

BEFORE THE BOARD OF CONTROL OF THE STATE OF OREGON

Water Division No. 1, Hlamath County y

In the Matter of the Determination of the Relative Rights to the Waters of Lost River and its tributaries, a Tributary of Tule Lake Ditch.

STATEMENT AND PROOF OF CLAIMANT

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

STATE OF OREGON, County of Hlamath ss.

J. W. A. Duncan of Lozella, Oregon, being called as a witness in support of this Statement of Claim, and being first duly sworn, testified 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.—Estate of S. W. Kilgore, Deceased
I am administrator of the Estate
(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 - To Lost river and Kilgore Springs

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 and use
(Appropriation, diversion and use, etc.)

5. Q.—State the date of the initiation of such water right. A.—1870

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.—Old natural channels of Lost River were dammed up, causing the water to overflow the lands. Natural Springs upon the lands tributary to Lost River were also diverted into small ditches upon the land.

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

A.—Around 1870

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.—By dammed in the old natural channels and by means of ditches from Kilgore Springs on the land.

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

A.—Old channels of the river, forming natural channels, cross the land, and are dammed up each year to cause an overflow of the land. In addition small ditches are constructed each year from the Springs for irrigation of portions of the land.

***32. Q.—How many miles of ditch and what other construction work has been completed to date? A.—..... X

***33. Q.—State the cost of construction to date. A.—..... X

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

A.—..... Lands belong to Estate of S. W. Gilgore deceased.

35. Q.—Name at least three witnesses who will substantiate the statements herein made by you. Give their postoffice addresses.

A.—..... Thos. Swingle, Orella Oregon; Alex MacDonald, Tillamuth Falls, Oregon

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

A.—.....

(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 statements and answers are true as I verily believe.

W. A. Duncan

Signature of Claimant, or agent making proof.

Subscribed and sworn to before me this 10th day of December, 1912

James T. Hammond
Superintendent of Water Division No. 1 of State of Oregon.

Filed: Dec. 10th, 1912

Fees paid: Dec. 10th 1912

James T. Hammond
Superintendent, Water Division No. 1, State of Oregon.

*In case there is objection to the official plat the parties objecting must, when giving proof, file a written statement of the reasons therefor, and must, within thirty days, file with the Division Superintendent a map of said ditch and irrigated lands, with affidavit of surveyor thereto giving date of survey. Such map should be on tracing linen, on a scale of two inches to the mile (40 chains to one inch), and should have marked thereon, within each 40-acre legal subdivision, the area of land which is irrigated.

**Theoretical horsepower equals total quantity claimed in cubic feet per second, times fall in feet, divided by 8.8 (one cubic foot per second falling 8.8 feet equals one theoretical horsepower, or 550 foot pounds per second).

***Where a water right has been initiated prior to February 24, 1909, and the works are incomplete, or the water not yet or only partially applied to beneficial use, a map of lands on the above scale should accompany this statement, or filed with the Division Superintendent within thirty days from date of proof, which maps should be drawn on uniform sheets of tracing linen, on a scale of two inches to the mile (40 chains to one inch), and should show the area which it is proposed to irrigate in each 40-acre tract, as well as main canals and general plans of all important structures to be built. The affidavit of surveyor or engineer should be attached, with date. The surveys of the State Engineer will show only constructed works and lands now irrigated. Questions 26, 27, 28, 29, 30, 31, and 32 relate only to uncompleted rights.

AUTHORIZATION OF AGENT.

..... of
State of, do hereby make and appoint.....

..... of, my agent and attorney for me and in my name, place and stead, to make and submit the within Statement and Proof of Claimant, 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.