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APR 16 2012

WATER RESOURCES DEPT
SALEM, OREGON

HEATH CURTISS
Direct (503) 294-9810
hcurtiss@stoel.com

April 13, 2012

Mr. Barry F. Norris
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266

Re: Butter Creek Groundwater Allocation Consent Order for 2012

Dear Mr. Norris:

Enclosed for Water Resources Department execution and filing is the CONSENT ORDER FOR ALLOCATION OF GROUNDWATER, signed by Hale Bros., Inc., setting out the parties' agreement regarding 2012 groundwater allocations under Water Right Certificates 44654, 81408 and 81409 in Umatilla County.

After the Order is filed, please return a conformed copy electronically to the following email addresses: hcurtiss@stoel.com and lnniles@stoel.com.

Thank you for your assistance. Please call if you have questions regarding the enclosed.

Very truly yours,

A handwritten signature in black ink, appearing to be "H. Curtiss", written over a horizontal line.

Heath Curtiss

HC/ln
Enclosure

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Butter Creek)	CONSENT ORDER
2012 Annual Allocation of Groundwater,)	FOR ALLOCATION OF
Under Water Right Certificate 44654,)	GROUNDWATER 2012
81408 and 81409, Umatilla County,)	
Oregon		

Hale Brothers, INC.
73120 Highway 207
Echo, OR 97826

Robert Hale
73120 Highway 207
Echo, OR 97826

BACKGROUND

The Water Resources Department (Department) issued Proposed Orders allocating groundwater for the 2012 irrigation season on August 9, 2011 and served it on Hales Brothers, Inc. on August 11, 2011. The August 9, 2011 Orders allocated water from the basalt groundwater reservoir to Hale Brothers, Inc. owner of Water Right Certificates 81408 and 81409 and Mr. Robert Hale, owner of Water Right Certificate 44654, for the 2012 irrigation season. Hale Brothers, Inc filed a Protest of the Proposed Order Approving Allocation of groundwater under Water Right Certificates 81408, 81409 and 44654 on September 8, 2011. The Protest asserts that the Department erred in determining the amount of groundwater pumped by the Hale Brothers from three wells during the 2010 irrigation season which reduced the amount of water allocated to the three Water Right Certificates for the 2012 irrigation season.

The parties agree to enter into this consent order in lieu of a contested case hearing and the Department allocates groundwater for Water Right Certificates 81408, 81409 and 4464 for the 2012 irrigation season as stated herein.

STIPULATION OF FACTS

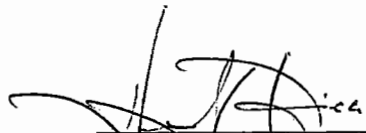
- 1.1 Proposed Orders allocating groundwater for the 2012 irrigation season for Water Right Certificates 81408, 81409 and 44654 were issued on August 9, 2011 and served on August 11, 2011.
- 1.2 On September 8, 2011, Hale Brothers, Inc filed a protest of the Proposed Orders Approving Allocation of groundwater under Water Right Certificates 44654, 81408, and 81409.

Special Order Vol. 105 pg 761

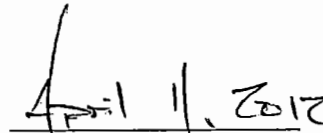
- 1.3 The Protest asserts that the Department erred when determining how much ground water was pumped under Water Right Certificates 44654, 81408, and 81409 for the 2010 irrigation season.
- 1.4 The flow meter for the well known as the Ammon well was broken for several weeks during the early part of the 2010 irrigation season requiring the department to estimate the amount of water pumped during 2010.
- 1.5 There was a difference between the Department's estimate and the estimate provided by Hale Brothers, Inc.
- 1.6 On February 10, 2012, Hale Brothers, Inc. submitted additional information to the Department documenting the method used to estimate the amount of water pumped during the time when the Ammon well flow meter was broken.
- 1.7 The Department, after reviewing the documentation, agreed that the amount of water pumped under Water Right Certificates 44654, 81408, and 81409 was 64.5, 586, and 248.2 acre feet, respectively, for the 2010 irrigation season.
- 1.8 The allocation as stated in this Consent Order to Mr. Hale and Hale Brother, Inc. does not exceed the limits of the water right or the Sustainable Annual Yield for the Echo Junction Subarea.

CONSENT

- 2.1 I acknowledge that I have read and understand the terms of this agreement and order.
- 2.2 I understand and agree that this Consent Order and all documents incorporated by reference set forth the entire agreement of the parties.
- 2.3 I understand and agree that the Consent Order constitutes final resolution of the protest filed against the Proposed Orders for the 2012 allocation for Certificates 81408, 81409 and 44654 and waive the right to judicial review of this Consent Order.



David E. Filippi
Heath Curtiss on behalf of
Hale Bros., Inc.




Date

Special Order Vol. 105 pg 762

ORDER

- 3.1 The allocation for the 2012 irrigation season for Water Rights Certificate 44654 is 60 acre-feet.
- 3.2 The allocation for the 2012 irrigation season for Water Rights Certificate 81408 is 417 acre-feet.
- 3.3 The allocation for the 2012 irrigation season for Water Rights Certificate 81409 is 388 acre-feet.
- 3.4 The use of water is limited to the place of use described in CertificateS 44654, 81408, and 81409.

DATED this 17 day of April, 2012.



Barry F. Norris, Administrator
Technical Services Division

Special Order Vol. 105 pg 763