

Name Simmitt Nursery c/o Jerome Simmitt and
By Janice Simmitt
 Address 138 N.E. 22nd Ave.
Canby, OR 97013

Application No. G11982
 Permit No. G11687
 Certificate No. 83859

Date filed November 6, 1989
 Priority NOVEMBER 6, 1989
 Action suspended until CD/ "Dixie" 11-3-93
 Return to applicant _____
 Date of approval APR 15 1994

CONSTRUCTION
 Date for beginning APR 15 1995
 Date for completion OCT 01 1995
 Extended to _____
 Date for application of water OCT 01 1996
 Extended to 10-1-2001

PROSECUTION OF WORK
 Form "A" filed 6-8-95
 Form "B" filed 9-8-95
 Form "C" filed 9-8-95

FINAL PROOF
 Blank mailed _____
 Proof received _____
 Date certificate issued FEB 08 2008

Stream Index, Page No. 2.192
02-1198-04-7-0030
Redding

FEES PAID		
Date	Amount	Receipt No.
11-6-89	394.92	59626
REC. 11-3-93	55.08	186524
Ext. 5-26-05	\$250.00	74791
Cert. Fee		

FEES REFUNDED		
Date	Amount	Check No.

ASSIGNMENTS				
Date	To Whom	Address	Volume	Page

REMARKS
A- Form 90 sent MAY 19 1995
118 sent 8/2/95

SEP - 8 1995
WATER RESOURCES DEPARTMENT
SALEM, OREGON

Form C (690-9-77)

IMPORTANT—This form is a notice to the Water Resources Director that permittee is ready to make final proof to the extent to which the water has actually been applied to the intended use under the terms of the permit. Permittee is cautioned that Certificate of Water Right will be issued based on the extent of the quantity and use as determined by the final proof inspection and survey which will be made in response to the filing of this Form C.
NOTE: In the case of an irrigation permit, this Form C should not be mailed to the Water Resources Department until all of the land described in the permit, which it is intended to irrigate under this permit at any time, has actually been irrigated.

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when all of the water has been applied.

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

I, Jerome A. Simnitt, the holder of Permit No. G-11687, Application No. G-11982, to appropriate the public waters of the state of Oregon, completely applied the waters to a beneficial use in accordance with the terms of said permit, on the 1ST day of September, 1995.

Remarks: _____

IN WITNESS WHEREOF, I have hereunto set my hand this 1ST day of September, 1995
Jerome A. Simnitt (Signature of Applicant) 138 NE 22ND AVE CANBY OR 97013 (Address)

Form B (690-9-77)

Application No. G-11982

NOTICE OF COMPLETION OF CONSTRUCTION

I, Jerome A. Simnitt, the holder of Permit No. G-11687, Application No. G-11982, to appropriate the public waters of the state of Oregon, completed the construction of the works described therein on the 1ST day of SEP.

Remarks: From Water Well B
If the works have less capacity than described by STEVE SWEIDER, Schn ment, you should so state in order that our records may not be un installation of Flow meter

Static
ok April 1998
to Oct 2000
Extend to
Oct 2000

Filed
part of the proposed develop-
9-89
Sept, 1995
Canby Or 97013
k is completed.

IN WITNESS WHEREOF, I have hereunto set my hand this _____
Jerome A. Simnitt (Signature of Applicant)
Fill out, detach and mail to the Water Resources

Form A (690-9-77)

NOTICE OF BEGINNING OF CONSTRUCTION

I, Jerome A. Simnitt, the holder of Permit No. G-11687, Application No. G-11982, to appropriate the public waters of the state of Oregon, began the actual construction of the works described therein on the 1988 day of JANUARY, 1989.

Remarks: See START CARD Filed by Steve Schneider #7900
The appropriator must state the manner of beginning of construction, the amount of work completed and the type of equipment Schneider equipment acquired for the water system up to the date of this statement, and any additional information which shows a substantial beginning of construction as See Attached NOTE! authorized by your permit.

IN WITNESS WHEREOF, I have hereunto set my hand this 1 day of Jun, 1995
Jerome A. Simnitt (Signature of Applicant) 138 NE 22ND AVE Canby, OR 97013 (Address)

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when construction work is begun.

SEP - 8 1995

WATER RESOURCES DEPT.
SALEM, OREGON

OK

SEP - 8 1995
WATER RESOURCES DEPT.
SALEM, OREGON

Form C (690-9-77)

IMPORTANT—This form is a notice to the Water Resources Director that permittee is ready to make final proof to the extent to which the water has actually been applied to the intended use under the terms of the permit. Permittee is cautioned that Certificate of Water Right will be issued based on the extent of the quantity and use as determined by the final proof inspection and survey which will be made in response to the filing of this Form C.
NOTE: In the case of an irrigation permit, this Form C should not be mailed to the Water Resources Department until all of the land described in the permit, which it is intended to irrigate under this permit at any time, has actually been irrigated.

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when all of the water has been applied.

Application No. G11982
NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

I, Jerome A. Simnitt, the holder of Permit No. G11687
to appropriate the public waters of the state of Oregon, completely applied the waters to a beneficial use in accordance with the terms of said permit, on the 1ST day of September, 1995.

Remarks: _____

IN WITNESS WHEREOF, I have hereunto set my hand this 1ST day of September, 1995
Jerome A. Simnitt (Signature of Applicant) 138 NE 22ND AVE CANBY OR 97013 (Address)

Form B (690-9-77)

Application No. G11982

NOTICE OF COMPLETION OF CONSTRUCTION

I, Jerome A. Simnitt, the holder of Permit No. G-11687
to appropriate the public waters of the state of Oregon, completed the construction of the works described therein on the 1ST day of September, 1995

Remarks: From Water Well Report (START CARD 7900) Filed
by STEVE SWEIDER, Schnider equipment, 6-9-89.
installation of Flow meter in late August 1995.
If the works have less capacity than described in the permit, or you have definitely abandoned part of the proposed development, you should so state in order that our records may not be unnecessarily encumbered.

IN WITNESS WHEREOF, I have hereunto set my hand this 1ST day of Sept, 1995
Jerome A. Simnitt (Signature of Applicant) 138 NE 22ND AVE CANBY OR 97013 (Address)

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when construction work is completed.

Form A (690-9-77)

Application No. G11982

NOTICE OF BEGINNING OF CONSTRUCTION

I, Jerome A. Simnitt, the holder of Permit No. G-11687
to appropriate the public waters of the state of Oregon, began the actual construction of the works described therein on the 19~~88~~ day of JANUARY, 1989

Remarks: See START CARD Filed by Steve Sweider #7900
Schnider equipment
The appropriator must state the manner of beginning of construction, the amount of work completed and the type of equipment acquired for the water system up to the date of this statement, and any additional information which shows a substantial beginning of construction as authorized by your permit.
See Attached NOTE!

IN WITNESS WHEREOF, I have hereunto set my hand this 1 day of Jun, 1995
Jerome A. Simnitt (Signature of Applicant) 138 NE 22ND AVE Canby, OR 97013 (Address)

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when construction work is begun.

ST-35567-690

RECEIVED
SEP - 8 1995
WATER RESOURCES DEPT.
SALEM, OREGON
JUN 8 1995
OK BSM

APPLICATION
CHECK-OFF LIST

~~RECEIPT POSTED~~
~~CONTENTS MARKED/STAMPED~~
~~FILE FOLDER TYPED~~
~~CALENDAR CARD TYPED~~
~~KARDEX TYPED~~
~~MAPS COPIED (5 COPIES)~~
~~APPLICATION COPIED (2)~~
~~STREAM INDEXED & STREAM CODED~~
~~ENTERED INTO WRIS~~
~~ENTERED INTO REFLEX~~
ACK LETTER TYPED

TO: Water Rights Section

Jan 3, 1994
1991

FROM: Groundwater/Hydrology Section Donn Miller
Reviewer's Name

SUBJECT: Application G- 11982

1. ~~PER THE~~ _____ Basin rules, one or more of the proposed POA's is within _____ mile of a surface water source and taps a groundwater source hydraulically connected to the surface water.

2. **BASED UPON OAR 690-09** currently in effect, I have determined that the proposed groundwater use
a. _____ will, or } have the potential for substantial interference with the nearest surface water
b. will not } source, namely Unnamed tributary of Willamette R. in Section 27 or Willamette R. in
c. _____ will, if properly conditioned, adequately protect the surface water from interference:
i. _____ The permit should contain condition #(s) _____;
ii. _____ The permit should contain special condition(s) as indicated in "Remarks" below;
iii. _____ The permit should be conditioned as indicated in item 4 below; or
d. _____ will, with well reconstruction, adequately protect the surface water from substantial interference.

3. **BASED UPON** available data, I have determined that groundwater for the proposed use
a. will, or }
b. _____ will not } likely be available in the amounts requested without injury to prior rights; or
c. _____ can, if properly conditioned, avoid injury to existing rights or to the groundwater resource;
i. _____ The permit should contain condition #(s) _____;
ii. _____ The permit should contain special condition(s) as indicated in "Remarks" below;
iii. _____ The permit should be conditioned as indicated in item 4 below.

4. a. _____ **THE PERMIT** should allow groundwater production from no deeper than _____ ft. below land surface;
b. _____ The permit should allow groundwater production from no shallower than _____ ft. below land surface;
c. _____ The permit should allow groundwater production only from the _____ groundwater reservoir between approximately _____ ft. and _____ ft. below land surface;
d. _____ Well reconstruction is necessary to accomplish one or more of the above conditions.
e. _____ One or more POA's commingle 2 or more sources of water. The applicant must select one source of water per POA and specify the proportion of water to be produced from each source.

G-11982

REMARKS: _____

WELL CONSTRUCTION (If more than one well doesn't meet standards, attach an additional sheet.)

5. **THE WELL** which is the point of appropriation for this application does not meet current well construction standards based upon:
- a. review of the well log;
 - b. field inspection by _____;
 - c. report of CWRE _____;
 - d. other: (specify) _____
6. **THE WELL** construction deficiency:
- a. constitutes a health threat under Division 200 rules;
 - b. commingles water from more than one groundwater reservoir;
 - c. permits the loss of artesian head;
 - d. permits the de-watering of one or more groundwater reservoirs;
 - e. other: (specify) _____
7. **THE WELL** construction deficiency is described as follows: _____
8. **THE WELL**
- a. was, or
 - b. was not
 - c. I don't know if it met standards at the time of construction.
- constructed according to the standards in effect at the time of original construction or most recent modification.

RECOMMENDATION:

- A. I recommend including the following condition in the permit:
"No water may be appropriated under terms of this permit until the well(s) has been repaired to conform to current well construction standards and proof of such repair is filed with the Enforcement Section of the Water Resources Department."
- B. I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Enforcement Section of the Water Resources Department.
- C. REFER this review to Enforcement Section for concurrence.

THIS SECTION TO BE COMPLETED BY ENFORCEMENT PERSONNEL

I concur in G/H's recommendation A or B above relating to conditioning or withholding the permit.
_____, 1991.

(Signature)

I do not concur in G/H's recommendation A or B above relating to conditioning or withholding the permit for the following reasons: _____

_____, 1991.

(Signature)

(WRF08\91)

STATE OF OREGON
WATER RESOURCES DEPARTMENT

INTEROFFICE MEMO

TO: FILE G-11982
FROM: DONN MILLER ^{DM}
SUBJECT: SURFACE/GROUND WATER CONSIDERATIONS

DATE: 6/14/91

The applicant seeks 3.78 cfs (1700 gpm) from an alluvial well for nursery operations.

Per Division 9

FACTS

The well locations and aquifer display the following:

- 1) The well is 4600' from the Molalla River and 4500' from an unnamed stream.
- 2) The well is 343' deep and develops water from various sand and gravel layers. The well log is in the file.
- 3) The static water level for the well from the log was 70' on 6/1/89.
- 4) The approximate elevation at the well is 140'.
- 5) The nearby stream reach elevation is about 65' on the Molalla River and 75' at the unnamed stream.
- 6) OWRD Groundwater Report #29 details groundwater conditions in the area of the application.
- 7) A pump test on the well produced 1700 gpm with 112' dd at 1 hour, 144' dd at 4 hours, and 152' dd at 6 hours.

CONCLUSIONS

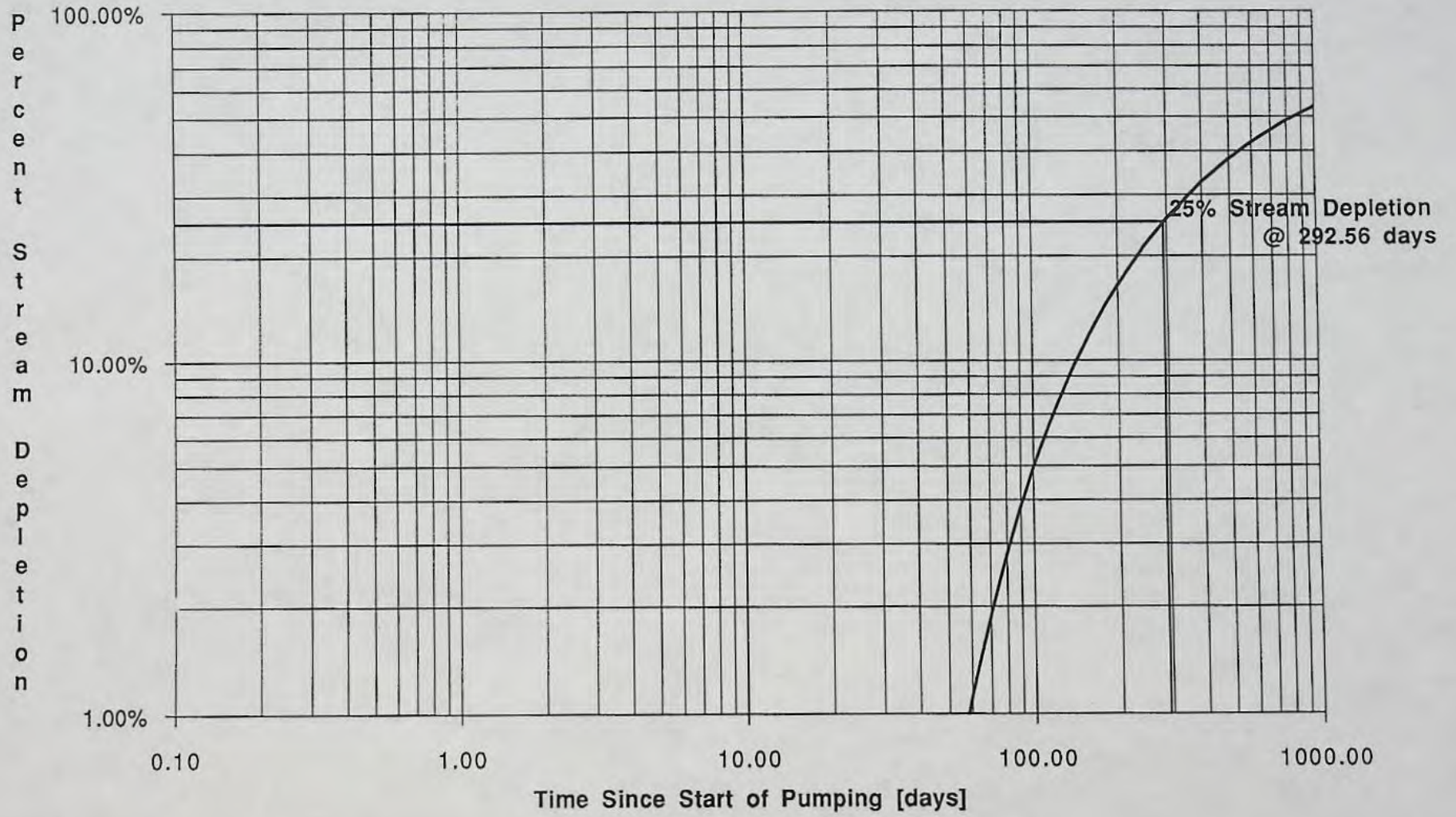
- 1) The head at the well is about 70', indicating an approximate equal standing with the nearby stream reaches.
- 2) The well develops water from the Troutdale Formation.
- 3) The transmissivity at the well is about 20,000 gpd/ft. The storativity of the materials is about 0.1.
- 4) Based on requested rate, heads, distances, general geologic environment and logged materials, I conclude that the alluvial aquifer is **unconfined, hydraulically connected to the Molalla River and unnamed stream, and has the potential to cause substantial interference rarely (i.e. <25% at 30 days).**
- 5) **Although the aquifer should receive recharge readily, the substantial rate and well depth may result in depletion.**

RECOMMENDATIONS

I recommend use of the standard language interference and decline conditions.

Stream Depletion Chart

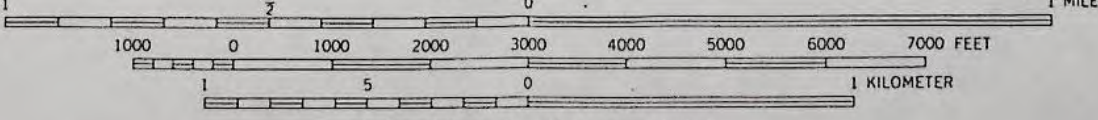
Simnitt





1 430 000 FEET | 42°30'523 | 524 | (YODER) YODER 7.9 MI. | 526 | 40' | MULIN SILVER

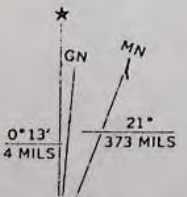
SCALE 1:24 000



CONTOUR INTERVAL 10 FEET

DATUM IS MEAN SEA LEVEL

DEPTH CURVES AND SOUNDINGS IN FEET—WILLAMETTE RIVER DATUM



Stream Depletion Worksheet

	A	B	C	D	E	F
1	Stream Depletion Worksheet					
2						
3	Written by Karl C. Wozniak (OWRD) May 1991					
4	References: Theis (1941), Jenkins (1968), Jenkins (1970), and Walton (1984).					
5	See bottom of worksheet for detailed references and model assumptions.					
6						
7	Input Data:					
8	Well Owner or Well Number:				Simnitt	
9	Net Steady Pumping Rate of Pumped Well, Q:				1700	[gpm]
10	Perpendicular Distance From Pumped Well to Stream, a:				4550	[ft]
11	Transmissivity of Aquifer, T:				20,000	[gpd/ft]
12	Storativity of Aquifer, S:				0.1000	
13	Time duration of pumping, ti:				60.00	[days]
14						
15	Output Data: 25% Stream Depletion @ 292.56 days					
16						
17						
18			Stream			
19	Time		Depletion			
20	Pumped	u	q/Q	q	v/V	V
21	[days]		[%]	[gpm]	[%]	[gallons]
22	292.56	0.6616	25.00%			
23	0.10	1935.6838	0.00%			
24	0.20	967.8419	0.00%			
25	0.30	645.2279	0.00%			
26	0.40	483.9209	0.00%			
27	0.50	387.1368	0.00%			
28	0.60	322.6140	0.00%			
29	0.70	276.5263	0.00%			
30	0.80	241.9605	0.00%			
31	0.90	215.0760	0.00%			
32	1.00	193.5684	0.00%			
33	1.10	175.9713	0.00%			
34	1.20	161.3070	0.00%			
35	1.30	148.8988	0.00%			
36	1.40	138.2631	0.00%			
37	1.60	120.9802	0.00%			
38	1.80	107.5380	0.00%			
39	2.00	96.7842	0.00%			
40	2.50	77.4274	0.00%			
41	3.00	64.5228	0.00%			
42	4.00	48.3921	0.00%			
43	5.00	38.7137	0.00%			
44	6.00	32.2614	0.00%			
45	7.00	27.6526	0.00%			
46	8.00	24.1960	0.00%			
47	9.00	21.5076	0.00%			

Stream Depletion Worksheet

	A	B	C	D	E	F
48	10.00	19.3568	0.00%			
49	11.00	17.5971	0.00%			
50	12.00	16.1307	0.00%			
51	13.00	14.8899	0.00%			
52	14.00	13.8263	0.00%			
53	16.00	12.0980	0.00%			
54	18.00	10.7538	0.00%			
55	20.00	9.6784	0.00%			
56	25.00	7.7427	0.01%			
57	30.00	6.4523	0.03%			
58	40.00	4.8392	0.19%			
59	50.00	3.8714	0.54%			
60	60.00	3.2261	1.11%			
61	70.00	2.7653	1.87%			
62	80.00	2.4196	2.78%			
63	90.00	2.1508	3.81%			
64	100.00	1.9357	4.91%			
65	110.00	1.7597	6.07%			
66	120.00	1.6131	7.25%			
67	130.00	1.4890	8.44%			
68	140.00	1.3826	9.63%			
69	160.00	1.2098	11.98%			
70	180.00	1.0754	14.25%			
71	200.00	0.9678	16.41%			
72	250.00	0.7743	21.33%			
73	300.00	0.6452	25.60%			
74	400.00	0.4839	32.52%			
75	500.00	0.3871	37.89%			
76	600.00	0.3226	42.18%			
77	700.00	0.2765	45.71%			
78	800.00	0.2420	48.67%			
79	900.00	0.2151	51.19%			
80	1000.00	0.1936	53.38%			
81						
82	Data For Drawing 25% Intersection Lines:					
83	0.10		25.00%			
84	292.56		25.00%			
85	292.56		1.00%			
86	292.56		25.00%			

RECEIVED

JUN 13 1989

Simnitt Nursery
Well # 7900
by Schneider Drilling Co. 1989

WATER RESOURCES DEPT.
SALEM, OREGON

0	3	Topsoil, sandy loam, brown
3	8	Sand, med & clay, brown
8	17	Sand, crse & clay, brown
17	18	Gravel, 2"- & sand, crse, brown
18	24	Gravel, 3"- & sand, crse w/ clay, grey & brown
24	26	Gravel & cobbles
26	41	Gravel, sand, cobbles & clay, brown
41	46	Gravel & cobbles
46	50	Gravel, 3"- & sand, crse
50	53	Gravel & cobbles
53	55	Gravel & clay, grey
55	58	Gravel & sand & boulders
58	71	Gravel & cobbles & boulders w/ clay, bluegrey
71	93	Gravel & clay, bluegrey
93	100	Sand & gravel, pea & clay, blue
100	101	Gravel & cobbles, 4"-
101	108	Gravel & cobbles, 6"- & sand, crse
108	110	Gravel & cobbles, 6"- & clay, grey
110	113	Clay, grey, silty
113	118	Gravel & cobbles, 4"-
118	130	Clay, grey, silty
130	137	Clay, blue & grey, silty sandy
137	140	Clay, grey
140	149	Clay, grey, silty sandy, w/ wood
149	163	Clay, grey blue
163	166	Clay, blue, silty sandy
166	168	Clay, brown, silty sandy
168	170	Clay, grey, silty sandy
170	174	Sandy, black, med crse
174	179	Clay, blue
179	181	Clay, grey, silty sandy
181	186	Sand, black, med-crse, pea grv. & clay lenses
186	187	Sand, crse & gravel, 2"- w/ clay, blue
187	192	Clay, grey, silty sandy
192	199	Clay, grey
199	203	Clay, grey, silty sandy
203	207	Sand, med-crse w/ some pea gravel
207	210	Sand, fine - crse
210	214	Sand, med-crse w/ wood
214	223	Sand, crse, w/ wood
223	252	Clay, grey
252	258	Clay, dark brown
258	260	Clay, grey, silty sandy
260	268	Sand, dark grey, med-fine, cementation
268	273	Sand, dark green or black, med-crse, cem
273	278	Sand, med-fine w/ clay lenses
278	288	Sand, crse-med & gravel, 1/2"-
285	291	Sand, black crse & pea gravel, some cem
291	298	Sand, multi colored, crse & pea gravel w/ wood
298	342	Clay, grey & blue, med-soft
342	343	Clay, white



App. G11982

USER-ID 9655

2000

Oregon Water Resources Department
October 2000 through September 2001
Annual Water Use - Monthly Quantities Form

2001



36264 NU

Facility <input type="checkbox"/>	LARGE				
POD-ID <input type="checkbox"/>	G-11687				
October - 2000	○				
November - 2000					
December - 2000					
January - 2001					
February - 2001					
March - 2001					
April - 2001					
May - 2001					
June - 2001	1.63 KG METER READING				
July - 2001	4 KG				
August - 2001	2 KG				
September - 2001	2 KG				
TOTAL *					

RECEIVED

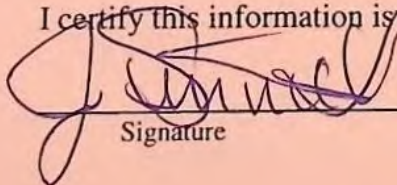
MAR 05 2002

WATER RESOURCES DEPT.
SALEM, OREGON

* Describe the units of measure as G (gallons), KG (thousand gallons), MG (million gallons), CF (cubic feet), MCF (million cubic feet), or AF (acre-feet)

Describe method of measuring the water used: FLOW METER. If use is irrigation, total number acres irrigated 20

I certify this information is true and accurate to the best of my knowledge.


Signature

OWNER
Title

Reporting Entity

2-27-02
Date

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or 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 at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

STATE OF OREGON

COUNTY OF CLACKAMAS

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

SIMNITT NURSERY
c/o JEROME AND JANICE SIMNITT
138 NE 22ND AVENUE
CANBY, OREGON 97013

confirms the right to use the waters of A WELL in the MOLALLA RIVER BASIN for NURSERY OPERATIONS ON 45.69 ACRES.

This right was perfected under Permit G-11687. The date of priority is NOVEMBER 6, 1989. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 3.66 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the well.

The well is located as follows:

NW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 28, T 3 S, R 1 E, W.M.; 774 FEET SOUTH AND 56 FEET EAST FROM THE C $\frac{1}{4}$ CORNER, SECTION 28.

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 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.

A description of the place of use to which this right is appurtenant is as follows:

SW¼ NE¼ 3.93 ACRES

SE¼ NW¼ 9.48 ACRES

NE¼ SW¼ 16.53 ACRES

NW¼ SE¼ 15.75 ACRES

SECTION 28

TOWNSHIP 3 SOUTH, RANGE 1 EAST, W.M.

The well 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 level elevation in the well at all times.

Measurement, recording and reporting conditions:

- A. The water user shall maintain the meter or measuring device 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.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

The water user shall obtain a static water-level measurement for each well during April of each year and report the measurement to the Department within thirty days. The measurement shall be made by a certified water-rights examiner, registered professional geologist, or professional engineer. Water levels shall be reported as depth-to-water below ground level and shall be accompanied by supporting calculations. If a well listed on this right displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user 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 reference level for water level declines is 51.50 feet below land surface. The water user shall in no instance allow excessive decline to occur within the aquifer as a result of use under this right.

The water user shall monitor and report the impact of water use under this right consistent with the plan on file with the Department. If a well listed on this right displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's 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 referenced level for water-level declines for this right is 51.5 below ground surface. The water user shall in no instance allow excessive decline to occur within the aquifer as a result of use under this right.

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.

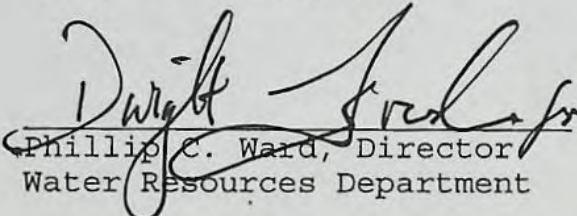
This right is for beneficial use without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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.

This certificate is issued to correct an error in the location of the place of use and supersedes certificate 83859.

Issued **MAY 16 2008**


Phillip C. Ward, Director
Water Resources Department

Recorded in State Record of Water Right Certificates Number 84175

G-11982.RA

RECEIVED

SEP 06 1996

WATER RESOURCES DEPT.
SALEM, OREGON

T.3S, R.1E, W.M. SECTION 28



T.L. 1100
S.E. 1/4
N.W. 1/4
9.48 Acres

T.L. 900
T.L. 801

T.L. 700

T.L. 1600
S.W. 1/4
N.E. 1/4
3.93 Acres

T.L. 800

T.L. 100

Center
Sec. 28

T.L. 400

T.L. 600

N.E. 1/4
S.W. 1/4
16.53 Acres

T.L. 500
6" 4" 6" 10" 8" 4"

STONE, N.E. CORNER
C. FENDLETON D.L.C.

56'

WELL

T.L. 800
N.W. 1/4
S.E. 1/4
15.75 Acres

N. Holly Street

N. Locust Street

N. Maple Street

SCALE 1" = 400'

FINAL PROOF SURVEY

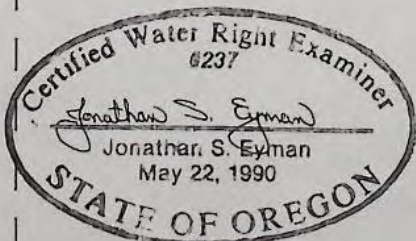
UNDER

Application No. G-11982 Permit No. G11687

IN NAME OF

SIMNITT NURSERY

Surveyed Sept. 4, 1996 by *Jonathan S. Eyman*





Oregon

Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

DATE MAILED: MAY 16, 2008

NOTICE OF CERTIFICATE ISSUANCE

Attached is a certificate that correctly describes the water right. The owner of the land is the owner of the water right. The water right is limited to a specific amount of water, but not more than can be beneficially used for the purposes stated within the certificate.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within **60 days of the mailing date stated above** as specified by ORS 183.484(2).

This statement of judicial review rights is required under ORS 536.075; it does not alter or add to existing review rights or create review rights that are not otherwise provided by law.

Oregon law does not allow the Director to reissue a certificate because of a change in the ownership. The water must be controlled and not wasted. To change the location of the point of diversion, the character of use, or the location of use requires the advance approval of the Water Resources Director.

If any portion of this water right is not used for five or more consecutive years, that portion of the right may be subject to forfeiture according to ORS 540.610. Land enrolled in a Federal Reserve Program is not subject to forfeiture during the period of enrollment. Other exceptions to forfeiture are explained in ORS 540.610.

If you have any questions please contact Gerry Clark at 503-986-0811.

Mailing List for Final Certificate

Mailing Date:

Application: G-11982
Permit: G-11687
Certificate: 84175

Permit Holder: (include copy of map)

SIMNITT NURSERY ✓
c/o JEROME AND JANICE SIMNITT
138 NE 22ND AVENUE
CANBY, OREGON 97013

Copies Mailed
By: <i>Connie Uance</i>
(STAFF)
on: MAY 16 2008
(DATE)

Persons to receive copies of proposed certificate: (Include map)

1. Watermaster # 20: ✓
2. Jonathan Eyman, CWRE ✓

Copies of Final Certificate to be sent to:

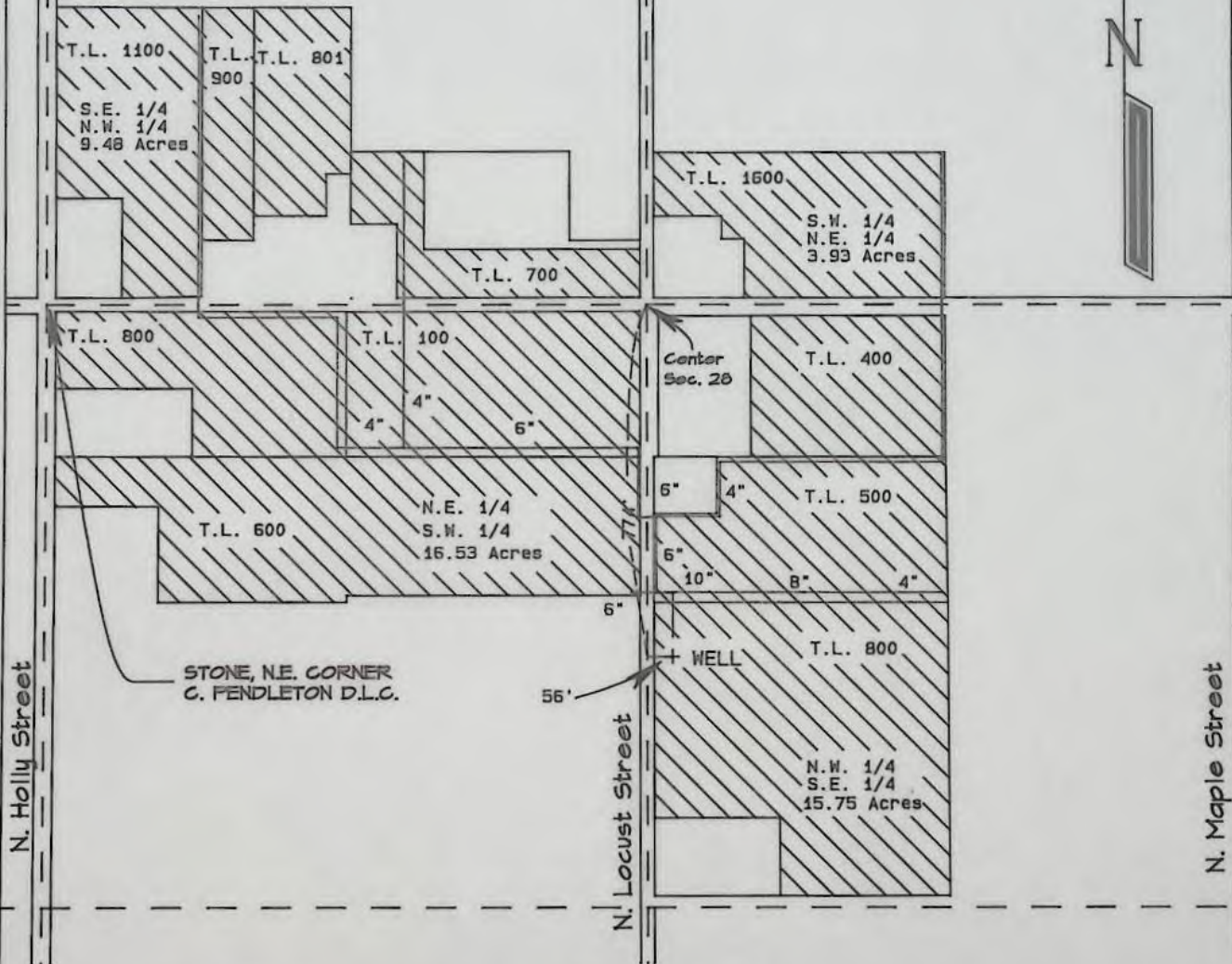
1. Watermaster # 20:
2. Data Center (include copy of map) - *Tara McCloud* ✓
3. Water Availability ✓
4. Jonathan Eyman, CWRE
5. Vault ✓
6. File ✓

RECEIVED

SEP 06 1996

WATER RESOURCES DEPT
SALEM, OREGON

T.3S, R.1E, W.M. SECTION 28



SCALE 1" = 400'

FINAL PROOF SURVEY

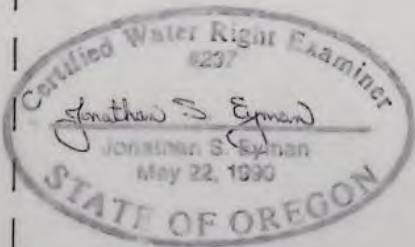
UNDER

Application No. G-11982 Permit No. G11687

IN NAME OF

SIMNITT NURSERY

Surveyed Sept. 4, 1996 by *Jonathan S. Eymen*



Connie -
Please pull file
Thanks,
Gerry

Gerry Clark

From: Tara Mcloud
Sent: Friday, May 09, 2008 10:38 AM
To: 'Gerry Clark'
Subject: Certificate error file G-11982

Hi Gerry,

I was processing certificate 83859, signed in February, and I found an error in the place of use description. Based on the map the pou is in section 28 but is listed as being in section 15. I believe this is a reimbursement authority issued certificate, so I don't know if you're the appropriate person to contact regarding a correction but I thought you'd be a good place to start. ☺

Thanks for your help!

Tara McLoud
Water Resource Data Technician
Information Services Division
Oregon Water Resources Department
503-986-0861
www.wrd.state.or.us

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or 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 at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

STATE OF OREGON

COUNTY OF CLACKAMAS

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

SIMNITT NURSERY
c/o JEROME AND JANICE SIMNITT
138 NE 22ND AVENUE
CANBY, OREGON 97013

confirms the right to use the waters of A WELL in the MOLALLA RIVER BASIN for NURSERY OPERATIONS ON 45.69 ACRES.

This right was perfected under Permit G-11687. The date of priority is NOVEMBER 6, 1989. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 3.66 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the well.

The well is located as follows:

NW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 28, T 3 S, R 1 E, W.M.; 774 FEET SOUTH AND 56 FEET EAST FROM THE C $\frac{1}{4}$ CORNER, SECTION 28.

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 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.

A description of the place of use to which this right is appurtenant is as follows:

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 3.93 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 9.48 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 16.53 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 15.75 ACRES

SECTION 15

TOWNSHIP 3 SOUTH, RANGE 1 EAST, W.M.

The well 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 level elevation in the well at all times.

Measurement, recording and reporting conditions:

- A. The water user shall maintain the meter or measuring device 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.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

The water user shall obtain a static water-level measurement for each well during April of each year and report the measurement to the Department within thirty days. The measurement shall be made by a certified water-rights examiner, registered professional geologist, or professional engineer. Water levels shall be reported as depth-to-water below ground level and shall be accompanied by supporting calculations. If a well listed on this right displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user 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 reference level for water level declines is 51.50 feet below land surface. The water user shall in no instance allow excessive decline to occur within the aquifer as a result of use under this right.

The water user shall monitor and report the impact of water use under this right consistent with the plan on file with the Department. If a well listed on this right displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's 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 referenced level for water-level declines for this right is 51.5 below ground surface. The water user shall in no instance allow excessive decline to occur within the aquifer as a result of use under this right.

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

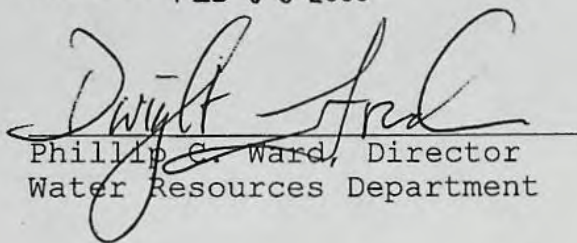
Failure to comply with any of the provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

This right is for beneficial use 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.

Issued FEB 08 2008



Phillip C. Ward, Director
Water Resources Department

Recorded in State Record of Water Right Certificates Number 83859

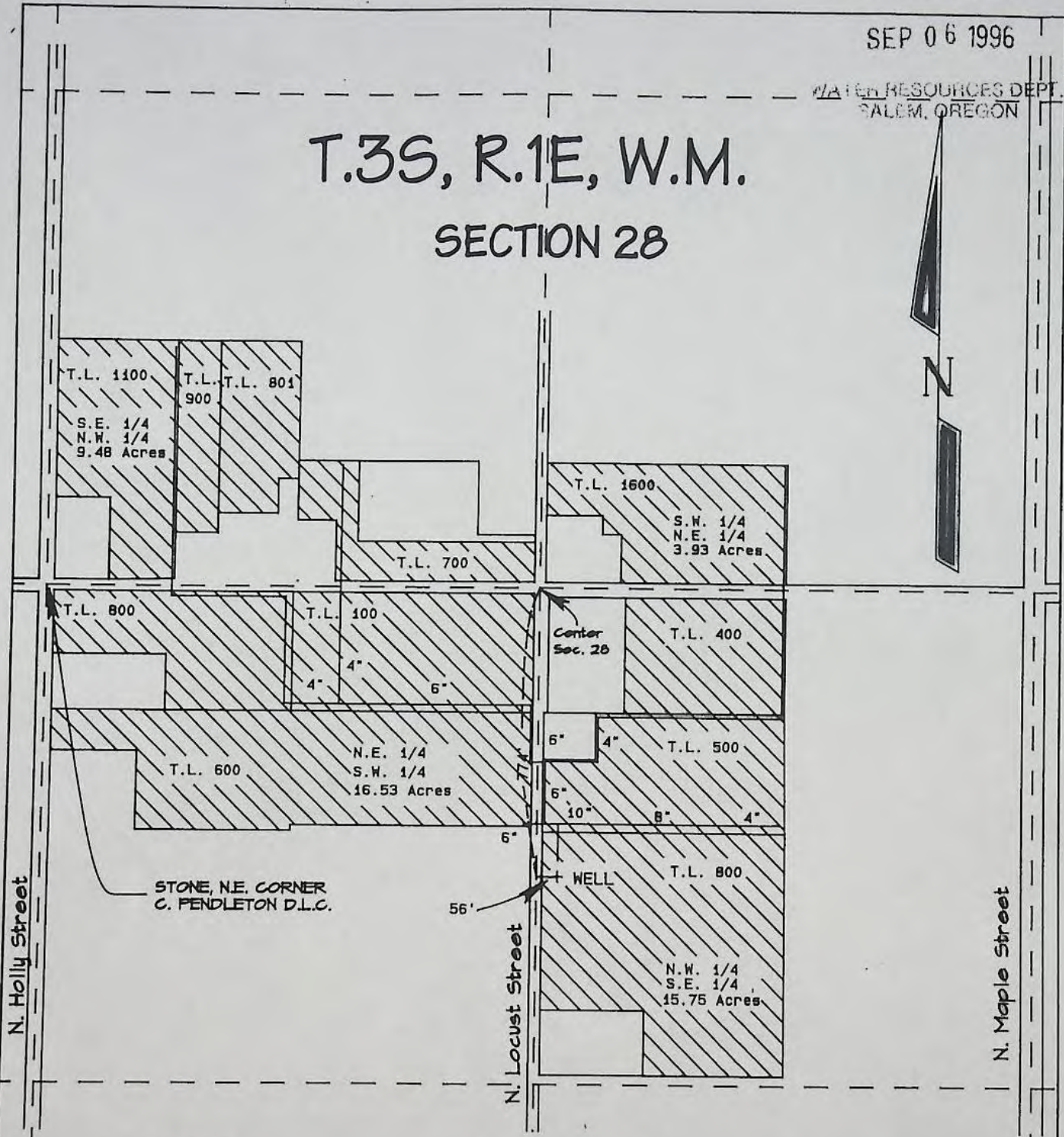
G-11982.RA

RECEIVED

SEP 06 1996

WATER RESOURCES DEPT.
SALEM, OREGON

T.3S, R.1E, W.M. SECTION 28



SCALE 1" = 400'

FINAL PROOF SURVEY

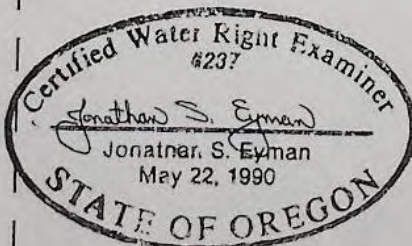
UNDER

Application No. G-11982 Permit No. G11687

IN NAME OF

SIMNITT NURSERY

Surveyed Sept. 4, 1996 by *Jonathan S. Eymann*



Mailing List for Final Certificate

Mailing Date:

Application: G-11982
Permit: G-11687
Certificate: 83859

Copies Mailed
By: <i>Connie Vance</i>
(STAFF)
on: FEB 08 2008
(DATE)

Permit Holder: (include copy of map)

SIMNITT NURSERY ✓
c/o JEROME AND JANICE SIMNITT
138 NE 22ND AVENUE
CANBY, OREGON 97013

Persons to receive copies of proposed certificate: (Include map)

1. Watermaster # 20: ✓
2. Jonathan Eyman, CWRE
3. SEE BELOW FOR ADDITIONAL RECIPIENTS

Copies of Final Certificate to be sent to:

1. Watermaster # 20: ✓
2. Data Center (include copy of map) ✓
3. Water Availability ✓
4. Jonathan Eyman, CWRE ✓
5. Vault ✓
6. File ✓

ADDITIONAL RECIPIENTS

Tax Lot 610

Tony & Charlene Pizzuti ✓
2121 N Maple St.
Canby, OR 97013

Tax Lot 609

J Shawn & Janet M Fitzgerald ✓
533 NE 21st Ave
Canby OR 97013

Tax Lot 608

George M & Laurel E Leyva ✓
555 NE 21st Ave
Canby OR 97013

Tax Lot 607

Harry D & Ruth A Irons ✓
577 NE 21st Ave
Canby OR 97013

Tax Lot 606

James L & Deborah L Scharmota ✓
615 NE 21st Ave
Canby OR 97013

Tax Lot 605

Paul K Ashton ✓
Mary L Christy
635 NE 21st Ave
Canby OR 97013

Tax Lot 604

Enrique & Cheryl Mendez ✓
655 NE 21st Ave
Canby OR 97013

Tax Lot 603

Gregory & Harumi Marshall ✓
675 NE 21st Ave
Canby OR 97013

Tax Lot 601

Kenneth E Burkert ✓
Susan N Burkert
2058 N Holly St
Canby OR 97013

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or 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.

PROPOSED

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 at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

STATE OF OREGON

COUNTY OF CLACKAMAS

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

SIMNITT NURSERY
c/o JEROME AND JANICE SIMNITT
138 NE 22ND AVENUE
CANBY, OREGON 97013

confirms the right to use the waters of A WELL in the MOLALLA RIVER BASIN for NURSERY OPERATIONS ON 45.69 ACRES.

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The well is located as follows:

NW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 28, T 3 S, R 1 E, W.M.; 774 FEET SOUTH AND 56 FEET EAST FROM THE C $\frac{1}{4}$ CORNER, SECTION 28.

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G-11982.RA

Certificate Number

83859

PROPOSED

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 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.

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NE $\frac{1}{4}$ SW $\frac{1}{4}$ 16.53 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 15.75 ACRES
SECTION 15
TOWNSHIP 3 SOUTH, RANGE 1 EAST, W.M.

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- 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.

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PROPOSED

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

Issued

PROPOSED

Phillip C. Ward, Director
Water Resources Department

Recorded in State Record of Water Right Certificates Number

G-11982.RA

Mailing List for Proposed or Final Certificate

Mailing Date **NOV 23 2007**

Application: G-11982
Permit: G-11687
Certificate:

Permit Holder: (include copy of map)

SIMNITT NURSERY ✓
c/o JEROME AND JANICE SIMNITT
138 NE 22ND AVENUE
CANBY, OREGON 97013

Copies Mailed
By: <i>Connie Vance</i> (STAFF)
on: NOV 23 2007 (DATE)

Persons to receive copies of proposed certificate: (Include map)

1. Watermaster # 20: ✓
2. Jonathan Eyman, CWRE ✓
3. **SEE BELOW FOR ADDITIONAL RECIPIENTS**

Copies of Final Certificate to be sent to:

1. Watermaster # 20:
2. Data Center (include copy of map)
3. Water Availability
4. Jonathan Eyman, CWRE
5. Vault
6. File

ADDITIONAL RECIPIENTS

Tax Lot 610

Tony & Charlene Pizzuti ✓
2121 N Maple St.
Canby, OR 97013

Tax Lot 609

J Shawn & Janet M Fitzgerald ✓
533 NE 21st Ave
Canby OR 97013

Tax Lot 608

George M & Laurel E Leyva ✓
555 NE 21st Ave
Canby OR 97013

Tax Lot 607

Harry D & Ruth A Irons ✓
577 NE 21st Ave
Canby OR 97013

Tax Lot 606

James L & Deborah L Scharmota ✓
615 NE 21st Ave
Canby OR 97013

Tax Lot 605

Paul K Ashton ✓
Mary L Christy
635 NE 21st Ave
Canby OR 97013

Tax Lot 604

Enrique & Cheryl Mendez ✓
655 NE 21st Ave
Canby OR 97013

Tax Lot 603

Gregory & Harumi Marshall ✓
675 NE 21st Ave
Canby OR 97013

Tax Lot 601

Kenneth E Burkert ✓
Susan N Burkert
2058 N Holly St
Canby OR 97013



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

MAILED: NOVEMBER 23, 2007

NOTICE

Reference: Permit G-11982 Application G-11687

Enclosed is a proposed certificate of water right and a map which illustrates the location of the right. The map and proposed certificate represent the extent water was used within the terms of the permit based upon a survey and inspection performed by a Certified Water Right Examiner.

The proposed certificate reflects a reduction in acreage and quantity of water from the permit. Some of the land originally proposed to be used for nursery operations was not developed. The Department is required to provide notice to any landowners covered by the permit, but not covered by the proposed certificate. A copy of the application map is enclosed for your reference.

If you do not agree with the proposed certificate, Oregon Administrative Rule 690-330-010 (2) allows the permittee or landowner 60 days from the mailing date of this notice to request the Department to reconsider the contents of the proposed certificate.

If you agree with the proposed certificate and map no response to this notice is required. Sometime after the 60 day period, the recorded certificate of water right will be mailed to the permittee.

If you have any questions please contact Gerry Clark at 503-986-0811.

Sincerely,

Dwight French
Administrator
Water Rights Division

Connie Vance

From: Peterson, Linda [LindaP2@co.clackamas.or.us]
Sent: Tuesday, November 20, 2007 2:19 PM
To: Connie Vance
Subject: RE: Property Ownership

BURKERT KENNETH E CO-TRUSTEE 31E28C 00601 2058 N HOLLY ST, CANBY,
OR 97013, USA

BURKERT SUSAN N CO-TRUSTEE 31E28C 00601 2058 N HOLLY ST, CANBY,
OR 97013, USA

-----Original Message-----

From: Connie Vance [mailto:vancecr@wrdd.state.or.us]
Sent: Tuesday, November 20, 2007 1:17 PM
To: Peterson, Linda
Subject: Property Ownership

I have one property that I need to know the name, mailing address of. It is 3 1E 28 C tax lot 601.

Thank you very much for all of your assistance.

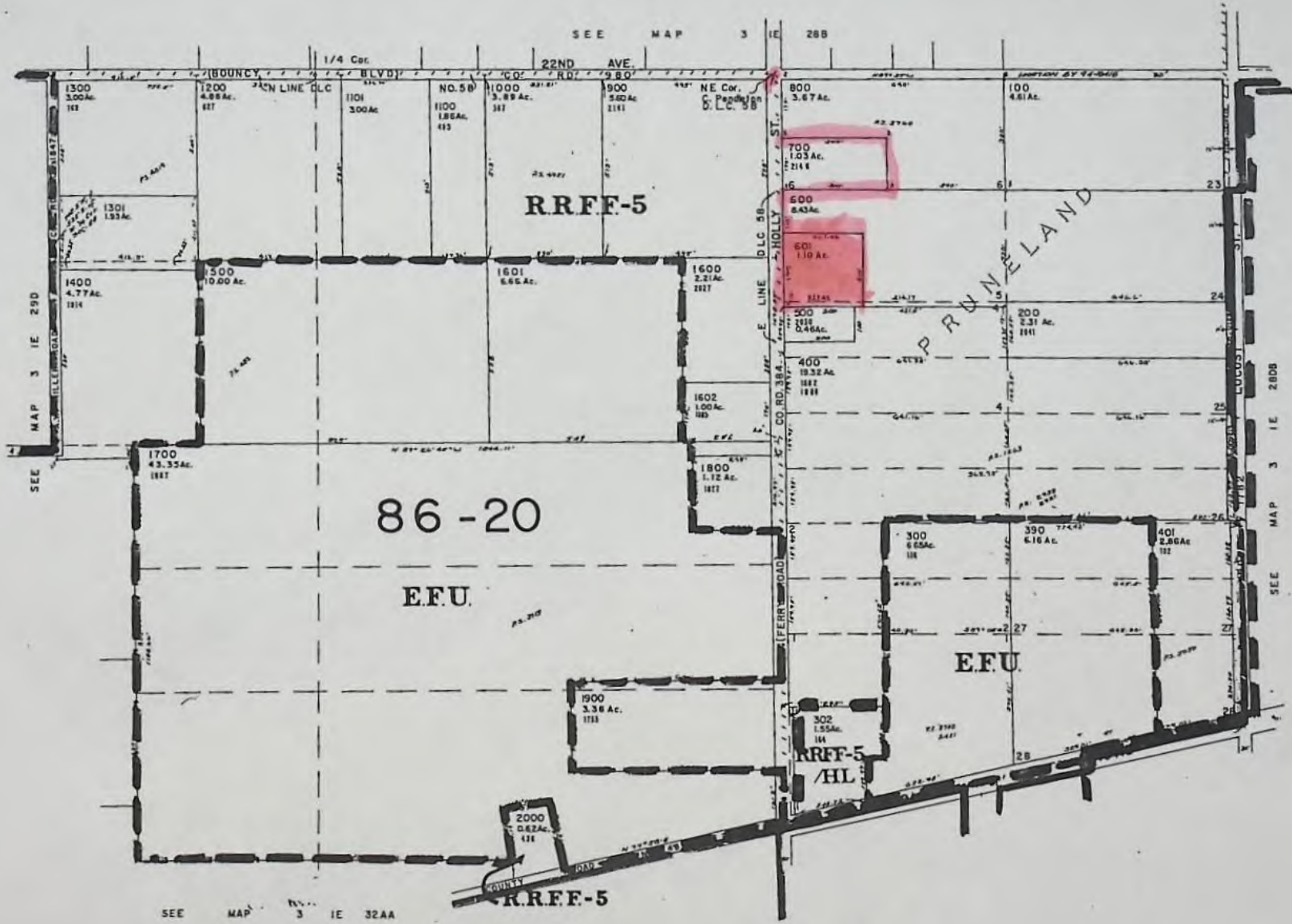
Connie Vance
Water rights Section
Water Resources Department
725 Summer St., NE, Ste. A
Salem, OR 97301
phone 503-986-0810
e-mail Connie.R.Vance@wrdd.state.or.us

--

purpose only.

1" = 200'

CANCELLED TAX LOTS
301
402



29	28
32	33

3 IE 28C
BOOK 28

connie vance

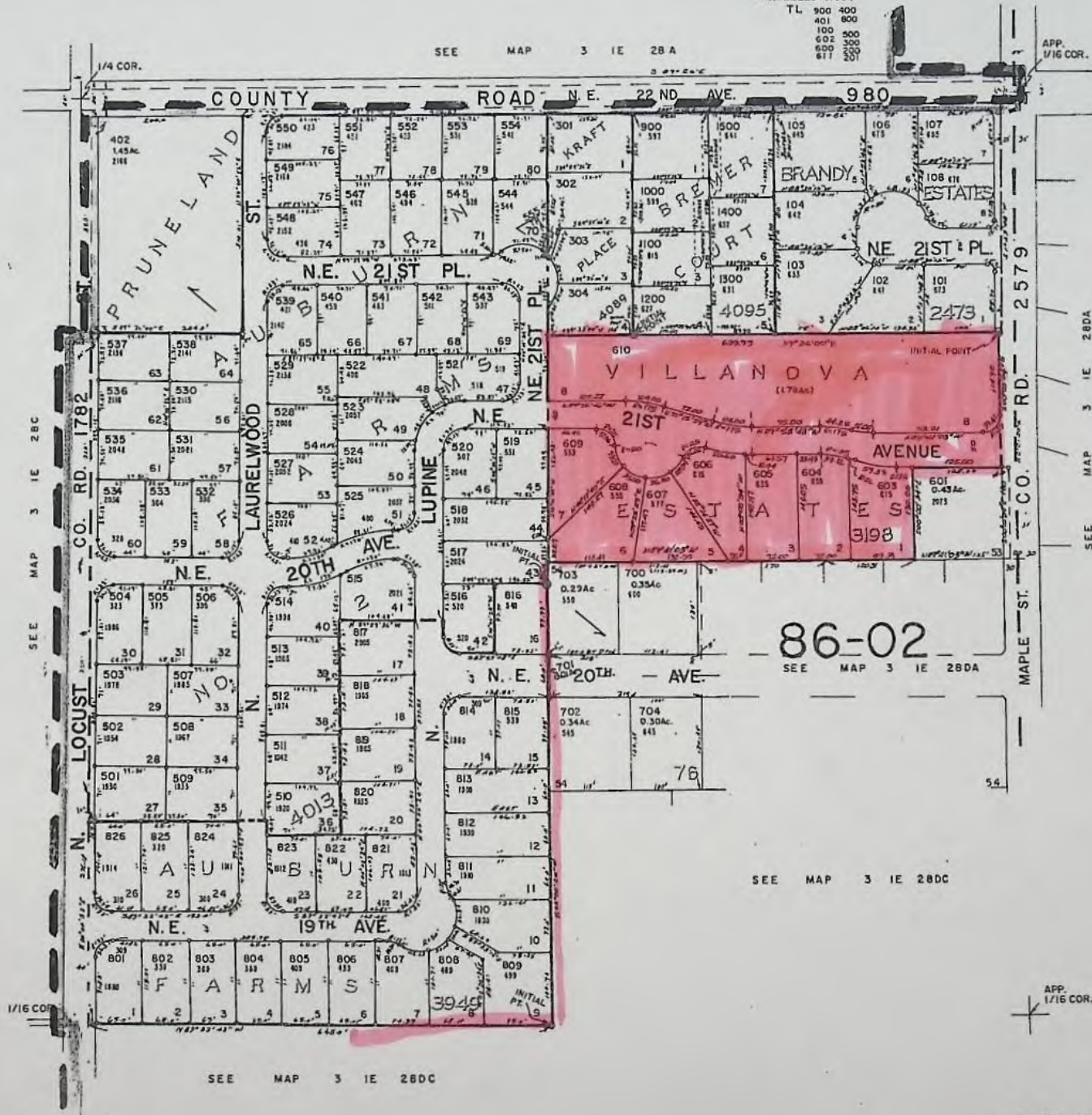
	A	B	C	D
	1 Party Name	Relationship	Party Address	Situs Address
610	2 PIZZUTI TONY & CHARLENE	Owner	2121 N MAPLE ST, CANBY, OR 97013, USA	2121 N MAPLE ST, CANBY, OR 97013, USA
	3 PIZZUTI TONY & CHARLENE	Taxpayer	2121 N MAPLE ST, CANBY, OR 97013, USA	2121 N MAPLE ST, CANBY, OR 97013, USA
	4			
609	5 FITZGERALD J SHAWN & JANET M	Owner	533 NE 21ST AVE, CANBY, OR 97013, USA	533 NE 21ST AVE, CANBY, OR 97013, USA
	6 FITZGERALD J SHAWN & JANET M	Taxpayer	533 NE 21ST AVE, CANBY, OR 97013, USA	533 NE 21ST AVE, CANBY, OR 97013, USA
	7			
608	8 LEYVA GEORGE M & LAUREL E	Owner	555 NE 21ST AVE, CANBY, OR 97013, USA	555 NE 21ST AVE, CANBY, OR 97013, USA
	9 LEYVA GEORGE M & LAUREL E	Taxpayer	555 NE 21ST AVE, CANBY, OR 97013, USA	555 NE 21ST AVE, CANBY, OR 97013, USA
	10			
607	11 IRONS HARRY D & RUTH A	Owner	577 NE 21ST AVE, CANBY, OR 97013, USA	577 NE 21ST AVE, CANBY, OR 97013, USA
	12 IRONS HARRY D & RUTH A	Taxpayer	577 NE 21ST AVE, CANBY, OR 97013, USA	577 NE 21ST AVE, CANBY, OR 97013, USA
	13			
606	14 SCHARMOTA JAMES L & DEBORAH L	Owner	615 NE 21ST AVE, CANBY, OR 97013, USA	615 NE 21ST AVE, CANBY, OR 97013, USA
	15 SCHARMOTA JAMES L & DEBORAH L	Taxpayer	615 NE 21ST AVE, CANBY, OR 97013, USA	615 NE 21ST AVE, CANBY, OR 97013, USA
	16			
605	17 ASHTON PAUL K	Owner	635 NE 21ST AVE, CANBY, OR 97013, USA	635 NE 21ST AVE, CANBY, OR 97013, USA
	18 CHRISTY MARY L	Owner	NO MAILING ADDRESS, AVAILABLE	635 NE 21ST AVE, CANBY, OR 97013, USA
	19 ASHTON PAUL K	Taxpayer	635 NE 21ST AVE, CANBY, OR 97013, USA	635 NE 21ST AVE, CANBY, OR 97013, USA
	20			
604	21 MENDEZ ENRIQUE & CHERYL	Owner	655 NE 21ST AVE, CANBY, OR 97013, USA	655 NE 21ST AVE, CANBY, OR 97013, USA
	22 MENDEZ ENRIQUE & CHERYL	Taxpayer	655 NE 21ST AVE, CANBY, OR 97013, USA	655 NE 21ST AVE, CANBY, OR 97013, USA
	23			
603	24 MARSHALL GREGORY & HARUMI	Owner	675 NE 21ST AVE, CANBY, OR 97013, USA	675 NE 21ST AVE, CANBY, OR 97013, USA
	25 MARSHALL GREGORY & HARUMI	Taxpayer	675 NE 21ST AVE, CANBY, OR 97013, USA	675 NE 21ST AVE, CANBY, OR 97013, USA

1"=100'

CANCELLED NOS.
TL 900 400
401 800
100 500
602 300
600 200
611 501

SEE MAP 3 IE 28 A

APP. 1/16 COR.



Mailing List for Proposed or Final Certificate

Mailing Date:

Application: G-11982
Permit: G-11687
Certificate:

Copies Mailed
By:
(STAFF)
on:
(DATE)

Permit Holder: (include copy of map)

SIMNITT NURSERY
c/o JEROME AND JANICE SIMNITT
138 NE 22ND AVENUE
CANBY, OREGON 97013

Persons to receive copies of proposed certificate: (Include map)

1. Watermaster # 20:
2. Jonathan Eyman, CWRE
3. SEE BELOW FOR ADDITIONAL RECIPIENTS

Copies of Final Certificate to be sent to:

1. Watermaster # 20:
2. Data Center (include copy of map)
3. Water Availability
4. Jonathan Eyman, CWRE
5. Vault
6. File

ADDITIONAL RECIPIENTS

J. Shawn & Janet M. Fitzgerald
533 NE 21st Ave.
Canby, Or 97013

Chris F. & Terri L. Gesik
555 NE 21st Ave
Canby, Or. 97013

Harry D. & Ruth A. Irons
577 NE 21st Ave
Canby, Or 97013

Gregory & Harumi Marshall
675 NE 21st Ave
Canby, OR 97013

Paul K. Ashton
635 NE 21st Ave
Canby, OR 97013

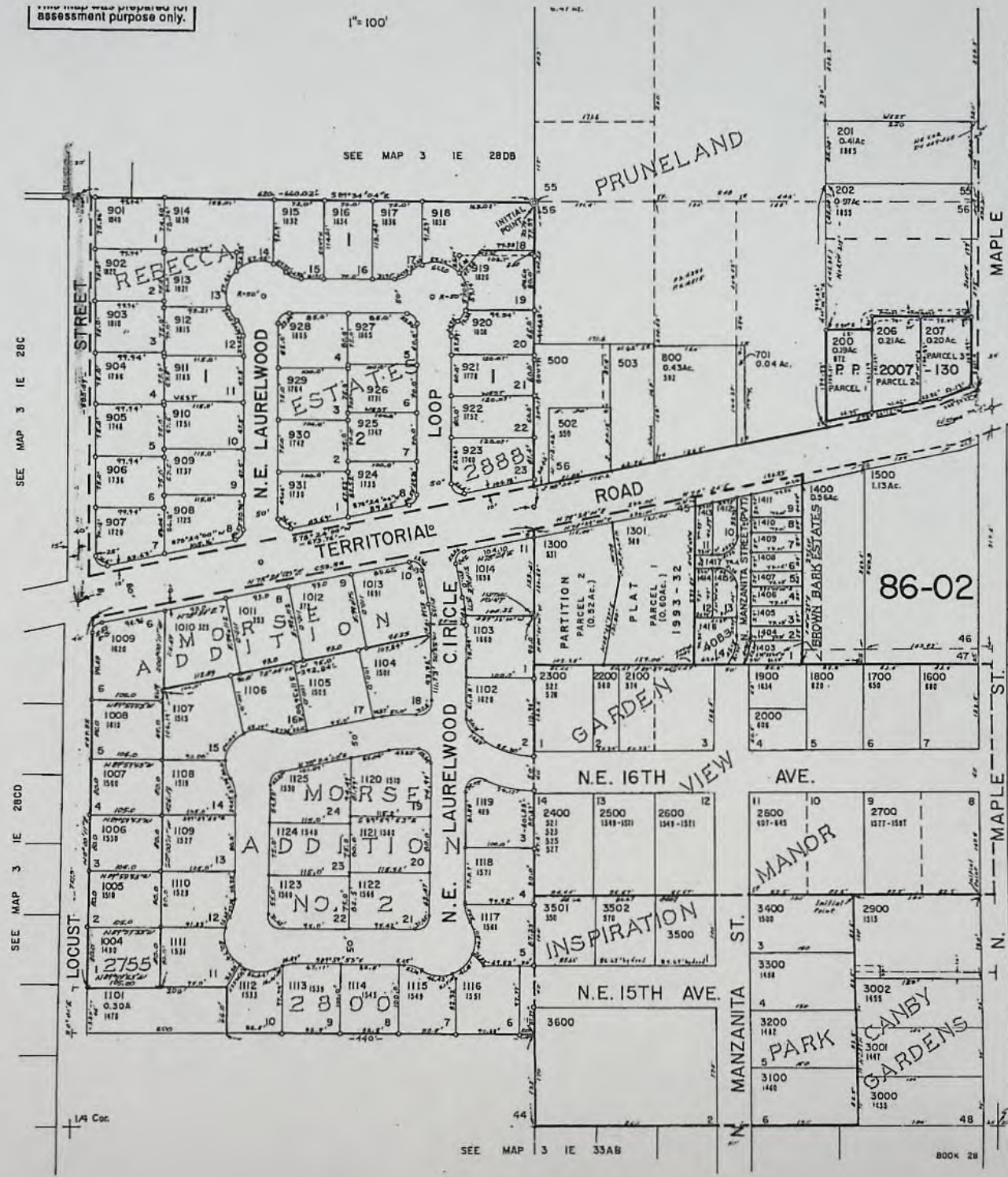
Enrique & Cherly Mendez
655 NE 21st Ave
Canby, OR 97013

Tony & Charlene Pizzuti
2121 N. Maple St
Canby, OR 97013

James L. & Deborah L.
Scharmota
615 NE 21st Ave
Canby, OR 97013

This map was prepared for assessment purpose only.

1" = 100'



SEE MAP 3 IE 28C

SEE MAP 3 IE 28CD

SEE MAP 3 IE 28DB

SEE MAP 3 IE 33AB

BOOK 28

SEE MAP 3 IE 28DA

SEE MAP 3 IE 28DD

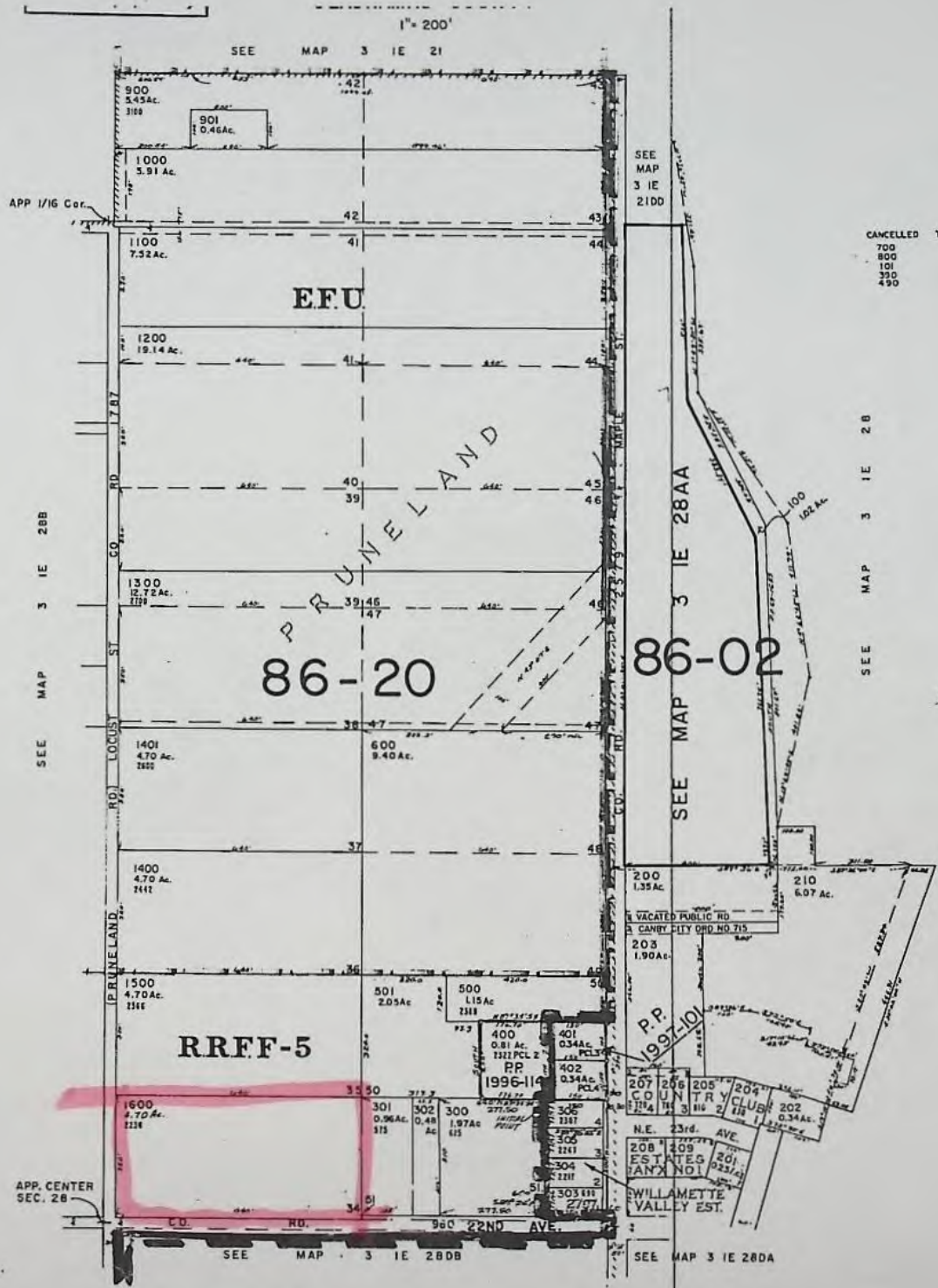
CANCELLED TAX LOTS

300E1	365
203	400
204	501
205	500
1201	700
1502	1401
1003	1402
1501	1000
1001	1001
1105	1000
900	1200

86-02

APP. 1/16 COR.

3 IE 28DC
CANBY



1" = 200'

SEE MAP 3 IE 21

TL
101
109

APP
211
215
218

CANCELLED TL'S
700
800
101
350
490

APP 1/16 Cor.

SEE MAP 3 IE 21DD

SEE MAP 3 IE 28B

SEE MAP 3 IE 28

EFU

86-20

86-02

RRFF-5

APP. CENTER SEC. 28

SEE MAP 3 IE 280B

SEE MAP 3 IE 280A

CANBY
3 IE 28A
BK 28

CITY OF CANBY

CHAMPING PENDLETON NO. 58

1"=400'

8000

9500

CANCELLED T.L.'S
190

SEE MAP 3 IE 21

SEE MAP 3 IE 2

100
148.27 AC.

LOT 10 38.96

90

LOT 8
11.91

21
22

LOT 5 38.70

22000

20 21
29 28

SEE MAP

SEE MAP

86-20

86-02

3 IE 28B

3 IE 28A

SEE MAP 3 IE 29A

SEE MAP 3 IE 29D

SEE MAP 3 IE 29C

NE COR.
DLC NO. 58

SEE MAP

SEE MAP

3 IE 28DB

3 IE 28C

3 IE 28DA

3 IE 28DC

MAP
28DD
86-20

SEE MAP
3 IE 28CD

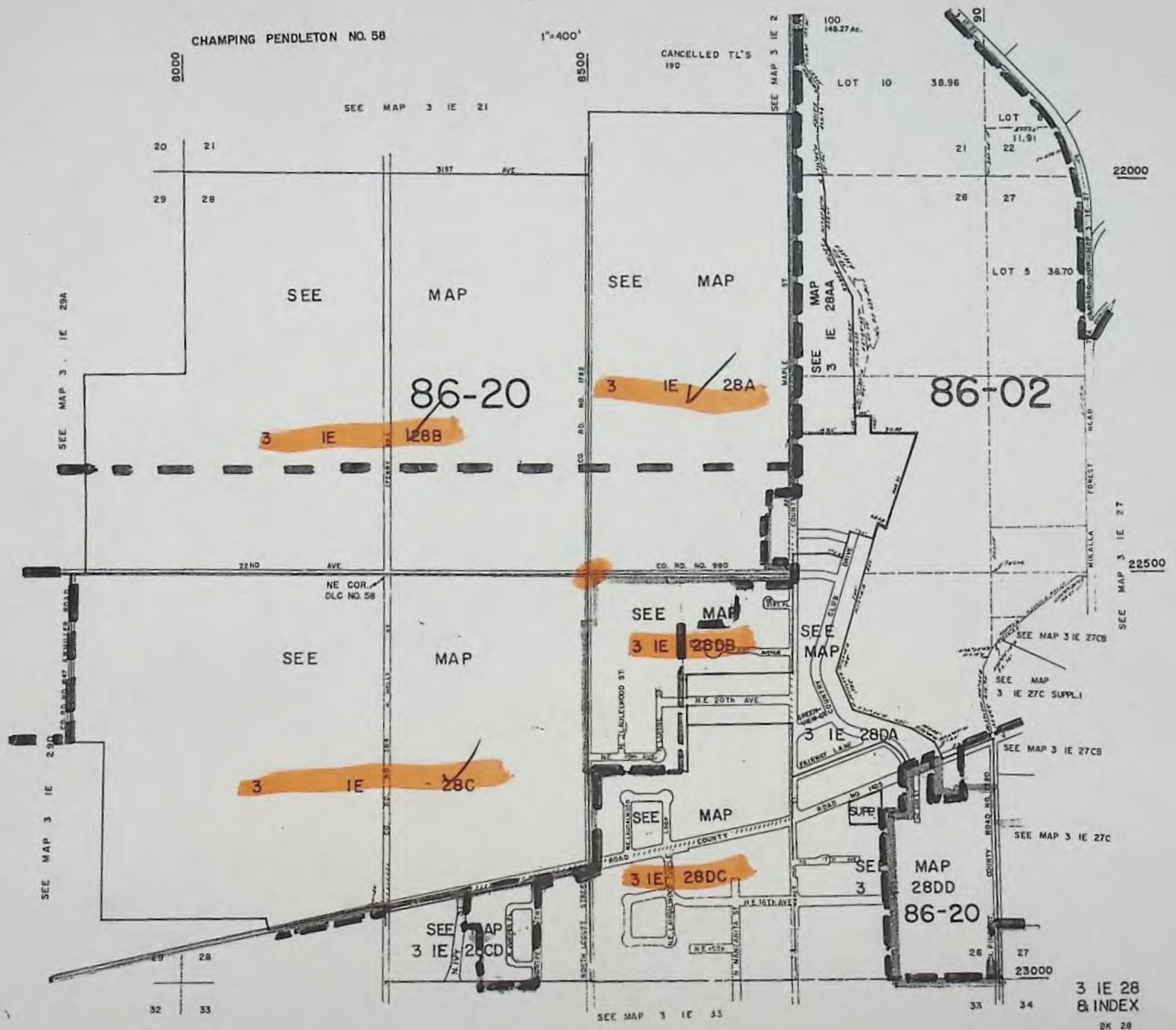
29 28
32 33

SEE MAP 3 IE 33

26 27
33 34

3 IE 28
& INDEX

BK 28





Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

March 14, 2006

SIMNITT NURSERY
C/O JEROME AND JANICE SIMNITT
138 NE 22ND AVENUE
CANBY, OREGON, 97013

RE: PERMIT # G-11687

Dear JEROME AND JANICE SIMNITT,

The above referenced file has been reviewed under the Reimbursement Authority process. Our review indicates that the following information or clarification is needed:

1. ORS 537.230(3) requires that the permittee state the identity of any property described in the permit that is not included in the request for a certificate. The Claim of Beneficial Use map indicates that a portion of the lands allowed in the permit were not developed. Please provide the name and mailing address of those individuals. I have attached copies both the application and Final Proof Survey map for your reference.
2. The permit contains a condition requiring the permit holder to submit the results of a pump test meeting the Department's standards. The Department has not yet received the required pump test.

Please submit the information requested above within 30 days of the date of this letter. If you have any questions regarding the information requested, please feel free to contact me at 503-986-0811.

Sincerely,

Gerry Clark

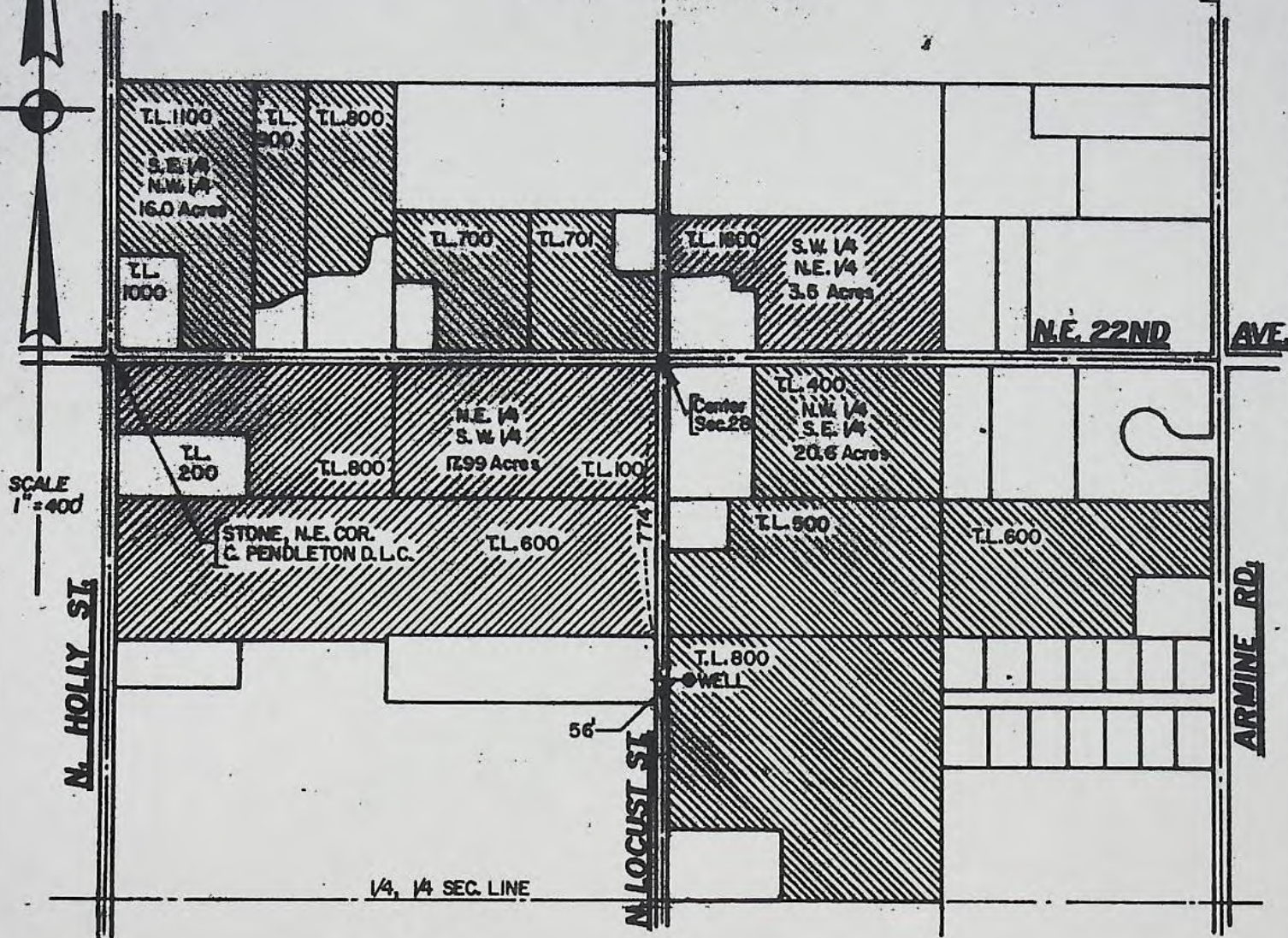
Water Rights Specialist

enclosures

cc: Malia Kupillas

T.3S, R.1E, W.M.

SECTION 28



NOTE:

PREPARATION OF THIS MAP IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHT ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATION OF PROPERTY OWNERSHIP LINES.

APPLICATION SURVEY

IN NAME OF
SIMNITT NURSERY
 C/O JEROME AND JANICE SIMNITT
 Application No. *G-11982*
 Permit No. *G11687*

LEGEND

IRRIGATED LAND
 NURSERY STOCK
 TRIPLE DUTY



ZAROGINSKI-TATONE
ENGINEERS, INC.

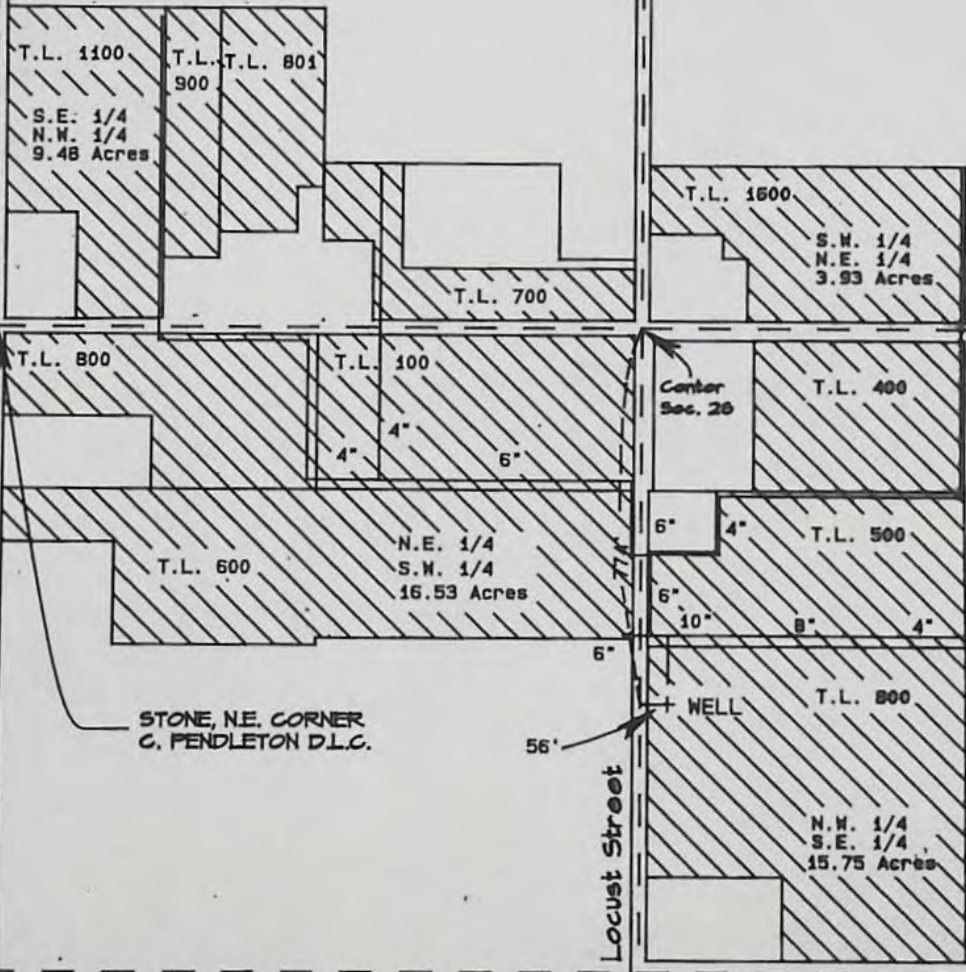
107 S.E. 10th Street, Portland, Oregon 97204
 Phone 503-231-1111

RECEIVED

SEP 06 1996

WATER RESOURCES DEPT.
SALEM, OREGON

T.3S, R.1E, W.M. SECTION 28



N. Holly Street

N. Locust Street

N. Maple Street

STONE, N.E. CORNER
C. PENDLETON D.L.C.

56'

SCALE 1" = 400'

FINAL PROOF SURVEY

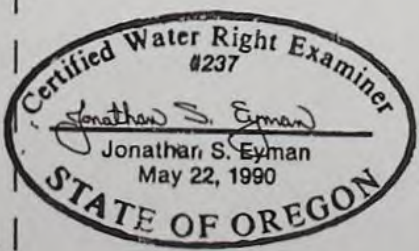
UNDER

Application No. G-11982 Permit No. G11687

IN NAME OF

SIMNITT NURSERY

Surveyed Sept. 4, 1996 by *Jonathan S. Eymann*



This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or 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.

PROPOSED

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 at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

STATE OF OREGON

COUNTY OF CLACKAMAS

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

SIMNITT NURSERY
c/o JEROME AND JANICE SIMNITT
138 NE 22ND AVENUE
CANBY, OREGON 97013

confirms the right to use the waters of A WELL in the MOLALLA RIVER BASIN for NURSERY OPERATIONS ON 45.69 ACRES.

This right was perfected under Permit G-11687. The date of priority is NOVEMBER 6, 1989. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 3.66 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the well.

The well is located as follows:

NW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 28, T 3 S, R 1 E, W.M.; 774 FEET SOUTH AND 56 FEET EAST FROM THE C $\frac{1}{4}$ CORNER, SECTION 28.

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

G-11982.RA

Certificate Number

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 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.

A description of the place of use to which this right is appurtenant is as follows:

- SW¼ NE¼ 3.93 ACRES ✓
- SE¼ NW¼ 9.48 ACRES ✓
- NE¼ SW¼ 16.53 ACRES ✓
- NW¼ SE¼ 15.75 ACRES ✓

SECTION 15 ✓

TOWNSHIP 3 SOUTH, RANGE 1 EAST, W.M. ✓

The well 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 level elevation in the well at all times.

Measurement, recording and reporting conditions:

- A. The water user shall maintain the meter or measuring device 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. ✓

This right is limited to any deficiency in the available supply of any prior right existing for the same land. ✓

PROPOSED

The water user shall obtain a static water-level measurement for each well during April of each year and report the measurement to the Department within thirty days. The measurement shall be made by a certified water-rights examiner, registered professional geologist, or professional engineer. Water levels shall be reported as depth-to-water below ground level and shall be accompanied by supporting calculations. If a well listed on this right displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user 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 reference level for water level declines is 51.50 feet below land surface. The water user shall in no instance allow excessive decline to occur within the aquifer as a result of use under this right.

The water user shall monitor and report the impact of water use under this right consistent with the plan on file with the Department. If a well listed on this right displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's 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 referenced level for water-level declines for this right is 51.5 below ground surface. The water user shall in no instance allow excessive decline to occur within the aquifer as a result of use under this right.

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 beneficial use without ^{waste (change made w/o)} The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

PROPOSED

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.

Issued

PROPOSED

Phillip C. Ward, Director
Water Resources Department

Recorded in State Record of Water Right Certificates Number

G-11982.RA

MEMORANDUM

TO: DOUG WOODCOCK, GROUND WATER SECTION MANAGER
FROM: GERRY CLARK, CERTIFICATE SECTION
SUBJECT: PUMP TEST – APPLICATION G-11982 (SIMNITT NURSERY)
DATE: 6/7/2007

The attached application file is being processed under the Reimbursement authority Program for certificate. Could you please expedite the review of the pump test?

When you have completed the review, please return the file to Gerry Clark.

Test approved. Copy of approval letter in file.

Gerry Clark
Oregon Water Resources Department
April 10, 2006
Page 2 of 2

J. Shawn & Janet M. Fitzgerald
533 NE 21st Ave.
Canby, Or 97013

Chris F. & Terri L. Gesik
555 NE 21st Ave
Canby, Or. 97013

Harry D. & Ruth A. Irons
577 NE 21st Ave
Canby, Or 97013

Gregory & Harumi Marshall
675 NE 21st Ave
Canby, OR 97013

Paul K. Ashton
635 NE 21st Ave
Canby, OR 97013

Enrique & Cherly Mendez
655 NE 21st Ave
Canby, OR 97013

Tony & Charlene Pizzuti
2121 N. Maple St
Canby, OR 97013

James L. & Deborah L.
Scharmota
615 NE 21st Ave
Canby, OR 97013

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or 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 at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

STATE OF OREGON

COUNTY OF CLACKAMAS ✓

CERTIFICATE OF WATER RIGHT

RECEIVED

AUG 15 2007

WATER RESOURCES DEPT
SALEM, OREGON

THIS CERTIFICATE ISSUED TO

Simnitt Nursery
138 NE 22nd Avenue
Canby, Oregon 97013
Attn: Jerome and Janice Simnitt
c/o ✓

confirms the right to use the waters of A WELL in the MOLALLA RIVER BASIN for NURSERY OPERATIONS ON 45.69 ACRES. ✓

Section X
This right was perfected under Permit G-11687. ✓ The date of priority is NOVEMBER 6, 1989. ✓ The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 3.66 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the well.

The well is located as follows: ✓

NW ¼ SE ¼, SECTION 28, T 3 S, R 1 E, WM; 774 FEET SOUTH AND 56 FEET EAST FROM THE C ¼ CORNER OF SECTION 28.

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

G-11982.RA

Certificate Number DRAFT

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 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.

A description of the place of use to which this right is appurtenant is as follows:

SW ¼ NE ¼ 3.93 ACRES ✓
SE ¼ NW ¼ 9.48 ACRES ✓
NE ¼ SW ¼ 16.53 ACRES ✓
NW ¼ SE ¼ 15.75 ACRES ✓
SECTION 15 ✓
TOWNSHIP 3 SOUTH, RANGE 1 EAST, W.M. ✓

The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

~~A regulating device shall be installed pursuant to ORS 540.310.~~

STET

Measurement, recording and reporting conditions:

A. The water user shall maintain the meter or measuring device 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.

See Permit
The works shall be equal

RECEIVED

AUG 19 2007

WATER RESOURCES DEPT
SALEM, OREGON

G-11982.RA

Certificate Number DRAFT

See Permit - This right is limited to

Gerry will need to determine the reference level and language for this condition: *51.50' below land surface*

See Permit

The water user shall monitor and report the impact of water use under right consistent with the plan on file with the Department. If a well listed on this right displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's 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 referenced level for water-level declines for this right is 51.5 below ground surface. The water user shall in no instance allow excessive decline to occur within the aquifer as a result of use under this right.

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.

's *is* *for*
The right to the use of the water for the above purpose is restricted to beneficial use without waste, on the lands or place of use described. 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.

RECEIVED

AUG 15 2007

**WATER RESOURCES DEPT
SALEM, OREGON**

G-11982.RA

Certificate Number DRAFT

Issued November 17, 2007.

Phillip C. Ward, Director
Water Resources Department

RECEIVED
AUG 15 2007
WATER RESOURCES DEPT
SALEM, OREGON

Recorded in State Record of Water Right Certificates Number DRAFT.

G-11982.RA

Mailing List for Certificate

Mailing Date: 11/17/2005

Application G-11982
Permit G-11687
Certificate DRAFT
Permit/Certificate Holder: (include copy of map)

Simnitt Nursery
138 NE 22nd Avenue
Canby, Oregon 97013
Attn: Jerome and Janice Simnitt

Copies Mailed
By:
(STAFF)
on:
(DATE)

Copies of Final Certificate to be sent to:

1. Watermaster # 20: (include copy of map)
2. Data Center (include copy of map)
3. Water Availability

Other persons to receive copies: (Include map)

See ownership list

+ CWRs

RECEIVED

AUG 15 2007

WATER RESOURCES DEPT
SALEM, OREGON

STATE OF OREGON
COUNTY OF CLACKAMAS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

SIMNITT NURSERY
C/O JEROME AND JANICE SIMNITT 503-266-2904
138 N.E. 22ND AVENUE
CANBY, OREGON 97013

to use the waters of A WELL in the MOLALLA RIVER BASIN for NURSERY OPERATIONS ON 58.09 ACRES.

This permit is issued approving Application G-11982. The date of priority is NOVEMBER 6, 1989. The use is limited to not more than 3.78 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the well.

The well is located as follows:

NW 1/4 SE 1/4, SECTION 28, T 3 S, R 1 E, W.M.; 774 FEET SOUTH AND 56 FEET EAST FROM THE C 1/4 CORNER OF SECTION 28.

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 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 use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the proposed place of use under this permit is as follows:

SW 1/4 NE 1/4	3.50 ACRES
SE 1/4 NW 1/4	16.00 ACRES
NE 1/4 SW 1/4	17.99 ACRES
NW 1/4 SE 1/4	20.60 ACRES

SECTION 28
TOWNSHIP 3 SOUTH, RANGE 1 EAST, W.M.

The well shall be constructed 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 water level elevation in the well at all times.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device 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 permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee 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.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

The Permittee shall obtain a static water-level measurement for each well during April of each year and report the measurement to the Department within thirty days. The measurement shall be made by a certified water-rights examiner, registered professional geologist, or professional engineer. Water levels shall be reported as depth-to-water below ground level and shall be accompanied by supporting calculations. If a well listed on this permit displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the Permittee shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user 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 reference level for water-level declines shall be the second annual measurement taken after water use begins under the terms of this permit. The Permittee shall in no instance allow excessive decline to occur within the aquifer as a result of use under this permit.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitute such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water users 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 to occur within the aquifer as a result of use under this permit.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Actual construction work shall begin on or before April 15, 1995 and shall be completed on or before October 1, 1995. Complete application of the water shall be made on or before October 1, 1996.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

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

1915 NE 39th AVE.
P.O. BOX 12527
PORTLAND, OR 97212-0527



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LAW OFFICES, P.C

TELEPHONE (503) 281-4100
FAX (503) 281-4600
WWW.WATER-LAW.COM

To: Gerry Clark FAX: +1 (503) 986-0901

From: Tara Jackson Date/Time: 4/10/2006 4:31:09 PM

Telephone: (503) 281-4100 Return Fax: (503) 281-4600

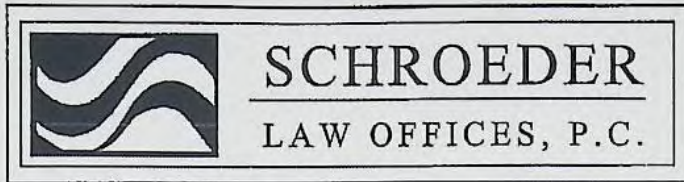
Subject: TL 600 Property Owners, Permit G-11982

Pages: 3

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Laura A. Schroeder
Licensed in Oregon, Idaho,
Nevada and Washington
V. Scott Borison, Ph.D.
Firm Administrator



Lynn L. Steyaert
Licensed in
Oregon and Nevada
Cortney D. Duke
Licensed in Oregon

April 10, 2006

VIA FACSIMILE AND U.S. MAIL

Gerry Clark
Oregon Water Resources Department
725 Summer Street, N.E. Suite A
Salem, OR 97301-4172

RE: TL 600 Property Owners, Permit G-11982

Dear Mr. Clark:

This letter is in response to your letter to Mr. Jerome Simnitt dated March 14, 2006 and our telephone conversation of Thursday April 6th. By the March letter you requested the identity of any property described in the permit that is not included in the request for a certificate. The names and addresses of the property owners of tax lot 600, which are not included in the request for the certificate, are attached hereto.

As indicated on the final proof survey submitted to Oregon Water Resources on September 6, 1996, no perfection has occurred on that portion of Permit G-11982 appurtenant to tax lot 600. At this time, the Simnits' ask that the request for certification of Permit G-11982 be amended to exclude the portion of Permit G-11982 appurtenant to tax lot 600.

Thank you for your assistance in this matter. Please contact me at the number below if you have any questions or concerns.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.

Cortney D. Duke
Laura A. Schroeder

LAS:cdd
Enclosures

cc: Clients

phone 503-281-4100

fax 503-281-4600

1915 NE 39th Avenue, P.O. Box 12527, Portland, Oregon 97212-0527
www.water-law.com

Final Deliverables Cover Sheet for Certificates

Application #: G-11982 Permit #:G-11687

Name of Permit Holder: Simmitt Nursery

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The following items are enclosed:

- The completed Reimbursement Authority COBU Checklist including the conflict check printout;
- If applicable, a copy of any letter requesting additional/missing information;
written in February of '06, may not have been forwarded to applicant?
- Completed Beneficial Use Worksheet and any notes documenting your determination regarding the extent of beneficial use;
- The completed proposed certificate and mailing list;
- In addition to the paper copies listed above, provide an electronic copy* of:
 - Proposed certificate and mailing list;
 - Letter requesting additional information.

***NOTE:**

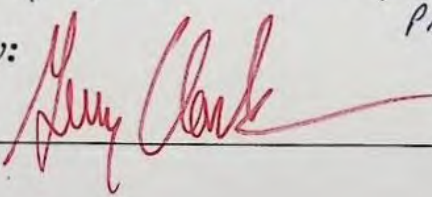
WRD will only accept electronic copies in the following programs:

- a. WordPerfect, or
- b. MS Word - "rich text" format only

Signature of Contractor:  Date: 8/13/07

*Terry Sprecher PBS Engineering and Environmental
PBS Project # 80232.00, Tsk 2*

For WRD use only:

WRD approval by:  Date: 9/24/2007

Terry Sprecher

From: Terry Sprecher
Sent: Saturday, August 11, 2007 3:10 PM
To: 'Gerry Clark'
Subject: RE: Simnitt Nursery project
Attachments: DRFT.certif.G-11687.rtf

Gerry,

Attached is the draft certificate/mailling list for the Simnitt Nursery project. Paper deliverables to follow by mail.

If you need any additional for this project, please let me know.

Thank you.

Terry A. Sprecher, RG, CWRE
Bend Operations Manager/Senior Geologist
terry@pbsenv.com
541.388.9290, X222

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ph: 541.388.9290 fax: 541.382.5116

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-----Original Message-----

From: Gerry Clark [mailto:clarkge@wrdd.state.or.us]
Sent: Monday, July 09, 2007 5:06 PM
To: Terry Sprecher
Subject: Simnitt Nursery project

Terry,

I briefly looked at the Simnitt Nursery file to see what we had received in terms of clarifications/additional information. In addition, I looked at some of the questions you raised early on in your review.

As it relates to the quantity of water allowed, the COBU report indicates that the water user used enough sprinklers for frost protection, a class of temperature control within the Nursery Operations definition, to theoretically use 3.93 cfs. The pump and booster however, appear to be the limiting factor being 3.66 cfs.

690-300-0010(30) "Nursery Operations Use" means the use of water for operation of a commercial nursery which may include temperature control, watering of containerized stock, soil preparation, application of chemicals or fertilizers, watering within greenhouses and uses to construct, operate and maintain nursery facilities. The use of water within plant nursery operations constitutes a different use from field irrigation, although that may be a part of nursery use. If used for field irrigation for nursery stock, such use is not restricted to the defined agricultural irrigation season.

As for the total number of acres, use the COBU map (45.69 acres).

The certificate should identify the static water level measurement as identified in the extension final order.

I can provide a template for your use if one has not already been supplied.

Thanks for your help on these projects.

Gerry

8/11/2007

Gerry Clark
Water Rights Specialist/Certificates
725 Summer St. NE, Ste. A
Salem, OR 97303

Phone: 503-986-0811
Fax: 503-986-0901

<http://www.wrd.state.or.us/>

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SALEM, OREGON**

Reimbursement Authority COBU Checklist (CWRE) — Pre-July 1, 2004 Claims



Application # G-11982
Permit # G-11687
Transfer #
Contractor's Name PBS Engineering and Environmental
T. Sprecher

This purpose of this checklist is to document the extent the completeness of the referenced file. This worksheet represents the review performed by a contractor. OWRD staff will perform a review and make a recommendation to the Director concerning the extent of beneficial use if any.

Review Results:

_____ My review indicates that the use has been developed to the full extent as described in the permit or transfer order. ~~3.66 cfs~~

My review indicates that the use has not been developed to the full extent as described in the permit or transfer order and I would recommend the following limitations: 3.66 cfs = Q

A copy of the "COBU Beneficial Use Determination Form" is attached.
45.69 A = number of ~~forested~~ acres for nursery use

_____ My review indicates that the use has not been developed as described in the permit or transfer order for the following reasons:

Proposed Actions:

Send letter recommending extension to cure deficiencies (attach draft copy of letter to this document in addition to an electronic copy submitted to WRD):

Other:

Proposed - Reduction in Q and Land

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Appl G-11982 green in red, '06

Permit G-11687

Red in August, '07

Map Review (check map for the following features/items):

- Permanent quality map (mylar or linen) (mylar?) *yes*
- ✓ yes CWRE stamp and signature
- ✓ No Disclaimer
- yes Application & permit #; or transfer #
- yes North arrow
- yes Township, range and section
- yes Appropriate scale (1" = 1320', 1" = 400', or scale of assessor's map)
- NA Source
- yes Point(s) of diversion
- yes Point(s) of diversion (coordinates) *check with scale
- yes Conveyances (pump, pipelines, ditches, etc.) Permanent features shown?
- yes Place of use (1/4 1/4, DLC, or Gov Lot; if irrigation, # of acres in each legal government subdivision) *yes by 1/4 1/4, acres not listed by TL*
- yes Tax lot lines and numbers (required for claims submitted on or after January 31, 1996)

Report Review:

- yes Application & permit #; or transfer #
- yes CWRE stamp and signature
- yes Permittee's signature (attached)
- partial Time limits *in COB report* *Adate ✓ Bdate yes, per record* *date-extended to Oct 1, 2001 by permit extension*
- yes? Date of survey *COB report is dated 9/14/96*
- partial Type of use *permit lists "nursery use" then allows 3 rates, 1 for Nursery use, 1 for containerized nursery plants, & 1 for inground nursery plants - COB report & map do not separate out uses*
- partial Extent of use
- yes Source(s) of water
- NO Rate and Duty
- ✓ NO Diversion rate for each use
- yes Description of conveyances system (from POD to POU)
- yes Diversion works description (pump make, serial model, capacity, and description)
- yes System capacity
- yes Calculated capacity of system (required) *{ 3.73 cfs sprinklers 3.78 cfs per the permit } 3.66 cfs pump per Gerry C - 3.66 cfs is the limiting factor*
- NO Measured amount of use (optional) *using dypt. calculator for well ⇒ 5.15 cfs*
- mostly Permit conditions
- NA Fish screening
- yes Meter/measuring device
- ? Water use reporting *9/1/2000 missing 2001 & prior to 2000*
- Other conditions
- record ⇒ ok Static levels - *yearly in April 2001, 2000, 1999, 1998, 1996*
- ? monitoring plan - *impact on aquifer - not done, but, per extension FO, dypt. determined the static water level reference to be 51.5' bgs*

Other:

Conflict Check

pump test prior to certificate - received by Dept, summer '07 Approved

S:\groups\wr\Reimbursement Authority\Certificates\Gerry's stuff\2005 Manual\Consultant proof to the sat check list pre July 1 2004 cwre.wpd

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WATER RESOURCES DEPT SALEM, OREGON

potential conflict w/ cert # 32258

no - different use -

Platcard Report

Township 3S Range 1E Section 28

App# Priority	Permit/ Certificate	Claim/ Decree	Status dlc/lot	NE				NW				SW				SE				Govt Lot	DLC		
				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
① G2251 03/06/1962	G2070 32258												9.0 IR										
① G4620 10/01/1968	G4346 43217				12.4 IR																		
① G5018 10/16/1969	G4784 44140	NCR		MU				MU							MU	MU	MU	MU	MU	MU			
① G5246 07/14/1970	G5101 -		CN					40.0 MU CN							40.0 MU CN		40.0 MU CN	40.0 MU CN	40.0 MU CN	40.0 MU CN			
① G5521 -	G5209 41841		CN	9.2 IR CN				11.5 IR CN									8.9 IR CN						
① G7106 09/10/1975	G6852 51554													FR	FR								
	09/10/1975		dlc: 58											10.1 IS (s)	23.2 IS (s)								
	09/10/1975		dlc: 58											TC	TC								
① G7542 10/11/1976	G7013 -	NCR		MU				MU							MU		MU	MU	MU	MU			
① G7544 10/18/1976	G6878 55066			9.2 IS (s)				11.5 IS (s)									8.9 IS (s)						

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potential conflict
but different type of use
no conflict

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WATER RESOURCES DEPT
SALEM, OREGONSTATE OF OREGON
COUNTY OF CLACKAMAS**CERTIFICATE OF WATER RIGHT****This Is to Certify, That** PAUL MONTECUGCO

of Route 3, Box 411, Canby, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of a well

a tributary of Molalla River (Willamette River) for the purpose of irrigation of 9.0 acres

under Permit No. G-2070 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of said right hereby confirmed dates from March 6, 1962

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.11 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 28, T. 3 S., R. 1 E., W. M. Well located 2753 feet S. and 659 feet W. from the N $\frac{1}{4}$ corner of Section 28.The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 $\frac{1}{2}$ acre feet per acre for each acre irrigated during the irrigation season of each year,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

9.0 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$
Section 28
T. 3 S., R. 1 E., W. M.

Land on which water is to be used is further described as being lots 6 and 23 of Pruneland.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

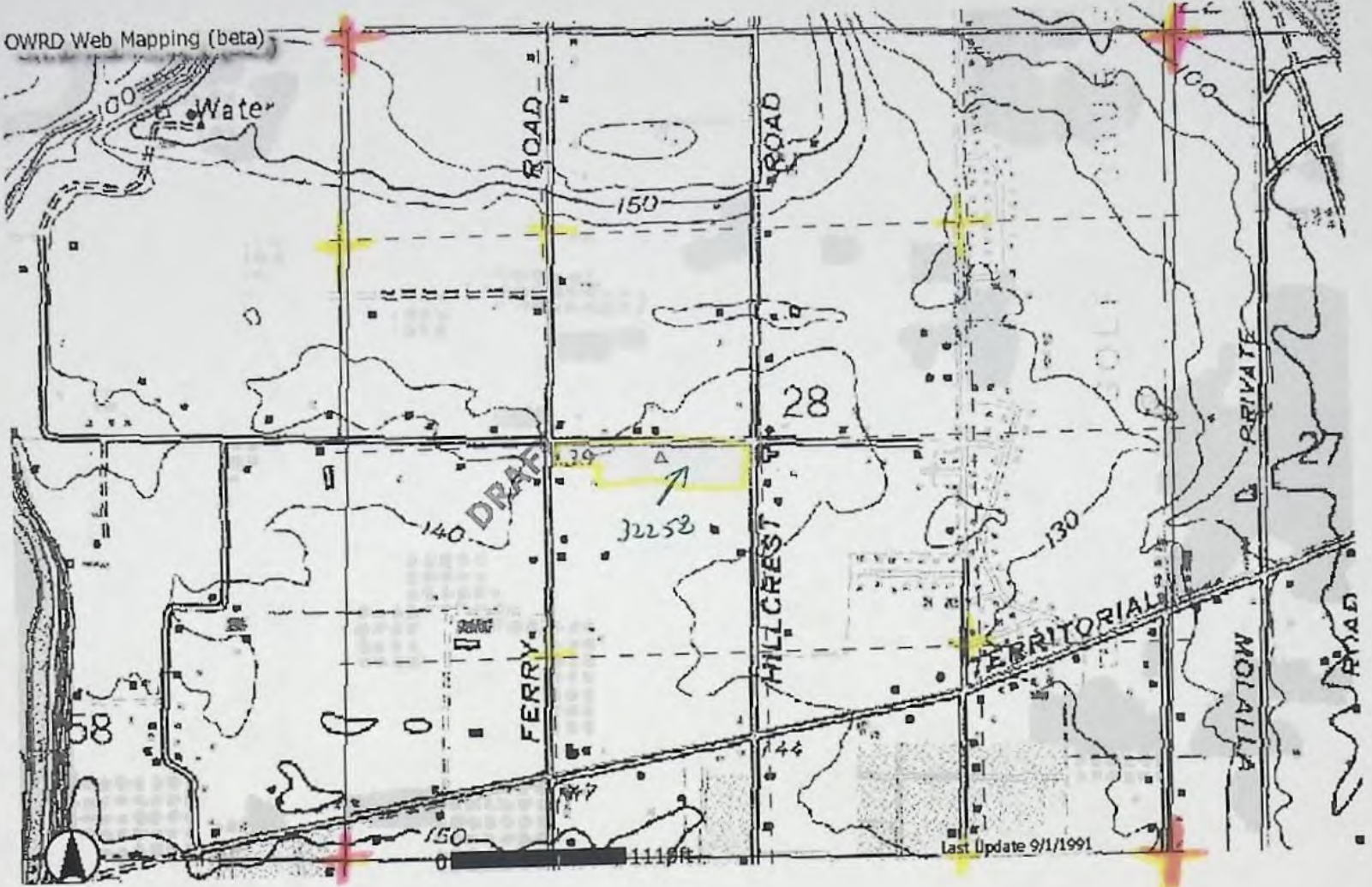
this date. August 9, 1965

CHRIS L. WHEELER

State Engineer

Recorded in State Record of Water Right Certificates, Volume 24, page 32258

OWRD Web Mapping (beta)



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Platcard Report

Township 3S Range 1E Section 28

	App# Priority	Permit/ Certificate	Claim/ Decree	Status dlc/lot	NE				NW				SW				SE				Govt Lot	DLC	
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
i	02/22/1950	-	GR505								5.0 IR												
i	01/02/1946	-	GR552															8.0 IR					
i	05/31/1954	-	GR1816								8.0 IR												
i	12/31/1925	-	GR2913												0.5 IR								
i	12/31/1947	-	GR2914																	5.0 IR			
i	12/31/1928	-	GR3994												DO								
	12/31/1928														20.0 IR								
	12/31/1928														LV								
i	06/01/1946	-	GR3997	NCR			5.0 IR																
i	12/31/1947	-	GR2336	NCR			10.0 IR																

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Platcard Report

Township 3S Range 1E Section 28

					NE				NW				SW				SE					
App# Priority	Permit/ Certificate	Claim/ Decree	Status dlc/lot		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Govt Lot	DLC
i	10/01/1955	-	GR3870													6.8 IR						
i	12/31/1927	-	GR4200	NCR									3.0 IR			14.0 IR						
i	02/21/1951	-	GR4273					7.0 IR														
i	04/29/1965	S30409		xfr#: T7075						29.4 IR	2.6 IR											
i	G699 07/12/1957	G600 27216		NCR									13.1 IR			2.7 IR						
i	G1142 08/01/1958	G958 29071																			2.0 IR	
i	G1576 09/10/1959	G1437 27223		NCR									3.5 IR									
i	G1981 04/11/1961	G1823 30451		dlc: 45																	8.7 IR	
i	G2104 08/25/1961	G1935 35104		dlc: 58										12.8 IR	23.6 IR							
	08/25/1961			dlc: 58										TC	TC							

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Township 3S Range 1E Section 28

					NE				NW				SW				SE						
App# Priority	Permit/ Certificate	Claim/ Decree	Status dlc/lot		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Govt Lot	DLC	
i G7665 01/27/1977	G7252 50657		NCR									IM											
			NCR									14.4 IR											
i G8084 05/03/1977	G7478 51555		dlc: 58												2.2 IR								
i G9170 03/19/1979	G8495 55384		NCR									4.8 IR											
i G9284 06/18/1979	G8712 51556		NCR										0.4 IR			12.0 IR							
i G10987 08/19/1983	G10158 54682		dlc: 58											9.4 IR									
			dlc: 58												TC								
i G11596 11/10/1986	G10672 -		CN																				
i G11982 11/06/1989	G11687 -	Subject	file				3.5 NU					16.0 NU	17.99 NU										
i G13016 07/06/1992	G12082 -					25.8 IR																	

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Platcard Report

Township 3S Range 1E Section 28

					NE				NW				SW				SE						
App# Priority	Permit/ Certificate	Claim/ Decree	Status d/c/lot		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Govt Lot	DLC	
① G16336 11/05/2004	G15911 -													5.0 IR									
① G16465 05/23/2005	-								17.88 NU														
① S40816 04/29/1965	S30409 37527		CN								2.6 IR CN			29.4 IR CN									
① S47326 -	S35453 -	NCR	xfr#: T7629		MU			MU					MU	MU	MU	MU	MU	MU	MU	MU	MU	MU	
① S54724 08/30/1976	S40993 55065				9.2 IR			11.5 IR									8.9 IR						
① S60921 10/20/1980	S46199 -	NCR			MU			MU					MU	MU	MU	MU	MU	MU	MU	MU	MU	MU	
① S71072 12/27/1990	-	NCR			MU	MU	MU	MU					MU	MU	MU	MU	MU	MU	MU	MU	MU	MU	
① S71651 06/03/1991	-	NCR			MU	MU	MU	MU	MU	MU	MU	MU	MU	MU	MU	MU	MU	MU	MU	MU	MU	MU	
① S73837 01/04/1994	S52049 -	NCR	xfr#: T8300				20.0 IR							14.8 IR									
01/04/1994			xfr#: T8300							29.4 IS (s)	2.6 IS (s)												

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SALEM OREGON

no apparent conflicts

Terry Sprecher

From: Terry Sprecher
Sent: Saturday, February 04, 2006 1:56 PM
To: Gerald Clark (E-mail)
Subject: Simnitt Nursery Certificate Request, permit G-11687

Gerry,

I had expected this project would be a breeze, since I recently processed a permit extension for Simnitt Nursery, but have learned otherwise. Attached is a draft deficiency letter. Questions pertaining to items in the deficiency letter, and other questions, follow.

Deficiency letter items:

1. If a mylar was submitted, we can remove this item from the letter.
3. map issues - the COBU was done in 1996. the extension is through 2001. The tax lot maps I am looking at are current. So, I don't know how to figure out what the tax lot layout looked like in 2001. In comparison with today's tax lot map, it appears that some of the irrigated area is now residential - that may not have been the case in 2001. The COBU map shows tax lot boundaries in the irrigated areas but not the non-irrigated areas, and are confusing. The irrigated acreage is broken up by 1/4 1/4 section, but is not stated per tax lot (may not need to be?).
4. I am really unclear as to how many acres were actually beneficially irrigated, since the map and the COBU report don't agree, and both are less than the permit.
5. I haven't worked with this kind of use before, so this may be a non-issue. It appears that the permit shows 3 rates, for 3 kinds of uses. If yes, then the COBU report and map do not break these down. If the only real use is nursery use then this item can be removed from the letter. For certificate preparation purposes, since there are three different rates in the permit, depending upon the type of use, I am unsure how to determine the permitted Q. The information presented in the COBU report does not detail how many acres are used for which use. Do we assume that all are nursery use (the highest rate)? Wait for more information from the applicant?

Other questions:

1. As of October 1, 2001, the new "C" date per the extension Final Order, the permit conditions are mostly met. A water use report was provided for 99/00, but none were provided for prior to 99/00, and the 00/01 report is not in my files. Three out of five of the static water level reports from 2001 and prior were collected in the correct month. The required monitoring plan was apparently never done, but the extension Final Order appears to take care of this, as it presents a reference static water level of 51.5 feet bgs. If you/WRD are happy with this, I'm good.
2. There appears to be a conflict in the NE of the SW of S 28, with Certificate 32258.
3. A pump test does not appear to have been conducted yet, and will be needed prior to certificate issuance.

Let me know how you wish to proceed - if the Deficiency letter needs tweaking or if we have enough information to prepare a certificate. And, do you need any backup information?

Thanks!!

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SALEM, OREGON**



draft.Information.r
equest.perm...

Terry A. Sprecher, RG, CWRE
Bend Operations Manager/Senior Geologist
terry@pbsenv.com
541.388.9290

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Oregon

Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

February **, 2006

SIMNITT NURSERY
C/O JEROME AND JANICE SIMNITT
138 NE 22ND AVENUE
CANBY, OREGON, 97013

RE: PERMIT # G-11687

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**WATER RESOURCES DEPT
SALEM, OREGON**

Dear JEROME AND JANICE SIMNITT,

The above referenced file has been reviewed under the Reimbursement Authority process. Our review indicates that the following information or clarification is needed:

1. The submitted map was not on mylar or permanent quality linen ?? as required in OAR 690-014-0170(1).
2. The submitted map does not include a disclaimer stating that the map is for the purpose of identifying the location of the water right only and is not intended to provide legal dimensions or locations of property ownership lines as required in OAR 690-014-0170(4).
3. The submitted map presents incomplete tax lot boundaries and does not indicate how many acres are irrigated per tax lot, as required in OAR-690-310-0050(4)(c). Further, according to Clackamas County Assessor Maps, current tax lot boundaries in the NW 1/4 of the SW 1/4 of Section 20 do not coincide with tax lot boundaries presented in the submitted map and a portion of the irrigated acreage shown in this 1/4 1/4 section appears to be in residential use. The Claim of Beneficial Use was prepared in 1996. Please clarify this apparent discrepancy.
4. The submitted Claim of Beneficial Use report does not clearly state whether the use has been completely developed, as required in OAR 690-014-0100(3). The permit allows for 58.09 acres, the report notes 46.08 acres, and the acreage presented on the map totals 45.69 acres.
5. The submitted Claim of Beneficial Use report and map do not clearly differentiate how

much of the beneficial use is for Nursery Operations, how much is for containerized nursery plants, and how much is for in-ground nursery plants. OAR 690-014-0100(6) requires that "the crops raised or other beneficial use made of the water shall be identified with considerable detail and include the period of use each year".

6. The diversion rate for each type of use is not included in the report, as required in OAR 690-014-0100(7).

Please submit the information requested above within 30 days of the date of this letter. If you have any questions regarding the information requested, please feel free to contact me at 503-986-0811.

Sincerely,

Gerry Clark
Water Rights Specialist

enclosures

cc: Malia Kupillas, # ?? (Original CWRE may no longer be involved with the project)

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AUG 15 2007
WATER RESOURCES DEPT
SALEM, OREGON

COBU Beneficial Use Determination Form

Application G-11982
Permit G-11667

- 1) Has the Claim of Beneficial Use report been reviewed? *yes*
- 2) Has the Claim of Beneficial Use map been reviewed? *yes*
- 3) Has a conflict check been completed? *yes*
If apparent conflicts are identified, describe here. *only overlap of water rights in in NE of SW of S28, but 2 different types of use (nursery ops vs. irrigation)*
- 4) Was the use developed within the time lines described in the permit or transfer final order? *yes (extension granted)*
- 5) Were the permit conditions met? *mostly, see notes on Review Worksheet & my 2/4/06 email*

If the answer to all the questions above is "yes", complete the worksheet below for each point of diversion or point of appropriation listed in the permit or transfer final order.

Point of Diversion or Appropriation name or number:

	PERMIT/TRANSFER FINAL ORDER	REPORT/MAP
SOURCE	A well, Molalla Molalla River Basin	well
POD LOCATION	NW 1/4 SE 1/4 S28, T3 S, R1 E, MW	same
USE(S)	774' S ± 50' E from the C corner of S28 Nursery operations	nursery operations
WATER Q (permit)	3.78 cfs	—
WATER Q (system)		calculated 3.66 cfs
WATER Q (use)		not measured
POU LOCATION	SWNE 3.50 A SE NW 16.22 A } S 28	SWNE 3.93 A SE NW 9.48 A } S 28
POU LOCATION	NE SW 17.99 A NW SE 20.02 A } T 3 S R 1 E W.M.	NE SW 16.53 A NW SE 15.75 A } T 3 S R 1 E W.M.
POU LOCATION	58.09 A	45.69 A per COBU map

	DETERMINATION
SOURCE	A well, Molalla Molalla River Basin
POD LOCATION	as in permit
USE(S)	nursery operations
WATER Q (USE 1)	3.66 cfs
WATER Q (USE 2)	
WATER Q (USE 3)	
POU LOCATION	45.69 A, as in COBU map
POU LOCATION	
POU LOCATION	

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AUG 15 2007

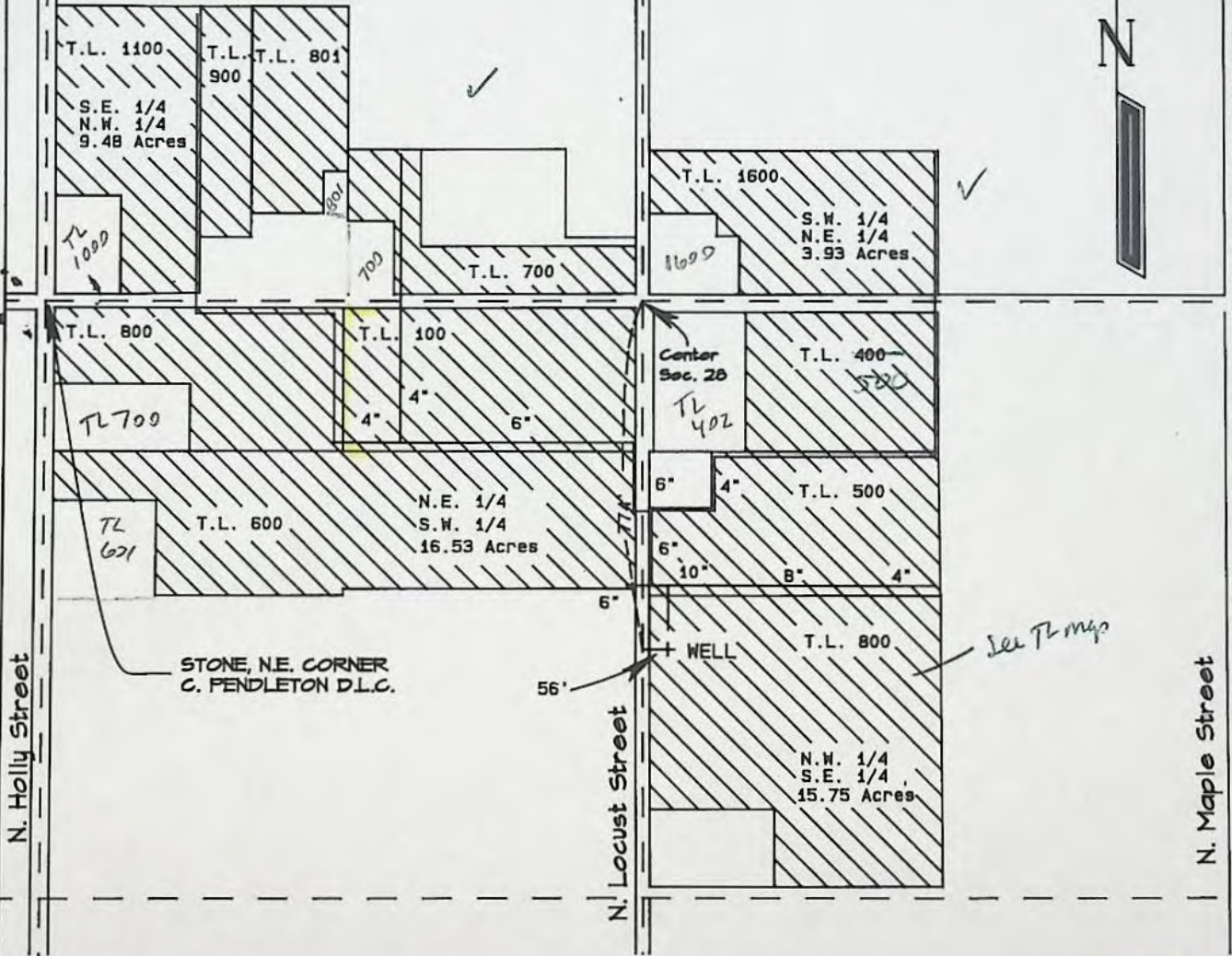
WATER RESOURCES DEPT
SALEM, OREGON

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SALEM, OREGON

T.3S, R.1E, W.M. SECTION 28



SCALE 1" = 400'

FINAL PROOF SURVEY

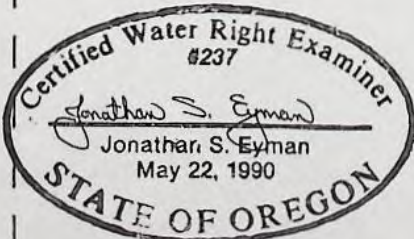
UNDER

Application No. G-11982 Permit No. G11687

IN NAME OF

SIMNITT NURSERY

Surveyed Sept. 4, 1996 by *Jonathan S. Eyman*



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AUG 15 2007

WATER RESOURCES DEPT.
SALEM, OREGON

Terry Sprecher

From: Terry Sprecher
Sent: Monday, July 09, 2007 5:23 PM
To: 'Gerry Clark'
Subject: RE: Simnitt Nursery project

Thanks, Gerry. A template would be helpful.

Terry S

-----Original Message-----

From: Gerry Clark [mailto:clarkge@ wrd.state.or.us]
Sent: Monday, July 09, 2007 5:06 PM
To: Terry Sprecher
Subject: Simnitt Nursery project

Terry,

I briefly looked at the Simnitt Nursery file to see what we had received in terms of clarifications/additional information. In addition, I looked at some of the questions you raised early on in your review.

As it relates to the quantity of water allowed, the COBU report indicates that the water user used enough sprinklers for frost protection, a class of temperature control within the Nursery Operations definition, to theoretically use 3.93 cfs. The pump and booster however, appear to be the limiting factor being 3.66 cfs.

690-300-0010(30) "Nursery Operations Use" means the use of water for operation of a commercial nursery which may include temperature control, watering of containerized stock, soil preparation, application of chemicals or fertilizers, watering within greenhouses and uses to construct, operate and maintain nursery facilities. The use of water within plant nursery operations constitutes a different use from field irrigation, although that may be a part of nursery use. If used for field irrigation for nursery stock, such use is not restricted to the defined agricultural irrigation season.

As for the total number of acres, use the COBU map (45.69 acres).

The certificate should identify the static water level measurement as identified in the extension final order.

I can provide a template for your use if one has not already been supplied.

Thanks for your help on these projects.

Gerry

Gerry Clark
Water Rights Specialist/Certificates,
725 Summer St. NE, Ste. A
Salem, OR 97303

Phone: 503-986-0811
Fax: 503-986-0901

<http://www.wrd.state.or.us/>

RECEIVED
AUG 15 2007
WATER RESOURCES DEPT
SALEM, OREGON

Gerry Clark

From: Terry Sprecher [terry_sprecher@pbsenv.com]
Sent: Saturday, August 11, 2007 3:10 PM
To: Gerry Clark
Subject: RE: Simnitt Nursery project
Attachments: DRFT.certif.G-11687.rtf

Gerry,

Attached is the draft certificate/mailling list for the Simnitt Nursery project. Paper deliverables to follow by mail.

If you need any additional for this project, please let me know.

Thank you.

Terry A. Sprecher, RG, CWRE
Bend Operations Manager/Senior Geologist
terry@pbsenv.com
541.388.9290, X222

PBS Engineering + Environmental
Engineering | Natural Resources | Environmental | Health and Safety
www.pbsenv.com
390 NE Emerson Avenue, Suite C, Bend, OR 97701
ph: 541.388.9290 fax: 541.382.5116

-----Original Message-----

From: Gerry Clark [mailto:clarkge@wrd.state.or.us]
Sent: Monday, July 09, 2007 5:06 PM
To: Terry Sprecher
Subject: Simnitt Nursery project

Terry,

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As for the total number of acres, use the COBU map (45.69 acres).

The certificate should identify the static water level measurement as identified in the extension final order.

8/21/2007

I can provide a template for your use if one has not already been supplied.

Thanks for your help on these projects.

Gerry

Gerry Clark
Water Rights Specialist/Certificates
725 Summer St. NE, Ste. A
Salem, OR 97303

Phone: 503-986-0811
Fax: 503-986-0901

<http://www.wrd.state.or.us/>

DISCLAIMER:

This message and any attachments are considered privileged and confidential and are intended for the sole use of the individual or entity to whom the message is addressed. If you have received this message in error, please immediately advise the sender and permanently delete the message and any attachments.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or 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 at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

STATE OF OREGON

COUNTY OF CLACKAMAS

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

Simnitt Nursery
138 NE 22nd Avenue
Canby, Oregon 97013
Attn: Jerome and Janice Simnitt

confirms the right to use the waters of A WELL in the MOLALLA RIVER BASIN for NURSERY OPERATIONS ON 45.69 ACRES.

This right was perfected under Permit G-11687. The date of priority is NOVEMBER 6, 1989. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 3.66 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the well.

The well is located as follows:

NW ¼ SE ¼, SECTION 28, T 3 S, R 1 E, WM; 774 FEET SOUTH AND 56 FEET EAST FROM THE C ¼ CORNER OF SECTION 28.

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 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.

A description of the place of use to which this right is appurtenant is as follows:

SW ¼ NE ¼ 3.93 ACRES
SE ¼ NW ¼ 9.48 ACRES
NE ¼ SW ¼ 16.53 ACRES
NW ¼ SE ¼ 15.75 ACRES

SECTION 15

TOWNSHIP 3 SOUTH, RANGE 1 EAST, W.M.

The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

A regulating device shall be installed pursuant to ORS 540.310.

Measurement, recording and reporting conditions:

- A. The water user shall maintain the meter or measuring device 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.

Gerry will need to determine the reference level and language for this condition:

The water user shall monitor and report the impact of water use under right consistent with the plan on file with the Department. If a well listed on this right displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's 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 referenced level for water-level declines for this right is 51.5 below ground surface. The water user shall in no instance allow excessive decline to occur within the aquifer as a result of use under this right.

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.

The right to the use of the water for the above purpose is restricted to beneficial use without waste on the lands or place of use described. 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.

Issued November 17, 2007.

Phillip C. Ward, Director
Water Resources Department

Recorded in State Record of Water Right Certificates Number DRAFT.

G-11982.RA

Mailing List for Certificate

Mailing Date: 11/17/2005

Application G-11982

Permit G-11687

Certificate DRAFT

Permit/Certificate Holder: (include copy of map)

Simnitt Nursery

138 NE 22nd Avenue

Canby, Oregon 97013

Attn: Jerome and Janice Simnitt

Copies Mailed

By:

(STAFF)

on:

(DATE)

Copies of Final Certificate to be sent to:

1. Watermaster # 20: (include copy of map)
2. Data Center (include copy of map)
3. Water Availability

Other persons to receive copies: (Include map)

WATER LEVEL MONITORING PLAN

Water Right Application G-11982/Permit G-11687

Water right permit G-11687 requires that a water level monitoring plan be submitted to the Oregon Water Resources Department (Department) to monitor and report the impact of water use under the permit. The plan was to be submitted within one year from the date of the permit and is subject to the approval of the Department.

Water levels will be measured in the authorized point of appropriation during March after the permit is issued. This initial water level will be used as a reference water level against which any water-level declines are measured. An alternate initial water level measurement may be selected if the initial water level was taken during a drought or above-average rainfall year. A revised reference water level must meet the Department's approval. Water levels will be measured annually during the month of March and the water level data will be submitted to the Department on their form or an adequate substitute by April 15th of that year for seven years after the initial measurement.

Each water level measurement will reference the well name and well log identification or tag number.

Water levels will be measured with an electric or steel tape. Water level measurements shall be reported in feet and hundredths of a foot or in feet and inches to the nearest 0.25 inch.

Water levels will be measured after the well has been idle for a minimum of 8 hours or the same number of hours the well was pumped prior to being turned off, if less than 8 hours.

Water levels can be measured by a licensed well driller, pump installer, certified water rights examiner, registered geologist, licensed engineer, or the applicant.

If a well listed on this permit (or replacement well) displays a total static water-level decline of 25 feet or more over any period of years, when compared to the reference level, then the water user shall discontinue use or reduce the rate or volume of withdrawal from the wells until water levels recover to above the 25-foot decline level or the Department determines, based on the water user's and/or the Departments 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.

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MAR 15 2006

**WATER RESOURCES DEPT
SALEM, OREGON**

Mike Zwart

From: "Mike Zwart" <Mike.j.zwart@wrд.state.or.us>
To: "Gerald CLARK" <Gerald.E.CLARK@wrд.state.or.us>
Cc: "Dwight FRENCH" <Dwight.W.FRENCH@wrд.state.or.us>; "Donn MILLER" <Donn.W.MILLER@wrд.state.or.us>
Sent: Thursday, May 18, 2006 3:01 PM
Subject: G-11982, Simnitt Nursery

Gerry,

I reviewed the file and noted that Donn Miller made some good recommendations in his 2005 Permit Extension review. See especially his recommended new reference level, which was a March measurement.

I note that Donn originally reviewed the file and his review DID NOT recommend any measurement condition, so it is not clear to me how it is that the permit was conditioned with two such conditions. Based on this, I would have no problem with a proposal to make both conditions disappear from the Certificate. If that cannot be done, then I could accept the new plan to measure with the stipulation of the reference level proposed by Donn Miller (51.50 feet below land surface). Let me know how you and Dwight want to go on this. I will approve the plan if necessary.

Mike

Michael J. Zwart - Hydrogeologist
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503.986.0844; fax: 503.986.0902

September 4, 1996

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SEP 06 1996

WATER RESOURCES DEPT.
SALEM, OREGON

Water Resources Department
Commerce Building
158 12th Street N.E.
Salem, Oregon 97310-0210

Gentlemen:

The following is a list of the information for the Final Proof Survey of the Simnitt Nursery Water Right, Application No. G-11982, Permit No. G-11687.

The Permittee is Simnitt Nursery
138 N.E. 22nd Avenue
Canby, Oregon 97013

The land owners are:

NW 1/4 of Section 28, T.3.S, R.1.E, W.M.

TL 1100	Janice R. Simnitt 138 N.E. 22nd Avenue Canby, Oregon 97013
TL 900	Janice R. Simnitt 138 N.E. 22nd Avenue Canby, Oregon 97013
TL 801	Janice R. Simnitt 138 N.E. 22nd Avenue Canby, Oregon 97013
TL 700	Janice R. Simnitt 138 N.E. 22nd Avenue Canby, Oregon 97013

NE 1/4 of Section 28, T.3 S, R.1 E., W.M.,

TL 1600	Arbie Gene Irwin 2236 N. Locust Street Canby, Oregon 97013
---------	--

SW 1/4 of Section 28, T.3 S, R.1 E., W.M.

TL 800	Virgil A. Montecucco 4120 N. Locust Street Canby, Oregon 97013
TL 100	Virgil A. Montecucco 4120 N. Locust Street Canby, Oregon 97013
TL 600	Harvey E. Hartman Co-Trustee 1335 N.E. Territorial Road Canby, Oregon 97013

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WATER RESOURCES DEPT.
SALEM, OREGON

SE 1/4 of Section 28, T.3 S, R.1 E., W.M.

TL 400	Janice R. Simnitt 138 N.E. 22nd Avenue Canby, Oregon 97013
TL 500	Janice R. Simnitt 138 N.E. 22nd Avenue Canby, Oregon 97013
TL 800	Jerome A. Simnitt 138 N.E. 22nd Avenue Canby, Oregon 97013

The information in this report was obtained by interviewing Jerome A. Simnitt, reviewing documents recorded with Clackamas County and surveying the site.

Source: The source is an underground aquifer.

Diversion Point: CLAC 9698

The well is 774 feet south and 56 feet east of the center of Section 28, T.3S., R.1E., W.M.

The well was constructed by Schneider Equipment, Inc., St. Paul, Oregon. The well was completed in June of 1989. The static water level at construction was 70 feet below the land surface. A yield of 1700 gpm resulted in a drawdown was 112 feet after one hour, 144 feet after four hours, and 152 feet after six hours. A yield of 1000 gpm resulted in a drawdown of 55 feet after one hour and a drawdown of 71 feet after four hours.

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WATER RESOURCES DEPT.
SALEM, OREGON

The well is a 16 inch diameter steel casing (.375 guage), with the casing extending to 319.4 feet below the surface. The well is equipped with an access port.

The main pump is a Peabody Floway, Size: 12 inch, Type: LKH, Stage: 5, GPM: 1000, TDH: 340

The main motor is a U.S. Motors, 125 HP vertical electrical motor, 3 phase, 460 volt, 1775 RPM.

The booster pump is Cornell Pump Co. Model 5RB75-4, Serial No. 61509 with 13.5 inch diameter impeller

The booster pump motor is a Marathon Electric horizontal electric motor, 75 HP, 460 volt, 3 phase, Type: TDS, 1775 RPM.

A McCrometer Flow meter is installed in the line and read 7181 on 09/04/96.

Delivery system:

A solid set irrigation system is used to deliver the water to nursery and field crops. The main lines are all buried below the soil surface. The distribution system begins at ten inch, steps to eight, then six, and finally to four inch diameter. The lateral lines are two inch diameter aluminum lines that are placed above ground. The lateral lines are removed during field preparation and crop removal. Once a crop is in place the lateral lines are installed.

The sprinkler spacing used is 40 feet by 40 feet. Rain Bird J-20 sprinklers with 1/8" nozzles are used. The pressure at the pump is 80 psi.

There is 200 l.f. of 10" diameter mainline, 400 l.f. of 8" diameter mainline, 800 l.f. of 6" diameter mainline, and 3400 l.f. of 4" diameter mainline. All of the mainline is below the soil surface.

Q - Acres:

The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. Forty-six point zero six (46.06) acres is nursery production would allow 6.91 cubic feet per second for the diversion. The permit allows 3.78 cubic feet per second.

Q - Heads:

There are nine hundred three (903) sprinkler heads (Rain Bird J-20) with a 1/8" nozzle on hand. At 80 psi the J-20 will produce a theoretical discharge of 4.17 gpm. The nursery operation has used four

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WATER RESOURCES DEPT.
SALEM, OREGON

hundred twenty-three (423) heads at one time during frost protection operations.

$$Q\text{-heads} = (423 \text{ head} * 4.17 \text{ gpm/head}) / (449 \text{ gpm/cfs}) = 3.93 \text{ cfs}$$

Q - Pump:

80 PSI, vertical turbine with booster pump.

$$Q_{\text{pump}} = (200 \text{ hp}) * (7.04) / (70 + 112 + 203) = 3.66 \text{ cfs}$$

Lift: The ground level of the well is five feet below the highest point of water usage.

Uses of Water: The water is used for the irrigation of Broadleaf Ornamentals, Daphne, greenhouse propagation and other nursery stock. Vegetable crops grown include turnip, rutabaga, beans, and cucumbers.

Survey Tie: The site is located on the North side of the City of Canby. The nursery is located within the PRUNELAND subdivision. The survey was completed by inspection of the site and comparison with the Application Survey for Application No. G-11982, Permit No. G11687.

Special Conditions:

The water meter has been installed on the delivery system. I discussed with the Mr. Simnitt the need to maintain better records on the amount of water used monthly.

The static water-level measurement was not made in April of 1996.

The water user has not completed the plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well.

Submitted by,

Jonathan S. Eyman

Jonathan S. Eyman, CWRE





SIMNITT NURSERY

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SEP 06 1996

WATER RESOURCES DEPT.
SALEM, OREGON

September 6, 1996

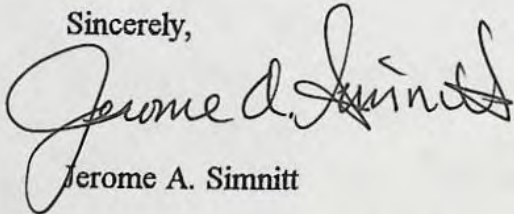
Water Resources Department
158 12th Street NE
Salem, OR 97310-0210

RE: File G-11982

Simnitt Nursery requests issuance of a certificate of water right for Permit G-11687, Application No. G-11982, in accordance with Oregon Administrative Rule 690-14-190.

Included with this request is a site report and map of the developed use prepared by a Certified Water Rights Examiner, Jonathan S. Eyman.

Sincerely,


Jerome A. Simnitt



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

June 22, 2007

JEROME A SIMNITT
SIMNITT NURSERY
138 NE 22ND AVE
CANBY OR 97013

GW

The Department has reviewed and accepted the pump test results for the following permitted well(s):

Application	Permit	Certificate Transfer	POD	Test Status	Logid	Owner's Well Name
G	11982	G	11687	1	Approved	CLAC 9698

Please contact me if you have any questions.

Sincerely,

Karl Wozniak
Ground Water/Hydrology Section

cc: GW Pump Test File



Oregon Water Resources Department
PUMP TEST COVER SHEET



Log ID: CLAC 9078 Kew

Well Owner:
Name Stimitt Nursery
Address 138 NE 22nd Avenue
City, State, Zip Corvallis OR 97331
County Covascous

Well Location: GNPTID: 346
Township 3 (N or S), Range 1 (E or W)
Section 28 1/4, 1/4, 1/4
Well Depth _____ Date Drilled _____
Owner's Well No. (if any) _____
POD-ID _____

Water Right Information:

Application No. 6-11982 Permit No. 6-11687 Certificate No. _____
Is this well used for more than one water right? No (Y/N) If Yes, fill out numbers below:
App. No. _____ Permit No. _____ Cert. No. _____
App. No. _____ Permit No. _____ Cert. No. _____

Pump Test:

Test conducted by Bob Kropf Well Owner? No (Y/N)
Company Fishers Supply Inc
Address 659 SW 13th Avenue Date of Test 5-11-2007
City, State, Zip Corvallis OR 97331

Method of Discharge Measurement Mcrometer 10 Saddle Meter
Method of Water Level Measurement E-Tape
Depth of Air Line (if used) N/A
Pump Type (Turbine, Submersible, etc.) DL Turbine 125 hp
Was pump test conducted during normal use of the well Yes (Y/N)

Description of point from which water level was measured 1/4" Access Port
Is measuring point (above) or below ground level? _____
Distance between measuring point and ground level (correction factor) -24"

Are you aware of any wells, other than domestic or stock wells, pumping within 1000 feet of the tested well during the test or within 24 hours prior to the test? No (Y/N) If yes, give approximate distances to each and approximate pumping rate of each. If possible, indicate if they were turned on or off during the test _____

Is there a lake, stream or other surface water body within 1/4 mile of the tested well? No (Y/N)
If yes, give approximate distance from the well and approximate elevation difference between the surface water and the well head: Approximate distance _____
Approximate elevation difference _____
Is well elevation above or below the surface water body? _____

Static Water Level Measurements: (Three measurements at least 20 minutes apart are required in the hour before pumping begins):

Time: <u>8:00 am</u>	Depth to Water: <u>68</u>	(ft/in)
Time: <u>8:20 am</u>	Depth to Water: <u>68</u>	(ft/in)
Time: <u>8:40 am</u>	Depth to Water: <u>68</u>	(ft/in)

Discharge Measurements: (A discharge measurement is required at the start of pumping and once an hour during the test):

Time: <u>9:00 AM</u>	Discharge Rate: <u>1000</u>	(gpm)
Time: <u>10:00</u>	Discharge Rate: <u>1083</u>	(gpm)
Time: <u>11:00</u>	Discharge Rate: <u>1067</u>	(gpm)
Time: <u>12:00</u>	Discharge Rate: <u>1050</u>	(gpm)
Time: <u>1:00</u>	Discharge Rate: <u>1100</u>	(gpm)

Pump turned on: Date: 5-11-07 Time: 9:00 AM Pump turned off: Date: 5-11-07 Time: 1:00 AM
Total pumping time: 4 hours, 0 minutes.

Note: Well must be idle for at least 16 hours prior to the test.

OWRD 11/90

PUMP TEST DATA SHEET

Well Owner: Simnitt Nursery
 APPLICATION NO: G-11982 PERMIT NO: G-11687 ROD ID: _____

All water level measurements must either be in 1) feet & inches or 2) feet & decimal fractions (circle one)

DRAWDOWN DATA							RECOVERY DATA						
DATE	TIME	Time Since Pump Started (minutes)	Depth To Water From Measure PT	Correction Factor	Depth To Water From Ground Level	Meter Totalizer Comments Gal x 1000	DATE	TIME	Time Since Pump Stopped (minutes)	Depth To Water From Measure PT	Correction Factor	Depth To Water From Ground Level	Comments
5/11/2007	9:00 AM	0	68	-24	66'0	53774	5/11/07	1:00pm	0	163'10	-24	161'10	
			2		104'7				2	122'		120'	
			4		112'10				4	123'6		121'6	
			6		117'				6	117'		115'	
			8		120'				8	116'		114'	
			10		122'3	53784			10	113'		111'	
			15		130'1	53789.5			15	107'6		105'6	
			20		133'7	53795.5			20	103'10		101'10	
			25		136'6	53800			25	100'		98'	
			30		138'6	53806			30	98'10		96'10	
			45		143'3	53823			45	94'		92'	
			60		146'10	53839		2:00pm	60	91'6		89'6	
			75		149'6	53855			75	89'		87'	
			90		151'9	53872			90	87'2		85'2	
			105		153'8	53888			105	85'2		83'2	
			120		155'2	53903		3:00pm	120	84'10		82'10	
			135		156'8	53920			135	82'6		80'6	
			150		158'	53936			150	80'10		78'10	
			165		159'3	53952			165	79'6		77'6	
			180		160'2	53966		4:00pm	180	78'4		76'4	
			195		161'3	53984			195	77'3		75'3	
			210		162'2	53999		4:30pm	210	76'3		74'3	
			225		163'1	54015			225				
			240		163'10	54032		5/11/2007 5:00pm	240				

> 74'3 @4:30pm

SIMNITT NURSERY

05/08/2007 08:53 5032636330

Gerry Clark

From: simnitt nursery [jerry@simnittnursery.com]
Sent: Tuesday, May 29, 2007 10:52 AM
To: Gerry Clark
Subject: Re: Appl. G-11982

Gerry,
Thank you for the information.
Thanks
Jerry

----- Original Message -----

From: Gerry Clark
To: simnitt nursery
Sent: Tuesday, May 29, 2007 9:20 AM
Subject: RE: Appl. G-11982

Jerry,

Sorry I did not get back to you earlier, I was out of the office for a few day.

In relation to the pump test, I have not yet seen the test. I will check with our Groundwater Section to see if the test is up there.

Once the test has been approved, we will be able to move forward with the proposed certificate. In cases where the permit was not fully developed (i.e..e. less water or acres) we are required to issue a proposed certificate. If no comments are received within the 60 day comment period, the Department can then issue the final certificate.

Gerry

Gerry Clark
Water Rights Specialist/Certificates
725 Summer St. NE, Ste. A
Salem, OR 97303

Phone: 503-986-0811
Fax: 503-986-0901

<http://www.wrd.state.or.us/>

From: simnitt nursery [mailto:jerry@simnittnursery.com]
Sent: Thursday, May 24, 2007 4:43 PM
To: CLARK Gerald E
Subject: Re: Appl. G-11982

Application #G-11982
Permit # G11687

Last year we applied for a expedited well certificate. You notified me that I was lacking the data for the "Pump Test" that was done in approximately 1990. I could not find the actual test data, so I had a new test done earlier in the month. Fishers Supply in Canby did the test and sent the data to you. I am checking to see if you received it and what needs to be done to receive the certificate. I appreciate all of your help throughout this process.

Thanks

Jerry

Simnitt Nursery

Gerry Clark

From: Gerry Clark [Gerald.E.CLARK@wrд.state.or.us]
Sent: Wednesday, September 13, 2006 11:35 AM
To: 'simnittnsy@canby.com'
Subject: Pump Test information

Jerry,

Here are the links we discussed:

Pump Test Publication
http://www1.wrd.state.or.us/pdfs/pump_test.pdf

Pump Test Cover Sheet
http://www1.wrd.state.or.us/pdfs/pump_test_cover_.pdf

Pump Test Data Sheet
http://www1.wrd.state.or.us/pdfs/pump_test_data.pdf

Please feel free to contact me if you have any additional questions.

Gerry

Gerry Clark
Water Rights Specialist/Certificates
725 Summer St. NE, Ste. A
Salem, OR 97303

Phone: 503-986-0811
Fax: 503-986-0901

<http://www.wrd.state.or.us/>

Jerry Gainey

From: Mike Zwart [Mike.j.zwart@wrд.state.or.us]
Sent: Monday, September 11, 2006 3:33 PM
To: 'Jerry Gainey'
Subject: RE: Pump Test - Permit G-11687

Jerry,

I found no record of an approved test on file and I checked our Clackamas County file for tests not yet reviewed, but none were for Simnitt Nursery.

Mike

Michael Zwart
Oregon Water Resources Department
503-986-0844

-----Original Message-----

From: Jerry Gainey [mailto:Jerry.W.GAINEY@wrд.state.or.us]
Sent: Monday, September 11, 2006 3:08 PM
To: Mike.J.ZWART@wrд.state.or.us
Subject: Pump Test - Permit G-11687

Mike,

Gerry and I are working on application G-11982, Permit G-11687, Simnitt Nursery, under the reimbursement authority. The permit required the submission the results of a pump test, do you have the pump test information. I could not find a copy of a pump test or any other information.

Thanks - Jerry G

Subject: Simnitt Nursery Certificate Request, permit G-11687
 From: "Terry Sprecher" <terry@pbsenv.com>
 To: "Gerald Clark (E-mail)" <Gerald.E.CLARK@wrд.state.or.us>

Gerry,

I had expected this project would be a breeze, since I recently processed a permit extension for Simnitt Nursery, but have learned otherwise. Attached is a draft deficiency letter. Questions pertaining to items in the deficiency letter, and other questions, follow.

Deficiency letter items:

1. If a mylar was submitted, we can remove this item from the letter. *yes - remove*

3. map issues - the COBU was done in 1996. the extension is through 2001. The tax lot maps I am looking at are current. So, I don't know how to figure out what the tax lot layout looked like in 2001. In comparison with today's tax lot map, it appears that some of the irrigated area is now residential - that may not have been the case in 2001. The COBU map shows tax lot boundaries in the irrigated areas but not the non-irrigated areas, and are confusing. The irrigated acreage is broken up by 1/4 1/4 section, but is not stated per tax lot (may not need to be?). *TLs ok use does not need to be defined (acres) by TL*

4. I am really unclear as to how many acres were actually beneficially irrigated, since the map and the COBU report don't agree, and both are less than the permit. *Clarify need to know ownership of lands covered by the permit not claimed*

5. I haven't worked with this kind of use before, so this may be a non-issue. It appears that the permit shows 3 rates, for 3 kinds of uses. If yes, then the COBU report and map do not break these down. If the only real use is nursery use then this item can be removed from the letter. For certificate preparation purposes, since there are three different rates in the permit, depending upon the type of use, I am unsure how to determine the permitted Q. The information presented in the COBU report does not detail how many acres are used for which use. Do we assume that all are nursery use (the highest rate)? Wait for more information from the applicant? *yes Highest rate of use*

Other questions:

1. As of October 1, 2001, the new "C" date per the extension Final Order, the permit conditions are mostly met. A water use report was provided for 99/00, but none were provided for prior to 99/00, and the 00/01 report is not in my files. Three out of five of the static water level reports from 2001 and prior were collected in the correct month. The required monitoring plan was apparently never done, but the extension Final Order appears to take care of this, as it presents a reference static water level of 51.5 feet bgs. If you/WRD are happy with this, I'm good.

2. There appears to be a conflict in the NE of the SW of S 28, with Certificate 32258. *no conflict - IR*

3. A pump test does not appear to have been conducted yet, and will be needed prior to certificate issuance. *confirm prior to mailing letter*

Let me know how you wish to proceed - if the Deficiency letter needs tweaking or if we have enough information to prepare a certificate. And, do you need any backup information?

Thanks!!

<<draft.Information.request.permitG11687.wpd>>



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

February **, 2006

SIMNITT NURSERY
C/O JEROME AND JANICE SIMNITT
138 NE 22ND AVENUE
CANBY, OREGON, 97013

RE: PERMIT # G-11687

Dear JEROME AND JANICE SIMNITT,

The above referenced file has been reviewed under the Reimbursement Authority process. Our review indicates that the following information or clarification is needed:

1. ~~The submitted map was not on mylar or permanent quality linen ?? as required in OAR 690-014-0170(1).~~
2. *No* The submitted map does not include a disclaimer stating that the map is for the purpose of identifying the location of the water right only and is not intended to provide legal dimensions or locations of property ownership lines as required in OAR 690-014-0170(4).
3. The submitted map presents incomplete tax lot boundaries and does not indicate how many acres ~~are irrigated per tax lot~~, as required in OAR-690-310-0050(4)(c). Further, according to Clackamas County Assessor Maps, current tax lot boundaries in the NW 1/4 of the SW 1/4 of Section 20 do not coincide with tax lot boundaries presented in the submitted map and a portion of the irrigated acreage shown in this 1/4 1/4 section appears to be in residential use. The Claim of Beneficial Use was prepared in 1996. Please clarify this apparent discrepancy.
4. The submitted Claim of Beneficial Use report does not clearly state whether the use has been completely developed, as required in OAR 690-014-0100(3). The permit allows for 58.09 acres, the report notes 46.08 acres, and the acreage presented on the map totals 45.69 acres. *Please clarify*
5. The submitted Claim of Beneficial Use report and map do not clearly differentiate how

6. *OKS 537.230(3) see COBU form*

much of the beneficial use is for Nursery Operations, how much is for containerized nursery plants, and how much is for in-ground nursery plants. OAR 690-014-0100(6) requires that "the crops raised or other beneficial use made of the water shall be identified with considerable detail and include the period of use each year".

6. The diversion rate for each type of use is not included in the report, as required in OAR 690-014-0100(7).

Please submit the information requested above within 30 days of the date of this letter. If you have any questions regarding the information requested, please feel free to contact me at 503-986-0811.

Sincerely,

Gerry Clark
Water Rights Specialist

enclosures

cc: Malia Kupillas, # ?? (Original CWRE may no longer be involved with the project)

Terry A. Sprecher, RG, CWRE
Bend Operations Manager/Senior Geologist
terry@pbsenv.com
541.388.9290

PBS Engineering and Environmental
Engineering | Natural Resources | Environmental | Health and Safety
www.pbsenv.com
390 NE Emerson Avenue, Suite C, Bend, OR 97701
ph: 541.388.9290 fax: 541.382.5116

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[draft.Information.request.permitG11687.wpd](#)

Permit Extension Ground Water Review

Date: June 27, 2005

To: Doug Woodcock, Ground Water Section Manager

From: Lisa Juul, Permit Extension Review

Subject: Ground Water Review for File #G- 11982 / Permit #G- 11687

The above referenced permit is currently being reviewed for an extension of time. Before I can determine whether or not an extension of time should be granted, a Ground Water review for this file is necessary. Special designations affecting this permit are as follows:

NOTE: Original Division 9 review completed by: Donn Miller

- Located within a **Critical** Ground Water Area
- Located within a Ground Water **Limited** Area
- Located within a Ground Water **Study** Area
- 5-Year Limited Permit
- Other: _____
- None (no special designations)

7/1/05 Donn Miller

For Ground Water / Hydrology Staff Use:
Please answer the following questions. If necessary, attach an additional sheet.

1. Should any additional conditions be added to this permit? No.
2. Should the extension of time request be further conditioned or **DENIED** due to ground water supply concerns? No.
3. Should the Department establish a new reference level for water level declines due to the failure of permittee to submit annual measurements? Yes. Establish the reference level at 51.50' below land surface.
4. Other issues or concerns? See attached memo. Permit requires SWL's in April not March or May.

STATE OF OREGON
Water Resources Department
725 Summer St. N.E., Ste. A
Salem, OR 97301

MEMORANDUM

DATE: 7/1/05

TO: File G-11982
FROM: Donn Miller, Hydrogeologist (503.986.0845)
SUBJECT: Comments on Extension Review of Permit G-11687

The permit holder has done a pretty good job on the required measuring and reporting in the permit. **The purpose of this memo is to share my thoughts since the job is not perfect.** Some decisions are in order.

Water Level Measurements

The permit contains two different water level monitoring conditions on page 2 of the permit.

The first requires an April SWL, etc. It sets the reference level as the second annual measurement taken after water use begins under the terms of the permit. The trigger that effects water use is 25 feet of decline from the trigger. The permit holder has generally followed this condition. Some of the measurements were not in April, some early ones were not submitted, and the reference level was one that was not submitted.

The second requires the permit holder to submit a water level monitoring plan for approval within one year of permit issuance. The plan must stipulate a reference water level. The trigger that effects water use is 25 feet of decline from the trigger. No plan was ever submitted for approval.

The basic purpose of the second kind of condition, in addition to managing water, is to accommodate the water use schedule of a year-round water user. Apparently, the permit hold does not seem to need the flexibility that a unique plan would provide. **I'm OK, on a water management level, with using just the April SWL condition and dropping the plan condition.** I don't know of any way to authorize such a change.

Reference Level Determination

Per the April SWL condition, 'the reference water level for water-level declines shall be the second annual measurement taken after water use begins under the terms of this permit.' The permit was issued on April 15, 1994. Form C was signed September 1, 1995 documenting that the complete application of water to beneficial use had been made. The flowmeter was installed on September 28, 1995 and water use reporting began with water year 1996.

Based on file materials, it is not clear when water use began under the permit. Potentially, it began as early as April 1994 when the permit was issued. That could arguably make the reference level as early as the April 1995 measurement. The reference level could also be the April 1996 measurement but could be as late as April 1997 measurement. Measurements started in 1997 so that seems the default reference level. **I propose that we use the 1997 measurement (which was on March 18, 1997) and call it good.**

June 7, 1995

FILE#: G 11687

SIMNITT NURSERY; SIMNITT, JEROME AND
138 NE 22ND AVE
CANBY, OR 97013

Dear Permit Holder:

Within the last two years you were issued a permit to appropriate groundwater from this office. As a condition of the permit, you are to obtain a static water level measurement and submit the measurement to this office on a prescribed basis.

The permit condition failed to include licensed well constructors or pump installers licensed by the Construction Contractors Board as authorized individuals to make these measurements. This letter is to clarify that these additional parties are authorized to perform the water level measurements.

When your project is completed and the claim of beneficial use is submitted, the condition will be corrected when the resulting water right certificate is issued.

Please feel free to contact this office or our field staff if you have any questions in regard to this change in your permit conditions.

Sincerely,



Steven P. Applegate
Acting Administrator
Water Right/Adjudication Division

SPA/dpc
Enc: Permit Condition

cc: File
Region Managers
Watermasters

x:\exchange\castle\gw2.ltr



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

Permit condition describing licensed well constructor or pump installer licensed by the Construction Contractors Board as authorized agents of the permittee:

The permittee shall obtain a static water-level measurement for each well during March of each year and report the measurement to the Department within thirty days. The measurement shall be made by a certified water-rights examiner, registered professional geologist, certified engineering geologist, professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board.

Application No. G-11982

Permit No. _____

RECEIVED
NOV 06 1989

STATE OF OREGON
WATER RESOURCES DEPARTMENT

Application for a Permit to Appropriate Groundwater
WATER RESOURCES DEPT.
SALEM, OREGON

Applicant: SIMNITT NURSERY c/o Jerome Simnitt and Janice Simnitt

Mailing address: 138 N. E. 22nd Ave.

Canby Oregon 97013 266-2904
City State Zip Phone No.

I hereby make application for a permit to appropriate the following described groundwaters of the State of Oregon:

1. **THE DEVELOPMENT** (number of wells, tile lines, infiltration galleries, etc.):

One vertical well

Use of water: TRIPLE DUTY (1. Irrigating inground nursery stock), (2. Temperature control), (3. Container stock)

Amount of water: 3.78 or 1700
(cubic feet per second) (gallons per minute)

Diameter of well: 36" (0-97 ft.) 32" (97-343 ft.) Depth in feet: 343

Type and size of well casing: 16 inch steel 0.375 gauge No. of feet: 316

Estimated depth to water: 70 ft.
(feet)

Type of access port or measuring device: _____

Wells to be drilled by: Schneider Equipment Inc., 21881 River Road N.E.

Address: St. Paul Oregon 97137
City State Zip

If the water well is flowing artesian, describe your water control and conservation works: _____

If development is less than 1/4 mile from a natural stream, give the following:

Distance from development to stream: _____

Elevation difference between streambed and development: _____

Note: Wells must be constructed according to standards set by the department for the construction and maintenance of water wells.

PC ✓
11.8.89

Type of irrigation system (check appropriate box): Flood Wheel line

Hand line Drip Other _____

Other systems: _____

Proposed date construction will begin: _____ October 15, 1989 _____

Proposed date of completion of system: _____ September 15, 1990 _____

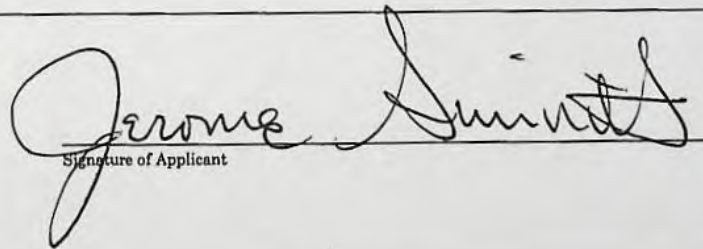
Proposed date water use will be completed: _____ October 15, 1990 _____

Is this groundwater source supplemental to another supply? _____ No _____

If so, identify the supply and the existing water right: _____

Comments: _____

I suspect that water use as described in the application started years before permit issuance in 1994.


Signature of Applicant

NOTE: This permit, when issued, is for the beneficial use of water. 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. It is possible that the land use you propose may not be allowed if it is not in keeping with the goals and the acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

Application No. 6-11982

Permit No. _____

STATE OF OREGON
COUNTY OF CLACKAMAS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

SIMNITT NURSERY
C/O JEROME AND JANICE SIMNITT
138 N.E. 22ND AVENUE
CANBY, OREGON 97013

503-266-2904

to use the waters of A WELL in the MOLALLA RIVER BASIN for NURSERY OPERATIONS ON 58.09 ACRES.

This permit is issued approving Application G-11982. The date of priority is NOVEMBER 6, 1989. The use is limited to not more than 3.78 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the well.

The well is located as follows:

NW 1/4 SE 1/4, SECTION 28, T 3 S, R 1 E, W.M.; 774 FEET SOUTH AND 56 FEET EAST FROM THE C 1/4 CORNER OF SECTION 28.

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 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 use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the proposed place of use under this permit is as follows:

SW 1/4 NE 1/4 3.50 ACRES
SE 1/4 NW 1/4 16.00 ACRES
NE 1/4 SW 1/4 17.99 ACRES
NW 1/4 SE 1/4 20.60 ACRES

SECTION 28
TOWNSHIP 3 SOUTH, RANGE 1 EAST, W.M.

The well shall be constructed 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 water level elevation in the well at all times.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device 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 permittee to report general water use information, including the place and nature of use of water under the permit.

Oct. 2000

B. The permittee 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.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

The Permittee shall obtain a static water-level measurement for each well during April of each year and report the measurement to the Department within thirty days. The measurement shall be made by a certified water-rights examiner, registered professional geologist, or professional engineer. Water levels shall be reported as depth-to-water below ground level and shall be accompanied by supporting calculations. If a well listed on this permit displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the Permittee shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user 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 reference level for water-level declines shall be the second annual measurement taken after water use begins under the terms of this permit. The Permittee shall in no instance allow excessive decline to occur within the aquifer as a result of use under this permit.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitute such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water users 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 to occur within the aquifer as a result of use under this permit.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Actual construction work shall begin on or before April 15, 1995 and shall be completed on or before October 1, 1995. Complete application of the water shall be made on or before October 1, 1996.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

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

list expanded per letter

The permittee has pretty much done this except this except for a 1994; 1995, +1996.

Form C submitted 9/1/95 cites complete application of water to B.U.

No submittal found in file

Permit Condition Water Level Input

Well Info: OWRD Logid: CLAC 9698 Main aq: Basin-Fill Sediments Max depth: 343 Corr by: KARL WOZNAK LSD Elev: 140 Userid_lu: 9655 Township: 3.00 S/ Range: 1.00 E- S QQ Q: 28 NW SE

Well Location: 774 FEET SOUTH & 56 FEET EAST FROM C1/4 CORNER, SECTION 28

Owner:
 Name: JEROME A SIMNITT
 Other Name: SIMNITT NURSERY
 Contact: _____
 Address: 138 NE 22ND AVE
 City, St, Zip: CANBY OR 97013
 Phone, FAX: 503-266-9640
 Email: _____
 Comments: _____

Permits listing well:
 pc permit cert_nbr pod pod_l_id trigger activated ref level
 G 11687 1 62.17

1999 →
the 1997 maint looks better regarding the condition language but seems too shallow

Logid	Source Org	SourceOWRD	Date	Time	MP Hght	Reprtd Wtr Lvl	Verified WL BLS	Export WL BLS	Method	Status
CLAC 9698	DRILLER	PERMIT COND	06/01/1989			70	70.00	70.00	UNKNOWN	UNKNOWN
CLAC 9698	PUMP INSTALLER	PERMIT COND	03/18/1997		1.833	51.5	51.50	51.50	UNKNOWN	STATIC
CLAC 9698	PUMP INSTALLER	PERMIT COND	04/01/1998		1.83	62.17	62.17	62.17	UNKNOWN	STATIC
CLAC 9698	PUMP INSTALLER	PERMIT COND	05/25/1999		1.83	63.42	63.42	63.42	ETAPE	STATIC
CLAC 9698	PUMP INSTALLER	PERMIT COND	04/28/2000		1.83	58.42	58.42	58.42	ETAPE	STATIC
CLAC 9698	PUMP INSTALLER	PERMIT COND	04/02/2001		1.83	61.5	61.50	61.50	ETAPE	STATIC
CLAC 9698	PUMP INSTALLER	PERMIT COND	03/05/2002		1.75	59.75	59.75	59.75	ETAPE	STATIC
CLAC 9698	CONSULTANT	PERMIT COND	04/01/2003		1.83	58.54	58.54	58.54	ETAPE	STATIC
CLAC 9698	CONSULTANT	PERMIT COND	03/20/2004		1.83	60.17	60.17	60.17	ETAPE	STATIC
CLAC 9698	CONSULTANT	PERMIT COND	03/18/2005		2.2	65.3	65.30	65.30	ETAPE	UNKNOWN

TO: Water Rights Section

Jan 3, 1994
~~1991~~

FROM: Groundwater/Hydrology Section Down Miller
Reviewer's Name

SUBJECT: Application G- 11982

1. ~~PER THE~~ _____ Basin rules, one or more of the proposed POA's is within _____ mile of a surface water source and taps a groundwater source hydraulically connected to the surface water.

2. **BASED UPON OAR 690-09** currently in effect, I have determined that the proposed groundwater use
a. _____ will, or } have the potential for substantial interference with the nearest surface water
b. will not } source, namely unnamed tributary of Willamette R. in Section 27 or Molalla River
c. _____ will, if properly conditioned, adequately protect the surface water from interference:
i. _____ The permit should contain condition #(s) _____;
ii. _____ The permit should contain special condition(s) as indicated in "Remarks" below;
iii. _____ The permit should be conditioned as indicated in item 4 below; or
d. _____ will, with well reconstruction, adequately protect the surface water from substantial interference.

3. **BASED UPON** available data, I have determined that groundwater for the proposed use
a. will, or }
b. _____ will not } likely be available in the amounts requested without injury to prior rights; or
c. _____ can, if properly conditioned, avoid injury to existing rights or to the groundwater resource;
i. _____ The permit should contain condition #(s) _____;
ii. _____ The permit should contain special condition(s) as indicated in "Remarks" below;
iii. _____ The permit should be conditioned as indicated in item 4 below.

4. a. _____ **THE PERMIT** should allow groundwater production from no deeper than _____ ft. below land surface;
b. _____ The permit should allow groundwater production from no shallower than _____ ft. below land surface;
c. _____ The permit should allow groundwater production only from the _____ groundwater reservoir between approximately _____ ft. and _____ ft. below land surface;
d. _____ Well reconstruction is necessary to accomplish one or more of the above conditions.
e. _____ One or more POA's commingle 2 or more sources of water. The applicant must select one source of water per POA and specify the proportion of water to be produced from each source.

REMARKS: _____

WELL CONSTRUCTION (If more than one well doesn't meet standards, attach an additional sheet.)

5. **THE WELL** which is the point of appropriation for this application does not meet current well construction standards based upon:
- a. review of the well log;
 - b. field inspection by _____;
 - c. report of CWRE _____;
 - d. other: (specify) _____
6. **THE WELL** construction deficiency:
- a. constitutes a health threat under Division 200 rules;
 - b. commingles water from more than one groundwater reservoir;
 - c. permits the loss of artesian head;
 - d. permits the de-watering of one or more groundwater reservoirs;
 - e. other: (specify) _____
7. **THE WELL** construction deficiency is described as follows: _____
8. **THE WELL**
- a. was, or
 - b. was not
 - c. I don't know if it met standards at the time of construction.
- constructed according to the standards in effect at the time of original construction or most recent modification.

RECOMMENDATION:

- A. I recommend including the following condition in the permit:
"No water may be appropriated under terms of this permit until the well(s) has been repaired to conform to current well construction standards and proof of such repair is filed with the Enforcement Section of the Water Resources Department."
- B. I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Enforcement Section of the Water Resources Department.
- C. REFER this review to Enforcement Section for concurrence.
-
-

THIS SECTION TO BE COMPLETED BY ENFORCEMENT PERSONNEL

I concur in G/H's recommendation A or B above relating to conditioning or withholding the permit.
_____, 1991.

(Signature)

I do not concur in G/H's recommendation A or B above relating to conditioning or withholding the permit for the following reasons: _____

(Signature)

_____, 1991.

(WRFORM8\91)

STATE OF OREGON
WATER RESOURCES DEPARTMENT

INTEROFFICE MEMO

TO: FILE G-11982
FROM: DONN MILLER ^{DM}
SUBJECT: SURFACE/GROUND WATER CONSIDERATIONS

DATE: 6/14/91

The applicant seeks 3.78 cfs (1700 gpm) from an alluvial well for nursery operations.

Per Division 9

FACTS

The well locations and aquifer display the following:

- CLAC
9698
- 1) The well is 4600' from the Molalla River and 4500' from an unnamed stream.
 - 2) The well is 343' deep and develops water from various sand and gravel layers. The well log is in the file.
 - 3) The static water level for the well from the log was 70' on 6/1/89.
 - 4) The approximate elevation at the well is 140'.
 - 5) The nearby stream reach elevation is about 65' on the Molalla River and 75' at the unnamed stream.
 - 6) OWRD Groundwater Report #29 details groundwater conditions in the area of the application.
 - 7) A pump test on the well produced 1700 gpm with 112' dd at 1 hour, 144' dd at 4 hours, and 152' dd at 6 hours.

CONCLUSIONS

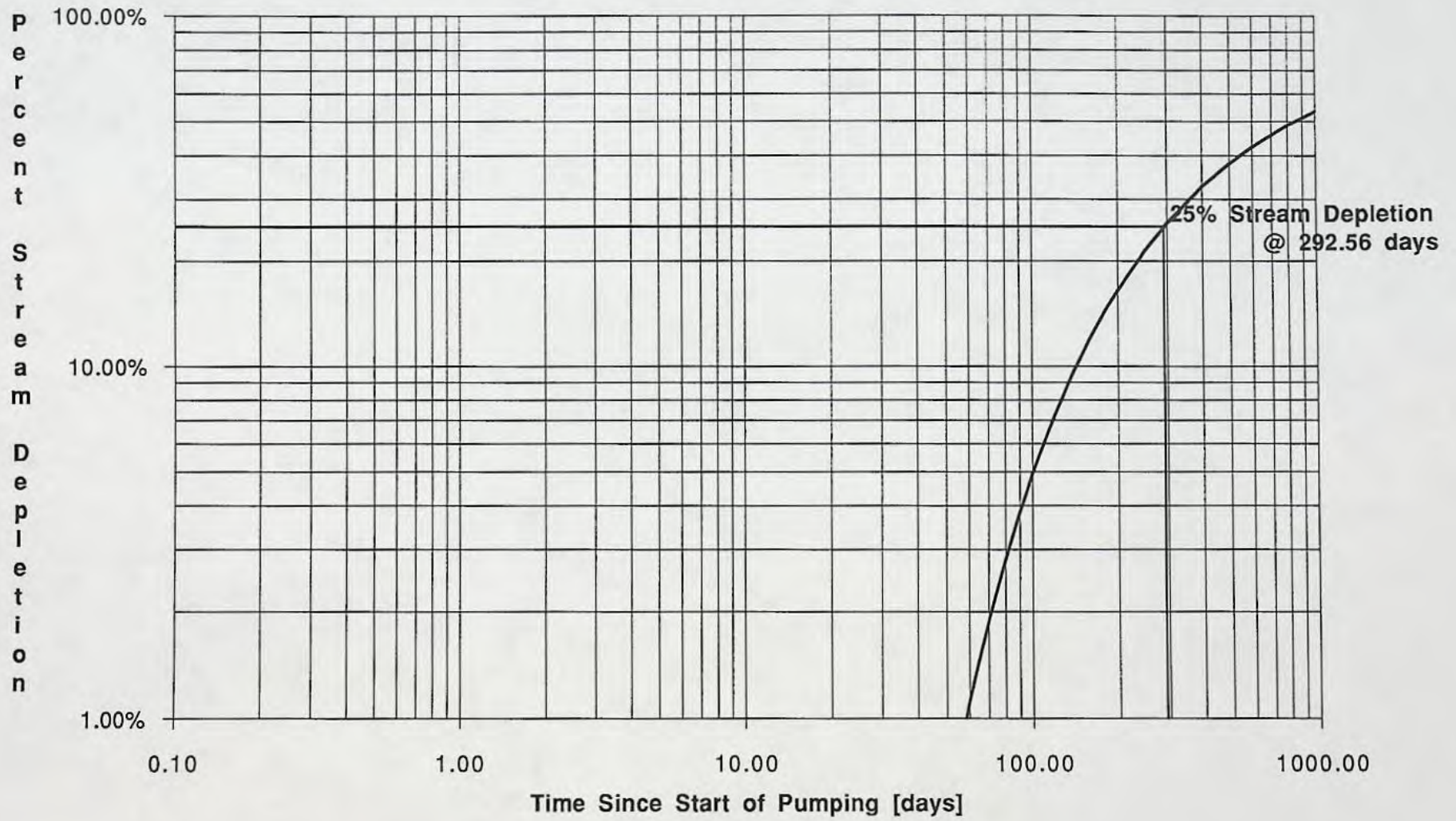
- 1) The head at the well is about 70', indicating an approximate equal standing with the nearby stream reaches.
- 2) The well develops water from the Troutdale Formation.
- 3) The transmissivity at the well is about 20,000 gpd/ft. The storativity of the materials is about 0.1.
- 4) Based on requested rate, heads, distances, general geologic environment and logged materials, I conclude that the alluvial aquifer is **unconfined, hydraulically connected to the Molalla River and unnamed stream, and has the potential to cause substantial interference rarely (i.e. <25% at 30 days).**
- 5) **Although the aquifer should receive recharge readily, the substantial rate and well depth may result in depletion.**

RECOMMENDATIONS

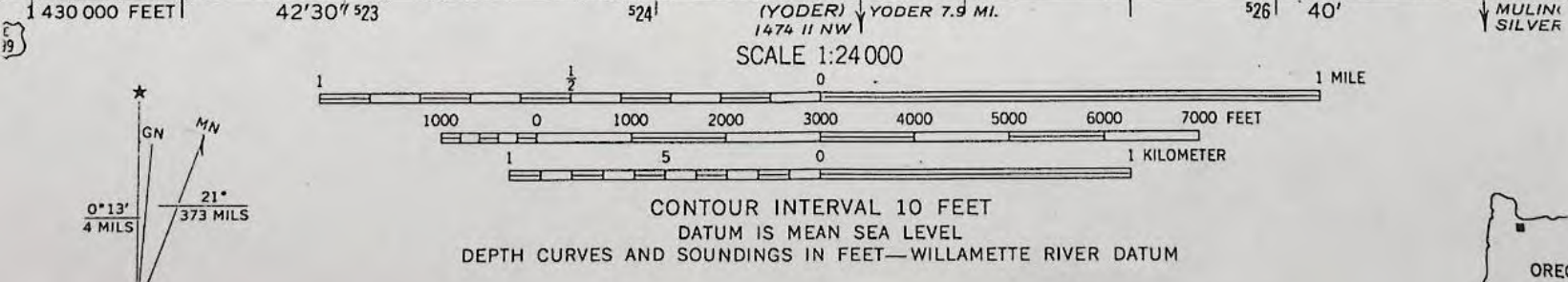
I recommend use of the standard language interference and decline conditions.

Stream Depletion Chart

Simnitt



G-11982



Stream Depletion Worksheet

	A	B	C	D	E	F
1	Stream Depletion Worksheet					
2						
3	Written by Karl C. Wozniak (OWRD) May 1991					
4	References: Theis (1941), Jenkins (1968), Jenkins (1970), and Walton (1984).					
5	See bottom of worksheet for detailed references and model assumptions.					
6						
7	Input Data:					
8	Well Owner or Well Number:				Simnitt	
9	Net Steady Pumping Rate of Pumped Well, Q:				1700	[gpm]
10	Perpendicular Distance From Pumped Well to Stream, a:				4550	[ft]
11	Transmissivity of Aquifer, T:				20,000	[gpd/ft]
12	Storativity of Aquifer, S:				0.1000	
13	Time duration of pumping, ti:				60.00	[days]
14						
15	Output Data:		25% Stream Depletion @ 292.56 days			
16						
17						
18			Stream			
19	Time		Depletion			
20	Pumped	u	q/Q	q	v/V	V
21	[days]		[%]	[gpm]	[%]	[gallons]
22	292.56	0.6616	25.00%			
23	0.10	1935.6838	0.00%			
24	0.20	967.8419	0.00%			
25	0.30	645.2279	0.00%			
26	0.40	483.9209	0.00%			
27	0.50	387.1368	0.00%			
28	0.60	322.6140	0.00%			
29	0.70	276.5263	0.00%			
30	0.80	241.9605	0.00%			
31	0.90	215.0760	0.00%			
32	1.00	193.5684	0.00%			
33	1.10	175.9713	0.00%			
34	1.20	161.3070	0.00%			
35	1.30	148.8988	0.00%			
36	1.40	138.2631	0.00%			
37	1.60	120.9802	0.00%			
38	1.80	107.5380	0.00%			
39	2.00	96.7842	0.00%			
40	2.50	77.4274	0.00%			
41	3.00	64.5228	0.00%			
42	4.00	48.3921	0.00%			
43	5.00	38.7137	0.00%			
44	6.00	32.2614	0.00%			
45	7.00	27.6526	0.00%			
46	8.00	24.1960	0.00%			
47	9.00	21.5076	0.00%			

Stream Depletion Worksheet

	A	B	C	D	E	F
48	10.00	19.3568	0.00%			
49	11.00	17.5971	0.00%			
50	12.00	16.1307	0.00%			
51	13.00	14.8899	0.00%			
52	14.00	13.8263	0.00%			
53	16.00	12.0980	0.00%			
54	18.00	10.7538	0.00%			
55	20.00	9.6784	0.00%			
56	25.00	7.7427	0.01%			
57	30.00	6.4523	0.03%			
58	40.00	4.8392	0.19%			
59	50.00	3.8714	0.54%			
60	60.00	3.2261	1.11%			
61	70.00	2.7653	1.87%			
62	80.00	2.4196	2.78%			
63	90.00	2.1508	3.81%			
64	100.00	1.9357	4.91%			
65	110.00	1.7597	6.07%			
66	120.00	1.6131	7.25%			
67	130.00	1.4890	8.44%			
68	140.00	1.3826	9.63%			
69	160.00	1.2098	11.98%			
70	180.00	1.0754	14.25%			
71	200.00	0.9678	16.41%			
72	250.00	0.7743	21.33%			
73	300.00	0.6452	25.60%			
74	400.00	0.4839	32.52%			
75	500.00	0.3871	37.89%			
76	600.00	0.3226	42.18%			
77	700.00	0.2765	45.71%			
78	800.00	0.2420	48.67%			
79	900.00	0.2151	51.19%			
80	1000.00	0.1936	53.38%			
81						
82	Data For Drawing 25% Intersection Lines:					
83	0.10		25.00%			
84	292.56		25.00%			
85	292.56		1.00%			
86	292.56		25.00%			

RECEIVED

JUN 13 1990

Simnitt Nursery
Well # 7900
by Schneider Drilling Co. 1989

WATER RESOURCES DEPT.
SALEM, OREGON

0	3	Topsoil, sandy loam, brown
3	8	Sand, med & clay, brown
8	17	Sand, crse & clay, brown
17	18	Gravel, 2"- & sand, crse, brown
18	24	Gravel, 3"- & sand, crse w/ clay, grey & brown
24	26	Gravel & cobbles
26	41	Gravel, sand, cobbles & clay, brown
41	46	Gravel & cobbles
46	50	Gravel, 3"- & sand, crse
50	53	Gravel & cobbles
53	55	Gravel & clay, grey
55	58	Gravel & sand & boulders
58	71	Gravel & cobbles & boulders w/ clay, bluegrey
71	93	Gravel & clay, bluegrey
93	100	Sand & gravel, pea & clay, blue
100	101	Gravel & cobbles, 4"-
101	108	Gravel & cobbles, 6"- & sand, crse
108	110	Gravel & cobbles, 6"- & clay, grey
110	113	Clay, grey, silty
113	118	Gravel & cobbles, 4"-
118	130	Clay, grey, silty
130	137	Clay, blue & grey, silty sandy
137	140	Clay, grey
140	149	Clay, grey, silty sandy, w/ wood
149	163	Clay, grey blue
163	166	Clay, blue, silty sandy
166	168	Clay, brown, silty sandy
168	170	Clay, grey, silty sandy
170	174	Sandy, black, med crse
174	179	Clay, blue
179	181	Clay, grey, silty sandy
181	186	Sand, black, med-crse, pea grv. & clay lenses
186	187	Sand, crse & gravel, 2"- w/ clay, blue
187	192	Clay, grey, silty sandy
192	199	Clay, grey
199	203	Clay, grey, silty sandy
203	207	Sand, med-crse w/ some pea gravel
207	210	Sand, fine - crse
210	214	Sand, med-crse w/ wood
214	223	Sand, crse, w/ wood
223	252	Clay, grey
252	258	Clay, dark brown
258	260	Clay, grey, silty sandy
260	268	Sand, dark grey, med-fine, cementation
268	273	Sand, dark green or black, med-crse, cem
273	278	Sand, med-fine w/ clay lenses
278	288	Sand, crse-med & gravel, 1/2"-
285	291	Sand, black crse & pea gravel, some cem
291	298	Sand, multi colored, crse & pea gravel w/ wood
298	342	Clay, grey & blue, med-soft
342	343	Clay, white

**Oregon Water Resources Department
Water Rights Division**

Application for Extension of Time

In the Matter of the Application)	
for an Extension of Time for)	
Permit #G-11687, Water Right)	PROPOSED FINAL ORDER
Application #G-11982)	
(Simnitt Nursery))	

Permit Information

Application File #G-11982 / Permit #G-11687

Basin: #02 - Willamette Basin / Watermaster District: #20

Date of Priority: November 6, 1989

Authorized Use of Water

Source of Water:	One Well in the Mollalla River Basin
Purpose or Use:	Nursery Operations on 58.09 acres
Maximum Rate:	3.78 cubic feet per second (cfs)

**This Extension of Time request is being processed in accordance
with Oregon Administrative Rule Chapter 690, Division 315.**

***Please read this Proposed Final Order in its entirety as it contains
additional conditions not included in the original permit.***

This Proposed Final Order applies only to Permit #G-11687, water right Application #G-11982. A copy of Permit #G-11687 is enclosed as Attachment 1.

Summary of Proposed Final Order for Extension of Time

The Department proposes to:

- grant the extension for complete application of water from October 1, 1996, to October 1, 2001.

AUTHORITY

ORS 537.630(1) provide in pertinent part that the Water Resources Department shall, for good cause shown, order an extension of time within which: irrigation or other works shall be completed; the well or other means of developing and securing ground water shall be completed; or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides in pertinent part that the Water Resources Department shall make findings to determine if an extension of time may be approved to complete construction and/or apply water to full beneficial use.

FINDINGS OF FACT

Background

1. Permit #G-11687 was granted by the Water Resources Department on April 15, 1994. The permit authorizes the use of up to 3.78 cfs of water from one well in the Mollalla River Basin for Nursery Operations on 58.09 acres. The permit specified that construction of the water system was to be

completed by October 1, 1995, and that complete application of water was to be made on or before October 1, 1996.

2. The permit holder submitted an "Application for Extension of Time" to the Department on May 25, 2005, requesting the time in which to accomplish beneficial use of water to the full extent under the terms of Permit #G-11687 be extended from October 1, 1996, to October 1, 2001. This is the first permit extension requested for Permit #G-11687.
3. Notification of the permit holder's extension of time request for Permit #G-11687 was published on the Department's Public Notice dated June 28, 2005. No public comment on the extension application was received.

Review Criteria [OAR 690-315-0040(1)(2)]

As set forth under OAR 690-315-0040(1)(2), the time limits to complete construction and/or to apply the water to a beneficial use may be extended upon showing of good cause for the untimely completion. This determination shall consider the applicable requirements of ORS 537.230¹, 537.248², 537.630³ and/or 539.010(5)⁴.

Other Governmental Requirements [OAR 690-315-0040(2)(g)]

4. Delay in the development of this project was not caused by any other governmental requirements.

Start of Construction [OAR 690-315-0040(1)(b)]

5. Construction of the well and water system began within the time specified in the permit, being April 15, 1995.

¹ ORS 537.230 applies to surface water permits only.

² ORS 537.248 applies to reservoir permits only.

³ ORS 537.630 applies to ground water permits only.

⁴ ORS 539.010(5) applies to surface water and ground water permits.

Cost to Appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b)]

6. As of May 25, 2005, the permit holder had invested a total of \$120,000 into the project, consisting of complete construction of the well, installation of a meter and complete construction of the irrigation system. No additional investment is anticipated for the completion of this project.

Reasonable Diligence and Good Faith of the Appropriator [OAR 690-315-0040(3)]

Reasonable diligence during the permit period constitutes a continuing test of whether and under what conditions to grant an extension [OAR 690-315-0040(3)].

In accordance with OAR 690-315-0040(3), the Department shall consider, but is not limited to, the following factors when determining whether the applicant has demonstrated reasonable diligence in previous performance under the permit:

Amount of Construction

7. The following construction was completed within the time allowed in the permit or previous extension:
 - a. During the original development time frame allowed under Permit #G-11687, being April 15, 1994, through October 1, 1996, the permit holder completed construction of the well, installed a meter and completed construction of the irrigation system.

Beneficial Use of Water

8. The following beneficial use was made of the water during the permit or previous extension time limits:
 - a. Since the issuance of Permit #G-11687 on April 15, 1994, the permit holder has appropriated a maximum rate of 1,764.0 gallons per minute (3.93 cfs) of water from the well for nursery operations on 58.09 acres. This appropriation, however, is not legal beneficial use of water due to the permit holder's failure to comply with certain conditions within valid development time frames of the permit as described in Finding #9-a below.

Additionally, because the permitted quantity of water allowed under Permit #G-11687 is limited to 3.78 cfs, the use of water beyond that permitted amount may be subject to Department regulation.

- b. Delay of full beneficial use of water under the terms of Permit #G-11687 was due to the permit holder being unaware that one of the conditions of the permit was not being satisfied, as described in Finding #9-a below.

Compliance with Conditions

9. The water right permit holder's conformance with the permit or previous extension conditions.
 - a. The record does raise concerns about the permit holder's compliance with conditions. Specifically, Permit #G-11687 requires a static water level measurement to be obtained from the well each year during the month of April and then submitted to the Department within 30 days of the measurement.

As of October 1, 1996, the permit holder failed to comply with this condition. Failure to comply with permit conditions constitutes illegal use of water. Beneficial use of water under this permit, therefore, has not yet been demonstrated. In order to legally perfect the beneficial use of water under this permit, the permit holder must demonstrate that all conditions of the permit have been satisfied and subsequently accomplish full beneficial use of the water within valid development time frames under the permit.

- b. Since October 1, 1996, the permit holder obtained and submitted static water level measurement data to the Department, only about half of which were obtained during the month of April as required by Permit #G-11687. Upon examination of the submitted static water level measurement data, the Department has determined that the reference level for ground water level declines under Permit #G-11687 shall be established at 51.5 feet below land surface.

Financial Investments

10. Financial investments made toward developing the beneficial water use.
 - a. As of May 25, 2005, the permit holder had invested approximately 100 percent of the total projected cost for complete development of this project. A total of \$120,000 has been invested into the project, consisting of complete construction of the well, installation of a meter and complete construction of the irrigation system. No additional investment is anticipated for the completion of this project.

The Market and Present Demands for Water [OAR 690-315-0040(4)]

In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

11. The amount of water available to satisfy other affected water rights and scenic waterway flows.
 - a. The Department determined on January 3, 1994, that this use of ground water will not have the potential for substantial interference with the nearest surface water source. Because of this determination, this application does not raise concerns about surface water impact. Conditions were, however, placed upon Permit #G-11687 in order to avoid injury to existing rights or to the ground water resource.
 - b. The permitted point of appropriation (the well), authorized under Permit #G-11687, is not located within the boundaries of any designated ground water limited area.
 - c. The permitted point of appropriation, authorized under Permit #G-11687, is not located within or above the designated boundaries of any state scenic waterway.

12. Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d).
 - a. The permitted point of appropriation, authorized under Permit #G-11687, is located within an area of the Mollalla Basin which has been identified by the Oregon Department of Fish and Wildlife as a "moderate" needs ranking area for streamflow restoration for fish. Additionally, portions of the Mollalla River have been designated by the Oregon Department of Environmental Quality as a water quality limited stream. The Department determined on January 3, 1994, however, that this use of groundwater will not have the potential for substantial interference with the nearest surface water source. Because of this determination, this application does not raise concerns about surface water impacts.

- b. The permitted point of appropriation, authorized under Permit #G-11687, is not located within a designated reach of any federal wild and scenic river.
13. The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife.
- a. The permitted well is located within a designated sensitive, threatened or endangered species area for aquatic species utilizing surface water resources, as identified by the Oregon Department of Fish and Wildlife. The Department determined on June 3, 1994, however, that this use of groundwater will not have the potential for substantial interference with the nearest surface water source. Because of this determination, this application does not raise concerns about surface water impacts.
14. Economic investment in the project to date.
- a. As of May 25, 2005, the permit holder had invested approximately 100 percent of the total cost for complete development of this project. A total of \$120,000 has been invested into the project, consisting of complete construction of the well, installation of a meter and complete construction of the irrigation system. No additional investment is anticipated for the completion of this project.
15. Other economic interests dependent on completion of the project.
- a. None have been identified.
16. Other factors relevant to the determination of the market and present demand for water and power.
- a. None have been identified.

Fair Return Upon Investment [OAR 690-315-0040(2)(f)]

17. Use and income from the permitted water development results in reasonable returns upon the investment made to date.

Duration of Extension [OAR 690-315-0040(1)(c)]

As set forth under OAR 690-315-0040(1)(c), time extensions granted shall be for the reasonable time period necessary to complete construction and application of water to beneficial use.

18. As of May 25, 2005, the remaining work to be completed consists of compliance with permit conditions and subsequent legal beneficial use of water within valid development time frames of the permit.
19. Unforeseen events extended the length of time needed to fully develop and perfect the permit, caused mainly by the permit holder being unaware that certain conditions of the permit were not being satisfied, as described in Finding #9-a above.
20. Given the amount of development left to occur as of October 1, 1996, the Department has determined that the permittee's request to have until October 1, 2001, to demonstrate compliance with conditions and accomplish the application of water to beneficial use under the terms of Permit #G-11687 is both reasonable and necessary.

CONCLUSIONS OF LAW

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.630.
2. The applicant has submitted a complete extension application form and the fee specified under ORS 536.050(1)(k), as required by OAR 690-315-0040(1)(a).
3. The applicant demonstrated that actual construction on the project began within the time specified in the permit, as required by OAR 690-315-0040(1)(b).
4. Full application of water to beneficial use can be accomplished by October 1, 2001⁵, as required by OAR 690-315-0040(1)(c).

⁵ Pursuant to ORS 537.630(4), upon the completion of beneficial use of water allowed under the permit, the permittee shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permittee shall submit a map of the survey and the claim of beneficial use.

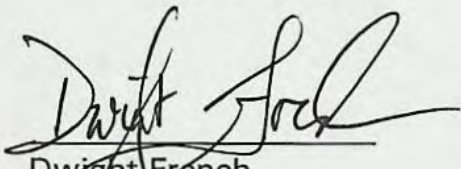
5. The Department has considered the requirements of other governmental agencies, the financial investment made, the reasonable diligence and good faith of the appropriator, the market and present demands for water and the fair return upon the investment, and has determined that the applicant has shown good cause exists for an extension to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

Proposed Order

Based upon the foregoing findings of fact and conclusions of law, the Department proposes to issue an order to:

Extend the time for complete application of water to beneficial use under Permit #G-11687 from October 1, 1996, to October 1, 2001.

DATED: August 30, 2005



Dwight French
Administrator
Water Rights & Adjudications Division

*If you have any questions,
please check the information
box on the last page for the
appropriate names and
phone numbers.*

Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may request a contested case hearing on the proposed final order. Your request for contested case hearing must be in writing and must be received by the Water Resources Department no later than **Friday, October 14, 2005**, being 45 days from the date of publication of the proposed final order in the Department's weekly public notice.
2. A written request for contested case hearing shall include:
 - a. The name, address and telephone number of the petitioner;
 - b. A description of the petitioner's interest in the final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;

- c. A detailed description of how the action proposed in the final order would adversely affect or aggrieve the petitioner's interest;
 - d. A detailed description of how the final order is in error or deficient and how to correct the alleged error or deficiency;
 - e. Any citation of legal authority supporting the petitioner, if known;
 - f. Proof of service of the petition upon the water right permit holder, if petitioner is other than the water right permit holder; and
 - g. The protest fee required under ORS 536.050.
3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:
- a. Issue a final order on the extension request; or
 - b. Schedule a contested case hearing if a request for contested case hearing has been submitted, and:
 - 1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or
 - 2) The applicant submitted a timely request for a contested case hearing.

If you have any questions about statements contained in this document, please contact Lisa Juul at (503)986-0808.

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Mike Reynolds. His telephone number is (503)986-0820.

If you have other questions about the Department, or any of its programs, please contact our Water Resources Customer Service Group at (503)986-0801.

Address any correspondence to:

**Water Rights Section
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271
Fax #: (503)986-0901**

X-Security: MIME headers sanitized on kettle.wrd.state.or.us
See <http://www.impsec.org/email-tools/sanitizer-intro.html>
for details. \$Revision: 1.139 \$Date: 2003-09-07 10:14:23-07
Subject: Simnitt: Permit G-11687
Date: Thu, 11 May 2006 13:56:20 -0700
X-MS-Has-Attach:
X-MS-TNEF-Correlator:
Thread-Topic: Simnitt: Permit G-11687
Thread-Index: AcZ1NsXyDeg2k+1ASO6n35SnBd3PMgABUPJwAABBrvA=
From: "Cortney Duke" <cortney@water-law.com>
To: CLARK Gerald E <Gerald.E.CLARK@state.or.us>
X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on
kettle.wrd.state.or.us
X-Spam-Status: No, hits=-4.7 required=5.0 tests=BAYES_00,
HTML_FONTCOLOR_UNKNOWN,HTML_MESSAGE autolearn=no version=2.63
X-Spam-Level:

-->

Mr. Clark-

As I understood our phone conversation of yesterday, May 10, you indicated that the Department wants a more conclusive statement from Jerry and Janice Simnitt to cancel the portion of Permit G-11687 that they have not submitted to certificate (Tax Lot 600).

After legal review we cannot advise our clients to declare the cancellation of the permitted acres associated with Tax Lot 600. Simnits neither own nor lease the property in question. It is our opinion that such a statement from Simnits might be actionable as slander of title by the owners of the lands permitted the water use. Absent an assignment of the permitted use from the land owners to the Simnits, it is our opinion that the proper way for OWRD to cancel the permitted use in question would be to contact the landowners holding the permitted use.

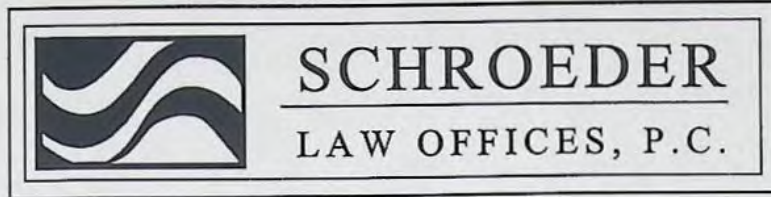
With this clarification, our clients look forward to receiving the parcel certificate as requested.

Thank you,

Cortney

Laura A. Schroeder
Licensed in Oregon, Idaho,
Nevada and Washington

V. Scott Borison, Ph.D.
Firm Administrator



Lynn L. Steyaert
Licensed in
Oregon and Nevada

Cortney D. Duke
Licensed in Oregon

April 10, 2006

VIA FACSIMILE AND U.S. MAIL

Gerry Clark
Oregon Water Resources Department
725 Summer Street, N.E. Suite A
Salem, OR 97301-4172

RE: TL 600 Property Owners, Permit G-11982

Dear Mr. Clark:

This letter is in response to your letter to Mr. Jerome Simnitt dated March 14, 2006 and our telephone conversation of Thursday April 6th. By the March letter you requested the identity of any property described in the permit that is not included in the request for a certificate. The names and addresses of the property owners of tax lot 600, which are not included in the request for the certificate, are attached hereto.

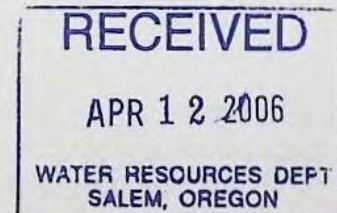
As indicated on the final proof survey submitted to Oregon Water Resources on September 6, 1996, no perfection has occurred on that portion of Permit G-11982 appurtenant to tax lot 600. At this time, the Simnits' ask that the request for certification of Permit G-11982 be amended to exclude the portion of Permit G-11982 appurtenant to tax lot 600.

Thank you for your assistance in this matter. Please contact me at the number below if you have any questions or concerns.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.

Cortney D. Duke
Laura A. Schroeder



LAS:cdd
Enclosures

cc: Clients

phone 503-281-4100

fax 503-281-4600

1915 NE 39th Avenue, P.O. Box 12527, Portland, Oregon 97212-0527
www.water-law.com

Gerry Clark
Oregon Water Resources Department
April 10, 2006
Page 2 of 2

J. Shawn & Janet M. Fitzgerald
533 NE 21st Ave.
Canby, Or 97013

Chris F. & Terri L. Gesik
555 NE 21st Ave
Canby, Or. 97013

Harry D. & Ruth A. Irons
577 NE 21st Ave
Canby, Or 97013

Gregory & Harumi Marshall
675 NE 21st Ave
Canby, OR 97013

Paul K. Ashton
635 NE 21st Ave
Canby, OR 97013

Enrique & Cherly Mendez
655 NE 21st Ave
Canby, OR 97013

Tony & Charlene Pizzuti
2121 N. Maple St
Canby, OR 97013

James L. & Deborah L.
Scharmota
615 NE 21st Ave
Canby, OR 97013

RECEIVED

APR 12 2006

RESOURCES DEPT
ALEM, OREGON

1/4, 1/4 SEC. LINE

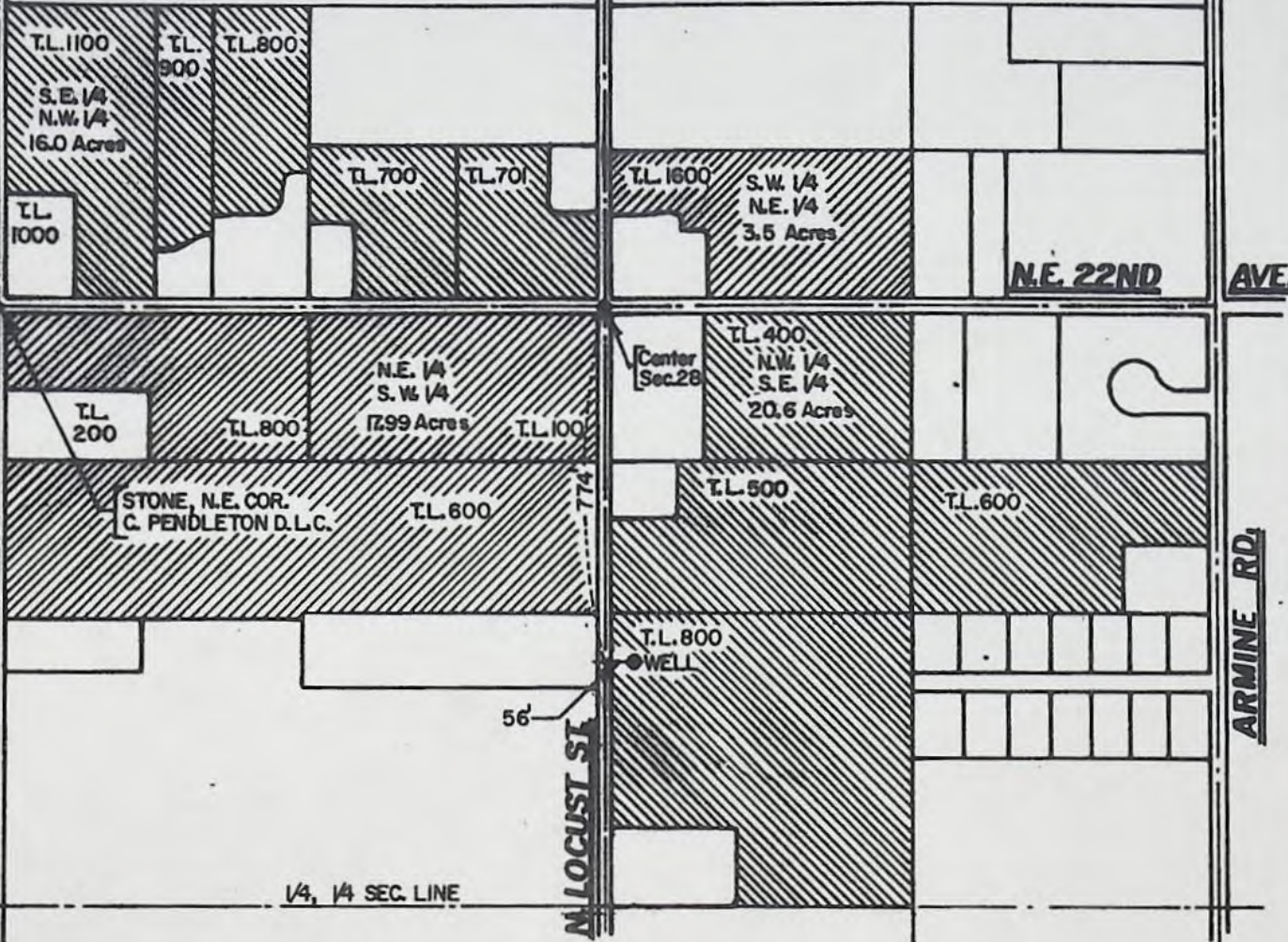
1/4, 1/4 SEC. LINE

1/4, 1/4 SEC. LINE

1/4, 1/4 SEC. LINE

T.3S, R.1E, W.M.

SECTION 28



SCALE
1" = 400'

NOTE:

PREPARATION OF THIS MAP IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHT ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATION OF PROPERTY OWNERSHIP LINES.

LEGEND

 IRRIGATED LAND
NURSERY STOCK
TRIPLE DUTY

APPLICATION SURVEY

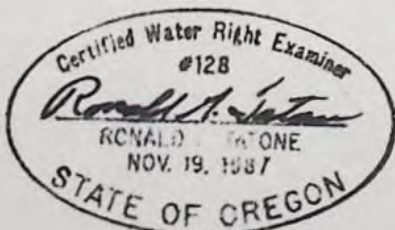
IN NAME OF

SIMNITT NURSERY

C/O JEROME AND JANICE SIMNITT

Application No. G-11982

Permit No. G11687





ZAROSINSKI - TATONE
ENGINEERS, INC.
2727 S.E. 5TH AVENUE, PORTLAND, OREGON 97202
PHONE (503) 233-0700

June 7, 1995

FILE#: G 11687

SIMNITT NURSERY; SIMNITT, JEROME AND
138 NE 22ND AVE
CANBY, OR 97013

Dear Permit Holder:

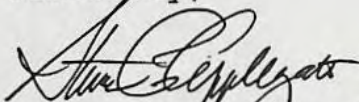
Within the last two years you were issued a permit to appropriate groundwater from this office. As a condition of the permit, you are to obtain a static water level measurement and submit the measurement to this office on a prescribed basis.

The permit condition failed to include licensed well constructors or pump installers licensed by the Construction Contractors Board as authorized individuals to make these measurements. This letter is to clarify that these additional parties are authorized to perform the water level measurements.

When your project is completed and the claim of beneficial use is submitted, the condition will be corrected when the resulting water right certificate is issued.

Please feel free to contact this office or our field staff if you have any questions in regard to this change in your permit conditions.

Sincerely,



Steven P. Applegate
Acting Administrator
Water Right/Adjudication Division

SPA/dpc
Enc: Permit Condition

cc: File
Region Managers
Watermasters

x:\exchange\castle\gw2.ltr



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

Permit condition describing licensed well constructor or pump installer licensed by the Construction Contractors Board as authorized agents of the permittee:

The permittee shall obtain a static water-level measurement for each well during March of each year and report the measurement to the Department within thirty days. The measurement shall be made by a certified water-rights examiner, registered professional geologist, certified engineering geologist, professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board.

RECNO	PERMIT
1	G 11984
2	G 11982
3	G 12069
4	G 12149
5	G 12217
6	G 12218
7	G 12222
8	G 12250
9	G 12273
10	G 12381
11	G 12407
12	G 12576
13	G 12794
14	G 12799
15	G 12800
16	G 12813
17	G 12829
18	G 12855
19	G 12858
20	G 12878
21	G 12913
22	G 12916
23	G 12921
24	G 12941
25	G 12945
26	G 12974
27	G 12975
28	G 12998
29	G 12999
30	G 13000
31	G 13090
32	G 13108
33	G 13142
34	G 13194
35	G 13196
36	G 13269
37	G 13271
38	G 13318
39	G 13330
40	G 13356
41	G 13388
42	G 13404
43	G 13406
44	G 13409
45	G 13412
46	G 13421
47	G 13429
48	G 13458
49	G 13506
50	G 13528
51	G 13529
52	G 13538
53	G 13555
54	G 13573

App for
 Application
 # not permit
 - add permit's names
 " stream basin / trib. info

DRAFT

June 7, 1995

Tom Schneider, President
Oregon Groundwater Association
21881 River Road, NE
St. Paul, OR 17137

WATER
RESOURCES
DEPARTMENT

Re: Static Water Measurements
Well Constructors and Pump Installers

Dear Mr. Schneider:

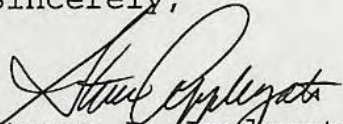
This letter is to address your group's concern regarding the Department's static water level measurement requirements on permits issued by this office.

Groundwater permits issued in 1994 and 1995 have contained conditions requiring measuring static water levels. A number (54) of these permits excluded licensed pump installers and well constructors as individuals authorized to perform the measurements.

Staff have been instructed to include licensed pump installers and well constructors as individuals authorized to perform the measurements on future permits. I am enclosing a copy of our standard static water level measurement condition for your information.

In addition, I am enclosing a list of the applications that have received permits with the wrong condition language. These permit holders and Department field staff have now been notified that licensed pump installers and well constructors are eligible to complete and submit the measurements even though this is not specifically authorized by their permit condition.

Sincerely,


Steven P. Applegate
Acting Administrator
Water Right/Adjudication Division

SPA/dpc
Enc: Listing of Permits
Permit Condition
Letter to Permittees (generic)

cc: Martha Pagel, Director, OWRD

x:\exchange\castle\gw1.ltr



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

RECEIVED

NOV 22 2005

WATER RESOURCES DEPT
SALEM, OREGON

WATER RESOURCES DEPARTMENT
REIMBURSEMENT AUTHORITY ESTIMATE APPLICATION

House Bill 2551 (2003 Oregon Laws) authorizes the Oregon Water Resources Department to expedite or enhance regulatory processes voluntarily requested under the agreement. The voluntary agreement can be entered into with any person requesting services and agreeing to pay the Department's costs of providing the service.

The Department has established a pool of qualified contractors to perform expedited services for water right transfers, water right permits extensions, and water right certificates.

The purpose of this application is to obtain an estimate from the next qualified contractor in the appropriate pool. There is a non-refundable application fee of \$125.00 per request. The contractor will provide an estimate of the cost and of the time required to process and develop a recommendation on the request of a: (check one):

REQUEST	TYPE	FILE NUMBER
<input type="checkbox"/>	Transfer Application	
<input checked="" type="checkbox"/>	Certificate Request	App G-11982 permit # G-11687
<input type="checkbox"/>	Extension of Time Request	

Applicant Information		Applicant's Representative/Contact
Name: (Please Print)	Simnitt Nursery	Jerry
Address:	138 NE 22 nd Ave Canby OR 97013	Same
Phone:	503-266-9640	
Fax	503-263-6830	
E-Mail Address:	simnittnsy@canby.com	

I understand the following:

- There is a non-refundable application fee of \$125.00 per request.
- That upon receipt of my non-refundable application fee in the amount of \$ 125.00, OWRD will assign my request to the next contractor in the pool of contractors performing expedited services.
- That this fee covers the copying, the mailing cost, as well as the cost for the contractor to evaluate and provide the estimate for processing of the request.
- That OWRD will provide all pertinent information to the assigned contractor within three (3) business days.
- That OWRD will, within fourteen (14) days, notify me in writing of the estimates of costs and time frame for the expedited service.
- That upon receiving the estimates I may agree or decline to enter into a formal contract to pay the estimated cost in advance to initiate the expedited service.
- An incomplete or inaccurate application may delay the process and increase the cost to process my request.
- Expedited processing does not guarantee a favorable review of my request.
- Send completed Application and payment to: **OWRD - Reimbursement Authority Program**
725 Summer St. NE, Suite A
Salem, OR 97301-1271.

I certify that I am the (check one) Applicant Applicant's Representative Other (Please specify) _____

Signature: Jesome Simnitt

Name: Jesome Simnitt

OWRD USE ONLY

Contractor Assigned:	<u>PBS</u>	Total Amount Paid: \$	
OWRD Approval:			

47 pages
11/25/2005
CW.

Final Order
Extension of Time for Permit Number G-11687

Appeal Rights

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or 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.

Application History

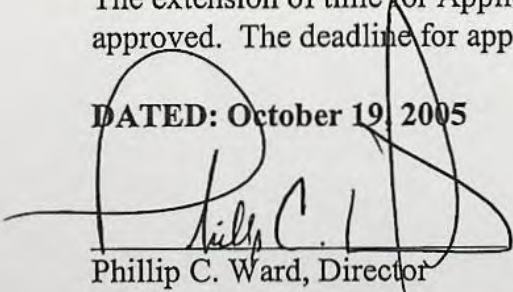
On MAY 25, 2005, SIMNITT NURSERY; c/o JEROME and JANICE SIMNITT submitted an application to the Department for an extension of time for permit number G-11687. The Department issued permit number G-11687 on APRIL 15, 1994. The permit called for completion of construction by OCTOBER 1, 1995, and complete application of water to beneficial use by OCTOBER 1, 1996. In accordance with OAR 690-315-0050(2), on AUGUST 30, 2005, the Department issued a Proposed Final Order proposing to extend the time to fully apply water to beneficial use to OCTOBER 1, 2001. The protest period closed OCTOBER 14, 2005, in accordance with OAR 690-315-0060(1). No protest was filed.

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.630, 539.010(5) and OAR 690-315-0040(2).

Order

The extension of time for Application Number G-11982, Permit Number G-11687, therefore, is approved. The deadline for applying water to full beneficial use is extended to OCTOBER 1, 2001.

DATED: October 19, 2005


Phillip C. Ward, Director

If you have any questions about statements contained in this document, please contact Lisa Jaramillo at (503) 986-0808.

If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900.

