

Umatilla County

IN THE MATTER OF THE APPLICATION
OF SUSAN E. DOHERTY FOR THE APPROVAL
OF ESTABLISHING ADDITIONAL POINTS OF
DIVERSION OF WATER FROM BUTTER CREEK

ORDER APPROVING
TRANSFER NO. 2794

On April 23, 1973, Susan E. Doherty filed an application in the office of the State Engineer for the approval of establishing additional points 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 A. H. Sunderman for the use of the waters of Butter Creek for the irrigation of, among other lands, 11.4 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 33, 6.0 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, 35.0 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, 3.4 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, 32.1 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$, 39.2 acres in NW $\frac{1}{4}$ SW $\frac{1}{4}$, and 37.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, Township 2 North, Range 27 East, W.M., with a date of priority of 1873, as evidenced by certificate of water right recorded at page 2695, Volume 3, State Record of Water Right Certificates. These lands are irrigated by means of the East Side ditch and West Side ditch from a point of diversion located North 87° 10' East 2700 feet from the Southwest corner of Section 34, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, Township 2 North, Range 27 East, W.M.

The applicant herein, owner of the lands above described, proposes to maintain the present point of diversion and establish additional points of diversion to be located North 44° 40' East, 2075 feet from the Southwest corner of Section 34, being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, Township 2 North, Range 27 East, W.M., and North 10° 00' East 2550 feet from the Southwest corner of Section 34, being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, 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 points of diversion of water, if any there were, namely: at the county courthouse in Pendleton, Oregon on October 16, 1973, at 9:30 a.m. The notice was published in the East Oregonian, a newspaper printed and having general circulation in Umatilla County, Oregon, for a period of three weeks in the issues of August 22, 29 and September 5, 1973. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. William A. Holcomb, Watermaster of District No. 5, has filed a report to the effect that the proposed additional points of diversion of water may be established without injury to existing rights.

No objections having been filed and it appearing that the proposed additional points 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 present point of diversion of water from Butter Creek, to wit:

From a point located North $87^{\circ} 10'$ East 2700 feet from the Southwest corner of Section 34, being within the $SE\frac{1}{4} SW\frac{1}{4}$, Section 34, Township 2 North, Range 27 East, W.M.

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

North $44^{\circ} 40'$ East 2075 feet from the Southwest corner of Section 34, being within the $NE\frac{1}{4} SW\frac{1}{4}$, Section 34, Township 2 North, Range 27 East, W.M.

North $10^{\circ} 00'$ East 2550 feet from the Southwest corner of Section 34, being within the $NW\frac{1}{4} SW\frac{1}{4}$, Section 34, Township 2 North, Range 27 East., W.M.

for the irrigation of 11.4 acres in $NE\frac{1}{4} SE\frac{1}{4}$, Section 33, 6.0 acres in $NW\frac{1}{4} NW\frac{1}{4}$, 35.0 acres in $SW\frac{1}{4} NW\frac{1}{4}$, 3.4 acres in $SE\frac{1}{4} NW\frac{1}{4}$, 32.1 acres in $NE\frac{1}{4} SW\frac{1}{4}$, 39.2 acres in $NW\frac{1}{4} SW\frac{1}{4}$, and 37.0 acres in $SE\frac{1}{4} SW\frac{1}{4}$, Section 34, Township 2 North, Range 27 East, W.M., with a date of priority of 1873, is approved.

It is FURTHER ORDERED that the construction work shall be completed and the establishment of additional points of diversion of water made on or before October 1, 1974.

It is FURTHER ORDERED that the quantity of water diverted at the new points of diversion shall not exceed the quantity of water available at the old point of diversion.

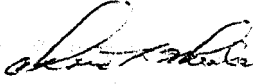
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

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 A. H. Sunderman and recorded at page 2695, Volume 3, State Record of Water Right Certificates, is canceled, and in lieu thereof a new certificate be issued 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 points of diversion, a certificate of water right shall be issued to Susan E. Doherty confirming the additional points of diversion.

Dated at Salem, Oregon, this 2nd day of January, 1974.


CHRIS L. WHEELER
State Engineer