

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 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.— Herman Oliver and Frank Oliver, partners as Oliver Bros. John Day, 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, Pine Creek, also known as Big Pine 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.— Mining. (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.— 1864.

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.— See Exhibit "A"

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

A.— 1865.

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 what is known as the Hillis or Sam Hillis ditch.

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

A.— Sole owners of ditch, several other users.

EXHIBIT "A"

In 1864 claimants' predecessor in interest commenced the construction of a ditch from Pine Creek with the intention of bringing the water of said stream to the mines then in operation on Canyon Creek around Canyon City, and at Marysville, the point of diversion being in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 14, Tp. 14 S., R. 32 E., W. M., and in 1865 completed the construction of said ditch and diverted into the same 500 inches of the water of said Pine Creek and conducted the same to Marysville and Canyon City for placer mining purposes, and that since said time claimants and their predecessors have continuously used the waters of said stream for the purpose of supplying the owners of placer mines in the Sections hereafter set forth with water for placer mining purposes, the same being sold to such miners, the claimants at the present time not owning any of the mining ground.

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

A. —

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?

The mining season begins as soon as the snow commences

A. — to break up, some years by March 15th and extends until the ditch freezes in the fall, about December 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?

500 Miners' inches has always been used and is necessary
A. — to furnish sufficient head for mining purposes. 1922

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. — The map shows the correct location of the 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. —

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.

Placer mines located as set forth in 27. Water is not

A. — returned to the stream.

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. — See 25.

27. Q.—Give description of your land as it appears in your deed. (Attach separate sheet if necessary.)

Land on which water is used Sec. 31, Tp. 13-32; Sec. 36, Tp. 13-31; Sec. 1, Tp. 14-31 and Sec. 6, Tp. 14-32.

A. —

28. Q.—What interest have you in the lands irrigated or place where the water is used?
Have no interest in lands, the water is sold to different miners who own the claims.

A. —

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.

Arman Oliver
Signature of Claimant, or Agent Making Proof.

Subscribed and sworn to before me this 29 day of Sept, 1927.

G. W. Heattam
State Engineer

[or]

Notary Public for Oregon.

MY COMMISSION EXPIRES

My commission expires

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 30, 1927.

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

Receipt No.

(See other claim)

Paul Super
State Engineer