

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

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

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.

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 rights 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 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.
4. 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.
5. On April 24, 2014, the Department issued a Final Order on Completion of Conserved Water Application CW-82, recorded at Special Order Volume 92, Pages 247 – 253.
6. On June 9, 2014, Pine Meadow Ranch, Inc. submitted a Request for Finalization, requesting the Department finalize the allocation of conserved water on Whychus Creek as set forth below:

Conserved Water Description			
Certificate	Priority	Maximum CFS	State's Portion
75141	1885	0.49	100%
293	1886	0.35	100%
44043	1886	0.16	100%

7. 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.

Conclusion of Law

The project described in Allocation of Conserved Water Application CW-82, including the change in point of diversion, is consistent with the criteria in ORS 537.455 to 537.500, ORS 540.520 to 540.530, and OAR Chapter 690, Divisions 018 and 077.

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
Point of Diversion:

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

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

Point of Diversion:

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

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. 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
Point of Diversion:

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

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 Department shall issue new instream water right certificates for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values, and recreation in Whychus Creek 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 original 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. Full beneficial use of water shall be made, consistent with the terms of this order, on or before October 1, 2015. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted to the Applicant to the Department within one year after the deadline for the completion of the point of diversion change and full beneficial use of water.
9. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 12th day of June, 2014.



 Dwight French, Water Rights Services Administrator for
 Director
 OREGON WATER RESOURCES DEPARTMENT

Mailing Date: JUN 16 2014