

STATE OF OREGON

COUNTY OF JACKSON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MODOC ORCHARD CO.
PO BOX 56
MEDFORD OR 97501

confirms the right to use the waters of SOUTH FORK LITTLE BUTTE CREEK AND NORTH FORK LITTLE BUTTE CREEK, tributaries of LITTLE BUTTE CREEK, for TEMPERATURE CONTROL on 22.30 ACRES.

This right was perfected under Permit S-39180. The date of priority is DECEMBER 12, 1974. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 3.30 CUBIC FEET PER SECOND (CFS) or its equivalent in case of rotation, measured at the point of diversion. Water to be diverted from South Fork Little Butte Creek when available with any deficiency in the available supply from South Fork Little Butte Creek to be made up by appropriation from North Fork Little Butte Creek provided that the total quantity diverted from both sources shall not exceed 3.30 CFS.

The point of diversion is located as follows:

| Source | Twp | Rng | Mer | Sec | Q-Q | Survey Coordinates |
|-------------------------|------|-----|-----|-----|-------|---|
| N FK Little Butte Creek | 36 S | 2 E | WM | 20 | SE NE | 70 FEET NORTH & 530 FEET WEST FROM E1/4 CORNER, SECTION 20 |
| S FK Little Butte Creek | 36 S | 2 E | WM | 29 | NE SE | 600 FEET SOUTH & 525 FEET WEST FROM E1/4 CORNER, SECTION 29 |

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

| TEMPERATURE CONTROL | | | | | | | |
|---------------------|-----|-----|-----|-------|------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | GLot | DLC | Acres |
| 38 S | 1 W | WM | 6 | NE NW | | | 1.10 |
| 38 S | 1 W | WM | 6 | SE NW | 10 | | 17.10 |
| 38 S | 1 W | WM | 6 | NE SW | 9 | | 4.10 |

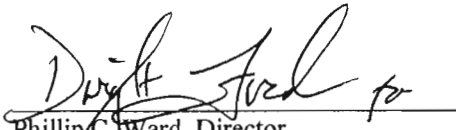
The right to the use of water for the above purpose is restricted to beneficial use on the lands or place of use described.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an 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 of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights to maintain instream flows.

WITNESS the signature of the Water Resources Director, affixed NOV 28 2006.


Phillip C. Ward, Director
Water Resources Department