

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

In the Matter of the Proposed Allocation)	DETERMINATION and ORDER
of Conserved Water by Roseburg Forest)	APPROVING ALLOCATION
Products / Mark F. Smalley for certificate)	OF CONSERVED WATER
19784 Douglas County, Oregon)	

Background

Pursuant to ORS 537.455 to 537.500; chapter 726, Oregon Laws 1997, as amended by chapter 394, Oregon Laws 1999; and OAR Chapter 690, Division 18, Roseburg Forest Products / Mark F. Smalley filed an application for an allocation of conserved water. The applicant proposes to use its portion of the conserved water at a new laminated veneer mill owned by the applicant. The State's share of the conserved water would be allocated to instream water rights in Cow Creek, tributary to the South Umpqua River, in the Umpqua Basin. Public notice was published as required under OAR 690-18-050. No comments were received identifying injury or harm to other water rights resulting from the proposed allocation of conserved water or otherwise opposing the project.

The proposed allocation of conserved water involves certificate 19784 issued in the name of Harbor Plywood Corp. of Oregon. The storage component of this water right is not included in this allocation of conserved water. The right is described below:

Certificate 19784

Priority: August 9, 1950
Source: Cow Creek and reservoir
Rate: 1.78 cfs
Duty: n/a
Type of Use: manufacturing, including log pond, boiler plant, and fire protection

In addition the applicant holds the reservoir rights associated with certificate 19784 which are unaffected by the proposed allocation of conserved water:

Certificate 19783

Priority: August 9, 1950
Source: Cow Creek
Rate: n/a

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

Duty: 119.4 acre-feet
Type of Use: log pond, manufacturing, boiler plant and fire protection

The applicant has the capacity to divert the full amount of water allowed under the water rights. There is a pump station in Cow Creek with three 675 gpm (1.50 cfs) pumps connected to the mill system with an 11 inch pipe.

The conservation measure associated with this application is a reduction in the height of the log deck. This has resulted in fewer logs to sprinkle and also has helped to reduce breakage and lowers inventory cost.

Due to this conservation measure which was completed in 1997, only 1.51 cfs will be needed at the original place of use. The amount of water conserved in this project is 0.27 cfs. No public funds were used to enact this conservation measure. Seventy-five percent of the conserved water, 0.20 cfs, will go to the applicant. Twenty-five percent of the conserved water, 0.07 cfs, will go to the State.

The applicant proposes to use their portion of the conserved water at a new laminated veneer mill located at :

SE $\frac{1}{4}$ NW $\frac{1}{4}$ as projected on Willis G. Hearn D.L.C. # 48
NE $\frac{1}{4}$ SW $\frac{1}{4}$ as projected on Willis G. Hearn D.L.C. # 48
NE $\frac{1}{4}$ SW $\frac{1}{4}$ as projected on William H. Merryman D.L.C. # 49
NW $\frac{1}{4}$ SW $\frac{1}{4}$ as projected on Willis G. Hearn D.L.C. # 48
NW $\frac{1}{4}$ SW $\frac{1}{4}$ as projected on William H. Merryman D.L.C. # 49
SW $\frac{1}{4}$ SW $\frac{1}{4}$ as projected on William H. Merryman D.L.C. # 49
SE $\frac{1}{4}$ SW $\frac{1}{4}$ as projected on William H. Merryman D.L.C. # 49
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The point of diversion will be the same as the original water right. The conserved water will be piped to the new place of use.

The State's portion of the conserved water will replace a portion of instream water rights certificates 59699 and 59910.

Determination and Findings

The conservation project resulted in a reduced diversion. The reduction in the height of the log deck resulted in less water needed to sprinkle the logs, and therefore less water is needed to satisfy the original use under certificate number 19784.

The proposed allocation of conserved water will not result in harm or injury to other water rights. The applicant's share of the conserved water will be used at a new laminated veneer lumber mill for industrial use with the point of diversion remaining the same. The new use will be accomplished by piping the water to the new site. The State's share of the conserved water will replace portions of and is not additive to the existing instream water right for Cow Creek,

evidenced by Certificates 59699 and 59910 and will provide protection for a portion of the water allocated under those rights with an earlier priority date. Since water is being diverted at the same location as the original water right and because a portion of the existing instream water rights will be replaced with an earlier priority date, the allocation of conserved water will not be injurious to other water rights.

The Douglas County planning office has indicated that industrial uses on lands to be supplied by the allocation of conserved water are allowed outright or are not regulated by the comprehensive plan. Therefore, the allocation of conserved water is consistent with the requirements established in OAR 690-05-045 (Standards for Goal Compliance and Compatibility with Acknowledged Comprehensive Plans).

No harm or injury to other water rights has been identified. The full quantity of conserved water identified in the application can be allocated as proposed.

The Department has consulted with the Departments of Fish and Wildlife, Environmental Quality, and Parks and Recreation to determine if the State's portion of the conserved water is needed to support instream uses. The agencies agree that the conserved water would aid in meeting instream water rights in Cow Creek, tributary to the South Umpqua River, Umpqua Basin.

Roseburg Forest Products provided 100 percent of the funding for the conservation project, and thus will receive 75 percent of the conserved water, with 25 percent going to the State. The remaining right, and the allocation of conserved water will be apportioned in the following manner:

	Rate (cfs)	Duty	Priority
<i>Original Water Right (C-19784)</i>	<i>1.78</i>	<i>n/a</i>	<i>August 9, 1950</i>
Remaining Right	1.51	n/a	August 9, 1950
Applicant's Conserved Water	0.20	n/a	August 9, 1950 + one minute
State's Conserved Water	0.07	n/a	August 9, 1950 + one minute

The applicant's conserved water may be used at:

- SE ¼ NW ¼ as projected on Willis G. Hearn D.L.C. # 48
 - NE ¼ SW ¼ as projected on Willis G. Hearn D.L.C. # 48
 - NE ¼ SW ¼ as projected on William H. Merryman D.L.C. # 49
 - NW ¼ SW ¼ as projected on Willis G. Hearn D.L.C. # 48
 - NW ¼ SW ¼ as projected on William H. Merryman D.L.C. # 49
 - SW ¼ SW ¼ as projected on William H. Merryman D.L.C. # 49
 - SE ¼ SW ¼ as projected on William H. Merryman D.L.C. # 49
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The State's conserved water may be used in the stream reach from the old point of diversion at River Mile 3.47 on Cow Creek, and continuing to the mouth of Cow Creek.

The applicant has completed the conserved water project. Consequently, this allocation of conserved water can be finalized immediately.

Now, Therefore, It Is Ordered:

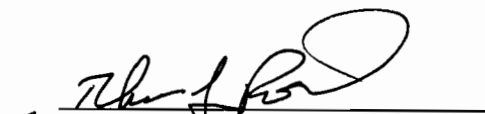
1. Certificate 19784 is hereby cancelled.
2. The Department shall issue a remaining right certificate allowing the use of the water at the reduced rate of 1.51 cfs. The point of diversion, place of use, type of use, and all other conditions of the certificate 19784 shall be retained.
3. The Department shall issue a certificate to the applicant for the use of 0.20 cfs for industrial use, including, but not limited to manufacturing and fire protection. The place of use shall be:

SE $\frac{1}{4}$ NW $\frac{1}{4}$ as projected on Willis G. Hearn D.L.C. # 48
NE $\frac{1}{4}$ SW $\frac{1}{4}$ as projected on Willis G. Hearn D.L.C. # 48
NE $\frac{1}{4}$ SW $\frac{1}{4}$ as projected on William H. Merryman D.L.C. # 49
NW $\frac{1}{4}$ SW $\frac{1}{4}$ as projected on Willis G. Hearn D.L.C. # 48
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The priority date shall be August 9, 1950, plus one minute. The point of diversion and all other conditions of the certificate 19784 shall be retained.

4. The Department shall issue an instream water right to the State for the use of 0.07 cfs for the purpose of supporting aquatic life. The instream reach will be from the old point of diversion located on Cow Creek, and continuing to the mouth of Cow Creek. The old point of diversion is located at the SE $\frac{1}{4}$ NW $\frac{1}{4}$, as projected on James Catching D.L.C. #43, Section 26, T 30 S, R 6 W, W.M.; 5710 feet south and 20 feet east of NW Corner as projected on Isaac A. Flint D.L.C. #45. Within this reach the right will replace a portion of, and is not additive to, instream water rights certificates 59699 and 59910.

Dated at Salem, Oregon this 06 day of July, 2000.


For Martha O. Pagel
Director