

STATE OF OREGON

COUNTY OF COOS

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

JEFFREY KERKER
PATRICIA KERKER
PO BOX 2112
BANDON OR 97411

confirms the right to use the waters of AN UNNAMED STREAM AND SMITH RESERVOIR, CONSTRUCTED UNDER APPLICATION R-70738, PERMIT R-11786, tributaries of JOHNSON CREEK for NURSERY OPERATIONS on 1.7 ACRES.

This right was perfected under Permit S-52234. The date of priority is OCTOBER 10, 1990. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.02 CUBIC FOOT PER SECOND OF LIVE FLOW AND 0.7 ACRE-FOOT OF STORED WATER, measured at the point of diversion.

The period of allowed use is live flow between December 1 through March 31; water legally stored can be used at any time.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
29 S	15 W	WM	1	NE SE	20 FEET SOUTH AND 450 FEET WEST FROM E¼ CORNER, SECTION 1

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 agricultural use 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.

The place of use is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	15 W	WM	1	NE SE	1.7

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.

Measurement, recording and reporting conditions:

- A. The water user shall maintain a 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.
- 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.

A totalizing flow meter shall be maintained as identified in OAR 690-507-645.

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.

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