

Claim #2

# 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

# 2.

(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.— N.H.Gwynn Prairie City 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 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 and use

(Appropriation, diversion and use, etc.)

5. Q.—State the date of the initiation of such water right. A.— July 1904

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.— diversion from the Henry A Johnson Ditch and

use of said water under an agreement with said Henry A Johnson.

*See Exhibit A*

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

A.— July 1904

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.— through the Henry Johnson ditch

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

A.— No right except the right to convey water through said ditch

Sufficient to irrigate about 12 acres of land

10. Q.—State the date of the beginning of construction. A.—Spring of 1904

11. Q.—State the date of completion. A.—.....July 1904

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

A.—Width (top) .....  $2 \frac{1}{2}$  ..... feet; width (bottom) .....  $2$  ..... feet;  
depth .....  $1 \frac{1}{2}$  ..... feet; grade or fall in feet per 1,000 feet, .....  $2 \frac{1}{2}$  ..... 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 150 acres acres.

15. Q.—If water is used for irrigation, state the number of acres reclaimed and irrigated the first year. A.—.....10.....

16. Q. How many acres were irrigated each subsequent year up to and including the present year? A.— about 12 acres

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.....12.....acres.

STATE OF OREGON)  
GRANT COUNTY ) ss

I, James McKay, being first duly sworn on oath, say I am well acquainted with the tract of land mentioned in the attached statement and proof of claim, filed by N.H.Gwyn, for waters of what is known as the Little Indian Creek, in Grant County, State of Oregon, said Little Indian Creek being a tributary of the John Day River, the waters of which are being adjudicated. That I have known said tract since 1888 and I assisted in constructing the ditch mentioned in said statement and proof of claim as the Henry A. Johnson, that the said N.H.Gwyn has used water from said ditch thru himself and his predecessors in interest since the year of 1904, the year the said ditch was constructed, that said ditch crosses the land of this claimant to reach the land for which it was originally designed to irrigate. Affiant further says that he understood and heard the said Henry A. Johnson remark that he had to give some of the water of said ditch to the grantor of this claimant for the privilege of crossing his land.

James McKay

Subscribed and Sworn to before me this <sup>18<sup>th</sup></sup>~~16th~~ day of June 1927.

J. L. Hughes  
Notary Public for Oregon.

Exhibit "A"

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

A.—clay considerable 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.—about May 15th 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 and  $\frac{1}{4}$  inches 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.)

Lots 3-5- & 6 and E $\frac{1}{2}$  SW and SE $\frac{1}{4}$  section 6 ~~xxxxx~~ T.P.14

A.—S.R.33 EWM

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

A.—am the Owner thereof

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

A.—Affidavit of James Mc Kay

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

*N. H. Groyn*

Signature of Claimant, or Agent Making Proof.

Subscribed and sworn to before me this 17 day of June, 1927.

*A. J. Hughes*

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, June 24, 1927.

Fees paid: 25.00  
Irrigation 67.2 acres, \$ 10.05  
Power, \_\_\_\_\_ H. P., \$ \_\_\_\_\_  
Other use, \_\_\_\_\_, \$ \_\_\_\_\_  
Recording certificates, .. \$ 25.00  
Total, \_\_\_\_\_ \$ 25.00  
12.05

*Rhea Luper*

State Engineer.

Receipt No. 335