

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 WELL NO. 1 in the HAMILTON CREEK BASIN for PRIMARY AND SUPPLEMENTAL IRRIGATION OF 80.2 ACRES.

This right was perfected under Permit G-13281. The date of priority is SEPTEMBER 16, 1996. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.58 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the well.

The well is located as follows:

NE 1/4 NW 1/4, AS PROJECTED WITHIN MOORE DLC 44, SECTION 22,
TOWNSHIP 12 SOUTH, RANGE 1 WEST, W.M.; 2870 FEET NORTH AND 150
FEET WEST OF THE SE CORNER 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 ½ acre-feet per acre for each acre irrigated during the irrigation season of each year. The use of water under this right is limited to March 1 through October 31 of each year. This right may be exercised as primary irrigation during the months of March and October and at any time there is any deficiency in the available supply of any prior right existing for the same land.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137.004-0080 you may either 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.

In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

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:

SW 1/4 SW 1/4 16.9 ACRES
 AS PROJECTED WITHIN J. MOORE DLC 44
 SE 1/4 SW 1/4 7.9 ACRES
 AS PROJECTED WITHIN J. MOORE DLC 44 AND B. HARDMAN DLC 43
 SECTION 15
 TOWNSHIP 12 SOUTH, RANGE 1 WEST, W.M.

NE 1/4 NW 1/4 9.6 ACRES
 SE 1/4 NW 1/4 2.9 ACRES
 BOTH AS PROJECTED WITHIN J. MOORE DLC 44 AND B. HARDMAN DLC 43
 NW 1/4 NW 1/4 22.3 ACRES
 SW 1/4 NW 1/4 15.1 ACRES
 NE 1/4 SW 1/4 2.4 ACRES
 NW 1/4 SW 1/4 3.1 ACRES
 ALL AS PROJECTED WITHIN J. MOORE DLC 44
 SECTION 22
 TOWNSHIP 12 SOUTH, RANGE 1 WEST, W.M.

Measurement, recording and reporting conditions:

- A. 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.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this right, then use of water from the well shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The initial static water level in the well has been measured, submitted to the Department and is 1.0 foot above land surface.

- (1) Use of water from the well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.

The period of non or restricted use shall continue until the annual water level rises above the decline level which triggered the action or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Water Resources Commission rules, to occur within the aquifer as a result of use under the right.

- (2) The landowner/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the well.
 - (a) A water level measurement shall be made each year during the period March 1 through March 31.
 - (b) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the landowner/appropriator.
 - (c) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well.

- (d) The landowner/appropriator shall submit a record of the measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (2).

The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

The Director may require water level or pump test results every ten years.

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


The right to the use of the 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 the use of best practical technologies or conservation practices to achieve this end.

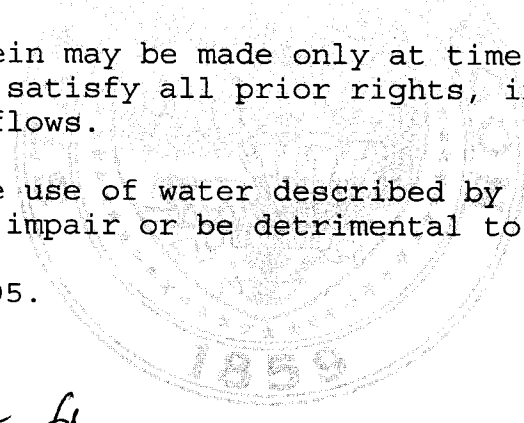
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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.

The Director finds the use of water described by this right, as conditioned, will not impair or be detrimental to the public interest.

Issued January 27, 2005.


Phillip C. Ward, Director
Water Resources Department



Recorded in State Record of Water Right Certificates Number 81148.