

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

DOUGLAS COUNTY

IN THE MATTER OF THE APPLICATION)
OF SUPERIOR LUMBER COMPANY FOR)
APPROVAL OF A CHANGE IN POINT OF)
DIVERSION OF WATER)

ORDER APPROVING
TRANSFER 4951

On December 10, 1981, an application was filed in the office of the Water Resources Director by Superior Lumber Company for approval of a change in point of diversion of water from Cow Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Douglas County, Oregon, entered October 14, 1930, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Cow Creek and Its Tributaries, a water right was established in the name of Lystol-Lawson Lumber Company, tabulated in Volume 10, page 357, Order Record of the Water Resources Director, for use of 2.0 cubic feet of water per second from Cow Creek and Tunnel Creek for sawmilling purposes in W 1/2 NE 1/4, Section 4, Township 33 South, Range 6 West, WM, with a date of priority of 1907, as evidenced by the certificate recorded at page 9651, Volume 9, State Record of Water Right Certificates.

Water for the said right is diverted from Cow Creek, through the Sether Ditch, from a point located 760 feet South and 960 feet West from the Center of Section 35, being within the NE 1/4 SW 1/4 of Section 35, Township 32 South, Range 6 West, WM.

The applicant herein, owner of the lands above described, proposes to change the point of diversion therefrom, cancel the point of diversion from Tunnel Creek, and without loss of priority, to divert water from Cow Creek from two points located 1) 2,180 feet South and 2,170 feet West from the Northeast Corner of Section 35, being within the SW 1/4 NE 1/4 of Section 35, and 2) 880 feet North and 890 feet West from the Southeast Corner of Section 33, being within the SE 1/4 SE 1/4 of Section 33, both Township 32 South, Range 6 West, WM.

Notice of the application, pursuant to ORS 540.520(2), was published in the News-Review, a newspaper printed and having general circulation in Douglas County, Oregon, for a period of three weeks in the issues of December 21 and 28, 1981 and January 4, 1982.

Gary L. Ball, Watermaster, has filed a statement to the effect that the proposed change in point of diversion 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 requested change in point of diversion, as described herein, without loss of priority, is approved.

It is FURTHER ORDERED that the quantity of water diverted at the new points of diversion from Cow Creek shall not exceed the quantity of water available at the old Cow Creek point of diversion under the subject right, and shall not exceed 2.0 cubic feet per second.

It is FURTHER ORDERED that the point of diversion from Tunnel Creek is canceled.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgment of the Watermaster it becomes necessary to install headgates and measuring devices:

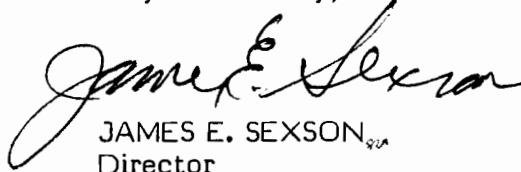
That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

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 NO time need be fixed for completion as the change in point of diversion is completed.

It is FURTHER ORDERED that the certificate recorded at page 9651, Volume 9, State Record of Water Right Certificates, is canceled; and upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order, a confirming certificate of water right shall be issued to the applicant herein.

Dated at Salem, Oregon this 22nd day of February, 1982.


JAMES E. SEXSON, DIR
Director

NOTE: The approval of a water right transfer application does not confirm the status of the right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.