

STATE OF OREGON
 COUNTY OF TILLAMOOK
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

DONALD L SMITH
 MOHLER SAND AND GRAVEL
 PO BOX 399
 NEHALEM OR 97131

confirms the right to use the waters of NEHALEM RIVER AND PETERSON CREEK, TRIBUTARIES OF NEHALEM BAY for INDUSTRIAL USE.

This right was perfected under Permit S-52220. 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 1.45 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion.

The period of allowed use is May 1 through October 31 from Nehalem River and November 1 through April 30 from Peterson Creek.

The points of diversion are located as follows:

Twp	Rng	Mer	Sec	Q-Q	G'Lot	Measured Distances
2 N	9 W	WM	5	NW NW	4	SOUTH FORK OF NEHALEM RIVER - 1450 FEET SOUTH AND 1400 FEET WEST FROM N1/4 CORNER, SECTION 5
2 N	9 W	WM	5	NW NW	4	PETERSON CREEK - 1296 FEET SOUTH AND 1315 FEET WEST FROM N1/4 CORNER, SECTION 5

A description of the place of use is as follows:

Twp	Rng	Mer	Sec	Q-Q	G'Lot
2 N	9 W	WM	5	NW NW	4

Measurement, recording and reporting conditions:

- A. The water user shall maintain the meter or other suitable measuring device approved by the Director 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.

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.

- 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 use is subject to the maintenance and use of adequate treatment facilities 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 permittee is encouraged to contact the Oregon Department of Fish and Wildlife for information on obtaining temperature monitoring equipment.

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

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.

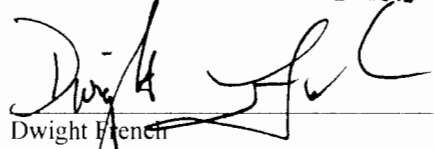
This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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 24 2015



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