

Francis B. Zimmerman  
Route 1, Box 36  
Thiney, Oregon 97833

### STATUS OF APPLICATION

Change in Point of diversion  
Date filed 1/3/77  
Date of hearing 3-15-77  
Place of hearing Baker  
Date of order 5-31-77 Vol. 29, page 65  
Date for application of water 10-1-79

Proof mailed .....

Proof received \_\_\_\_\_

Certificate issued, Vol. 37, page 450

JUN 27 1980 43 492

\_\_\_\_\_ 1979

Dec 1891

ORIGINAL FINAL PROOF MARK IN

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### DESCRIPTION OF WATER RIGHT

Name of stream Rock Creek  
Trib. of \_\_\_\_\_ County of Baker  
Use irrigation  
Quantity of water \_\_\_\_\_ No. of acres 30<sup>0</sup>  
Name of ditch Toney  
Date of priority 1894  
In name of C. E. Morris  
Powder River Adjudication, Vol. 6, page 422  
App. No. \_\_\_\_\_ Per. No. \_\_\_\_\_ Cert. No. 4367  
Certificate cancelled \_\_\_\_\_  
Notation made on record by \_\_\_\_\_

## FEES PAID

Date	Amount	Receipt No.
1/3/77	<del>\$175.00</del>	57427
5-23-77	12.88	60705
TOTAL . . .		
1/6/78	\$2 Cert. Fee	Trans from 57427
P.O.N. The Democrat-Herald \$50.88 ck. #1178		
3/7/77 Paid out of above fees.		
FEES REFUNDED		

Fees	Exam	20-
	POD	15-
	Cert	2
		<hr/>
		37.00

Need 12 88

## REMARKS

ORIGINAL FINAL PROOF MAP IN Appl. 55234

TO BE ENTERED WHERE CHECKED	INDEX CARDS:	Entered	Checked
<u>W/H</u>	Name	<u>✓</u>	<u>      </u>
<u>W/g</u>	Stream	<u>✓</u>	<u>      </u>
<u>W/H</u>	Pt. of Div.	<u>      </u>	<u>      </u>
	Calendar	<u>✓</u>	<u>      </u>
	CHECKED TO RECORDS:		
<u>0</u>	Twp. & Rge.	<u>      </u>	<u>      </u>
<u>✓</u>	Decree-vault	<u>✓</u>	<u>      </u>
<u>✓</u>	Decree-safe	<u>0</u>	<u>      </u>
<u>✓</u>	Cert. of W/R	<u>✓</u>	<u>      </u>
<u>      </u>	Per. Folder	<u>      </u>	<u>      </u>
<u>      </u>	Chaindex	<u>      </u>	<u>      </u>
<u>      </u>	Cross Ref.	<u>      </u>	<u>      </u>
<u>      </u>	Power Claim	<u>      </u>	<u>      </u>
<u>      </u>	Abstracts	<u>✓</u>	<u>      </u>

37

Ph. 856-3420  
Ph. 856-3449

Frank's Zimmer



## STATE OF OREGON

COUNTY OF BAKER

## CERTIFICATE OF WATER RIGHT

This is to Certify, That

Route 1, Box 36  
of Haines

, State of

Oregon

97833

has a right to the use of

the waters of Rock Creek, tributary of Powder River

for the purpose of the irrigation of <sup>30.0</sup>~~80~~ 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 1894 for 30 acres and 1879 for 50 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 if available at the original point of diversion

SE 1/4 NE 1/4 Section 34 T. 75, R. 38 E, W.M., 1120 feet North and 1320 feet East  
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:

40 acres in the Northwest quarter of Southwest quarter and 40 acres in the Southwest quarter of Southwest quarter of Section Thirty-five, Township Seven South, Range Thirty-eight East of Willamette Meridian, in Baker County, Oregon.

30.0 acres NW 1/4 SW 1/4

Section 35

T. 75, R. 38 E, W.M.

This certificate is issued to confirm a change in point of diversion approved by an order of the WRD entered May 31, 1977 and together with certificate of water right recorded on Page 45020, Volume 37, SRWRC supersedes certificate of water right recorded on Page 4367, Volume 5, SRWRC.

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

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, 1923

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 4367

C 49226

JL  
CMT

West from the E 1/4 Corner Section 34 (Toney Ditch)

P.O.D. NW 1/4 SE 1/4 Section 34 T. 75, R. 38 E, W.M., 2650 feet  
South and 30 feet East from the NW 1/4 Corner Section 34  
(Meyers-Hunstock Ditch)



## STATE OF OREGON

COUNTY OF BAKER

## CERTIFICATE OF WATER RIGHT

This is to Certify, That C. E. MORRIS

of Haines, State of Oregon, has a right to the use of the waters of Rock Creek, tributary of Powder River

for the purpose of the irrigation of <sup>50</sup>~~30~~ acres of landand 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 ~~1894 for 30 acres and 1879 for 50 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 3 1/2 a. f.

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:

40 acres in the Northwest quarter of Southwest quarter and 40 acres in the Southwest quarter of Southwest quarter of Section Thirty-five, Township Seven South, Range Thirty-eight East of Willamette Meridian, in Baker County, Oregon.

T#3503

10<sup>0</sup> 40.0 ac in NW 1/4 SW 1/4 - 30<sup>0</sup>  
 40.0 ac in SW 1/4 SW 1/4  
 Sec 35  
 T 7 S, R 38 E, W 1 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.

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, 1923

STATE WATER BOARD

(Seal of State Water Board)

By PERCY A. CUPPER  
 State Engineer, President

Attest:

R. W. POTIER  
 Secretary

Recorded in State Record of Water Right Certificates, Volume 5, page 4367

T# 3503



BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

Baker County

IN THE MATTER OF THE APPLICATION  
OF FRANCIS B. ZIMMERMAN FOR APPROVAL  
OF A CHANGE IN POINT OF DIVERSION OF  
WATER FROM ROCK CREEK

ORDER APPROVING  
TRANSFER NO. 3503

On January 3, 1977, an application was filed in the office of the Water Resources Director by Francis B. Zimmerman for a change in point of diversion under an existing water right of record, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right recorded at Page 4367, Volume 5, State Record of Water Right Certificates, in the name of C. E. Morris, describes an existing right of record which includes the use of water from Rock Creek for irrigation of 30.0 acres in NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 35, Township 7 South, Range 38 East, W.M., with a date of priority of 1894.

Water for the said right is diverted through the Toney ditch from a point located 1120 feet North and 1320 feet West from the East quarter-corner of Section 34, being within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 34, Township 7 South, Range 38 East, W.M.

The applicant herein, owner of the lands above described, proposes to change, without loss of priority, the point of diversion to divert the water through the Meyers-Hunstock ditch from a point located 40 feet South and 0 feet East from the center corner of Section 34, being within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 34, Township 7 South, Range 38 East, W.M.

Notice of the application, pursuant to ORS 540.510, was published in the Baker Democrat Herald, a newspaper printed and having general circulation in Baker County, Oregon, for a period of three weeks in the issues of January 20, 27 and February 3, 1977.



A protest against approval of the subject application was filed by Mr. Tim Kerns on February 9, 1977, and later withdrawn by Mr. Kerns on May 10, 1977.

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

No other objection having been filed and it appearing that the proposed change 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 change in point of diversion described herein, without loss of priority, is 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 point of diversion under the subject right.

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 C. E. Morris and recorded at Page 4367, 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 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 31st day of May, 1977.

/s/ JAMES E. SEXSON  
Director



NOTICE OF WATER  
RIGHT TRANSFER  
APPLICATION NO. 3503  
FOR CHANGE IN  
POINT OF DIVERSION

Notice is given hereby that Francis B. Zimmerman has filed an application in the office of the Water Resources Director for the approval of a change in point of diversion from Rock Creek.

Certificate of water right recorded at Page 4367, Vol. 5, State Record of Water Right Certificates, in the name of C.E. Morris, describes an existing right of record which includes the use of water from Rock Creek for irrigation of 30.0 acres in NW¼ SW¼, Sec. 35, T. 7 S., R. 38 E., W.M., with a date of priority of 1894.

Water for the said right is diverted through the Toney ditch from a point located 1120 ft. N. and 0 ft. E. from the W¼ corner of Sec. 34, being within the SE¼ NE¼ of Sec. 34, T. 7 S., R. 38 E., W.M.

The applicant herein, owner of the lands above described, proposes to change, without loss of priority, the point of diversion to divert the water through the Meyers-Hunstock ditch from a point located 40 ft. S. and 0 ft. E. from the center corner of Sec. 34, being within the NW¼ SE¼ of Sec. 34, T. 7 S., R. 38 E., W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Baker, Oregon, on March 15, 1977, 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 Francis B. Zimmerman, Rt. 1, Box 36, Haines, Oregon, and one copy filed with the Water Resources Department, Salem, Oregon 97310, together with a \$10 filing fee, at least 10 days prior to the date set for hearing. IF NO OBJECTION IS FILED, THE APPLICATION MAY BE APPROVED BY THE WATER RESOURCES DIRECTOR WITHOUT A HEARING. Administrative rules pertaining to the filing of a protest will be furnished by the Water Resources Department upon request.

Dated at Salem, Oregon, this 10th day of January, 1977.

JAMES E. SEXSON  
Director

Legal No. 4

Publish: Jan. 20, 27 and Feb. 3, 1977

AFFIDAVIT OF PUBLICATION

Baker, Oregon, February 28, 1977

STATE OF OREGON,  
County of Baker

ss.

I, Barbara Dagelis, being first duly sworn,

depose and say that I am the Principal Clerk of the Baker Democrat-Herald which is a Daily (except Sunday) 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 17¾ 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 Legal Advertisement #4-Public Hearing

and has more than 200 bona fide subscribers within said county; that the Legal Advertisement

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 three successive and consecutive weeks

being published three times commencing with the issue dated the

20th day of January, 1977, and ending with the issue dated the

3rd day of February, 1977, and that the dates of publication were

January 20, 1977, January 27, 1977, February 3, 1977

Barbara Dagelis

Subscribed and sworn to before me this 28th

day of February, 1977

Shyris Lugo  
Notary Public for Oregon.

My commission expires September 8, 1978

