

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

In the Matter of Allocation of Conserved Water Application CW-82, Deschutes County)))	FINAL ORDER ON COMPLETION OF ALLOCATION OF CONSERVED WATER APPLICATION CW-82
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Applicant

Pine Meadow Ranch, Inc.
Attn: Cris Converse
PO Box 969
Sisters, OR 97759

Agent

Deschutes River Conservancy
Attn: Zachary Tillman
700 NW Hill Street
Bend, OR 97701

Applicable Law

Any person or group of persons holding a water use subject to transfer as defined in ORS 540.505 may submit an application for an Allocation of Conserved Water to the Water Resources Commission for a conservation project that has not yet been implemented or was implemented within five years prior to the submission of the application. ORS 537.465. Under the Allocation of Conserved Water Program, a portion of the water proposed to be conserved by an applicant may be used on additional lands, put to a different use, or be leased or sold to another user. OAR 690-018-0010. A portion of the water conserved is allocated to the state to be converted to an instream water right or to revert to the public for appropriation by other water users. ORS 537.470(3).

An application for an allocation of conserved water shall include:(a) A description of the proposed conservation measures; (b) A description of the existing diversion facilities and an estimate of the amount of water that can be diverted at the facilities; (c) The amount of water that will be needed for the original, authorized use after implementation of the conservation measures; (d) The amount of conserved water expected from implementation of the conservation measures; (e) The proposed allocation and use of the conserved water if different from the allocation specified in ORS 537.470; (f) The intended use of any water allocated to the applicant; (g) The applicant's choice of priority date for the conserved water; and (h) Any other information the commission considers necessary to evaluate the effectiveness of the proposal. ORS 537.465.

After determining any quantity of water needed to mitigate the effects on other water rights, 25-percent of the conserved water shall be allocated to the state and 75-percent to the applicant unless the applicant proposes a higher allocation to the state or more than 25-percent of the funds used to finance the conservation measures comes from federal or state sources. ORS 537.470(3).

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.
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If an application for the allocation of conserved water is approved, the Department shall issue orders covering the changes in the original water rights and once the conservation project is finalized new certificates preserving the previously established priority of rights shall be issued to cover the unaffected portion of the water rights and separate new certificates describing the right created by the allocation of conserved water. ORS 537.470(6).

ORS 537.455 to 537.500 authorize and establish the process in which a water right holder may submit a request for an allocation of conserved water. OAR Chapter 690, Division 18, implements the statutes and provides the Department's procedures and criteria for evaluating allocation of conserved water applications. OAR Chapter 690, Division 077 provides additional criteria for evaluating proposed instream water rights.

Findings of Fact

1. On March 25, 2014, the Department issued a Final Order Approving Allocation of Conserved Water CW-82, recorded at Special Order Volume 91 Pages 995 – 1004.
2. On April 22, 2014, Pine Meadow Ranch, Inc. filed a Notice of Completion for CW-82, notifying the Department that the conservation measures have been completed.
3. The conservation measures in CW-82 propose the conservation of the following amounts of water:

Conserved Water Description							
Certificate	Certificate		Rate		Needed		Conserved Water
	Priority	Acres	Rate		Rate		Rate
			Maximum CFS	CFS/AC	Maximum CFS	CFS/AC	Maximum CFS
75141	1885	80.0	1.60	1/50	1.11	1/72	0.49
293	1886	57.0	1.14	1/50	0.79	1/72	0.35
44043	1886	27.0	0.54	1/50	0.38	1/71	0.16
Totals		164.0	3.28		2.28		1.00

4. The portion of the first right to be modified by CW-82 is as follows:

Certificate: 75141 in the name of ROSS B. HAMMOND (confirmed by Squaw Creek [Whychus Creek] Decree)
Use: DOMESTIC AND IRRIGATION of 80.0 ACRES
Priority Date: 1885
Rate: 1.60 CUBIC FEET PER SECOND
Limit/Duty: 1/50 CUBIC FOOT PER SECOND per ACRE
Source: WHYCHUS [SQUAW] CREEK, tributary to the DESCHUTES RIVER
Authorized Point of Diversion: Not Listed
Authorized Place of Use:

IRRIGATION AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	10 E	WM	8	NW SE	40.0
15 S	10 E	WM	8	SW SE	40.0

5. The second right to be modified by CW-82 is as follows:

Certificate: 293 in the name of FRANK PAUL (confirmed by Squaw Creek [Whychus Creek] Decree)
Use: IRRIGATION of 57.0 ACRES
Priority Date: 1886
Rate: 1.14 CUBIC FEET PER SECOND
Limit/Duty: 1/50 CUBIC FOOT PER SECOND per ACRE
Source: WHYCHUS [SQUAW] CREEK, tributary to the DESCHUTES RIVER
Authorized Point of Diversion: Not listed
Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	10 E	WM	8	NE SE	26.0
15 S	10 E	WM	8	SE SE	31.0

6. Certificates 75141 and 293 do not describe a location for the authorized point of diversion. However, information is available from the Whychus [Squaw] Creek Decree, the Watermaster, and the map submitted with the application indicating the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Coordinates
15 S	10 E	WM	17	NE SE	LATITUDE: 44.268085 LONGITUDE: 121.558340

7. The portion of the third right to be modified by CW-82 is as follows:

Certificate: 44043 in the name of ESTATE OF ROSS HAMMOND; ATTN: R. K. RORABECK, TRUST DEPT, BANK OF CALIFORNIA (confirmed by Squaw Creek [Whychus Creek] Decree)
Use: IRRIGATION of 27.0 ACRES
Priority Date: 1886
Rate: 0.54 CUBIC FOOT PER SECOND
Source: WHYCHUS [SQUAW] CREEK, tributary to the DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	10 E	WM	17	NE SE	600 FEET SOUTH AND 1170 FEET EAST FROM THE EAST 1/4 CORNER OF SECTION 17

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	10 E	WM	8	NE SE	14.0
15 S	10 E	WM	8	SE SE	9.0
15 S	10 E	WM	9	NW SW	4.0

8. The location of the authorized point of diversion under Certificate 44043 is the same location as the authorized point of diversion for Certificates 75141 and 293. The authorized point of diversion for Certificate 44043 may also be described as follows:

Twp	Rng	Mer	Sec	Q-Q	Coordinates
15 S	10 E	WM	17	NE SE	LATITUDE: 44.268085 LONGITUDE: 121.558340

9. Conserved Water Application CW-82 proposes to move the authorized point of diversion approximately 1.25 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Coordinates
15 S	10 E	WM	9	SW SW	LATITUDE: 44.280227 LONGITUDE 121.553322

10. Certificates 75141, 293, and 44043, and the Whychus [Squaw] Creek Decree do not list a season of use. However, the Deschutes River Decree lists the irrigation season as April 1 to November 1. Whychus Creek is a tributary to the Deschutes River, therefore, it is appropriate to utilize the season of use from the Deschutes River Decree of April 1 to November 1.

11. The water to be conserved from Whychus Creek is as follows:

Conserved Water Description		
Certificate	Priority	Maximum CFS
75141	1885	0.49
293	1886	0.35
44043	1886	0.16

12. The Applicant requested that 100 percent of the conserved water be allocated to the State for instream use for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, other ecological values, and recreation.
13. The Applicant requested that the priority dates for any conserved water be the same as the priority dates for the original rights, being 1885 for Certificate 75141, and 1886 for Certificates 293 and 44043.

Allocation of Conserved Water Review Criteria [OAR 690-018-0050]

14. Water right certificates 75141, 293, and 44043 are cancelled. OAR 690-018-0062(1)(a).

15. The Applicant may continue to use water for the uses at the locations identified in Certificates 75141, 293, and 44043 as described in Findings of Fact #4, #5, and #7, at the following reduced rates:

Certificate	Priority	Acres	Rate	
			Maximum CFS	CFS/AC
75141	1885	80.0	1.11	1/72
293	1886	57.0	0.79	1/72
44043	1886	27.0	0.38	1/71
<i>Totals</i>		164.0	2.28	

OAR 690-018-0062(1)(b)

16. The conserved water shall be used and managed instream as follows:

Originating Certificate	Priority Date	Period of Use	Rate (cfs)
75141	1885	April 1 to November 1	0.49
293	1886	April 1 to November 1	0.35
44043	1886	April 1 to November 1	0.16
<i>Totals</i>			1.00

From the authorized point of diversion located at approximately river mile 23.7:

Twp	Rng	Mer	Sec	Q-Q	Coordinates
15 S	10 E	WM	17	NE SE	LATITUDE: 44.268085 LONGITUDE: 121.558340

To the mouth of the Whychus Creek at river mile 0.0. OAR-690-018-0062(1)(c).

17. The deadline for filing the Request for Finalization of the conservation project is on or before June 1, 2014. OAR 690-018-0050(4)(i).

Now, therefore, it is ORDERED:

1. The quantities of water conserved are as follows:

Conserved Water Description		
Certificate	Priority	Maximum CFS
75141	1885	0.49
293	1886	0.35
44043	1886	0.16

2. The right to the use of the water is restricted to beneficial use at the places of use described, and is subject to all other conditions and limitations contained in Certificates 75141, 293, 44043, and any related decree.
3. Water Right Certificate 75141 is cancelled. The reduced rate for the existing use under Certificate 75141 is as follows:

Use: DOMESTIC and IRRIGATION of 80.0 ACRES

Priority Date: 1885

Rate: 1.11 CUBIC FEET PER SECOND
Limit/Duty: 1/72 Cubic Foot per Second per Acre
Source: WHYCHUS [SQUAW] CREEK, tributary to the DESCHUTES RIVER
Authorized Place of Use:

IRRIGATION AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	10 E	WM	8	NW SE	40.0
15 S	10 E	WM	8	SW SE	40.0

4. Water Right Certificate 293 is cancelled. The reduced rate for the existing use under Certificate 293 is as follows:

Use: IRRIGATION of 57.0 ACRES
Priority Date: 1886
Rate: 0.79 CUBIC FOOT PER SECOND
Limit/Duty: 1/72 CUBIC FOOT PER SECOND per ACRE
Source: WHYCHUS [SQUAW] CREEK, tributary to the DESCHUTES RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	10 E	WM	8	NE SE	26.0
15 S	10 E	WM	8	SE SE	31.0

5. Water Right Certificate 44043 is cancelled. A new certificate will be issued for that portion of the right not affected by this Allocation of Conserved Water application. The reduced rate for the existing use under Certificate 44043 is as follows:

Use: IRRIGATION of 27.0 ACRES
Priority Date: 1886
Rate: 0.38 CUBIC FOOT PER SECOND
Limit/Duty: 1/71 CUBIC FOOT PER SECOND per ACRE
Source: WHYCHUS [SQUAW] CREEK, tributary to the DESCHUTES RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	10 E	WM	8	NE SE	14.0
15 S	10 E	WM	8	SE SE	9.0
15 S	10 E	WM	9	NW SW	4.0

6. Water use measurement conditions:
- Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.
 - The water user shall maintain the meters or measuring devices in good working order.
 - The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

7. The entire quantity of conserved water will be managed instream as follows:

Originating Certificate	Priority Date	Period of Use	Rate (cfs)
75141	1885	April 1 to November 1	0.49
293	1886	April 1 to November 1	0.35
44043	1886	April 1 to November 1	0.16
Totals			1.00

From the authorized point of diversion located at approximately river mile 23.7:

Twp	Rng	Mer	Sec	Q-Q	Coordinates
15 S	10 E	WM	17	NE SE	LATITUDE: 44.268085 LONGITUDE: 121.558340

To the mouth of the Whychus Creek at river mile 0.0.

8. The deadline for filing Request for Finalization of the conservation project is on or before June 1, 2014.

Dated at Salem, Oregon this 23rd day of April, 2014.


 Dwight French, Water Rights Services Administrator for
 PHILLIP C. WARD, DIRECTOR

Mailing Date: APR 28 2014