

Name Douglas County Water Resources Survey

3956

DESCRIPTION OF WATER RIGHT

By _____
Address Room 104, Justice Building
Roseburg Or. 97470Name of stream Rice Creek
(Berry Creek)Trib. of Olalla Cr. County of Douglas

Use _____

Quantity of water _____ No. of acres _____

Name of ditch _____

Date of priority _____

In name of _____

_____ Adjudication, Vol. _____, page _____

App. No. 28129 Per. No. 22141 Cert. No. 30940

Certificate cancelled _____

Notation made on record by _____

Change in P O D & UseDate filed May 10, 1978Date of hearing July 13, 1978Place of hearing RoseburgDate of order 9-25-78 Vol. 31, page 260Date for application of water 10-1-80

Proof mailed _____

Proof received _____

Certificate issued May 2, 1980 Vol. 42, page 49172

Summary 6-2-79

REMARKS

See file 57401

W.R.I.S.

Assembled 6-9-85 by SD

Entered _____ by _____

Verified _____ by _____

FEES PAID

| Date | Amount | Receipt No. |
|--|---------------|-------------|
| <u>5-10-78</u> | <u>100.00</u> | <u>2814</u> |
| TOTAL . . . | | |
| | No Cert. Fee | |
| <u>The News Review #36.42 pd 6-4-78 ck #2313</u> | | |

FEES REFUNDED

| Date | Amount | Check No. |
|---------------|--------------|-------------|
| <u>6-9-78</u> | <u>13.58</u> | <u>2312</u> |

| | |
|-----|-------|
| Ex | 20 - |
| POD | 15 - |
| Use | 15 - |
| POB | 36 42 |
| | 86 42 |

| INDEX CARDS: | Entered | Checked |
|--|------------|---------|
| <input checked="" type="checkbox"/> Name | <u>lg</u> | _____ |
| <input checked="" type="checkbox"/> Stream | <u>lg</u> | _____ |
| <input type="checkbox"/> Pt. of Div. | _____ | _____ |
| <input checked="" type="checkbox"/> Calendar | <u>lg</u> | _____ |
| CHECKED TO REC. 153: | <u>lg</u> | _____ |
| <input checked="" type="checkbox"/> Twp. & Rge. | _____ | _____ |
| <input type="checkbox"/> Decree-vault | _____ | _____ |
| <input type="checkbox"/> Decree-safe | _____ | _____ |
| <input checked="" type="checkbox"/> Cert. of W/R | <u>lg</u> | _____ |
| <input checked="" type="checkbox"/> Per. Folder | <u>WJO</u> | _____ |
| <input type="checkbox"/> Chainindex | _____ | _____ |
| <input type="checkbox"/> Cross Ref. | _____ | _____ |
| <input type="checkbox"/> Power Claim | _____ | _____ |
| <input checked="" type="checkbox"/> Abstracts | <u>lg</u> | _____ |

164

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

DOUGLAS COUNTY

IN THE MATTER OF THE APPLICATION OF)
DOUGLAS COUNTY WATER RESOURCES SUR-)
VEY FOR APPROVAL OF CHANGES IN POINT)
OF DIVERSION AND USE OF WATER)

ORDER APPROVING
TRANSFER NO. 3956

On May 10, 1978, an application was filed in the office of the Water Resources Director by Douglas County Water Resources Survey for approval of changes in point of diversion and use heretofore made of water from Rice Creek (Berry Creek), pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 30940, Volume 22, State Record of Water Right Certificates, in the name of Elton J. Zuver, describes a right for the use of not to exceed 0.26 cubic foot per second from Rice Creek for irrigation of 3.6 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 6.5 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 1.7 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, and 9.2 acres in Lot 2 (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 20, Township 29 South, Range 7 West, W.M., with a date of priority of February 20, 1953.

Water for the said right is diverted from a point located 160 feet South and 2500 feet East from the West Quarter Corner of Section 20, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, Township 29 South, Range 7 West, W.M.

The applicant herein proposes to change the point of diversion and use heretofore made therefrom and, without loss of priority, to hereafter use the water within the irrigation season for construction purposes at the unnamed reservoir site on Berry Creek in the E $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 20, Township 29 South, Range 7 West, W.M., by diversion from a point located 944 feet North and 266 feet West from the Center Corner of Section 20, being within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 20.

Notice of the application, pursuant to ORS 540.520(2), was published in the News-Review, a newspaper printed and having general circulation in Douglas County, Oregon, for a period of three weeks in the issues of May 19 and 26; and June 2, 1978.

Mr. M. John Youngquist, Watermaster, has filed a statement to the effect that the proposed changes in point of diversion and use heretofore made of water may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed changes in point of diversion and 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 changes in point of diversion and use heretofore made of water, 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 point of diversion under the subject right, and shall not exceed 0.26 cubic foot per second.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgment of the watermaster it becomes necessary to install headgates and measuring devices:

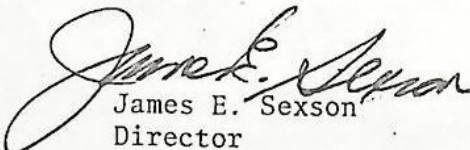
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 and said water so transferred shall be applied to beneficial use on or before October 1, 1980.

It is FURTHER ORDERED that the certificate of water right recorded at page 30940, Volume 22, State Record of Water Right Certificates, is canceled; 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 25th day of September, 1978.


James E. Sexson
Director

STATE OF OREGON
COUNTY OF DOUGLAS
CERTIFICATE OF WATER RIGHT

This Is to Certify, That

ELTON J. ZUVER

of Star Route, Box 94, Winston, 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

Rice Creek

a tributary of

Olalla Creek

for the purpose of

irrigation of 21.0 acres

under Permit No. 22141 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 February 20, 1953,

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

0.26 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream.

The point of diversion is located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 20, T. 29 S., R. 7 W., W. M.

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 2 $\frac{1}{2}$ acre feet per acre for each acre irrigated during the irrigation season of each year,

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:

3.6 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$
6.5 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$
1.7 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$
9.2 acres Lot 2 (NW $\frac{1}{4}$ SE $\frac{1}{4}$)
Section 20
T. 29 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

this date. JUNE - 7 1962

CHRIS L. WHEELER

State Engineer

Recorded in State Record of Water Right Certificates, Volume 22, page 30940

JUN 28 1978

DORIS L. WADSWORTH, COUNTY CLERK
Doris L. Wadsworth
DEPUTY

IN THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, OREGON

In the Matter of the Acquisition) No. 1084
of Real Property for the) ORDER ACCEPTING WARRANTY DEED
Construction of the Berry Creek)
Dam)

This matter coming on for hearing before the Board of County Commissioners upon presentation of Deed for the construction of the Berry Creek dam for storing water for irrigation, domestic water and other beneficial use; and

It appearing to said Board that said Deed is in all things regular, that the considerations stated therein are just and equitable, and that it is in the public interest that they be accepted;

That by Order dated June 7, 1978, the Board of Commissioners authorized the issuance of a warrant in the sum of \$163,357.00 payable to Gordon McDowell and Thalia McDowell and said warrant has been issued.

That Gordon McDowell and Thalia McDowell have executed a Release and Satisfaction of Claim releasing Douglas County from any and all amounts, damages or claims for relocation payments and assistance as a result of the acquisition of the real property from the McDowells by the County for the construction of the Berry Creek Dam in exchange for the sum of \$8,857.00 which amount has heretofore been tendered to the McDowells;

NOW, THEREFORE, IT IS HEREBY ORDERED that said Deed and Release and Satisfaction of Claim hereinabove described be and the same is HEREBY ACCEPTED and the County Clerk is hereby authorized and directed to record said Deed in the Road and Records records of Douglas County, and to file the Release and Satisfaction of Claim in the County Journal.

DATED this 25 day of June 1978.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, OREGON

By *Paul T. Makinson*
Paul T. Makinson, Chairman

By *Bill Vian*
Bill Vian, Commissioner

By *John T. Truett*
John T. Truett, Commissioner

78-12785

Affidavit of Publication

The News-Review

Roseburg, Oregon

ISSUED DAILY EXCEPT SUNDAY

STATE OF OREGON }
COUNTY OF DOUGLAS } ss.

I, Elsille Martin, being first duly sworn, depose and say that I am the Office Manager, of The News-Review, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Roseburg 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:

May 19, 26, June 2, 1978

The fee actually charged by such newspaper for such publication is \$ 36.12

Elsille Martin

Subscribed and sworn to before me this 2 day of

June, 19 78

Barbara Brown
Notary Public of Oregon

My Commission expires 10th day of October, 19 80

RECEIVED

JUN 7 1978

**WATER RESOURCES DEPT.
SALEM, OREGON**

**NOTICE OF
WATER RIGHT TRANSFER
APPLICATION NO. 3956**

Notice is given hereby that an application has been filed in the office of the Water Resources Director by Douglas County Water Resources Survey for approval of changes in point of diversion and use heretofore made of water from Rice Creek (Berry Creek), pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 30940, Volume 22, State Record of Water Right Certificates, in the name of Elton J. Zuver, describes a right for the use of not to exceed 0.26 cubic foot per second from Rice Creek for irrigation of 3.6 ac in SW¹/₄ NE¹/₄, 6.5 ac in SE¹/₄ NW¹/₄, 1.7 ac in NE¹/₄ SW¹/₄, and 9.2 ac in Lot 2 (NW¹/₄ SE¹/₄) of Sec 20, T 29 S, R 7W, WM, with a date of priority of Feb. 20, 1953.

Water for the said right is diverted from a point located 160 ft S & 2500 ft E from the W¹/₄ Corner of Sec 20, being within the NE¹/₄ SW¹/₄ of Sec 20, T 29S, R 7W, WM.

The applicant herein proposes to change the point of diversion and use heretofore made therefrom and, without loss of priority, to hereafter use the water for construction purposes at the unnamed reservoir site on Berry Creek in the E¹/₂ NW¹/₄, W¹/₂ NE¹/₄ of Sec 20, T 29S, R 7W, WM, by diversion from a point located 944 ft N & 266 ft W from the Center Corner of Sec 20, being within the SE¹/₄ NW¹/₄ of said Sec 20.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Roseburg, Oregon, on July 13, 1978, at 9:30 a.m. All objections to the proposed changes, 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 Douglas Co. Water Resources Survey, Rm 104, Justice Bldg., Roseburg, OR 97470; 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 16th day of May, 1978.

James E. Sexson, Director
Invoice No. 4139, Publication
Dates: May 19, 26, June 2, 1978