

STATE OF OREGON

COUNTY OF YAMHILL

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

BAILEY NURSERIES, INC.  
9855 NW PIKE ROAD  
YAMHILL, OREGON 97148

confirms the right to use the waters of NORTH YAMHILL RIVER, AN UNNAMED DRAINAGE DITCH, AN UNNAMED INTERMITTENT TRIBUTARY OF NORTH YAMHILL RIVER AND KATZ FARM RESERVOIR CONSTRUCTED UNDER APPLICATION R-73260, PERMIT R-11492, tributaries of YAMHILL RIVER, for AGRICULTURAL USE AND IRRIGATION OF 176.5 ACRES.

This right was perfected under Permit 51527. The date of priority is FEBRUARY 24, 1993. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 3.34 CUBIC FEET PER SECOND AND 575.0 ACRE-FEET STORED WATER FOR IRRIGATION AND AGRICULTURAL USE, or its equivalent in case of rotation, measured at the point of diversion from the source. The use of water for irrigation from live flow is allowed from March 1 through April 30. The use of stored water for irrigation is allowed from March 1 through October 31. The use of water from live flow for agricultural use is allowed from November 1 through April 30. The use of stored water for agricultural is allowed year round.

The points of diversion are located as follows:

NORTH YAMHILL RIVER - SW 1/4 NW 1/4, SECTION 33, AS PROJECTED WITHIN J. PENNINGTON DLC 66, TOWNSHIP 3 SOUTH, RANGE 4 WEST, W.M.; 1360 FEET SOUTH AND 770 FEET EAST FROM THE NW CORNER OF SECTION 33;

KATZ FARM RESERVOIR AND UNNAMED DRAINAGE DITCH - SE 1/4 NW 1/4, SECTION 33, AS PROJECTED WITHIN J. PENNINGTON DLC 66, TOWNSHIP 3 SOUTH, RANGE 4 WEST, W.M.; 1850 FEET SOUTH AND 2390 FEET EAST FROM THE NW CORNER OF SECTION 33; AND

UNNAMED INTERMITTENT TRIBUTARY - SW 1/4 NW 1/4, SECTION 34, AS PROJECTED WITHIN A. ELDER DLC 68, TOWNSHIP 3 SOUTH, RANGE 4 WEST, W.M.; 1350 FEET SOUTH AND 630 FEET EAST, FROM THE NW CORNER OF SECTION 34.

The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of **containerized nursery plants**, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of **in ground nursery plants** the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre per year. The use of water for NURSERY OPERATIONS may be made at anytime, during the period of allowed use specified above, that the use is beneficial. For the irrigation of **any other crop**, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

|               |            |
|---------------|------------|
| NE 1/4 NE 1/4 | 4.2 ACRES  |
| NW 1/4 NE 1/4 | 28.6 ACRES |
| SW 1/4 NE 1/4 | 18.5 ACRES |
| SE 1/4 NE 1/4 | 10.7 ACRES |

ALL AS PROJECTED WITHIN J. PENNINGTON DLC 66  
SECTION 33  
TOWNSHIP 3 SOUTH, RANGE 4 WEST, W.M.

|               |            |
|---------------|------------|
| NE 1/4 NW 1/4 | 32.4 ACRES |
| NW 1/4 NW 1/4 | 3.2 ACRES  |
| SW 1/4 NW 1/4 | 14.4 ACRES |
| SE 1/4 NW 1/4 | 29.2 ACRES |
| NE 1/4 SW 1/4 | 6.6 ACRES  |
| NW 1/4 SW 1/4 | 3.5 ACRES  |
| NE 1/4 SE 1/4 | 0.6 ACRES  |
| NW 1/4 SE 1/4 | 16.3 ACRES |

ALL AS PROJECTED WITHIN J. PENNINGTON DLC 66  
SECTION 33  
TOWNSHIP 3 SOUTH, RANGE 4 WEST, W.M.

|               |           |
|---------------|-----------|
| NW 1/4 NW 1/4 | 8.1 ACRES |
| SW 1/4 NW 1/4 | 0.2 ACRES |

BOTH AS PROJECTED WITHIN A. ELDER DLC 68  
SECTION 34  
TOWNSHIP 3 SOUTH, RANGE 4 WEST, W.M.

Measurement, recording and reporting conditions:

- A. The water user shall install a meter or other suitable measuring device as approved by the Director. The water user shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the water user to report general water use information, including the place and nature of use of water under the right.
- B. The water user shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall install, maintain and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife (ODFW) to prevent fish from entering the diversions. The required screens and by-pass devices are to be in place, functional and approved by an ODFW representative prior to diversion of any water.

Failure to comply with any of the provision of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

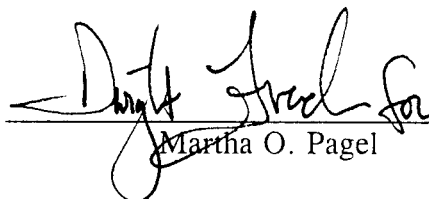
**THIS CERTIFICATE IS ISSUED TO CORRECTLY DESCRIBE THE POINTS OF DIVERSION AND SUPERSEDES CERTIFICATE 76459.**

The right to use water for the above purpose is restricted to beneficial use, without waste, on the lands or place of use described. The water user is advised that new regulations may require use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed APRIL 26, 2000.

  
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Martha O. Pagel

Recorded in State Record of Water Right Certificates numbered 76523.