

3000 KERN S

Haines, Oregon

James E. Kerns

3000

STATUS OF APPLICATION

Change in point of diversion
 Date filed 3-19-74
 Date of hearing May 9, 1978
 Place of hearing Baker
 Date of order 9-13-78 Vol. 31, page 212
 Date for application of water 10-1-79
 Proof mailed _____
 Proof received _____
 Certificate issued NOV 17 1978 Vol. 39, page 46852
NOV 17 1978 Vol. 39, page 78 HW 853
AUG 29 1988 57606

DESCRIPTION OF WATER RIGHT

Name of stream Rock Creek
 Trib. of _____ County of Baker
 Use irrigation
 Quantity of water _____ No. of acres 65.0
 Name of ditch McCallough } Wilcox
Chambers
 Date of priority _____
 In name of _____
Powder River Adjudication, Vol. 6, page 418
422
 App. No. _____ Per. No. _____ Cert. No. 4341
45020
 Certificate cancelled _____
 Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
3-19-74	27.90	39122
4-14-75	8.10	46257
4-14-75	40.00 p.m.	46258
TOTAL . . .	6.00-2.00 refunded = 4.00	
4-14-75	4.00 Cert. Fee	46259

The Record-Laurier # 31.85 pd 4-6-78 check # 2101

FEES REFUNDED

Date	Amount	Check No.
4-6-78	\$ 10.15	2106
Exam	15.00	
POD	15.00	
cert	4.00	
PON	31.85	
	65.95	

47 20 10
 CERT 92038 CORRECTING
 CERT 92937 CONFIRMING

REMARKS

DVA Notification

DVA Notification 46852

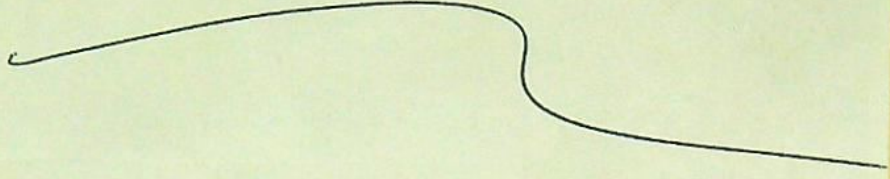
TO BE ENTERED WHERE CHECKED

INDEX CARDS:	Entered	Checked
Name	<u>lgj</u>	
Stream	<u>lgj</u>	
Pt. of Div.	<u>lgj</u>	
Calendar	<u>lgj</u>	
CHECKED TO RECORDS		
Twp. & Rge.	<u>lgj</u>	
Decree-vault	<u>lgj</u>	
Decree-safe	<u>lgj</u>	
Cert. of W/R	<u>lgj</u>	
Per. Folder	<u>lgj</u>	
Chaindex		
Cross Ref.		
Power Claim		
Abstracts	<u>lgj</u>	

W.A. Carr.

George Ditch is what
is now called McCullough.

Geo. Ward.



RECEIVED

MAY 9 1974

STATE ENGINEER
SALEM, OREGON

3000
~~2000~~

2-32
5-32
6-418 }
422 }

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

JAMES E. KERNS
45298 POCAHONTAS RD
HAINES OR 97833

confirms the right to use the waters of ROCK CREEK, TRIBUTARY OF POWDER RIVER FOR IRRIGATION OF 98.0 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Baker County. The decree is of record at Salem, in the Order Record of the STATE WATER BOARD of the State of Oregon, in Volume 6, at Page 291. The dates of priority are 1904 FOR 38.0 ACRES AND 1874 FOR 60.0 ACRES.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	38 E	WM	33	NW SE	WILCOX DITCH - 1580 FEET NORTH AND 1430 FEET WEST FROM SE CORNER, SECTION 33

The amount of water to which this right is entitled is limited to an amount actually beneficially used for said purposes, and shall not exceed 1/40 of one cubic foot per second per acre; and shall be subject to all other conditions and limitations contained in said decree.

A description of the place of use is as follows:

Twp	Rng	Mer	Sec	Q-Q	Acres	Priority
8 S	38 E	WM	3	NE NE	40.0	1874
8 S	38 E	WM	3	NW NE	38.0	1904
8 S	38 E	WM	3	N1/2 SW NE	20.0	1874

The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water available at the old points of diversion described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	38 E	WM	33	NE SE	GEORGE (MCCULLOUGH) DITCH - 1700 FEET NORTH AND 224 FEET WEST FROM SE CORNER, SECTION 33
7 S	38 E	WM	33	NW SE	CHAMBERS DITCH - 1542 FEET NORTH AND 1732 FEET WEST FROM SE CORNER, SECTION 33

The diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the water user is entitled.

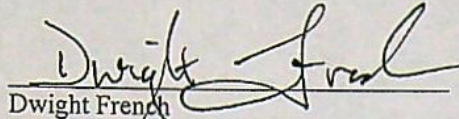
NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described.

This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered SEPTEMBER 13, 1978, at Special Order Volume 31, Page 212, approving Transfer Application 3000, and together with Certificate 46852, supercedes Certificate 4341, State record of Water Right Certificates.

Issued APR 07 2017.

A handwritten signature in cursive script, appearing to read "Dwight French", is written over a horizontal line.

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

BLANCHE MCCULLOUGH
HAINES OR 97833

confirms the right to use the waters of ROCK AND WILLOW CREEKS, TRIBUTARIES OF POWDER RIVER FOR IRRIGATION OF 20.0 ACRES FROM ROCK CREEK AND SUPPLEMENTARY SUPPLY FROM WILLOW CREEK FOR 118.0 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Baker County. The decree is of record at Salem, in the Order Record of the STATE WATER BOARD of the State of Oregon, in Volume 6, at Page 291. The dates of priority are 1904 FOR IRRIGATION FROM ROCK CREEK FOR 20.0 ACRES AND 1884 FOR SUPPLEMENTARY SUPPLY FROM WILLOW CREEK FOR 118.0 ACRES.

The amount of water to which this right is entitled is limited to an amount actually beneficially used for said purposes, and shall not exceed 1/40 of one cubic foot per second per acre; and shall be subject to all other conditions and limitations contained in said decree.

A description of the place of use is as follows:

ROCK CREEK						
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority
8 S	38 E	WM	3	S1/2 SW NE	20.0	1904

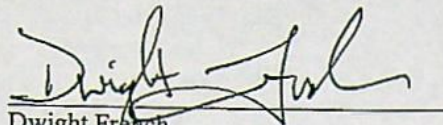
WILLOW CREEK						
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority
8 S	38 E	WM	3	NE NE	40.0	1884
8 S	38 E	WM	3	NW NE	38.0	1884
8 S	38 E	WM	3	N1/2 SW NE	20.0	1884
8 S	38 E	WM	3	S1/2 SW NE	20.0	1884

This certificate correctly describes that portion of the water right confirmed by Certificate 4341, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered September 13, 1978, approving Transfer Application T-3000, and supersedes Certificate 46852.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 541.610 pertaining to forfeiture or abandonment.

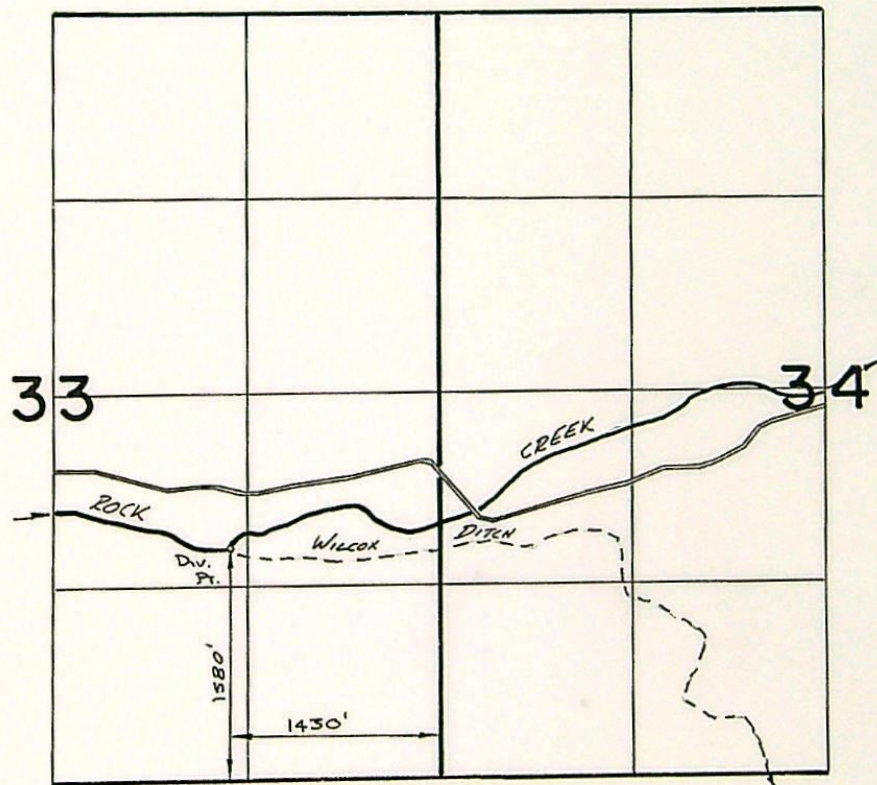
The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described.

Issued APR 07 2017.

A handwritten signature in black ink, appearing to read "Dwight French", is written over a horizontal line.

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

T. 7S., R. 38E., W.M.



FINAL PROOF SURVEY
UNDER

TRANSFER 3000

IN NAME OF

.....JAMES E. KERNS.....

Surveyed ...4-13... 1982, by *L. L. Church*

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

This is to Certify, That *BLANCHE McCULLOUGH*of *Haines*, State of *Oregon* has a right to the use of

the waters of *Rock and Willow Creeks, tributary of Powder River. (Rock Creek with supplementary supply from Willow Creek under date of 1884)*
for the purpose of *the irrigation of 118 acres of land.*

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for
Baker County, and the said decree entered of record at Salem, in the Order
Record of the STATE WATER BOARD of the State of Oregon, in Volume *6*, at page *291*;
that the priority of the right thereby confirmed dates from *1904* for *38* acres; *1874* for
60 acres and *1904* for *20* acres

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an
amount actually beneficially used for said purposes, and shall not exceed *1/40* of one cubic foot
per second per acre; and shall be subject to all other conditions and limitations
contained in said decree

A description of the lands irrigated under such right, and to which the water is appurtenant
(or, if for other purposes, the place where such water is put to beneficial use), is as follows:

38 acres in the Northwest quarter of Northeast quarter; *40* acres in the
Northeast quarter of Northeast quarter; *20* acres in the Southwest quarter of
Northeast quarter and *20* acres in the Southwest quarter of Northeast quarter of
Section Three, Township Eight South, Range Thirty-eight East of Willamette
Meridian, in Baker County, Oregon.

The right to the use of the water for irrigation purposes is restricted to the lands or place
of use herein described.

WITNESS the seal and signature of the State
Water Board, affixed this *15th* day
of *February*, 192 *3*

STATE WATER BOARD

(Seal of State Water Board)

By *PERCY A. CUPPER*
State Engineer, President

Attest:

R. W. POTTER

Secretary

Recorded in State Record of Water Right Certificates, Volume *5*, page *4341*

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

This Is to Certify, That

BLANCHE MCCULLOUGH

of Haines, State of Oregon, 97833, has
 a right to the use of the waters of

Rock 4 Willow Creek 5 40' / supplementary supply from Willow...

a tributary of Powder River for the purpose of
 irrigation of 20.0 acres in Tract No. 1 and supplemental irrigation of 98.0 acres
 in Tract No. 2

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for
 Baker County, and the said decree entered of record at Salem, in the Order Record of
 the WATER RESOURCES DIRECTOR, in Volume 6, at page 291; that the priority of the
 right thereby confirmed dates from 1904 for Tract No. 1, 1884 for Tract No. 2

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an
 amount actually beneficially used for said purposes, and shall not exceed 1/40 cubic foot per
 second per acre, and shall be subject to all other conditions and limitations
 contained in said decree.

The point of diversion is located in the

A description of the place of use under the right, and to which such right is appurtenant, is as
 follows:

Tract No. 1 Primary 20.0 acres S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 3 T. 8 S., R. 38 E., W. M.	E ↓ →	Tract No. 2 Supplemental 40.0 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$ 38.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$ 20.0 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 3 T. 8 S., R. 38 E., W. M.	PRIMARY RIGHTS FROM ROCK CREEK COVERED UNDER TRANSFER #3000
--	-------------	--	--

This certificate describes that portion of the water right confirmed by the prior
 certificate recorded at page 4341, Volume 5, State Record of Water Right
 Certificates, NOT modified by the provisions of an order of the Water Resources
 Director entered on September 13, 1978, approving transfer application No. 3000.

The issuance of this superseding certificate does not confirm the status of the
 water right in reference to ORS 540.610.

And said right shall be subject to all other conditions and limitations contained in said decree.
 The right to the use of the water for the purposes aforesaid is restricted to the lands or place of
 use herein described.

WITNESS the signature of the Water Resources Director, affixed

this date November 17, 1978.

James E. Seaton
 Water Resources Director

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

BAKER COUNTY

IN THE MATTER OF THE APPLICATION)
OF JAMES E. KERNS FOR APPROVAL OF)
CHANGES IN POINT OF DIVERSION OF)
WATER FROM ROCK CREEK)

ORDER APPROVING
TRANSFER NO. 3000

On March 9, 1974, an application was filed in the office of the Water Resources Director by James E. Kerns for approval of changes in point of diversion of water from Rock Creek, pursuant to the provisions of ORS 540.510 to 540.530, for certain water rights allowed by decree of the court in the matter of the Determination of the Relative Rights to Use of the Waters of Powder River and its Tributaries, as follows:

Irrigation of a certain 23.2 acres (amended to 40.0 acres) in SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Township 7 South, Range 38 East, W.M., by diversion of water from Rock Creek through the George (McCullough) Ditch, with a priority date of 1879, as described by the certificate issued to C.E. Morris and recorded at page 45020, Volume 37, State Record of Water Right Certificates.

Irrigation of a certain 40.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 20.0 acres (north of Willow Creek) in SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 3, Township 8 South, Range 38 East, W.M., by diversion of water from Rock Creek, through the George (McCullough) Ditch, with a priority date of 1874, as described by the certificate issued to Blanche McCullough and recorded at page 4341, Volume 5 of said records.

Irrigation of a certain 38.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 3, Township 8 South, Range 38 East, W.M., by diversion of water from Rock Creek, through the Chambers Ditch, with a priority date of 1904, as also described by the certificate recorded at page 4341, Volume 5.

The point of diversion for the George, or McCullough, Ditch is located

1700 feet North and 224 feet West from the Southeast Corner of Section 33, Township 7 South, Range 38 East, W.M., being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 33.

The authorized point of diversion for the Chambers Ditch is located 1542 feet North and 1732 feet West from the Southeast Corner of Section 33, Township 7 South, Range 38 East, W.M., being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 33.

The applicant herein, owner of the lands above described, proposes to change from the above described points of diversion, without loss of priority, and to divert water for the said rights through the Wilcox Ditch from a point of diversion located 1500 feet North and 1410 feet West from the Southeast Corner of Section 33, Township 7 South, Range 38 East, W.M., being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 33.

Notice of the application, pursuant to ORS 540.520(2), was published in the Record-Courier, a newspaper printed and having general circulation in Baker County, Oregon, for a period of three weeks in the issues of March 16, 23 and 30, 1978.

On April 27, 1978, a protest against approval of said application was filed in the office of the Water Resources Director by Gerald O. Maxwell, et. al. The protest alleges that the proposed changes in points of diversion would be injurious to existing rights, contrary to ORS 540.530.

Pursuant to the aforesaid published notice, the matter of the application and the protest against it was brought to hearing before Mr. James W. Carver, Jr., in the County Court Room of the Baker County Courthouse in Baker, Oregon, on May 9, 1978.

The applicant, James E. Kerns, appeared without counsel and represented himself in the hearing.

The protestants appeared without legal counsel and, pursuant to an oral agreement among the several protestants, Gerald O. Maxwell acted as spokesman for the protestants.

DENIAL OF OBJECTION

The applicant owns the entirety of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Township 7 South, Range 38 East, W.M. The certificate issued in the name of C.E. Morris and recorded at page 45020, Volume 37, State Record of Water Right Certificates, describes a right to use the waters of Rock Creek, with a priority date of 1879, through the George (McCullough) Ditch, for irrigation of, among other lands, 40.0 acres in the said SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35.

Prior to the hearing, the application listed only 23.2 acres of the said 40.0 acres in the said SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, to be involved in the proposed change in point of diversion from the head of the George (McCullough) Ditch to the head of the Wilcox Ditch. During the course of the hearing, the applicant amended his application to include the entire said 40.0 acres. The protestants, through Mr. Maxwell, objected to the amendment of the application. The amendment of the application raises no new issues not already before the Director in this matter; therefore, the objection is denied.

FINDINGS

Rock Creek, a tributary of the Powder River in Baker County, Oregon, is a perennial stream which forms on the east slope of Elkhorn Ridge and flows easterly for a distance of approximately fifteen miles, to its confluence with the Powder River, near the town of Haines.

The flow of Rock Creek past the authorized and proposed points of diversion is subject to fluctuations from release of off-channel stored water through the Rock Creek hydroelectric power plant, which discharges into the channel of Rock Creek approximately one-eighth of a mile upstream from the head of Wilcox Ditch.

The record location of the head of the Chambers Ditch is between the head of the Wilcox Ditch and the point of discharge from the Rock Creek hydroelectric power plant.

In the vicinity of the said power plant, and downstream for a distance of approximately one-half mile, the channel of Rock Creek lies immediately adjacent to the bottom of a steep hillside which rises 640 feet in the horizontal distance of 1500 feet. The hillside is composed of earth and loose rock and is subject to slides, especially when wet.

The Wilcox Ditch runs along the face of the hillside as it winds its way out of the Rock Creek drainage, to where the ditch turns to the south, toward the Willow Creek drainage.

The Chambers Ditch, which has not been used for at least the last fifteen years, ran parallel to, and above, the Wilcox Ditch along the face of the hillside. Whenever the Chambers Ditch would overtop or otherwise fail for any reason, the resulting slide would cause the Wilcox Ditch to fail, also. To alleviate the problems caused by failures of the Chambers Ditch, the users of the Wilcox Ditch and the Chambers Ditch agreed to discontinue use of the Chambers Ditch and carry the additional water in the Wilcox Ditch for those lands formerly served through the Chambers Ditch. However, the change in point of diversion of water from Rock Creek from the head of the Chambers Ditch to the head of the Wilcox Ditch, made in fact, was not then made a matter of record pursuant to the provisions of ORS 540.510 to 540.530.

By the pending application in question, the applicant proposes to change the points of diversion for all of the Rock Creek water rights appurtenant to his lands to the head of the Wilcox Ditch and, by means of the Wilcox Ditch, convey the waters received under various priorities into a pipeline distribution system.

The protestants testified to the effect that they would not be directly injured by the proposed changes in point of diversion, per se, but that water previously received through the George (McCullough) Ditch on the lower portion of the applicant's property would be delivered to the highest point of his irrigated

lands and would provide opportunity for use of that water on lands to which the water rights are not now appurtenant. Also, the opening of the headworks of the Wilcox Ditch earlier in the year to deliver Rock Creek water under a priority date of 1874, which is an older priority date than now received through the Wilcox Ditch, would provide opportunity to divert water into the Wilcox Ditch in addition to that to which the users on the Wilcox Ditch are entitled by their relative dates of priority.

CONCLUSIONS

ORS 540.530(1) provides, in part: "If, after hearing or examination, the Water Resources Director finds that the proposed change can be effected without injury to existing rights, he shall make an order approving the transfer ...".

Speculative violations of the water laws do not constitute an injury of water rights upon which the pending application in question should be denied.

Approval of the proposed change in point of diversion from the head of the George (McCullough) Ditch to the head of the Wilcox Ditch for diversion from Rock Creek of that water to which the applicant is entitled under a priority date of 1879 for irrigation of the certain 40.0 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Township 7 South, Range 38 East, W.M., would not result in injury to other water rights.

Approval of the proposed change in point of diversion from the head of the George (McCullough) Ditch to the head of the Wilcox Ditch for diversion from Rock Creek of that water to which the applicant is entitled under a priority date of 1874 for irrigation of the certain 40.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 20.0 acres (north of Willow Creek) in SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 3, Township 8 South, Range 38 East, W.M., would not result in injury to other water rights.

Approval of the proposed change in point of diversion from the head of the Chambers Ditch to the head of the Wilcox Ditch for diversion from Rock Creek of that water to which the applicant is entitled under a priority date

of 1904 for irrigation of a certain 38.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 3, Township 8 South, Range 38 East, W.M., would not result in injury to other water rights.

Mr. V. Kent Searles, Watermaster, has filed a statement to the effect that the proposed changes in point of diversion may be made without injury to existing rights.

No other objections having been filed and it appearing that the proposed changes in point of diversion may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the requested changes in point of diversion of water from Rock Creek, as described herein, without loss of priority, are approved.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water available at the old points of diversion under the subject rights.

It is FURTHER ORDERED that the following provisions shall be carried out prior to the diverting of water at the new point of diversion as herein confirmed:

That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1979.

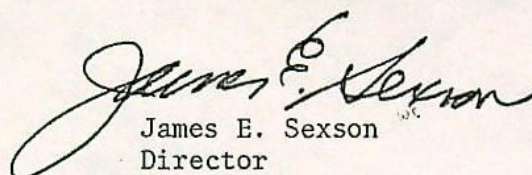
It is FURTHER ORDERED that the certificate of water right heretofore issued to Blance McCullough and recorded at page 4341, Volume 5, State Record of Water Right Certificates, is canceled; and in lieu thereof a new certificate be issued covering the balance of the right NOT involved in this proceeding; and upon

28

proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a confirming certificate of water right shall be issued to the applicant herein.

It is FURTHER ORDERED that the certificate of water right heretofore issued to C.E. Morris and recorded at page 45020, Volume 37, State Record of Water Right Certificates, is canceled; and in lieu thereof a new certificate be issued covering the balance of the right NOT involved in this proceeding; and upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a confirming certificate of water right shall be issued to the applicant herein.

Dated at Salem, Oregon this 13th day of September, 1978.


James E. Sexson
Director

NOTICE: You are entitled to a judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order. Judicial review is pursuant to the provisions of ORS Chapter 183.

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

This Is to Certify, That C. E. MORRIS

of Haines, State of Oregon, 97833, has
a right to the use of the waters of Rock Creek

a tributary of Powder River for the purpose of
the irrigation of 50 acres

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Baker County, and the said decree entered of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 6, at page 291; that the priority of the right thereby confirmed dates from 1879

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1/40 cubic foot per second per acre, and shall be subject to all other conditions and limitations contained in said decree.

The point of diversion is located in the

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

10.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$
40.0 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 35
T. 7 S., R. 38 E., W.M.

This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 4367, Volume 5, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered on May 31, 1977, approving transfer application No. 3503.

The issuance of this superseding certificate does not confirm the status of the water right in reference to ORS 540.610.

And said right shall be subject to all other conditions and limitations contained in said decree. The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the Water Resources Director, affixed

this date December 19, 1977.

James E. Sexson

Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 37, page 45020

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

This Is to Certify, That

C. E. MORRIS

of Haines
a right to the use of the waters of
Rock Creek

, State of Oregon, 97833 , has

a tributary of Powder River
irrigation of 10.0 acres

for the purpose of

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Baker County, and the said decree entered of record at Sulem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 6 , at page 291 ; that the priority of the right thereby confirmed dates from 1879

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1/40 cubic foot per second per acre, and shall be subject to all other conditions and limitations contained in said decree.

The point of diversion is located in the

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

10.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 35
T. 7 S., R. 38 E., W. M.

This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 45020, Volume 37, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered on September 13, 1978, approving transfer application No. 3000.

The issuance of this superseding certificate does not confirm the status of the water right in reference to ORS 540.610.

And said right shall be subject to all other conditions and limitations contained in said decree. The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the Water Resources Director, affixed

this date November 17 , 19 78 .


Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 39 , page 46853

AFFIDAVIT OF PUBLICATION

State of Oregon, County of Baker, ss.

I, Byron C. Brinton, being first duly sworn, depose and say that I am the owner - printer of The Record-Courier, which is a weekly newspaper of general circulation published in Baker, in said county and state; that such newspaper is made up of at least four pages of five columns each and of at least 17 $\frac{3}{4}$ inches in depth of type matter; that such newspaper was regularly and uninterruptedly published once each week for at least twelve consecutive months immediately preceding the first publication of the attached Notice of Water Right Transfer

Application No. 3000

and has more than 200 bona fide subscribers within said county; that the Notice of Water Right Transfer

Application No. 3000

of which the one hereto attached is a true and correct copy as printed, was published in the regular and entire issue of said newspaper and not in any supplement thereof, once each week for 3 successive and consecutive weeks, being published 3 times, commencing with the issue dated the 16th day of March, 1978, and ending with the issue dated the 30th day of March, 1978. ok
in

That the amount of charge actually made and to be collected by such newspaper for such publication is \$31.85.

Byron C. Brinton

Subscribed and sworn to before me this 31st day of March, 1978.

Barbara Lee Thoma

Notary Public for Oregon.

My commission expires June 6, 1981



RECEIVED
APR 3 1978
WATER RESOURCES DEPT.
SALEM, OREGON

ok
Ley

AFFIDAVIT OF PUBLICATION

PUBLIC NOTICE NOTICE OF WATER RIGHT TRANSFER APPLICATION NO. 3000

Notice is given hereby that an application has been filed in the office of the Water Resources Director by James E. Kerns for approval of a change in point of diversion from Rock Creek, pursuant to the provisions of ORS 540.510 to 540.530, for certain water rights allowed by decree of the court in the Matter of the Determination of the Relative Rights to Use of the Waters of Powder River and its Tributaries, as follows:

Irrigation of a certain 23.2 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec 35, T 7 S, R 38 E, WM, by diversion of water from Rock Creek through the George (McCullough) Ditch, with a priority date of 1879, as described by the certificate issued to C. E. Morris and recorded at page 45020, Volume 37, State Record of Water Right Certificates.

Irrigation of a certain 40.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ and 20.0 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec 3, T 8 S, R 38 E, WM, by diversion of water from Rock Creek through the George (McCullough) Ditch, with a priority date of 1874, as described by the certificate issued to Blanche McCullough and recorded at page 4341, Volume 5 of said records.

Irrigation of a certain 38.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec 3, T 8 S, R 38 E, WM, by diversion of water from Rock Creek through the Chambers Ditch, with a priority date of 1904, as also described by the certificate recorded at page 4341, Volume 5.

The point of diversion for the George, or McCullough, Ditch is located 1700 ft N and 224 ft W from the SE Corner of Sec 33, T 7 S, R 38 E, WM, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Sec 33.

The point of diversion for the Chambers Ditch is located 1542 ft N and 1732 ft W from the SE Corner of Sec 33, T 7 S, R 38 E, WM, being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Sec 33.

The applicant herein, owner of the lands above described, proposes to change from the above described points of diversion, without loss of priority, to divert water for the said rights through the Wilcox Ditch from a point of diversion located 1500 ft N and 1410 ft W from the SE Corner of Sec 33, T 7 S, R 38 E, WM, being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Sec 33.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Baker, Oregon, on May 9, 1978, at 9:30 a.m. All objections to the proposed change, if any there are, will be heard at said time and place. Any and all objections shall be prepared in writing; one copy to be served on James E. Kerns, Route 1, Box 28, Haines, OR 97833; and one copy filed with the Water Resources Department, Salem OR 97310, together with a \$10 filing fee, at least 10 days prior to the date set for hearing. IF NO OBJECTIONS ARE FILED, THE APPLICATION MAY BE APPROVED BY THE WATER RESOURCES DIRECTOR WITHOUT A HEARING. Instructions regarding the filing of a protest will be furnished by the Water Resources Department upon request.

Dated at Salem, Oregon, this 9th day of March, 1978.

JAMES E. SEXSON

Director

(11 13)

State of Oregon, County of Baker, ss.

I, Byron C. Brinton, being first duly sworn, depose and say that I am the owner - printer of The Record-Courier, which is a weekly newspaper of general circulation published in Baker, in said county and state; that such newspaper is made up of at least four pages of five columns each and of at least 17 $\frac{3}{4}$ inches in depth of type matter; that such newspaper was regularly and uninterruptedly published once each week for at least twelve consecutive months immediately preceding the first publication of the attached Notice of Water Right Transfer

Application No. 3000

and has more than 200 bona fide subscribers within said county; that the Notice of Water Right Transfer

Application No. 3000

of which the one hereto attached is a true and correct copy as printed, was published in the regular and entire issue of said newspaper and not in any supplement thereof, once each week for 3 successive and consecutive weeks, being published 3 times, commencing with the issue dated the 16th day of March, 1978, and ending with the issue dated the 30th day of March, 1978. ok
li

That the amount of charge actually made and to be collected by such newspaper for such publication is \$31.85.

Byron C. Brinton

Subscribed and sworn to before me this 31st day of March, 1978.

Robert Lee Hanna

Notary Public for Oregon.

My commission expires June 6, 1981.