

STATE OF OREGON

COUNTY OF HARNEY

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

WHITBY BROTHERS LAND AND LIVESTOCK LLC
JEB WHITBY
720 WEST JUNIPER RD
MESA WA 99343

confirms the right to the use of water perfected under the terms of Permit G-16674. 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 well(s). The specific limits and conditions of the use are listed below.

SOURCE OF WATER: NINE WELLS IN ROARING SPRINGS CANYON BASIN

PURPOSE OR USE: IRRIGATION OF 230.4 ACRES

MAXIMUM RATE: 2.88 CUBIC FEET PER SECOND (CFS); FURTHER LIMITED TO 1.49 CFS FROM WELL 1, 2.27 CFS FROM WELL 2, 1.52 CFS FROM WELL 3, 2.25 CFS FROM WELL 5, 1.48 CFS FROM WELL 6, 2.26 CFS FROM WELL 9, 2.88 CFS FROM WELL 4, AND 2.23 CFS FROM WELL 11 AND WELL 12 EACH, IN ANY COMBINATION OR ITS EQUIVALENT IN CASE OF ROTATION, MEASURED AT THE WELLS.

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: JUNE 2, 2009

The wells are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	31 E	WM	3	SE NW	WELL 2 (ADDITIONAL) - 60 FEET NORTH AND 1340 FEET EAST FROM W1/4 CORNER, SECTION 3
33 S	31 E	WM	4	NW SE	WELL 3 (ADDITIONAL) - 1225 FEET SOUTH AND 1412 FEET WEST FROM E1/4 CORNER, SECTION 4
33 S	31 E	WM	4	SE NE	WELL 4 (ADDITIONAL) - 60 FEET NORTH AND 1320 FEET WEST FROM E1/4 CORNER, SECTION 4
33 S	31 E	WM	8	SW NE	WELL 9 (ADDITIONAL) - 2650 FEET SOUTH AND 1320 FEET EAST FROM N1/4 CORNER, SECTION 8
33 S	31 E	WM	9	NE NE	WELL 1 (ADDITIONAL) - 1320 FEET SOUTH AND 1200 FEET WEST FROM NE CORNER, SECTION 9
33 S	31 E	WM	9	SW NW	WELL 11 (ORIGINAL) - 2730 FEET NORTH AND 800 FEET EAST FROM SW CORNER, SECTION 9
33 S	31 E	WM	10	NE NW	WELL 5 (ADDITIONAL) - 1300 FEET SOUTH AND 1330 FEET EAST FROM NW CORNER, SECTION 10
33 S	31 E	WM	10	NW NW	WELL 12 (ORIGINAL) - 860 FEET EAST FROM NW CORNER, SECTION 10

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 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, 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.

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	31 E	WM	10	SE SW	WELL 6 (ADDITIONAL) - 1320 FEET NORTH AND 1330 FEET EAST FROM SW 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 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	9	NE NW	25.5
33 S	31 E	WM	9	NW NW	32.0
33 S	31 E	WM	9	SW NW	32.0
33 S	31 E	WM	9	SE NW	25.7
33 S	31 E	WM	9	NE SW	28.3
33 S	31 E	WM	9	NW SW	28.2
33 S	31 E	WM	9	SW SW	29.5
33 S	31 E	WM	9	SE SW	29.2

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

Measurement, recording and reporting conditions:

- A. The water user shall maintain the totalizing flow meters or measuring devices, as approved by the Director, in good working order, at each point of appropriation (new and existing).
- B. The water user 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.
- C. The water user shall allow the watermaster access to the meters or measuring devices; provided however, where any meters or measuring devices is located within a private structure, the watermaster shall request access upon reasonable notice.
- D. The Director may provide an opportunity for the water user to submit alternative measuring and reporting procedures for review and approval.

The water user shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

To monitor the effect of water use from the well(s) authorized under this right, the Department requires the water user to obtain, from a qualified individual (see below), 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.

The reference levels against which any future measurements will be compared is 95.85 feet below land surface for Well 11 and 98.50 feet below land surface for Well 12, respectively.

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 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 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.

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.

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 interference.

The well(s) 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 use may be restricted if the quality of downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to the agreement.

The Director may require water level or pump test results every ten years.

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.

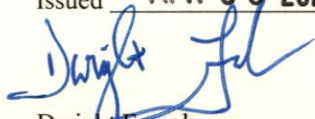
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

Water shall be acquired from the same aquifer (water source) at the original points of appropriation.

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

This certificate is issued to confirm ADDITIONAL POINT OF APPROPRIATIONS approved by an order of the Water Resources Director entered September 30, 2019, at Special Order Volume 113, Page 1266, approving Transfer Application T-12864, supercedes Certificate 93575, State record of Water Right Certificates.

Issued **APR 08 2022**



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