

# STATUS OF APPLICATION

Change in USE OF WATER  
 Date filed \_\_\_\_\_  
 Date of hearing 9-22-77  
 Place of hearing Grants Pass  
 Date of order 9-30-77 Vol. 29, page 386  
 Date for application of water 10-1-79  
 Proof mailed \_\_\_\_\_  
 Proof received \_\_\_\_\_  
 Certificate issued DEC 19 1977 Vol. 37, page 45061  
MAR 6 1987 51 55769

# DESCRIPTION OF WATER RIGHT

Name of stream APPLEGATE RIVER  
 Trib. of \_\_\_\_\_ County of JOSEPHINE  
 Use \_\_\_\_\_  
 Quantity of water \_\_\_\_\_ No. of acres \_\_\_\_\_  
 Name of ditch \_\_\_\_\_  
 Date of priority \_\_\_\_\_  
 In name of \_\_\_\_\_  
 \_\_\_\_\_ Adjudication, Vol. \_\_\_\_\_, page \_\_\_\_\_  
 App. No. 34928 Per. No. 27402 Cert. No. 34043  
 Certificate cancelled \_\_\_\_\_  
 Notation made on record by \_\_\_\_\_

# FEES PAID

Date	Amount	Receipt No.
<u>6-16-77</u>	<u>\$ 87.00</u>	<u>61655</u>
TOTAL . . .		
<u>8-31-77</u>	<u>\$2 Cert. Fee</u>	<u>61655</u>
<u>Pl. 8/31/77 Courier Publ. Co. Ch. # 1471 (\$43.38)</u>		

# FEES REFUNDED

Date	Amount	Check No.
<u>8-31-77</u>	<u>6.62</u>	<u>1470</u>
Rec'd		<u>87-</u>
Exam		<u>20-</u>
Use &		<u>15</u>
Cert		<u>2</u>
		<u>\$37.00</u>
PON		<u>\$43.38</u>
		<u>\$6.62 ✓</u>

# REMARKS

*Surveyed 1/24/84*  
*Assigned to: ↓*  
Gentry E. McKinney  
Salvatore T. Palma & David T. Yama  
P.O. Box 85  
Shady Cove, Or. 97539

W.R.I.S.  
 Assembled 7/22/85 by CLH  
 Entered \_\_\_\_\_ by \_\_\_\_\_  
 Verified \_\_\_\_\_ by \_\_\_\_\_

TO BE ENTERED WHERE CHECKED

INDEX CARDS:	Entered	Checked
<input checked="" type="checkbox"/> Name	<u>lg</u>	_____
<input checked="" type="checkbox"/> Stream	<u>lg</u>	_____
<input checked="" type="checkbox"/> Pt. of Div.	_____	_____
<input checked="" type="checkbox"/> Calendar	<u>lg</u>	_____
CHECKED TO RECORDS:		
<input checked="" type="checkbox"/> Twp. & Rge.	<u>\$lay</u>	_____
<input type="checkbox"/> Decree-vault	_____	_____
<input type="checkbox"/> Decree-safe	_____	_____
<input checked="" type="checkbox"/> Cert. of W/R	<u>✓</u>	_____
<input checked="" type="checkbox"/> Per. Folder	<u>✓</u>	_____
<input type="checkbox"/> Chainindex	_____	_____
<input type="checkbox"/> Cross Ref.	_____	_____
<input type="checkbox"/> Power Claim	_____	_____
<input checked="" type="checkbox"/> Abstracts	<u>lg</u>	_____



cert & BC

T-3711

# STATE OF OREGON

COUNTY OF

JOSEPHINE

SUPERSEDED  
CERTIFICATE NO. 45061

## CERTIFICATE OF WATER RIGHT

Gentry E. McKinney, Salvatore T. Palma, David T. Fama

**This Is to Certify, That**

FRY FARMS, INC.

PO BOX 85 SHADY COVE 97537  
of 606 High Street, SE, Salem, State of Oregon, has made proof  
to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of  
Applegate River and Rogue River

a tributary of Pacific Ocean  
irrigation of 134.6 acres

gravel washing

for the purpose of

under Permit No. 27402 of the State Engineer, and that said right to the use of said waters  
has been perfected in accordance with the laws of Oregon; that the priority of the right hereby  
confirmed dates from May 11, 1961

that the amount of water to which such right is entitled and hereby confirmed, for the purposes  
aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed  
1.68 cubic feet per second; being 0.42 c.f.s. from Applegate River and 1.26 c.f.s.  
from Rogue River

or its equivalent in case of rotation, measured at the point of diversion from the stream.  
The point of diversion is located in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , NE $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 19, T. 36 S., R. 6 W.,  
W. M. Diversion points located: Rogue - 4970 feet North and 530 feet East;  
Applegate - 1370 feet North and 4930 feet East; both from the SW Corner, Section 19.  
The amount of water used for irrigation, together with the amount secured under any other  
right existing for the same lands, shall be limited to one-eighth of one cubic foot per second  
per acre, or its equivalent for each acre irrigated and shall be further limited  
to a diversion of not to exceed  $\frac{1}{2}$  acre feet per acre for each acre irrigated during  
the irrigation season of each year; provided further that the right to the use of  
water is limited to the period when the flow of the Rogue River is more than 735  
c.f.s. at its mouth;

and shall

conform to such reasonable rotation system as may be ordered by the proper state officer.

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

0.1 acre SW $\frac{1}{4}$ NE $\frac{1}{4}$	7.5 acres Lot 5 (SW $\frac{1}{4}$ NW $\frac{1}{4}$ )
21.6 acres Lot 2 (SE $\frac{1}{4}$ NE $\frac{1}{4}$ )	0.5 acre NW $\frac{1}{4}$ SW $\frac{1}{4}$
1.9 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$	Section 20
18.6 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$	T. 36 S., R. 6 W., W. M.
22.5 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$	
2.7 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$	10.3 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$
6.3 acres NE $\frac{1}{4}$ SE $\frac{1}{4}$	28.8 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$
Section 19	13.3 acres NE $\frac{1}{4}$ SE $\frac{1}{4}$
T. 36 S., R. 6 W., W. M.	0.5 acre NW $\frac{1}{4}$ SE $\frac{1}{4}$
	Section 21
	T. 36 S., R. 7 W., W. M.

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 State Engineer, affixed

use of water

This certificate is issued to confirm a change in point of diversion approved  
by an order of the Water Resources Director entered Sept 30 1977, and  
together with certificate of water right recorded at page 45061,  
Volume 37, State Record of Water Right Certificates, supersedes  
certificate 34043.

86961 The issuance... (glossary 1)



BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

JOSEPHINE COUNTY

IN THE MATTER OF THE APPLICATION OF )  
TONY MARTHALLER AND DAN FRY (FRY )  
FARMS) FOR APPROVAL OF A CHANGE IN )  
USE HERETOFORE MADE OF WATER FROM )  
APPLEGATE RIVER )  
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ORDER APPROVING  
TRANSFER NO. 3711

On June 16, 1977, an application was filed in the office of the Water Resources Director by Tony Marthaller and Dan Fry (Fry Farms) for a change in use heretofore made of water under an existing water right of record, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 34043, Volume 26, State Record of Water Right Certificates, in the name of Fry Farms, Inc., describes a right which includes the use of not to exceed 0.42 cubic foot per second from Applegate River for irrigation of 0.1 acre in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 21.6 acres in Lot 2 (SE $\frac{1}{4}$  NE $\frac{1}{4}$ ) and 6.3 acres in NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 19; 7.5 acres in Lot 5 (SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) and 0.5 acre in NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 20, Township 36 South, Range 6 West, W.M., with a date of priority of May 11, 1961.

Water for the said right is diverted from a point located 1370 feet North and 4930 feet East from the Southwest corner of Section 19, being within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 19, Township 36 South, Range 6 West, W.M.

The applicants herein, owners of the lands above described, propose to change the use heretofore made and, without loss of priority, to hereafter use the water appropriated for the purpose of gravel washing within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 19, Township 36 South, Range 6 West, W.M.

Notice of the application, pursuant to ORS 540.510, was published in the Grants Pass Daily Courier, a newspaper printed and having general circulation in Josephine County, Oregon, for a period of three weeks in the issues of August 1, 8 and 15, 1977.

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P386-397



Mr. Robert B. Steimer, Watermaster, has filed a statement to the effect that the proposed change in use heretofore made of water may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed change in use heretofore made of water may be made without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the requested change in use heretofore made of water as described herein, without loss of priority, is approved.

It is FURTHER ORDERED that said water so transferred shall be applied to beneficial use on or before October 1, 1979.

It is FURTHER ORDERED that the certificate of water right heretofore issued to Fry Farms, Inc. and recorded at page 34043, Volume 26, 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 30th day of September, 1977.

/s/ James E. Sexson  
Director



## LEGAL NOTICE

NOTICE OF WATER RIGHT  
TRANSFER

APPLICATION No. 3711

Notice is given hereby that an application has been filed in the office of the Water Resources Director by Tony Marthaller and Dan Fry for approval of a change in use heretofore made from Applegate River.

The certificate recorded at page 34043, Volume 26, State Record of Water Right Certificates, in the name of Fry Farms, Inc., describes a right which includes the use of not to exceed 0.42 cubic foot per second from Applegate River for irrigation of 0.1 acre in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , 21.6 acres in Lot 2 (SE $\frac{1}{4}$  NE $\frac{1}{4}$ ) and 6.3 acres in NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 19; 7.5 acres in Lot 5 (SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) and 0.5 acre in NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 20, Township 36-South, Range 6 West, WM, with a date of priority of May 11, 1961.

Water for the said right is diverted from a point located 1370 ft. N and 4930 ft E from the SW corner of Section 19, being within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 19, T 36 S, R 6 W, WM.

The applicants herein, owners of the lands above described, propose to change the use heretofore made, and without loss of priority, to hereafter use the water appropriated for the purpose of gravel washing within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 19, T, 36S, R 6 W, WM.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Grants Pass, Oregon on September 22, 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 Tony Marthaller and Dan Fry, 2123 Riverbanks Rd., Grants Pass, OR 97526 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. Administrative rules pertaining to the filing of a protest will be furnished by the Water Resources Department upon request.

Dated at Salem, Oregon, this 25th day of July, 1977,

JAMES E. SEXSON  
DIRECTOR

No. 13 — Monday, Aug. 1, 8 and 15, 1977

## AFFIDAVIT OF PUBLICATION

State of Oregon  
County of Josephine

} ss.

Charles J. Moore

I, \_\_\_\_\_, being first duly sworn, depose and say that I am the owner, editor, publisher, manager, advertising manager, principal clerk of the Grants Pass Daily Courier, printer or his foreman of the Grants Pass Daily Courier, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Grants Pass, in the aforesaid county and state; that the NOTICE OF WATER RIGHT TRANSFER, a printed copy of

which is hereto annexed, was published in the entire issue of said newspaper for 3 successive and consecutive weeks in the following issues August 1, 8 & 15, 1977

Subscribed and sworn to before me this

15th

day of

August

1977

*Kathleen Zahner*  
Notary Public of Oregon.

My commission expires 4th day of February, 19 80.

RECEIVED

AUG 16 1977

WATER RESOURCES DEPT  
SALEM, OREGON