

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

In the Matter of the Proposed Allocation )  
of Conserved Water, Application 9803, )  
Certificate 17211 )

ORDER  
APPROVING APPLICATION and  
ALLOCATING CONSERVED WATER

Pursuant to ORS 537.470 and OAR Chapter 690, Division 18, notice having been given and no comments filed within the time allowed, conserved water application 98-03 in the names of Joy Lacy and Oregon Water Trust is approved.

Findings of Fact

- 1) Certificate 17211 allows the use of the water from South Fork Little Butte Creek, tributary to Little Butte Creek, Rogue Basin, for irrigation of 30 acres, all located in Section 33, Township 36 South, Range 2 East, WM, as follows:

5.0 acres SE¼ NW¼            12.5 acres NW¼ SE¼            13.0 acres SE¼ SE¼

The amount of water to which this right is entitled is limited to an amount beneficially used and shall not exceed 0.14 cubic feet per second for 5.0 acres SE¼ NW¼ and 0.5 acres NW¼ SE¼ under a priority of 12/31/1895, and for the remaining 25 acres under a priority of 12/31/1882, if available at the point of diversion, located in the NW¼ NW¼ Section 3, Township 37 South, Range 2 East, WM.

- 2) Applicant Joy Lacy owns 13 of the acres to which this right is appurtenant. Of those 13 acres, only 5 acres remaining in the SE ¼ SE ¼ are involved in this conserved water application. The subject application proposed a reduction in the maximum rate and duty of diversion and application allowed under Certificate 17211 under a date of priority of 1882. The applicant proposed to complete a conservation project on the above-described 5 acres by changing the diversion and delivery method from ditch and flood irrigation to pump, pipe and sprinkler, and moving the point of diversion from the Tonn and Peck ditch to installation of a pump and fish screen at a point 870' west of the southeast corner of section 33.
- 3) The proposed conservation project has been completed. The water diverted is transported by pipeline to the subject lands and applied via hose-reel irrigation. The amount of water diverted and applied has been reduced by 50%, from 0.10 cfs and 36.23 total acre feet to 0.05 cfs and 18.11 total acre feet.
- 4) The applicant further proposed to dedicate the entirety of the water conserved to an instream right in the South Fork Little Butte Creek, to be protected from near the new point of diversion at river mile 3 to the mouth of the South Fork Little Butte Creek, under a priority of 1882 plus one minute.
- 5) The applicants have filed a notice with the Department that the project is complete, and have requested a final allocation of the water conserved under this project.

- 6) The allocation of the water conserved under this project will not injure existing water rights and no conserved water is needed to mitigate injury.
- 7) The allocation of conserved water is consistent with OAR 690-05-045.
- 8) The allocation of conserved water is consistent with ORS 537.455 to 537.500 and with OAR 690-18-010 to 690-018-050.

NOW, THEREFORE, it is ORDERED:

1. Certificate 17211 be and the same is hereby cancelled.
2. The Department is directed to issue a superseding Certificate for diversion and use of 0.05 cfs and 18.11 total acre feet from the South Fork Little Butte Creek for irrigation of 5.0 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 33, Township 36 South, Range 2 East, WM, with a priority date of 1882;
3. The Department is further directed to issue a remaining right Certificate for diversion and use of 0.538 cfs from South Fork Little Butte Creek for irrigation of 5.0 acres SE $\frac{1}{4}$  NW $\frac{1}{4}$ , 12.5 acres NW $\frac{1}{4}$  SE $\frac{1}{4}$  and 8.0 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 33, Township 36 South, Range 2 East, WM, being 0.24 cfs for 12 acres in the NW $\frac{1}{4}$  SE $\frac{1}{4}$  and 0.16 cfs for 8.0 acres in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  at a rate of 0.020 cfs per acre under a priority of 1882, not to exceed a total of 73.2 acre feet diverted during the irrigation season, and for diversion and use of 0.138 cfs on 5 acres in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  and 0.5 acres in the NW $\frac{1}{4}$  SE $\frac{1}{4}$  at a rate of 0.025 cfs per acre under a priority of 1895, not to exceed a total of 25.2 acre feet diverted during the irrigation season.
4. The Department is further directed to issue a Certificate for an in-stream water right for the State's portion of the conserved water in the amount of 0.05 cfs, not to exceed 18.11 acre feet, to be protected in South Fork Little butte Creek from rivermile 3 to the mouth of south Fork Little Butte Creek, with a priority date of 1882 plus one minute.

Witness the signature of the Water Resources Department Director, affixed 2/15/99

  
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Martha O. Pagel

NOTICE: This is a final order in other than a contested case. You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this Order. Pursuant to the provisions of ORS 183.484, judicial review is by the Marion County Circuit Court or to the circuit court for the county in which the petitioner resides or has a principal place of business.