

BEFORE THE STATE ENGINEER OF OREGON

Morrow County

IN THE MATTER OF THE APPLICATION }  
OF BURL WATTENBURGER, JR. FOR }  
THE APPROVAL OF AN ADDITIONAL }  
POINT OF DIVERSION OF WATER }  
FROM BUTTER CREEK }  
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ORDER APPROVING  
TRANSFER NO. 2944

On December 4, 1973, Burl Wattenburger, Jr. filed an application in the office of the State Engineer for the approval of an additional point of diversion of water from Butter Creek, pursuant to the provisions of ORS 540.510 to 540.530.

Certificate of water right issued to W. J. Wattenburger and recorded at page 2705, Volume 3, State Record of Water Right Certificates, confirms a right to the use of not to exceed 4.95 cubic feet per second of water from Butter Creek for the irrigation of, among other lands, 23.0 acres in NW $\frac{1}{4}$  NE $\frac{1}{4}$  and 23.0 acres in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 3, Township 1 North, Range 27 East, W. M., with a date of priority of 1896. These lands are irrigated from two points of diversion located 2500 feet South and 1400 feet West and 2500 feet South and 1750 feet West, both from the NE Corner, Section 10 within SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 10, Township 1 North, Range 27 East, W. M.

The applicant herein, owner of the lands above described, proposes to maintain the present points of diversion and establish an additional point of diversion to be located 1500 feet South and 2180 feet West from the NE Corner of Section 3, being within the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 3, Township 1 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 change in point of diversion of water, if any there were, namely; at the

county courthouse in Heppner, Oregon on May 13, 1975, at 9:30 a.m. The notice was published in the Heppner Gazette Times a newspaper printed and having general circulation in Morrow County, Oregon, for a period of three weeks in the issues of March 20, 27, and April 3, 1975. The date set for hearing in said notice was not less than thirty days after the last publication of the notice.

Mr. William I. Porfily, Watermaster of District No. 5, has filed a report to the effect that the proposed change in point of diversion of water may be made without injury to existing rights.

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

NOW, THEREFORE, it hereby is ORDERED that the applicant may maintain the following points of diversion of water from Butter Creek: located 2500 feet South and 1400 feet West and 2500 feet South and 1750 feet West, both from the NE Corner, Section 10, being within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 10, Township 1 North, Range 27 East, W. M. and may establish and maintain an additional point of diversion to be located 1500 feet South and 2180 feet West from the NE Corner of Section 3, being within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 3, Township 1 North, Range 27 East, W. M. for the irrigation of 23.0 acres in NW $\frac{1}{4}$  NE $\frac{1}{4}$  and 23.0 acres in SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 3, Township 1 North, Range 27 East, W. M., with a date of priority of 1966.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1976.

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, and shall not exceed 0.91 cubic feet per second.

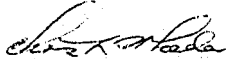
It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

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 W. J. Wattenburger and recorded at page 2705, Volume 3, State Records 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 additional point of diversion, a certificate of water right shall be issued to Burl Wattenburger, Jr. confirming the additional point of diversion.

Dated at Salem, Oregon, this 19th day of May, 1975.



CHRIS L. WHEELER  
State Engineer