

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.

STATE OF OREGON

COUNTY OF CLACKAMAS

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MICHAEL W DILLARD  
DEBRA DILLARD WARD  
THERESA DILLARD LUND  
23055 SE TILLSTROM RD  
GRESHAM, OR 97080

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-16280

PERMIT NUMBER: G-16018

SOURCE OF WATER: WELL 1, WELL 2 AND WELL 3 IN JOHNSON CREEK BASIN

PURPOSE OR USE: NURSERY USES ON 116.5 ACRES

MAXIMUM RATE: NOT TO EXCEED 0.89 CUBIC FOOT PER SECOND, BEING 0.53 CUBIC FOOT PER SECOND FROM WELL 1, 0.89 CUBIC FOOT PER SECOND FROM WELL 2 AND 0.11 FROM WELL 3, IN ANY COMBINATION.

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: JULY 21, 2004

WELL LOCATIONS:

WELL 1 (CLAC 791): SE ¼ NW ¼, SECTION 34, T1S, R3E, W.M.; 3170 FEET NORTH & 290 FEET WEST FROM S1/4 CORNER, SECTION 34

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WELL 2 (CLAC 17900): NE ¼ SW ¼, SECTION 34, T1S, R3E, W.M.; 1836 FEET NORTH & 652 FEET WEST FROM S1/4 CORNER, SECTION 34

WELL 3 (CLAC 1206): SE ¼ NW ¼, SECTION 34, T1S, R3E, W.M.; 3001 FEET NORTH & 338 FEET WEST FROM S1/4 CORNER, SECTION 34

The amount of water used for nursery use is limited to a maximum of 5.0 acre feet per acre and a diversion of 0.15 cubic foot per second per acre. For irrigation of containerized nursery plants, the amount of water diverted is limited to one fortieth of one cubic foot per second and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants the amount of water diverted is limited to one eightieth of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made at any time, during the period of allowed use specified above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted is limited to one eightieth of one cubic foot per second and 2.5 acre feet per acre during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE ¼ SW ¼ 39.5 ACRES  
SE ¼ SW ¼ 37.5 ACRES  
NW ¼ SE ¼ 20.0 ACRES  
SW ¼ SE ¼ 19.5 ACRES

SECTION 34

TOWNSHIP 1 SOUTH, RANGE 3 EAST, 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.

Use of water under authority of this right may be regulated if analysis of data available after the right is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

- (1) Use of water from the well(s), 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.
  
- (2) The water user shall be responsible for complying with each of the following requirements for measuring water levels in the well.
  - (a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and submitted to the Department.
  - (b) In addition to the measurement required in subsection (a) of this section, a water level measurement shall be made each year during the period March 1 through March 31.
  - (c) 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 driller, licensed pump installer, or the appropriator.
  - (d) 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. A list of standard methods of procedure and suitable equipment shall be available from the Department.
  - (e) The 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 this section.

The reference static water levels are: Well 1 (CLAC 791), 142.0 feet below land surface; Well 2 (CLAC 17900), 152.0 feet below land surface; and Well 3 (CLAC 1206), 149.0 feet below land surface.

#### **STANDARD CONDITIONS**

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(s) 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 wells shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

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

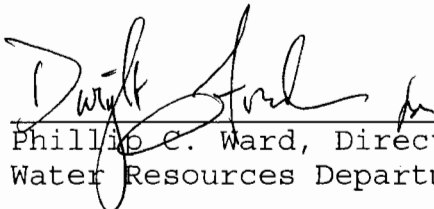
Failure to comply with any of the provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

This right is for the beneficial use of water without waste. 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 of water shall be limited when it interferes with any prior surface or ground water rights.

Issued MAR 21 2007.

  
Phillip E. Ward, Director  
Water Resources Department

Recorded in State Record of Water Right Certificates Number 83290.

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