

STATE OF OREGON  
 COUNTY OF CLACKAMAS  
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

J. FRANK SCHMIDT & SON CO.  
 PO BOX 189  
 BORING OR 97009

NORTHWEST FARM CREDIT SERVICES, FLCA  
 NORTHWEST FARM CREDIT SERVICES, PCA  
 650 HAWTHORNE AVE SE STE 210  
 SALEM OR 97301-5895

confirms the right to the use of water perfected under the terms of Permit G-13860. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the point of diversion from the source. The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-15044

SOURCE OF WATER: WELLS BF-3, BF-5, AND BF-6 IN BEAR CREEK BASIN

PURPOSE OR USE: NURSERY OPERATIONS ON 131.8 ACRES

MAXIMUM RATE: 1.42 CUBIC FEET PER SECOND (CFS), BEING 0.31 CFS FROM WELL BF-3, 0.47 CFS FROM WELL BF-5, AND 0.64 CFS FROM WELL BF-6

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: OCTOBER 5, 1999

The wells are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 E	WM	19	SW NE	WELL BF-3 (ORIGINAL) - 1350 FEET SOUTH AND 1900 FEET WEST FROM NE CORNER, SECTION 19
4 S	1 E	WM	19	NE NW	WELL BF-5 (ADDITIONAL) - 1200 FEET SOUTH AND 3920 FEET WEST FROM NE CORNER, SECTION 19
4 S	1 E	WM	19	SE NW	WELL BF-6 (ADDITIONAL) - 2630 FEET SOUTH AND 2650 FEET WEST FROM NE CORNER, SECTION 19

**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.

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, during the period of allowed use specified above 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 is as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
4 S	1 E	WM	18	NE SE		37	16.4
4 S	1 E	WM	18	NW SE	3		4.4
4 S	1 E	WM	18	NW SE		37	4.5
4 S	1 E	WM	18	SW SE		37	7.4
4 S	1 E	WM	18	SE SE		37	9.5
4 S	1 E	WM	19	NW NE			7.7
4 S	1 E	WM	19	SW NE			4.0
4 S	1 E	WM	19	NE NW			30.0
4 S	1 E	WM	19	SE NW			10.4
4 S	1 E	WM	19	SE SW			22.7
4 S	1 E	WM	19	NW SE			11.8
4 S	1 E	WM	19	SW SE			3.0

The quantity of water diverted at the new points of appropriation (wells), together with that diverted at the old point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.

Water shall be acquired from the same aquifer as the original point of appropriation.

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.
- 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.

For the irrigation of any other crop, use of water under this right is limited to any deficiency in the available supply of any prior right existing for the same land.

To monitor the effect of water use from **Well BF-3** authorized under this right, the Director may require the water user to make and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement. The measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor, pump installer licensed by the Construction Contractors Board, or water user/appropriators and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- (A) Identify each well with its associated measurement; and
- (B) Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and

- (C) Specify the method used to obtain each well measurement; and
- (D) Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well if annual water level measurements reveal any of the following events:

- (A) An average water level decline of three or more feet per year for five consecutive years; or
- (B) A water level decline of 15 or more feet in fewer than five consecutive years; or
- (C) A water level decline of 25 or more feet; or
- (D) Hydraulic interference leading to a decline of 25 or more feet in any neighboring well with senior priority.

The reference level against which any future measurements will be compared for **Well BF-3** is 54.5 feet below land surface.

The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this right. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

To monitor the effect of water use from the **Well BF-5** and **Well BF-6** authorized under this right, the Department requires the water user to make and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Following the first year of water use, the user shall submit seven consecutive annual reports of static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require that the user obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor, pump installer licensed by the Construction Contractors Board, or water user/appropriators and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- (A) Identify each well with its associated measurement; and
- (B) Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- (C) Specify the method used to obtain each well measurement; and
- (D) Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if annual water level measurements reveal any of the following events:

- (A) An average water level decline of three or more feet per year for five consecutive years; or
- (B) A water level decline of 15 or more feet in fewer than five consecutive years; or
- (C) A water level decline of 25 or more feet; or
- (D) Hydraulic interference leading to a decline of 25 or more feet in any neighboring well with senior priority.

The reference levels against which any future measurements will be compared is 42.42 feet below land surface for **Well BF-5**, and 51.25 feet below land surface for **Well BF-6**.

The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this right. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

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

The Director may require water level or pump test results 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.

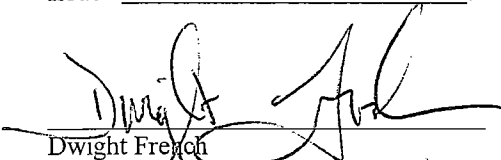
This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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

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

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