

JAN 04 2008

WATER RESOURCES DEPT  
SALEM, OREGON

# BEFORE THE STATE ENGINEER OF OREGON

..... Klamath ..... County

In the Matter of the Determination of the Relative Rights  
to the Waters of Wood River, Crane Creek,  
Seven-Mile Creek and Four-Mile Creek  
~~and their~~ Tributaries,  
~~of~~ AGENCY LAKE

## 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 Fort Klamath, 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.— Meadows Drainage District, an Oregon quasi-municipal corporation,  
post office address Klamath Falls, 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 streams or a tributary thereof? If from a tributary, give its name.

A.— Yes, to Seven-Mile Creek.

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

A.— Appropriation, diversion, use, and the above mentioned Court Decree.  
(Appropriation, diversion and use, etc.)

5. Q.—State the date of the initiation of such water right. A.— Prior to 1898.

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.— The construction of a canal known as the Melhase Kingdon Ditch, carrying the waters of Seven-Mile onto these lands.

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

A.— 1898.

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.— Melhase Kingdon Ditch

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

A.— Applicant is the owner of <sup>one-fifth of</sup> said ditch and water. The other owners of said ditch are as follows: Estate of George Bloomingcamp, deceased, T. A. Calherson, Northwestern National Bank of Portland, Oregon, S. C. Miller and Dixon.

[Proof No. 36]

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(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 streams or a tributary thereof? If from a tributary, give its name.

A.— Yes, to Seven-Mile Creek.

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

On appropriation and use dated prior to 1898, and by a Decree of the Circuit Court of Klamath County, Oregon, in Equity No. 1038, entered and filed December 30, 1919, which Decree allowed these lands 200 miners' inches of water measured under a 6 inch pressure, or 5 cubic feet per second, and the said water has been continuously used on these lands since 1898. I attach hereto and make a part of this proof a copy of said Decree. 1898

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.— The construction of a canal known as the Melhase Kingdon Ditch, carrying the waters of Seven-Mile onto these lands.

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A.— 1898.

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[Proof No. 26]



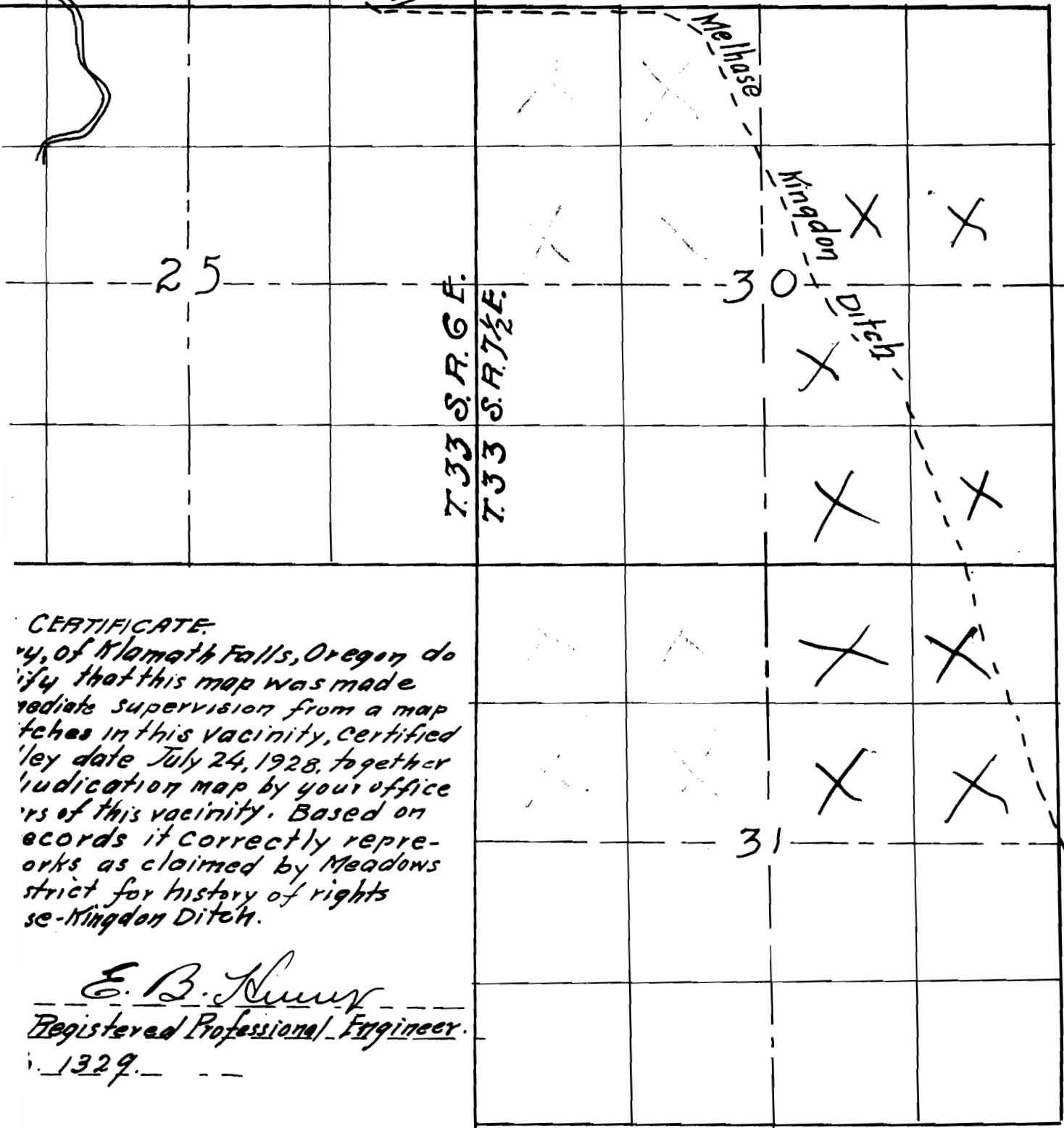
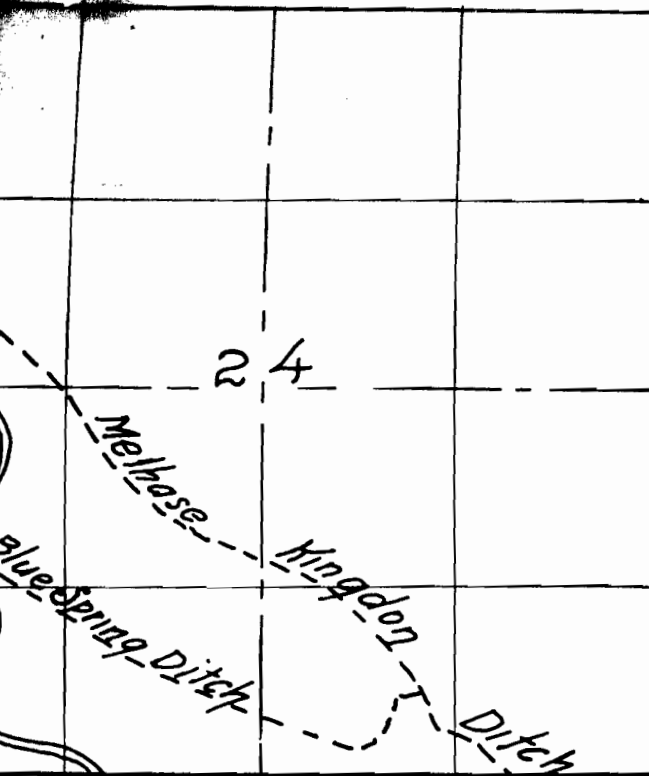
JAN 04 2008

WATER RESOURCES DEPT  
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# MAP

accompanying papers, by Meadows Drainage District, before the State Engineer of Oregon in the matter of the determination of Relative Rights to the Waters of Wood River, Seven Mile Creek, Crane Creek, and Four Mile Creek, Tributaries to Agency Lake. This map particularly made in answer partly to question 22 in the above said papers pertaining to Seven Mile Creek.

Klamath County Oregon.  
Scale 4" = 1/2 Mile



T.33 S.R.6 E.  
T.33 S.R.7 1/2 E.

CERTIFICATE:  
I, \_\_\_\_\_, of Klamath Falls, Oregon do hereby certify that this map was made under the immediate supervision from a map made in this vicinity, certified by me on the date July 24, 1928, together with a location map by your office in this vicinity. Based on the records it correctly represents the works as claimed by Meadows Drainage District for history of rights in the Mellase-Kingdon Ditch.

E. B. Nunn  
Registered Professional Engineer.  
No. 1329.

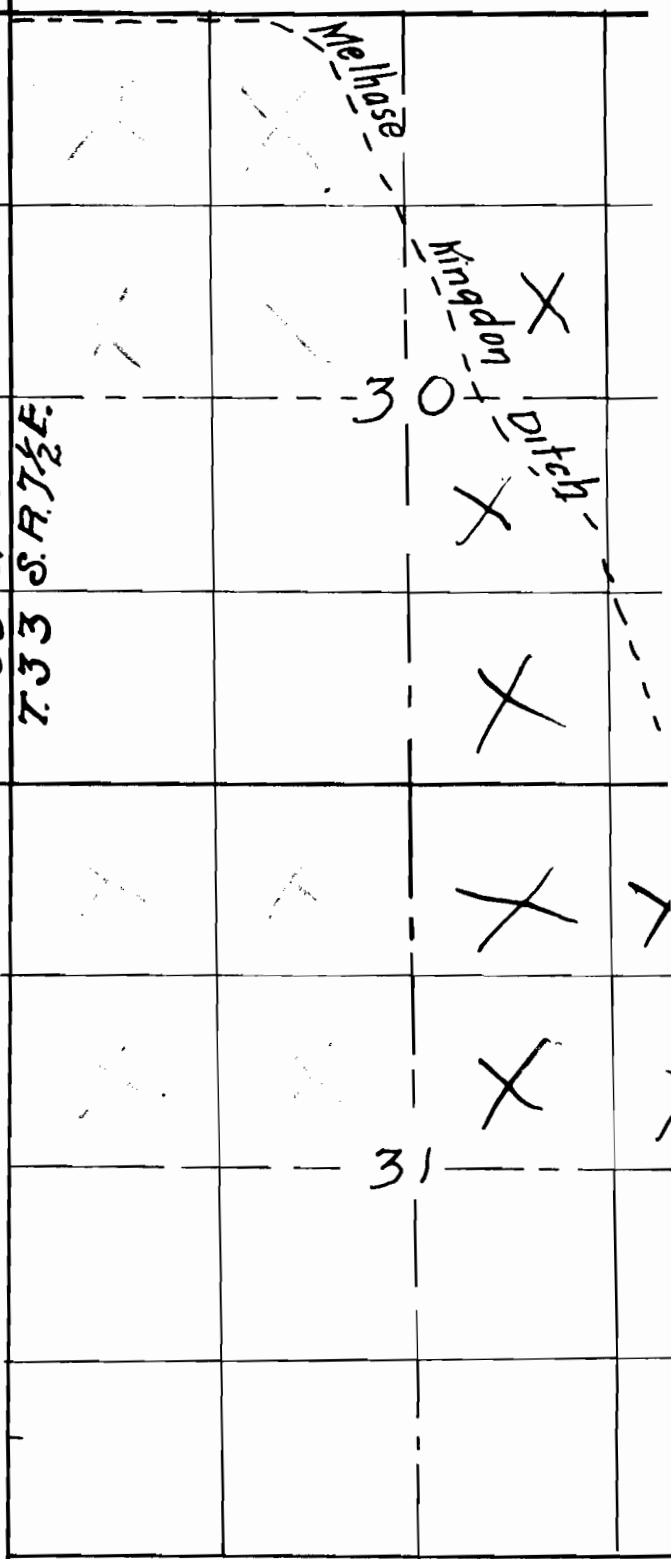
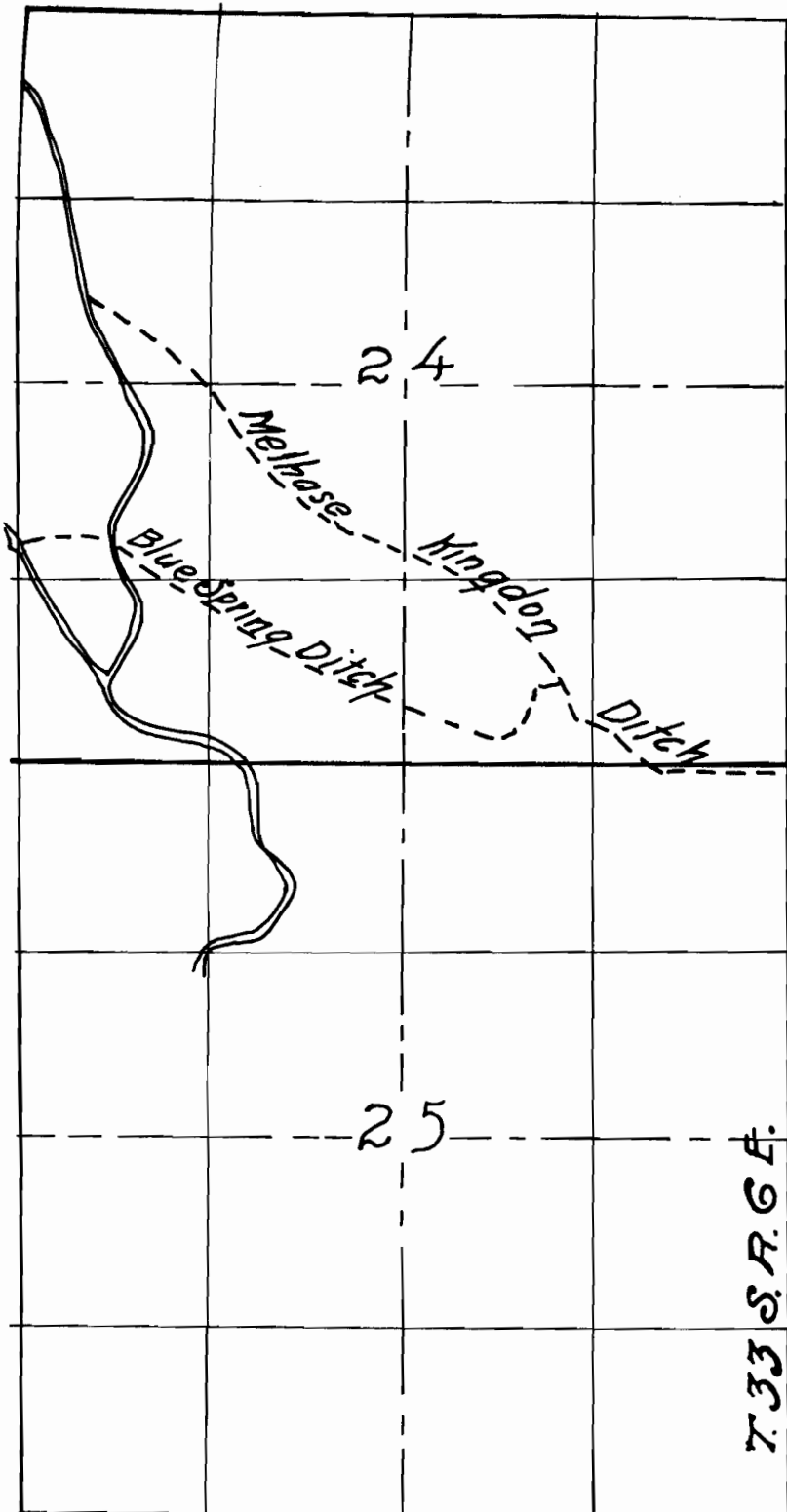
JAN 04 2008

WATER RESOURCES DEPT  
SALEM, OREGON

### MAP

accompanying papers, by Meadows District, before the State Engineer, in the matter of the determination of rights to the waters of Wood River Creek, Crane Creek, and Four Mile Creeks to Agency Lake. This map prepared in answer partly to questions in the above said papers pertaining to Four Mile Creek.

Klamath County Oregon  
Scale 4 1/2" = 1 Mile



**ENGINEER'S CERTIFICATE:**  
 I, E. B. Henry, of Klamath Falls, Oregon do hereby certify that this map was made under my immediate supervision from a map showing ditches in this vicinity, certified to by C. C. Kelley date July 24, 1928, together with the adjudication map by your office for the waters of this vicinity. Based on the above records it correctly represents the works as claimed by Meadows Drainage District for history of rights under Melhase-Kingdon Ditch.

E. B. Henry  
 Registered Professional Engineer.  
 Oregon, No. 1329.

John W. Cox and Elmira May Cox,  
Plaintiffs,

vs.

Horace A. Weed, as Executor of the  
last will and testament of Abner  
Weed, deceased, and as an indivi-  
dual, Rachel C. Weed, Abbie C.  
Albee, J. W. Siemens, William L.  
Albright, T. A. Culberson and Ed-  
win S. Turner,  
Defendants

No. 1038 Equity

Decree

12

This matter coming on for hearing on motion of plaintiffs made in open court for default and decree herein against the defendants William L. Albright and Edwin S. Turner, and for decree as to the other parties in accordance with the stipulation herein filed for a decree;

And it appearing to the court from the return of the sheriff on the summons herein that the defendant William L. Albright was personally served in Klamath County, Oregon, in the month of August, 1919, with the summons and the complaint herein; and it further appearing from the affidavit of Wm. H. Mason, printer of the Klamath County Record, a newspaper published weekly in Klamath Falls, Oregon, and of general circulation in said county, and from the affidavit of mailing of J. C. Rutenic, herein filed, that the order of the county judge with regard to publication and mailing of summons, herein filed November 1, 1919, has in all respects been complied with, with regard to service on Edwin S. Turner, and that the time appointed for appearance and answer of both said defendants, William L. Albright and Edwin S. Turner, has long since expired and no appearance or answer having been made or filed by either of said defendants, that they are therefore found in default for the want of an answer;

And it further appearing from their stipulation filed in this court signed by the plaintiffs, and the defendants Horace A. Weed, as Executor of the last will and testament of Abner Weed, deceased, and as an individual, Rachel C. Weed, Abbie C. Albee, J. W. Siemens and T. A. Culberson, through their respective attorneys, that said parties are agreed upon the facts herein and that a decree may be entered as stipulated; it is therefore in conformity therewith and supported by the amended complaint, and the original complaint herein filed,

Considered, adjudged and decreed, that John W. Cox, Elmira Cox, Horace A. Weed, Rachel C. Weed, Abbie C. Albee, J. W. Siemens, William L. Albright and T. A. Culberson, and their grantees since commencement of this suit, February 18, 1919, are the owners of water rights in the diversion and use of one thousand miner's inches of water, under six inch pressure, from Seven Mile Creek, in Klamath County, Oregon, by ditch heading on said stream in the northwest quarter of the northwest quarter of section 24, and leading thence in a general southeasterly direction through said section 24, in township 33 south, range 6 east of the Willamette Meridian, and through the southwest quarter of section 19 and into and over sections 30, 31 and 32 in township 33 south, range 7 1/2 east of the Willamette Meridian, with laterals into section 25 and 36 township 33 south, range 6 east of the Willamette Meridian, all by appropriation dating from 1898, and appertaining to the lands hereinafter described;

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36

JAN 04 2008

WATER RESOURCES DEPT  
SALEM, OREGON

JAN 04 2008

WATER RESOURCES DEPT  
SALEM, OREGON

It is further decreed that the ownership of said water rights and the flowage of said ditch is owned in common by said parties, in the proportions as follows: one fifth thereof by John W. Cox and Elmira May Cox; one fifth thereof by Horace A. Weed, Rachel C. Weed and Abbie C. Albee; one fifth thereof by J. W. Seimens; one fifth thereof by William L. Albright and one fifth thereof by T. A. Culberson and in their grantees of the hereinafter described lands:

It is further decreed, that the rights decreed hereby to John W. Cox and Elmira May Cox, and their grantees, are to be used on section 24, township 33 south, range 6 east of the Willamette Meridian, and lots 3 and 4 of the east half of the southwest quarter of section 19, township 33 south, range 7 $\frac{1}{2}$  east of the said meridian; that the rights decreed hereby to Horace A. Weed, Rachel C. Weed and Abbie C. Albee, and their grantees, are to be used on the south half of the northeast quarter, the northwest quarter of the southeast quarter and the south half of the southeast quarter of section 30, and the northeast quarter of section 31, in township 33 south, range 7 $\frac{1}{2}$  east of said meridian; that the rights decreed hereby to J. W. Seimens and his grantees, are to be used on the south half of the northwest quarter, and the northeast quarter of the southwest quarter and the south half of the southwest quarter of section 30, and the northwest quarter of section 31, in township 33 south, range 7 $\frac{1}{2}$  east of said meridian; that the rights decreed hereby to William C. Albright and his grantees, are to be used on the north half of the northeast quarter and the northwest quarter of section 25, township 33 south, range 6 east of said meridian; and that the rights decreed hereby to T. A. Culberson, and his grantees are to be used on the south half of section 31, township 33 south, range 7 $\frac{1}{2}$  east of said meridian; in the proper irrigation of the lands above described and for domestic uses and for stock water;

It is further decreed, that the defendant Edwin S. Turner has no right, title or interest in said ditch, and has no right to take water from said ditch on the north half of the north half of section 30, township 33 south, range 7 $\frac{1}{2}$  east of said meridian, or elsewhere.

It is further decreed that neither party recover from the other any costs or disbursements in this suit.

D. V. KUYKENDALL  
Judge

Dec. 30 1919.



JAN 04 2008

SALEM, OREGON

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

A.— Volcanic ash; Hay and grass.

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.— Begins about May 1st, and closes about the middle of October.

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.— Approximately 2 1/2 acre feet per annum

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 thereto 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.— No, as it does not correctly show the old release Kingdon Ditch.

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 8.8 (one cubic foot per second falling 8.8 feet equals one theoretical horsepower).

A.— It is not used for power

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.— Not used for mining

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.— SE 1/4 NE 1/4 Sec. 30 T. 33 S. R. 7 1/2 E. W. M.  
SW 1/4 NE 1/4 Sec. 30 T. 33 S. R. 7 1/2 E. W. M.  
NW 1/4 SE 1/4 Sec. 30 T. 33 S. R. 7 1/2 E. W. M.  
SW 1/4 SE 1/4 Sec. 30 T. 33 S. R. 7 1/2 E. W. M.  
SE 1/4 SE 1/4 Sec. 30 T. 33 S. R. 7 1/2 E. W. M.  
NE 1/4 NE 1/4 Sec. 31 T. 33 S. R. 7 1/2 E. W. M.  
NW 1/4 NE 1/4 Sec. 31 T. 33 S. R. 7 1/2 E. W. M.  
SW 1/4 NE 1/4 Sec. 31 T. 33 S. R. 7 1/2 E. W. M.  
SE 1/4 NE 1/4 Sec. 31 T. 33 S. R. 7 1/2 E. W. M.

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

A.— Sole owner

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

A.— Copy of said Decree, which is self explanatory.



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

Signature of Claimant, or Agent Making Proof.

~~Subscribed and sworn to before me this 5th day of January, 1929.~~

Subscribed and sworn to before me this 5th day of January, 1929

Applicant *W. K. Brown*

Notary Public for Oregon.

My commission expires Sept. 11, 1931

AUTHORIZATION OF AGENT

Meadows Drainage District, a municipal corporation of Clatsop Co.,  
State of Oregon, do hereby make and appoint

W. K. Brown, of Fort Clatsop, Oregon, 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.

MEADOWS DRAINAGE DISTRICT  
By *W. K. Brown* Pres.  
By *E. L. Davis* Sec.

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, *Jan. 9*, 192*9*.  
Fees paid: *See other claim*  
Irrigation *360* acres, \$ *28.00*.  
Power, ..... H. P., \$.....  
Other use, ....., \$.....  
Recording certificates, .. \$.....  
Total, ..... \$.....

*Rhea Super*  
State Engineer.