

STATE OF OREGON

COUNTY OF LINN

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

TROY E. CUMMINS
MALLARD CREEK LLC
31221 OSPREY ROAD
LEBANON, OREGON 97355

confirms the right to use the waters of HAMILTON CREEK, a tributary of SOUTH SANTIAM RIVER, for IRRIGATION OF 27.2 ACRES.

This right was perfected under Permit 19473. The date of priority is APRIL 25, 1950. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.339 CUBIC FOOT PER SECOND (IF AVAILABLE AT THE ORIGINAL POINTS OF DIVERSION DESCRIBED AS BEING LOCATED WITHIN THE SE 1/4 NE 1/4, SECTION 25, TOWNSHIP 12 SOUTH, RANGE 1 WEST, W.M.; NE 1/4 SW 1/4 AND NW 1/4 SW 1/4, SECTION 30, TOWNSHIP 12 SOUTH, RANGE 1 EAST, W.M.), or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SW 1/4 NW 1/4, AS PROJECTED WITHIN J. MOORE DLC 44, SECTION 22, TOWNSHIP 12 SOUTH, RANG 1 WEST, W.M.; 906 FEET NORTH AND 645 FEET WEST FROM THE SE CORNER OF J. MOORE DLC 44.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 1/2 acre-feet per acre for each acre irrigated 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.

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 of the order must be filed within the 60 days of the date of service.

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

SW 1/4 SW 1/4 16.9 ACRES

SE 1/4 SW 1/4 7.9 ACRES

BOTH AS PROJECTED WITHIN J. MOORE DLC 44 AND B. HARDMAN JR. DLC 43
SECTION 15

NW 1/4 NW 1/4 2.4 ACRES

AS PROJECTED WITHIN J. MOORE DLC 44
SECTION 22

TOWNSHIP 12 SOUTH, RANGE 1 WEST, W.M.

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.

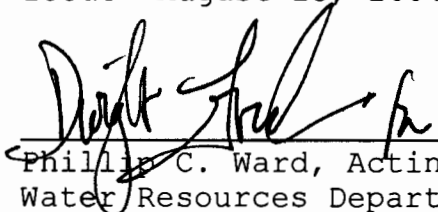
The water user shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife.

This certificate is issued to confirm a change in POINT OF DIVERSION AND PLACE OF USE approved by orders of the Water Resources Director entered DECEMBER 6, 2001 AND JANUARY 14, 2002, and together with Certificate 80864, supersedes Certificate 19899, State Record of Water Right Certificates.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

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

Issued August 25, 2004.


Phillip C. Ward, Acting Director
Water Resources Department

Recorded in State Record of Water Right Certificates Number 80865.