessary.)

A. —

28. Q.—What interest have you in the lands irrigated or place where the water is used?

A. — Owner.

29. Q.—What additional evidence have you attached hereto or submitted herewith?

A. — See sheet attached.

(If the witness finds the space insufficient to properly answer any question, he should attach hereto said answer on a separate sheet or sheets. A corporation supplying water for irrigation to lands not its own should attach to its proof a complete list of the persons owning the lands so supplied with the correct description of the lands owned by each such person in each smallest legal subdivision. Certified copies of records and such evidence as the claimant may desire to submit should be attached to this proof and marked for identification as exhibit "A," "B," "C," etc.)

I hereby certify upon oath that the foregoing statement and answers are true as I verily believe.

Earl H. Wagner
Signature of Claimant, Agent Making Proof.

Subscribed and sworn to before me this 20th day of June, 1927.

Philo J. Jepsen
State Engineer.

[or] Notary Public for Oregon.
My commission expires.....

AUTHORIZATION OF AGENT

I,, of, do hereby make and appoint, my agent and attorney for me and in my name, place and stead, to make and submit the within Statement and Proof of Claim.*

And I hereby designate said agent as the proper party upon whom lawful and valid service may be made of all process and notices in any contest commenced by or against me, in the within entitled matter, and said agent is hereby duly authorized to appear in any and all such contests as my true and lawful agent and attorney, giving and granting unto my said attorney full power and authority to do and perform all and every act necessary and requisite to be done in the premises, as fully as I might or could do if personally present, hereby ratifying and confirming all my said agent shall lawfully do by virtue of this power.

.....
Signature of Claimant.

* Claimant should cross out the second paragraph of the Authorization if he does not desire the agent to appear for him in the proceeding after the filing of this claim.

Filed, June 20....., 1927.....

Fees paid:

Irrigation134.00 acres, \$ 16.75.
Power, H. P., \$
Other uses *Key Des. S. L. S.*, \$ 5.00.
Recording certificates, \$ 1.00

Total, \$ 22.75

Receipt No. 160

Philo J. Jepsen
State Engineer.

The spring in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32, rises on claimant's property and is owned exclusively by claimant. Water was diverted and used from Ives Creek on claimant's property in about the year 1880, and has been used continuously since that date.

The maps made by the State Engineer do not show the entire area of claimant's property that has been farmed and irrigated either by surface or subirrigation. The ditch is properly shown but all of the land situated between the ditch and the river, except a few high knolls, has been affected beneficially by the use of water from the main river. A water right from Ives Creek for the irrigation of 34 $\frac{1}{2}$ acres is claimed. This land, together with 97 $\frac{1}{2}$ additional acres has been irrigated from the John Day River, either directly or by subirrigation. This claimant, therefore, claims a right for the irrigation of ^{134.9}132 acres from the John Day River under a date of priority of 1905; from Ives Creek under a date of priority of 1880 for irrigation of ^{32.4}34 $\frac{1}{2}$ acres, and a right for stock and domestic purposes from the John Day River and from Ives Creek under date of priority of 1880.

I also claim exclusive right to the use of all the water in the spring rising in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32, Tp. 8 S., R. 25 E., W.M., by reason of ownership of the land on which the spring rises, also by reason of beneficial use of the water which is piped to the house and used for stock and domestic purposes.

Claimant owns the following described land:

SW $\frac{1}{4}$ NW $\frac{1}{4}$,
E $\frac{1}{2}$ SW $\frac{1}{4}$, and
W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 32, Tp. 8 S., R. 25 E., W.M.
Lots 1 and 2, and the
SE $\frac{1}{4}$, Sec. 6, Tp. 9 S., R. 25 E., W.M.

The SE $\frac{1}{4}$, Section 6 was homesteaded by John Martin in about the year 1901 and patented on May 14, 1906. Lots 1 and 2 in Section 6 were homesteaded by Mac Ransby in about the year 1880 and patent was issued on August 20, 1885. The E $\frac{1}{2}$ SW $\frac{1}{4}$, and the W $\frac{1}{2}$ SE $\frac{1}{4}$, Section 52 was homesteaded by Samuel Hughes in about the year 1885 and patent was issued on July 3, 1890. Water from the John Day River for stock and domestic use has been used on the SE $\frac{1}{4}$, Section 6, Tp. 9 S., R. 25 E., W.M., since the homestead entry was made, and water has been used from Ives Creek for stock and domestic use by claimant and predecessors in interest since the date homestead entry was made by the above named Mac Ransby and John Martin.

In the year 1905 a dam was constructed in the John Day River for the purpose of diverting water for the irrigation of this claimant's land, together with the lands of W. B. Potter and Chas. Royce and J. B. Knowland, and the following year a ditch was constructed carrying the water from the dam to this claimant's land.

Much of the land is bottom land and is subirrigated naturally from the John Day River and surface irrigation is not necessary. The area subirrigated was increased by the construction of the ditch from the main river and the land is also naturally flooded annually from Ives Creek.