

STATE OF OREGON
COUNTY OF HARNEY
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

WHITBY BROTHERS LAND & LIVESTOCK, LLC
JEB WHITBY
720 W JUNIPER DR
MESA WA 99343

NORTHWEST FARM CREDIT SERVICES FLCA
PO BOX 2585
PASCO WA 99301

confirms the right to the use of water perfected under the terms of Permit G-17604. 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-15165

SOURCE OF WATER: NINE WELLS IN MALHEUR LAKE BASIN

PURPOSE or USE: IRRIGATION OF 497.1 ACRES

MAXIMUM RATE: 6.21 CUBIC FEET PER SECOND (CFS); IN ANY COMBINATION BETWEEN THE WELLS;
FURTHER LIMITED TO 0.9 CFS FROM WELL 1, 2.27 CFS FROM WELL 2, 1.52 CFS FROM WELL 3, 4.12 CFS
FROM WELL 4, 2.25 CFS FROM WELL 5, 1.48 CFS FROM WELL 6, 2.26 CFS FROM WELL 9, 4.53 CFS FROM
WELL 11 AND 4.75 CFS FROM WELL 12

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: JUNE 5, 2000

The Points of Appropriation are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	31 E	WM	9	NE NE	WELL NO. 1 (ADDITIONAL) - 1320 FEET SOUTH AND 1200 FEET WEST FROM NE CORNER, SECTION 9
33 S	31 E	WM	3	SE NW	WELL NO. 2 (ADDITIONAL) - 60 FEET NORTH AND 1340 FEET WEST FROM W1/4 CORNER, SECTION 3
33 S	31 E	WM	4	NW SE	WELL NO. 3 (ADDITIONAL) - 1225 FEET SOUTH AND 1412 FEET WEST FROM E1/4 CORNER, SECTION 4

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.

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	31 E	WM	4	SE NE	WELL NO. 4 (ORIGINAL) - 60 FEET NORTH AND 1320 FEET WEST FROM E1/4 CORNER, SECTION 4
33 S	31 E	WM	10	NE NW	WELL NO. 5 (ORIGINAL) - 1300 FEET SOUTH AND 1330 FEET EAST FROM NW CORNER, SECTION 10
33 S	31 E	WM	10	SE SW	WELL NO. 6 (ORIGINAL) - 1320 FEET NORTH AND 1330 FEET EAST FROM SW CORNER, SECTION 10
33 S	31 E	WM	8	SW NE	WELL NO. 9 (ADDITIONAL) - 2650 FEET SOUTH AND 1320 FEET EAST FROM N1/4 CORNER, SECTION 8
33 S	31 E	WM	9	SW NW	WELL NO. 11 (ADDITIONAL) - 2730 FEET NORTH AND 800 FEET EAST FROM SW CORNER, SECTION 9
33 S	31 E	WM	10	NW NW	WELL NO. 12 (ADDITIONAL) - 0 FEET SOUTH AND 860 FEET EAST FROM NW CORNER, SECTION 10

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

A description of the place of use is as follows:

Twp	Rng	Mer	Sec	Q-Q	Acres
33 S	31 E	WM	4	NE NW	30.2
33 S	31 E	WM	4	NW NW	29.7
33 S	31 E	WM	4	SW NW	30.8
33 S	31 E	WM	4	SE NW	31.2
33 S	31 E	WM	4	NE SW	29.6
33 S	31 E	WM	4	NW SW	31.6
33 S	31 E	WM	4	SW SW	32.8
33 S	31 E	WM	4	SE SW	30.0
33 S	31 E	WM	9	NE SE	31.3
33 S	31 E	WM	9	NW SE	30.3
33 S	31 E	WM	9	SW SE	30.5
33 S	31 E	WM	9	SE SE	33.2
33 S	31 E	WM	10	NE SW	31.5
33 S	31 E	WM	10	NW SW	28.1
33 S	31 E	WM	10	SW SW	30.8
33 S	31 E	WM	10	SE SW	35.5

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

Water shall be acquired from the same aquifer as the original points 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.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this right, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

To monitor the effect of water use from the wells 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. 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 or pump installer licensed by the Construction Contractors Board 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 level against which any future measurements will be compared is 96.5 feet below land surface for Well 4, 91.5 feet below land surface for Well 5 and 76.5 feet below land surface for Well 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.

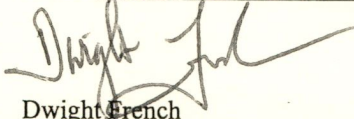
This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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.

Issued **SEP 17 2021**.

A handwritten signature in dark ink, appearing to read "Dwight French", is written over a horizontal line.

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