

BEFORE THE STATE ENGINEER OF OREGON

Grant County

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 Prairie City, 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.— Berton Howard and Charles Howard (Howard Brothers)
Prairie City
(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 Little Indian 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
(Irrigation, power, mining, domestic, stock, etc.)

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

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

5. Q.—State the date of the initiation of such water right. A.— 1889

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.— Constructing a ditch and diverting the waters of said little Indian Creek at a pont in Sec. 9 TP 14 SR 33 EWM and conveying the same in said ditch to and upon the land ~~owned by~~ ~~these claimants for the purpose of irrigating said lands~~ to be irrigated and as hereinafter described.

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

A.— in the spring of ~~1888~~ 1889

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 ditch known only as the Howard ditch.

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

A.— Berton Howard and Charles Howard are the owners
no other users.

[Proof No. 642]

(See stipulation under Proof # 422)

10. Q.—State the date of the beginning of construction. A.—April 1889

11. Q.—State the date of completion. A.—May 1889

12. Q.—State the dimensions of the ditch canal or pipe line as originally constructed, just below the wasteway or headgate.

A.—Width (top) 2½ feet; width (bottom) 1½ feet;
depth 1½ feet; grade or fall in feet per 1,000 feet, 5 feet.

13. Q.—If said ditch has been enlarged, state the date of beginning and completion of each enlargement, and its dimensions as enlarged.

A. —

First enlargement—Width (top)..... feet; width (bottom)feet;
depth feet; grade, or fall per 1,000 feet, feet.

Second enlargement—Width (top) feet; width (bottom)feet;
depth feet; grade, or fall per 1,000 feet, feet.

14. Q.—State the area of land which your ditch, as originally constructed, was intended to irrigate. A.—About 20 acres.

15. Q.—If water is used for irrigation, state the number of acres reclaimed and irrigated the first year. A.—About 20

16. Q. How many acres were irrigated each subsequent year up to and including the present year? A.— About 20

17. Q.—How many acres were irrigated after the first enlargement of said ditch? After each successive enlargement?

A. —

18. Q.—Give the number of acres irrigated under said ditch at the present time in each smallest legal subdivision (40-acre tract), using the following form. (The lands have been surveyed and are shown on the plat of the State Engineer, which you may examine at the time of the hearing. Your answer to this question should conform to those maps, unless you object to the same and submit maps of your own showing such information. No proof will be accepted which does not answer this question in detail.) (Attach separate sheet if necessary.)

A.—

[illegible]

Total.....acres.

237

State of Oregon (
 Grant County (ss

I Charles Howard being first duly sworn on oath say;-

I am one of the owners of the land shown in the Statement and proof of claim of water right to-wit the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ ~~133~~ 9-~~14-33~~ 14-33 to which this affidavit is hereto attached and made a part thereof.

That in the spring of 1889 the predecessor of the present owners to wit Frances Howard, constructed two ditches from a point in the NE $\frac{1}{4}$ of sec 8-14-33 ~~xxxxditchxxxxeachxxxx~~ ^{out of} Little Indian Creek and

diverted the waters of said creek and conveyed the same to and upon the said NW $\frac{1}{4}$ NW $\frac{1}{4}$ of sec 9- ~~14-33~~ 14-33 for the purpose of irrigation

~~xx~~ That the amount of land irrigated by each of said ditches is about equal ~~xxxxxxxxxx~~ ~~xxxxeachxxxx~~ ~~xxxxsaidxxxx~~ ~~xxxxLittlexxxxIndianxxxxCreek~~ and each of said ditches is of the same priority to wit the spring of 1889 That the reason for said two ditches is, that, on account of other ditches and the lay of said land the same could not be successfully irrigated from one ditch

Charles Howard

Subscribed and sworn to before me this 26th day of August 1927

Charles J. Bentley
Justice of the Peace
Dist No 3

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

A.— doby and black loam

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.— May 15th ends Sept. 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.— About one miners inch per acre

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.— Yes

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.— Sw $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. five N $\frac{1}{2}$ Ne $\frac{1}{4}$ of Sec. 8 NW $\frac{1}{4}$ NW $\frac{1}{4}$
of section 9 in TOp 14 S.R. 33 EWM

28. Q.—What interest have you in the lands irrigated or place where the water is used?
I am the owner of an undivided one half interest

A.— Berton Howard owns $\frac{1}{2}$ interest

29. 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 statement and answers are true as I verily believe.

Chas. Howard
Signature of Claimant, or Agent Making Proof.

Subscribed and sworn to before me this 18th day of June, 1927.

J. J. Hughes
[for] ~~State Engineer~~
Notary Public for Oregon.

My commission expires Aug. 19, 1927

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, Sept 2, 1927.

Fees paid:

Irrigation 20 acres, \$ 300
Power, _____ H. P., \$ _____
Other use, _____, \$ _____
Recording certificates, .. \$ 100
Total, \$ 400

Thos. Luper
State Engineer.

(See Other Claiming)