

STATE OF OREGON

COUNTY OF CLACKAMAS

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

J FRANK SCHMIDT AND SON COMPANY
 9500 SE 327TH AVENUE
 BORING OR 97009

confirms the right to use the waters of WELL 5 in the Johnson Creek Basin for IRRIGATION OF 65.8 ACRES, SUPPLEMENTAL IRRIGATION OF 4.3 ACRES, AND AGRICULTURAL USE ON 121.9 ACRES.

This right was perfected under Permit G-12305. The date of priority is DECEMBER 9, 1993. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 2.45 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the well.

The well is located as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
1 S	4 E	WM	28	NE SE	1		2600 FEET NORTH AND 580 FEET WEST FROM SE 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 diverted is 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:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
1 S	4 E	WM	27	SW NW			5.5
1 S	4 E	WM	27	SW SW			8.2
1 S	4 E	WM	28	SW NW			15.4
1 S	4 E	WM	28	NW SW			16.0
1 S	4 E	WM	28	SE SE		37	5.4

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.

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
1 S	4 E	WM	29	SE NE			15.3

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
1 S	4 E	WM	28	SE SE		37	3.4
1 S	4 E	WM	29	SE NE			0.9

AGRICULTURE USES							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
1 S	4 E	WM	27	SW NW			5.5
1 S	4 E	WM	27	NW SW			24.2
1 S	4 E	WM	27	SW SW			25.8
1 S	4 E	WM	28	SW NW			15.4
1 S	4 E	WM	28	NW SW			16.0
1 S	4 E	WM	28	SE SE	2		10.0
1 S	4 E	WM	28	SE SE			8.8
1 S	4 E	WM	29	SE NE			16.2

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 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 water level decline of fifteen or more feet; or
- C. Hydraulic interference leading to a decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.

The water user 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, professional engineers, licensed landsurveyors, licensed well constructors, pump installers licensed by the Construction Contractors Board, or the water user.
- C. Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment 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.

- D. The water user 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 above are evidenced by the well measurement required in this section.

Ground water for use under this right shall be produced from a depth greater than 1116 feet below land surface.

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 to determine the water level elevation in the well at all times.

The Director may require water level or pump tests 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.

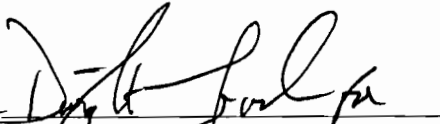
This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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 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 of water shall be limited when it interferes with any prior surface or ground water rights.

Issued JAN 30 2009



Phillip C. Ward, Director
Water Resources Department