

BEFORE THE STATE ENGINEER OF OREGON

Umatilla County

IN THE MATTER OF THE APPLICATION)
OF AMMON BROTHERS, INC. FOR THE)
APPROVAL OF ESTABLISHING AN ADDI-)
TIONAL POINT OF DIVERSION OF WATER)
FROM BUTTER CREEK)

ORDER APPROVING
TRANSFER NO. 2354

On April 6, 1970, Ammon Brothers, Inc. filed an application in the office of the State Engineer for the approval of establishing an additional point of diversion of water from Butter Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Umatilla County, Oregon, entered September 9, 1916, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Butter Creek and its Tributaries, a water right was established in the name of R. N. Stanfield for the use of the waters of Butter Creek for the irrigation of, among other lands, 18.0 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 40.0 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 39.0 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 5.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 40.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 40.0 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 40.0 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 40.0 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, 17.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1, 5.0 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 36.0 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 6.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, Township 2 North, Range 27 East, W.M., with dates of priority of 1866, 1870, 1884 and 1896, as evidenced by certificate of water right recorded at page 2692, Volume 3, State Record of Water Right Certificates. These lands are irrigated from a point of diversion located 970 feet north and 450 feet west from the South $\frac{1}{4}$ corner of Section 11, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11, Township 2 North, Range 27 East, W.M.

Clausie H. and Shelia Ammon, Edward N. and Alice Ammon, Joy A. and Elizabeth R. Anderson, Maynard F. and Olga Aaby, Clarence Louis Hanson and Elinor Irene Hanson and Alma Mae Sonnenberg

owners of the lands described in the certificate of water right recorded at page 2692, submitted an agreement adjusting and adjudicating between themselves the several rights to the waters of Butter Creek. Under the terms of this agreement Ammon Bros., Inc., applicants herein and owners of the lands described in paragraph two have appurtenant to their lands the rights to irrigate the following lands with the priority dates shown: 2.20 acres in NW¼ SW¼, Section 1, and 8.42 acres in NE¼ SE¼ and 0.47 acres in NW¼ SE¼, Section 2, with a date of priority of 1866; 7.31 acres in NW¼ SW¼, Section 1, and 14.87 acres in NE¼ SE¼, Section 2, with a date of priority of 1870; 0.86 acres in SW¼ NW¼ and 4.78 acres in NW¼ SW¼, Section 1, and 3.25 acres in NE¼ SE¼ and 2.20 acres in SE¼ NE¼, Section 2, with a date of priority of 1884; 18.00 acres in NE¼ NE¼, 40.00 acres in NW¼ NE¼, 39.00 acres in SW¼ NE¼, 5.00 acres in SE¼ NE¼, 40.00 acres in SE¼ NW¼, 39.14 acres in SW¼ NW¼, 25.71 acres in NW¼ SW¼, 40.00 acres in NE¼ SW¼, and 17.00 acres in NW¼ SE¼, Section 1, and 9.46 acres in NE¼ SE¼, 2.80 acres in SE¼ NE¼, and 5.53 acres in NW¼ SE¼, Section 2, with a date priority of 1896, all in Township 2 North, Range 27 East, W.M.

The applicants herein, owners of the lands above described, propose to maintain the present point of diversion and establish an additional point of diversion to be located 30 feet South and 420 feet West from the East ¼ corner of Section 2, being within the NE¼ SE¼ of Section 2, Township 2 North, Range 27 East, W.M.

Notice of the filing of the application was given by publication setting forth a time and place certain for hearing objections to the proposed additional point of diversion of water, if any there were, namely: at the county courthouse in Pendleton, Oregon, on June 17, 1970, at 9:30 a.m. The notice was published in The Hermiston Herald, a newspaper printed and having general circulation in Umatilla County, Oregon, for a period of three weeks in the issues of April 23, 30, and May 7, 1970. The date set for hearing in said notice was not less than thirty

days after the last publication of the notice.

Mr. Jerry F. Haines, Watermaster of District No. 5, has filed a report to the effect that the proposed additional point of diversion may be established without injury to existing rights.

No objections having been filed and it appearing that the proposed additional point of diversion may be established without injury to existing rights, the application should be approved.

NOW, THEREFORE, it hereby is ORDERED that the applicant may maintain the following point of diversion from Butter Creek:

970 feet north and 450 feet west from the S $\frac{1}{4}$ corner of Section 11, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11, Township 2 North, Range 27 East, W.M.

and may establish and maintain the additional point of diversion to be located as follows:

30 feet south and 420 feet west from the E $\frac{1}{4}$ corner of Section 2, being within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, Township 2 North, Range 27 East, W.M.

for the irrigation of, among other lands, 2.20 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, and 8.42 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 0.47 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, with a date of priority of 1866; 7.31 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, and 14.87 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, with a date of priority of 1870; 0.86 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 4.78 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, and 3.25 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 2.20 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, with a date of priority of 1884; 18.00 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$, 40.00 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$, 39.00 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$, 5.00 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, 40.00 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 39.14 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 25.71 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, 40.00 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, and 17.00 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1, and 9.46 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 2.80 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$, and 5.53 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, with a date of priority of 1896, all in Township 2 North, Range 27 East, W.M., is approved.

It is FURTHER ORDERED that the construction work shall be

completed and the establishment of an additional point of diversion of water made on or before October 1, 1973.

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 previously established point of diversion and shall not exceed 6.35 cubic feet per second.

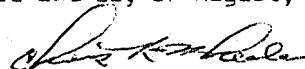
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

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 certificate of water right heretofore issued to R. N. Stanfield and recorded at page 2692, Volume 3, State Record of Water Right Certificates, is canceled and in lieu thereof a new certificate be issued to Joy E. and Elizabeth R. Anderson, Maynard F. and Olga Aaby, Clarence Louis and Elinor Irene Hanson and Alma Mae Sonnenberg, with priority dates according to the aforementioned agreement and covering the balance of the lands not involved in this proceeding and upon receipt of proof satisfactory to the State Engineer of completion of the authorized point of diversion, a certificate of water right shall be issued to Ammon Brothers, Inc., confirming the additional point of diversion.

Dated at Salem, Oregon, this 2nd day of August, 1972.



CHRIS L. WHEELER
State Engineer