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OREGON

BEFORE THE STATE ENGINEER OF OREGON

GRANT _____ Count 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
44
PICNIC CREEK AND DUSTIN CREEK.

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

I, the undersigned, of John Day, 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.—Ira G. Boyce and Clara A. Boyce, husband and wife,
(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.)
John Day, Oregon.

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 Dustin Creek and Picnic Creek.

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 and domestic use.
(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.—1882

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.—Appropriated Apr. 11th, 1882--Ditches dug. See Supplemental Statement.

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

A.—1882

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 ditches--Picnic Creek Ditch--Dustin Creek Ditch. Pipe line. See Statement.

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

A.—Sole owners of all these rights.

SUPPLEMENTAL STATEMENT.

On April 11, 1882, Harvey Fields located and filed on 200 inches of water from "Picnic and Dustin Creeks". This was a joint filing, was recorded April 11, 1882, in Volume "B", Record of Water Location Notices, page 34, Grant County Record, and was for use on lands herein described.

The ditches from said two creeks are noted correctly on the State Engineer's Maps. The lands irrigated are not shown correctly, as to area, by the State Engineer's Maps. Thirty-four acres are irrigated in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 20, and thirty-seven acres are irrigated in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 20.

A spring at the head of the ditch shown as taking from Dustin Creek was inclosed in cement many years ago. The waters therefrom are conducted in a pipe to the houses of claimants for house use. During the dry season only enough for house use is produced by said spring.

A spring raises near the Highway and on the south side thereof and in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 20. Waters therefrom are claimed and used for irrigation and stock purposes on that part of said NE $\frac{1}{4}$ SW $\frac{1}{4}$ north of the Highway.

All waters of both Picnic and Dustin Creeks are used for irrigation and domestic use and for the irrigation of garden and orchard on the above described two forties, and all the waters of said Dustin Creek and Picnic Creek are so claimed by claimants.

These two forties are irrigated from five sources, viz: waters from Moon Creek, waters from John Day River through the Blue Mountain Ditch, Dustin Creek and Picnic Creek, and the aforesaid spring near the Highway. These waters are intermingled and it is impossible to say just how much is available from each source. However, claimants claim all the waters of Dustin Creek and Picnic for the above purposes, as heretofore outlined.

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

A.— Sandy loam--gravel loam: Crops--Orchard, garden, grain,
hay and pasture.

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 1st. to Oct. 1st.

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.— Two inches per acre. Takes all during irrigation season.

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.— In part only. See Supplemental Statement.

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.— --- --- --- ---

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.— E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$, Section 20, Tp. 13, South, Range 29,
E. W. M.

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

A.— Own same.

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

A.— None.

(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.

Ira B Boyce
Elasa A. Boyce
Signature of Claimant, or Agent Making Proof.

Subscribed and sworn to before me this 1st day of Oct., 1927.

O. J. Goswin
State Engineer.

[or]
Notary Public for Oregon.
My commission expires Nov 13-1928.

AUTHORIZATION OF AGENT

I, _____, 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 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, Oct. 6, 1927.

Fees paid:
Irrigation _____ acres, \$ _____
Power, _____ H. P., \$ _____
Other use, _____, \$ _____
Recording certificates, .. \$ _____
Total, _____ \$ _____

Pha Luper
State Engineer.

(See other claim)