

BE IT REMEMBERED, That at a Regular Term of the Circuit Court of the State of Oregon, for the County of Marion, begun and held at the Court House, in the City of Salem, in said County and State, on Tuesday, the 2nd day of January, 1945, the same being the First Tuesday in said month, Monday being a holiday, and the time fixed by law for holding a Regular Term of said Court, when were present:

The Hon.	E. M. Page & Geo. R. Duncan,	Judges presiding
	M. B. Hayden,	District Attorney
	H. C. Mattson	Clerk Pro Tem
	Denver Young	Sheriff

When, on Thursday, the 1st day of February, 1945, or the Twenty-Seventh Judicial Day of said term, Honorable David R. Vandenberg, Judge Presiding, among others the following proceedings were had, to-wit:

No. 19743

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

IN THE MATTER OF THE DETERMINATION)
OF THE RELATIVE RIGHTS TO THE USE ()
OF THE WATERS OF THE NORTH SANTIAM)
RIVER AND ITS TRIBUTARIES, A TRIBU- ()
TARY OF THE SANTIAM RIVER.)

D E C R E E

Now at this time the above entitled matter coming on to be heard on objections and exceptions to the Findings and Order of Determination of the State Engineer and for Decree herein; and the Court having considered the testimony offered for the various exceptors and objectors to said Findings and Order of Determination and having read and considered Briefs herein and being advised in the premises;

IT IS CONSIDERED, ORDERED AND DECREED:

That the exceptions and objections of all claimants, be, and they are hereby disallowed and denied except as hereinafter modified;

That the proceedings of the State Engineer in this matter, be, and they are hereby approved;

That the Findings and Order of Determination of the State Engineer as filed in this Court are hereby the Findings and Order of Determination and

and Decree of this Court, subject to the following modification:

The last two paragraphs of the State Engineer's Findings and Order of Determination Number fifteen (15), page 29, shall be, and they are hereby modified to read as follows:

The second assertion in contestee's statement and proof of claim, which is open to question in view of the evidence disclosed thereon, is that of the quantity of water necessary for the contestee's purpose. Here again much and varied testimony was offered, which, when given careful consideration, appears to refute the necessity of 200 cubic feet per second through the entire course of the river from a given point above Stayton to its confluence with the Santiam River.

Upon further consideration, it would appear that a minimum of about 50 cubic feet per second would be adequate to sustain the fish life and maintain waterways therefor. It is only after the water passes the point of the Gardner-Bennett diversion and until it reaches the confluence with the Santiam River that a possible hazard arises; therefore, it appears necessary to maintain a minimum flow of 50 cubic feet per second from said point of diversion to the said river's confluence with the Santiam River.

From the foregoing considerations and for the foregoing reasons, the contestee herein is allowed a right to the use of 50 cubic feet per second of water continuous flow, from a point beginning at the Gardner-Bennett diversion dam, which point is identified by the letter "A" on the first map immediately following page 344 of the State Engineer's report, prepared and submitted by L. A. McAllister, on November 24, 1940; thence along the northerly channel of the river, past the indicated Salem Water Commission's foot bridge to the point indicated by "B" on the map; thence to a point "C", which is the Gardner-Bennett diversion dam, identified on said map by letters, C, C1 and C2; thence along what is identified on said map as "north channel"; thence along the North Santiam River to its confluence with the Santiam River in Section 24, Township 10 South, Range 3 West, Willamette Meridian.

Such right is prior and superior to all other rights allowed herein.

Dated this January 30th, 1945.

DAVID R. VANDENBERG

Circuit Judge

