

3923 Stephens

Name Donald Stephens

3923

DESCRIPTION OF WATER RIGHT

By _____

Address _____

Haines, OR 97833Change in POU & add PODDate filed April 6, 1978Date of hearing Nov 1, 1978Place of hearing Baker✓ Date of order 12-18-78 Vol. 31, page 492Date for application of water 10-1-80Proof mailed FEB 13 1986Proof received 2-28-86Certificate issued JAN 29 1979 Vol. 40, page 47251APR 4 19864954106Name of stream Rock CreekTrib. of _____ County of Baker

Use _____

Quantity of water _____ No. of acres _____

Name of ditch _____

Date of priority 1883In name of E DouglasPowder River Adjudication, Vol. 6, page 380✓ App. No. _____ Per. No. _____ Cert. No. ✓ 4114

Certificate cancelled _____

✓ Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>4-6-78</u> <u>8-24-78</u>	<u>152.50</u> <u>8.71</u> <u><4.00></u>	<u>2010</u> <i>Transfer from 3645 (68844)</i> <i>Trnt to T3925 also</i>
TOTAL		
<u>10-11-78</u>	<u>2</u> Cert. Fee	<i>Trans fr 2010</i>
<i>Democrat Herald \$80.00 pd 10/11/78 ck# 2676</i>		

FEES REFUNDED

Date	Amount	Check No.
<u>10/11/78</u>	<u>32.21</u>	<u>2675</u>

EX 20 -
POU 10 -
POD 15 -
CERT 2 -
POV 10 -

3925 CERT + 12.71
12.71

REMARKS

W.R.I.S.

Assembled 5-15-83 by SKB

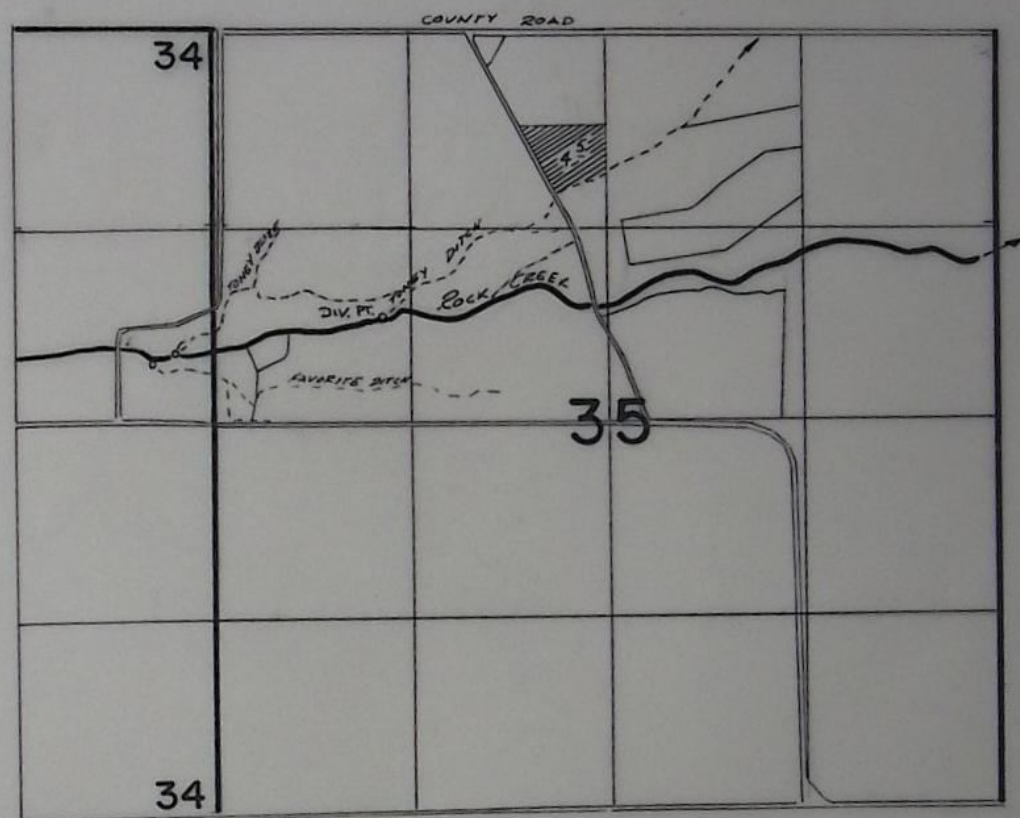
Entered _____ by _____

Verified _____ by _____

TO BE ENTERED WHERE CHECKED	INDEX CARDS:	
	Entered	Checked
✓	Name	✓
✓	Stream	✓
✓	Pt. of Div.	✓
✓	Calendar	✓
✓	CHECKED TO RECORDS:	
✓	Twp. & Rge.	✓
✓	Decree-vault	✓
✓	Decree-safe	✓
✓	Cert. of W/R	✓
✓	Per. Folder	✓
✓	Chainindex	✓
✓	Cross Ref.	✓
✓	Pow. Claim	✓
✓	Abstracts	✓

140

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



DIV. PT. LOC: 710'N. + 1130'E FROM W¹/₄ COR. SEC 35

TONEY DITCH

FINAL PROOF SURVEY
UNDER

TRANSFER 3923

IN NAME OF

DONALD STEPHENS

Surveyed APRIL 13, 1987, by V.L. Church

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

BAKER COUNTY

IN THE MATTER OF THE APPLICATION)
OF DONALD STEPHENS FOR APPROVAL)
OF CHANGES IN PLACE OF USE AND)
POINT OF DIVERSION OF WATER)

ORDER APPROVING
TRANSFER NO. 3923

On April 6, 1978, an application was filed in the office of the Water Resources Director by Donald Stephens for approval of changes in place of use and point of diversion of water from Rock Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 4114, Volume 5, State Record of Water Right Certificates, in the name of E. Douglas, describes a right which includes the use of water from Rock Creek for irrigation of a certain 4.5 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 35, Township 7 South, Range 38 East, W.M., with a date of priority of 1883.

Water for the said right is diverted, through the Toney (Toney Blize) Ditch, from a point located 454 feet North and 330 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 the place of use and point of diversion therefrom and, without loss of priority, to irrigate in lieu thereof a certain 4.5 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 35, Township 7 South, Range 38 East, W.M., from a point of diversion located 578 feet North and 1114 feet East from the West Quarter Corner of Section 35, being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 35, Township 7 South, Range 38 East, W.M.

Notice of the application, pursuant to ORS 540.520(2), 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 September 11, 18 and 25, 1978.

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

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

131,442

NOW, THEREFORE, it hereby is ORDERED that the requested changes in place of use and point of diversion, 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.

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:

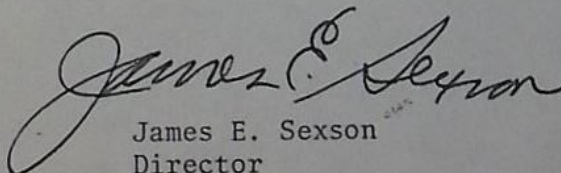
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 and that 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 4114, 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 18th day of December, 1978.


James E. Sexson
Director

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

This is to Certify, That E. DOUGLAS

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

the waters of Rock Creek, a tributary of Powder River

for the purpose of the irrigation of ^{1.0} ~~5.5~~ 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 1883 for 4.5 acres and 1896 for 1 acre

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: 4.5 acres in the Southwest quarter of Northwest quarter and 1 acre in the Northwest quarter of Northwest quarter of Section Thirty-five, Township Seven South, Range Thirty-eight East of Willamette Meridian, in Baker County, Oregon.

This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 4114, Volume 5, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered on Dec 18, 1978, approving transfer application No. 3923.

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 4114

T-3923

AFFIDAVIT OF PUBLICATION

Baker, Oregon, September 30, 1978

STATE OF OREGON, }
County of Baker } ss.

I, Jeanne Warren, 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 17 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 Legal Advertisement #124 - Notice of Water Right Transfer, 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 11th day of September, 1978, and ending with the issue dated the 25th day of September, 1978, and that the dates of publication were September 11, 1978 September 18, 1978 September 25, 1978

Jeanne Warren

Subscribed and sworn to before me this 30th

day of September, 1978

Phyllis Fuge
Notary Public for Oregon.

My commission expires September 8, 1982



NOTICE OF WATER
RIGHTS TRANSFER
APPLICATIONS NO.
3923, 3924, and 3925

Notice is given hereby that applications have been filed in the office of the Water Resources Director by Donald Stephens for approval of changes in place of use, point of diversion and additional points of diversion from Rock Creek, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 4114, Volume 5, State Record of Water Right Certificates, in the name of E. Douglas, describes a right which includes the use of water from Rock Creek for irrigation of 4.5 ac in SW 1/4 NW 1/4 of Sec 35, T 7S, R 38E, WM, with a date of priority of 1883. Water for this right is diverted, through the Fisher Long Ditch, from a point located at 412 ft N & 907 ft W from the E 1/4 Corner of Sec 34, being within the SE 1/4 NE 1/4 of Sec 34, T 7S, R 38E, WM.

By transfer application No. 3923, the applicant herein, owner of the lands above described in said certificate 4114, proposes to change the place of use and point of diversion therefrom and, without loss of priority, to irrigate in lieu thereof a certain 4.5 ac in NE 1/4 NW 1/4 of Sec 35, T 7S, R 38E, WM, from a p.o.d. located 578 ft N & 1114 ft E from the W 1/4 Corner of Sec 35, being within the SW 1/4 NW 1/4 of Sec 35, T 7S, R 38E, WM (Toney Ditch).

The certificate recorded at page 4057, Volume 5, State Record of Water Right Certificates, in the name of F.W. Castor, describes a right for the use of water from Rock Creek for irrigation of a certain 23.0 ac in SW 1/4 NW 1/4 & 28.0 ac in SE 1/4 NW 1/4 of Sec 35, T 7S, R 38E, WM, with a date of priority of 1897 for 10.0 ac, 1883 for 23.0 ac & 1894 for 18.0 ac. Water for this right is diverted, through the Toney Blize Ditch, from a point located 454 ft N & 330 ft W from the E 1/4 Corner of Sec 34, being within the SE 1/4 NE 1/4 of Sec 34, T 7S, R 38E, WM.

By transfer application No. 3924, the applicant herein, owner of the lands above described in said certificate 4057, proposes to change the place of use therefrom and, without loss of priority, to irrigate in lieu thereof a certain 11.0 ac in NW 1/4 NE 1/4 & 12.0 ac in NE 1/4 NW 1/4 with a date of priority of 1883, 11.0 ac in NW 1/4 NE 1/4 & 7.0 ac in NE 1/4 NW 1/4 with a date of priority of 1894, & 6.0 ac in NW 1/4 NE 1/4 & 4.0 ac in SW 1/4 NE 1/4 with a date of priority of 1897, all in Sec 35, T 7S, R 38E, WM. The applicant herein also proposes to establish an additional p.o.d. for these lands located 578 ft & 1114 ft E from the W 1/4 corner of Sec 35, being within the SW 1/4 NW 1/4 of Sec 35, T 7S, R 38E, WM.

The certificate recorded at page 33386, Volume 25, State Record of Water Right Certificates, in the name of Estate of D. Favorite, describes a right which includes the use of water from Rock Creek for irrigation of 19.5 ac in SW 1/4 NE 1/4, 4.0 ac in SW 1/4 NW 1/4, 8.5 ac in SE 1/4 NW 1/4 & 40.0 ac in NW 1/4 SW 1/4 of Sec 5, T 8S, R 39E, WM, with a date of priority of Aug. 28, 1880. Water for this right is diverted, through the Favorite Ditch, from a point located 371 ft N & 536 ft W from the E 1/4 Corner of Sec 34, being within the SE 1/4 NE 1/4 of Sec 34, T 7S, R 38E, WM.

By transfer application No. 3925, the applicant herein, owner of the lands above described in said certificate 33386, proposes to change the place of use therefrom and, without loss of priority, to irrigate in lieu thereof a certain 36.0 ac in SW 1/4 NW 1/4 & 36.0 ac in SE 1/4 NW 1/4 of Sec 35, T 7S, R 38E, WM. The applicant herein also proposes to establish two additional p.o.d. for the irrigation of these lands located: (1) 454 ft N & 330 ft W from the E 1/4 Corner of Sec 34, being within the SE 1/4 NE 1/4 of Sec 34, T 7S, R 38E, WM (Toney Blize Ditch), and (2) 578 ft N & 1114 ft E from the W 1/4 Corner of Sec 35, being within the SW 1/4 NW 1/4 of Sec 35, T 7S, R 38E, WM (Toney Ditch).

All persons interested are notified hereby that a hearing will be held at the county courthouse at Baker, Oregon, on November 1, 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 Donald Stephens, 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. Administrative rules pertaining to the filing of a protest will be furnished by the Water Resources Department upon request.

Dated at Salem, Oregon this 6th day of September, 1978.

James E. Sexson
Director

Publish: Sept. 11, 18, 25, 1978
Legal No. 124

Part Canceled Sp.Or.Rec.Vol. 31 p. 41

STATE OF OREGON

Superseded by

Cert. No. _____

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

This is to Certify, That J. H. TONEY

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

the waters of Powder River, tributary of Snake River; Rock Creek and Sand Creek,
tributary of Powder River
for the purpose of the irrigation of 430.0 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 1905 for Tract No. 1: 1883 for
3.0 acres, 1898 for 72.5 acres and 1894 for 80.0 acres in Tract No. 2; 1878 for 171.0
acres, 1880 for 57.5 acres and 1897 for 15.0 acres in Tract No. 3that 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:Tract No. 1 from Powder River: 16 acres in the Northeast quarter of Southwest
quarter; 22 acres in the Northwest quarter of Southwest quarter; 5 acres in the
Southwest quarter of Southwest quarter and 35 acres in the Southeast quarter of
Southwest quarter of Section Twenty-seven, Township Seven South, Range Thirty-nine
East of Willamette Meridian, in Baker County, Oregon.Tract No. 2 from Rock Creek: 40 acres in the Northwest quarter of Northeast
quarter; 40 acres in the Northeast quarter of Northwest quarter; 40 acres in the
Northeast quarter of Southeast quarter and 40 acres in the Southeast quarter of
Southeast quarter of Section Thirty-five, Township Seven South, Range Thirty-eight
East of Willamette Meridian, in Baker County, Oregon.Tract No. 3 from Rock Creek and Sand Creek: 36 acres in the Northeast
quarter of Northeast quarter of Section Thirty-three: 27.5 acres in the Southeast
quarter of Southwest quarter; 25 acres in the Northeast quarter of Southeast quarter
40 acres in the Northwest quarter of Southeast quarter; 39 acres in the Southwest
quarter of Southeast quarter and 28 acres in the Southeast quarter of Southeast
quarter of Section Twenty-eight; 15 acres in the Northwest quarter of Southwest
quarter and 33 acres in the Southwest quarter of Southwest quarter of Section
Twenty-seven, Township Seven South, Range Thirty-nine East of Willamette Meridian,
in Baker County, Oregon.This certificate describes that portion of the water right confirmed by the prior
certificate recorded at page 4509, Volume 5, State Record of Water Right
Certificates, NOT canceled by the provisions of an order of the Water Resources
Director entered on Dec-18, 1928.The issuance of this superseding certificate does not confirm the status of the
water right in reference to ORS 540.610.

of February, 1923

STATE WATER BOARD

(Seal of State Water Board)

By PERCY A. CUPPER

State Engineer, President

Attest:

R. W. POTTER

Secretary

JAN 19 1929 47144

Recorded in State Record of Water Right Certificates, Volume 5, page 4509.

Powder River b

Tract No. 1 5

16.0 ac NESW
22.0 NWSW
5.0 SWSW
35.0 SESW

Sec 27

T7S R39E WM

Rock Creek S

Tract No. 2 5

12.0 ac NWNE
16.5 NENE
40.0 NESE
40.0 SESE

Sec 35

T7S R38E WM

Rock Creek & Sand Creek 11

Tract No. 3 5

15.0 ac NWSW
33.0 SWSW

Sec 27

27.5 SESW
25.0 NESE
40.0 NWSE
39.0 SWSE
28.0 SESE

Sec 28

36.0 NENE

Sec 33

T7S R39E WM

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

BAKER COUNTY

IN THE MATTER OF CANCELLATION)
OF A PORTION OF A WATER RIGHT)
IN THE NAME OF J. H. TONEY)

O R D E R

On June 9, 1978, Robert Stephens submitted an affidavit that he is the owner of a certain water right and the lands to which the water right is appurtenant; that he has abandoned any and all interest in and to the said water right and requests the same be canceled.

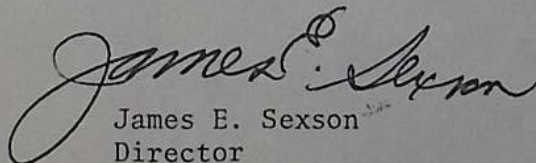
The water right in question was allowed by Decree of the Circuit Court for Baker County, Oregon, entered March 18, 1918, in the Matter of the Determination of the Relative Rights to the Use of the Waters of Powder River, tabulated at page 450, Volume 6, Order Record of the Water Resources Director, in the name of J. H. Toney, and is a portion of the right described by the certificate recorded at page 4509, Volume 5, State Record of Water Right Certificates, and is for the use of water from Rock Creek, with a date of priority of 1898, for irrigation of a certain 28.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 23.5 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 35, Township 7 South, Range 38 East, W.M.

ORS 540.621 provides that: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Director that the water right has been abandoned by him and that he desires cancellation thereof, the Water Resources Director shall enter an order canceling the water right."

NOW, THEREFORE, it hereby is ORDERED that the said water right, being a portion of the right described by the certificate recorded at page 4509, Volume 5, State Record of Water Right Certificates, is canceled.

It is FURTHER ORDERED that the said certificate of water right is canceled; and in lieu thereof a new certificate be issued to describe the balance of the water right NOT involved in this proceeding.

Dated at Salem, Oregon this 18th day of December, 1978.


James E. Sexson
Director

V311P491