

STATE OF OREGON  
COUNTY OF TILLAMOOK  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

DONALD L SMITH  
DBA MOHLER SAND AND GRAVEL  
36435 HWY 101 N  
NEHALEM OR 97131

confirms the right to use the waters of WEST FORK PETERSON CREEK, TRIBUTARY OF NEHALEM RIVER, for INDUSTRIAL USE.

This right was perfected under Permit S-52219. The date of priority is NOVEMBER 6, 1990. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.223 CUBIC FOOT PER SECOND (CFS) MAY 1 THROUGH JUNE 30, 0.223 CFS IN JULY, 0.22 CFS IN AUGUST, 0.17 CFS IN SEPTEMBER, AND 0.223 CFS IN OCTOBER.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	9 W	WM	32	SE SW	30 FEET NORTH AND 1010 FEET WEST FROM N1/4 CORNER, SECTION 5

The period of allowed use is May 1 through October 31.

A description of the place of use is as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot
2 N	9 W	WM	5	NE NW	3

Measurement, recording and reporting conditions:

- A. The water user shall maintain the meter or other suitable measuring device as approved by the Director in good working order.
- 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.

**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.

- C. The Director may require the water user to keep and maintain a record of the amount (volume) of water used and may require the water user to report water use on a periodic schedule as established by the Director. In addition, the Director may require the water user to report general water use information, the periods of water use and the place and nature of use of water under the right. The Director may provide an opportunity for the water user to submit alternative reporting procedures for review and approval.

The water user shall maintain adequate treatment facilities meeting current DEQ requirements to remove sediment before returning the water to the stream.

During June 16 through September 15, water may be diverted only when the return flow temperature is no higher than 1 degree fahrenheit of the temperature as measured at the intake point.

The water user shall maintain and operate fish screening to prevent fish from entering the proposed diversion and shall also maintain a fishway at the obstruction that will provide adequate upstream and downstream passage for fish as approved by the Oregon Department of Fish and Wildlife.

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.

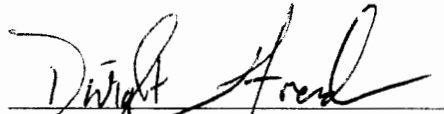
This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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 lands or place of use described.

Issued APR 10 2015

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