

STATE OF OREGON  
 COUNTY OF YAMHILL  
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

BAILEY NURSERIES, INC.  
 1325 BAILEY RD  
 ST PAUL, MN 55119

confirms the right to use the waters of BRYAN CREEK AND WALKER RESERVOIR CONSTRUCTED UNDER PERMITS R-1407, R-1560, R-1761 AND ENLARGED UNDER APPLICATION R-70217, A TRIBUTARY OF CHEHALEM CREEK, for AGRICULTURAL USE (NURSERY OPERATIONS) on 87.1 ACRES.

This right was perfected under Permit S-52321. The date of priority is MARCH 2, 1990. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.78 CUBIC FEET PER SECOND FROM LIVE FLOW AND 209.0 ACRE-FEET OF STORED WATER or its equivalent in case of rotation, measured at the point of diversion.

The points of diversion are located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	3 W	WM	2	NW SW	41	WALKER RESERVOIR - 1750 FEET NORTH AND 1240 FEET EAST FROM SW CORNER, SECTION 2
3 S	3 W	WM	10	SE NE	45	POD - 970 FEET SOUTH AND 36 FEET WEST FROM SW CORNER, DLC 41

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 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.

**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 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and 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 within three months after issuance of the certificate.

A description of the place of use is as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	3 W	WM	10	NE NE	45	10.3
3 S	3 W	WM	10	NW NE	45	0.5
3 S	3 W	WM	10	SW NE	45	4.2
3 S	3 W	WM	10	SE NE	45	33.2
3 S	3 W	WM	10	NE SE	45	29.6
3 S	3 W	WM	10	NW SE	45	3.8
3 S	3 W	WM	10	SE SE	45	5.5

Measurement, recording and reporting conditions:

- A. The water user shall maintain the meter or other suitable 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.

The water user shall maintain and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion.

In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the capacity of the facility at the time of perfection of this right.

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

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 allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

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

**APR 10 2015**

Issued \_\_\_\_\_.



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Dwight French  
Water Right Services Division Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department