

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

SIMNITT NURSERY  
c/o JEROME AND JANICE SIMNITT  
138 NE 22<sup>ND</sup> AVENUE  
CANBY, OREGON 97013

confirms the right to use the waters of A WELL in the MOLALLA RIVER BASIN for NURSERY OPERATIONS ON 45.69 ACRES.

This right was perfected under Permit G-11687. The date of priority is NOVEMBER 6, 1989. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 3.66 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the well.

The well is located as follows:

NW $\frac{1}{4}$  SE $\frac{1}{4}$ , SECTION 28, T 3 S, R 1 E, W.M.; 774 FEET SOUTH AND 56 FEET EAST FROM THE C $\frac{1}{4}$  CORNER, SECTION 28.

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

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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 of the year 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.

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

SW¼ NE¼ 3.93 ACRES  
SE¼ NW¼ 9.48 ACRES  
NE¼ SW¼ 16.53 ACRES  
NW¼ SE¼ 15.75 ACRES  
SECTION 28  
TOWNSHIP 3 SOUTH, RANGE 1 EAST, W.M.

The well 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 the level elevation in the well at all times.

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.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

The water user shall obtain a static water-level measurement for each well during April of each year and report the measurement to the Department within thirty days. The measurement shall be made by a certified water-rights examiner, registered professional geologist, or professional engineer. Water levels shall be reported as depth-to-water below ground level and shall be accompanied by supporting calculations. If a well listed on this right displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user 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 reference level for water level declines is 51.50 feet below land surface. The water user shall in no instance allow excessive decline to occur within the aquifer as a result of use under this right.

The water user shall monitor and report the impact of water use under this right consistent with the plan on file with the Department. If a well listed on this right displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's 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 referenced level for water-level declines for this right is 51.5 below ground surface. The water user shall in no instance allow excessive decline to occur within the aquifer as a result of use under this right.

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.

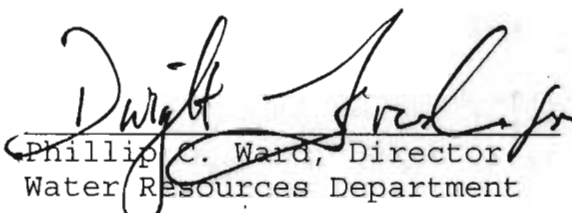
This right is for beneficial use without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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.

This certificate is issued to correct an error in the location of the place of use and supersedes certificate 83859.

Issued **MAY 16 2008**

  
Phillip C. Ward, Director  
Water Resources Department

Recorded in State Record of Water Right Certificates Number 84175

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