

STATE OF OREGON

COUNTY OF DOUGLAS

ORDER APPROVING ADDITIONAL POINTS OF DIVERSION  
AND CANCELLATION OF WATER RIGHTS

Pursuant to ORS 540.510 to 540.530, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 8100 submitted by

SUPERIOR LUMBER COMPANY  
P.O. BOX 250  
GLENDALE, OREGON 97442.

The first right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for DOUGLAS County as evidenced by Special Order Volume Vol. 35, Page 478, entered January 4, 1982, approving Transfer Application 4850. The decree is recorded in the Order Record of the Water Resources Director in Volume 11, at Page 1. The date of priority is 1886.

The right allows the use of WINDY CREEK, a tributary of COW CREEK, for GENERAL SAWMILL USE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.36 cubic foot per second, if available at the authorized point of diversion: CUNNINGHAM DITCH - NW¼ SW¼, SECTION 27, T 32 S, R 6 W, W.M.; 1810 FEET NORTH AND 760 FEET EAST FROM THE SW CORNER OF SECTION 27, or its equivalent in case of rotation, measured at the point of diversion from the source.

The second right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for DOUGLAS County as evidenced by Special Order Volume Vol. 35, Page 478, entered January 4, 1982, approving Transfer Application 4851. The decree is recorded in the Order Record of the Water Resources Director in Volume 11, at Page 1. The date of priority is 1886.

The right allows the use of WINDY CREEK, a tributary of COW CREEK, for GENERAL SAWMILL USE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.14 cubic foot per second, if available at the authorized point of diversion: CUNNINGHAM DITCH - NW¼ SW¼, SECTION 27, T 32 S, R 6 W, W.M.; 1810 FEET NORTH AND 760 FEET EAST FROM THE SW CORNER OF SECTION 27, or its equivalent in case of rotation, measured at the point of diversion from the source.

The third right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for DOUGLAS County as evidenced by Special Order Volume Vol. 35, Page 478, entered January 4, 1982, approving Transfer Application 4852. The decree is recorded in the Order Record of the Water Resources Director in Volume 11, at Page 1. The date of priority is 1886.

The right allows the use of WINDY CREEK, a tributary of COW CREEK, for GENERAL SAWMILL USE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.04 cubic foot per second, if available at the authorized point of diversion: CUNNINGHAM DITCH - NW¼ SW¼, SECTION 27, T 32 S, R 6 W, W.M.; 1810 FEET NORTH AND 760 FEET EAST FROM THE SW CORNER OF SECTION 27, or its equivalent in case of rotation, measured at the point of diversion from the source.

The fourth right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for DOUGLAS County as evidenced by Certificate 20682. The decree is recorded in the Order Record of the Water Resources Director in Volume 11, at Page 1. The date of priority is 1886.

The right allows the use of WINDY CREEK, a tributary of COW CREEK, for OPERATION OF A MILL POND. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.77 cubic foot per second during the irrigation season from April 1 to October 1 of each year, if available at the authorized point of diversion: CUNNINGHAM DITCH - NW¼ SW¼, SECTION 27, T 32 S, R 6 W, W.M.;

1810 FEET NORTH AND 760 FEET EAST FROM THE SW CORNER OF SECTION 27, or its equivalent in case of rotation, measured at the point of diversion from the source.

The fifth right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for DOUGLAS County as evidenced by a PORTION of Certificate 20681. The decree is recorded in the Order Record of the Water Resources Director in Volume 11, at Page 1. The date of priority is May 10, 1898.

The right allows the use of BEAR CREEK, WOODS CREEK, AND NORTH FORK WINDY CREEK, tributaries of WINDY CREEK, AND WINDY CREEK, a tributary of COW CREEK, for GENERAL SAWMILL PURPOSES, INCLUDING DOMESTIC USE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 12.0 cubic foot per second, if available at the original point of diversion: SE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 23, T 32 S, R 6 W, W.M.; 500 FEET NORTH AND 800 FEET WEST FROM THE E $\frac{1}{4}$  CORNER OF SECTION 23, or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized point of diversion is located:

NW $\frac{1}{4}$  SW $\frac{1}{4}$ , SECTION 27, T 32 S, R 6 W, W.M.; 1800 FEET NORTH AND 750 FEET EAST FROM THE SW CORNER OF SECTION 27.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the decree.

The sixth right to be modified, as evidenced by Certificate 17386, was perfected under Permit 18679 with a date of priority of JULY 31, 1947. The right allows the use of WINDY CREEK, a tributary of COW CREEK, for MILL POND. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.9 cubic foot per second, if available at the authorized point of diversion: SW $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 33, T 32 S, R 6 W, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

The right to use the water for the above purpose is restricted to beneficial use on the lands or place of use described.

The authorized place of use is located as follows:

TRANSFER APPLICATIONS 4850, 4851, AND 4852

SW $\frac{1}{4}$   
SECTION 33

TOWNSHIP 32 SOUTH, RANGE 6 WEST, W.M.

CERTIFICATE 20682

W $\frac{1}{2}$  NE $\frac{1}{4}$   
SECTION 33

TOWNSHIP 32 SOUTH, RANGE 6 WEST, W.M.

CERTIFICATE 20681

SW $\frac{1}{4}$   
SECTION 33

TOWNSHIP 32 SOUTH, RANGE 6 WEST, W.M.

PERMIT 18679

SW $\frac{1}{4}$  NE $\frac{1}{4}$   
SECTION 33

TOWNSHIP 32 SOUTH, RANGE 6 WEST, W.M.

The applicant proposes an additional point of diversion located:

SE $\frac{1}{4}$  SW $\frac{1}{4}$ , SECTION 33, T 32 S, R 6 W, W.M.; 200 FEET  
NORTH AND 625 FEET WEST FROM THE S $\frac{1}{4}$  CORNER OF SECTION 33.

Affidavits were received from Superior Lumber Company, owners of certain lands and the water rights appurtenant to them. Two entire water rights and a portion of one water right have been abandoned and are requested to be cancelled.

The first water right requested to be cancelled is evidenced by Special Order Vol. 1, Page 457, entered September 28, 1928. The date of priority is May 11, 1917. The water use was for general sawmill purposes from Windy Creek, a tributary of Cow Creek. The amount used was 0.51 cubic foot per second.

The abandoned water right is located as follows:

SW $\frac{1}{4}$   
SECTION 33

TOWNSHIP 32 SOUTH, RANGE 6 WEST, W.M.

The second water right requested to be cancelled is described by Certificate 20363, State Record of Water Right Certificates. The date of priority is August 1, 1952. The water use was for industrial use (log sprinkling) from Windy Creek, a tributary of Cow Creek. The amount used was 0.67 cubic foot per second.

The abandoned water right is located as follows:

NE $\frac{1}{4}$  SW $\frac{1}{4}$   
SE $\frac{1}{4}$  SW $\frac{1}{4}$   
SECTION 33

TOWNSHIP 32 SOUTH, RANGE 6 WEST, W.M.

A portion of the third water right requested to be cancelled is described by Certificate 20681, State Record of Water Right Certificates. The date of priority is May 10, 1898. The water use was for general sawmill purposes, including domestic use from Windy Creek, a tributary of Cow Creek. The amount used was 5.855 cubic feet per second.

The abandoned portion is located as follows:

SW¼  
SECTION 33

TOWNSHIP 32 SOUTH, RANGE 6 WEST, W.M.

ORS 540.610 provides: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the commission shall enter an order cancelling the water right."

THIS CHANGE TO EXISTING WATER RIGHTS MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The proposed change shall be completed on or before October 1, 2000.
2. The quantity of water diverted at the new point of diversion, together with that diverted at the old points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
3. When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
4. Water shall be acquired from the same surface water sources as the original points of diversion.

5. The water user shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction and shall be installed under the supervision of the Department of Fish and Wildlife.

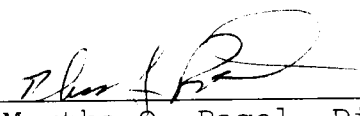
The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

Satisfactory proof of the completion of the changes approved by the order of the Water Resources Director entered January 4, 1982, at Special Order Volume 35, Page 478, approving Transfers 4850, 4851, and 4852, are confirmed as described above.

The portions of the water rights requested to be cancelled are cancelled. Certificates 17386, 20681, and 20682 are cancelled. When satisfactory proof of the completed change is received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources

Director, affixed JUN 09 1999.

  
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Martha O. Pagel, Director

Under the provisions of OAR 137-004-0080, the applicant may petition for reconsideration of this order. The petition shall set forth specific grounds for reconsideration. The petition for reconsideration must be filled within 60 days after the date this order is served.