

**BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON**

In the Matter of Transfer Application            )  
T-9188, Jefferson County, Oregon            )

FINAL ORDER

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

Columbia Empire Farms Inc. (R-2 Ranch)  
31461 NE Bell Rd  
Sherwood OR 97140

**Agent**

Martha O. Pagel  
Schwabe, Williamson, & Wyatt P.C.  
1211 SW 5<sup>th</sup> Ave Suite 1700  
Portland OR 97204

**Findings of Fact**

1. Columbia Empire Farms Inc. (R-2 Ranch) filed an application to add points of diversion and change the place of use under Certificates 2227, 2231, 2257, and 50908. The Department assigned the application number T-9188.
2. Transfer 6851 cancelled Certificates 2227, 2231, 2257, and 50908; confirming Certificates 79645, 79646, 79647, and 79648 describe the rights to be transferred via T-9188.
3. The portion of the first right to be transferred is as follows:

**Certificate:** 79645 in the name of Columbia Empire Farms Inc. (R-2 Ranch)  
**Use:** Irrigation  
**Priority Date:** 1880  
**Rate/Duty:** Limited to the amount used beneficially, not to exceed 1.5 acre-feet per acre during any 30-day period or 6 acre-feet per acre during any irrigation season  
**Acres:** 9.92  
**Source:** Trout Creek, tributary to Deschutes River

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in an uncontested 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 137-004-080 and OAR 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order.

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼	Location
9	S	15	E	W.M.	3	SW NW	2622' S & 399' E of the NW corner, Sec 3 (Johnson Gallery)

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼	Acres
9	S	15	E	W.M.	4	NE NE	9.92

4. Application T-9188 proposes to add two additional points of diversion in Trout Creek:

Township		Range		Meridian	Sec	¼ ¼	Location
9	S	15	E	W.M.	4	SE SE	1280' N & 580' W of the SE corner, Sec 4 (Rhode Gallery)
9	S	15	E	W.M.	9	SE NW	1931' S & 1975' E of the NW corner, Sec 9 (Clarabelle Gallery)

5. Application T-9188 proposes to change the place of use to:

Township		Range		Meridian	Sec	¼ ¼	Acres
9	S	15	E	W.M.	10	NE SE	8.62
9	S	15	E	W.M.	10	NW SE	1.30

6. The portion of the second right to be transferred is as follows:

**Certificate:** 79646 in the name of Columbia Empire Farms Inc. (R-2 Ranch)  
**Use:** Irrigation  
**Priority Date:** 1885  
**Rate/Duty:** Limited to the amount used beneficially, not to exceed 1.5 acre-feet per acre during any 30-day period or 6 acre-feet per acre during any irrigation season  
**Acres:** 12.70  
**Source:** Trout Creek, tributary to Deschutes River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼	Location
9	S	15	E	W.M.	3	NE NW	42' S & 2232' E of the NW corner, Sec 3 (Diversion Pt. #2)

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼	Acres
9	S	15	E	W.M.	3	NW NW	0.30
9	S	15	E	W.M.	3	SW NW	9.50
9	S	15	E	W.M.	4	SE NE	1.70
9	S	15	E	W.M.	4	NE SE	1.20

7. Application T-9188 proposes to move the authorized point of diversion and add two additional points of diversion approximately one mile downstream in Trout Creek:

Township		Range		Meridian	Sec	¼ ¼	Location
9	S	15	E	W.M.	3	SW NW	2622' S & 399' E of the NW corner, Sec 3 (Johnson Gallery)
9	S	15	E	W.M.	4	SE SE	1280' N & 580' W of the SE corner, Sec 4 (Rhode Gallery)
9	S	15	E	W.M.	9	SE NW	1931' S & 1975' E of the NW corner, Sec 9 (Clarabelle Gallery)

8. Application T-9188 proposes to change the place of use to:

Township		Range		Meridian	Sec	¼ ¼	Acres
9	S	15	E	W.M.	10	SW NE	1.67
9	S	15	E	W.M.	10	SE NE	11.03

9. The portion of the third right to be transferred is as follows:

**Certificate:** 79646 in the name of Columbia Empire Farms Inc. (R-2 Ranch)

**Use:** Irrigation

**Priority Date:** 1886

**Rate/Duty:** Limited to the amount used beneficially, not to exceed 1.5 acre-feet per acre during any 30-day period or 6 acre-feet per acre during any irrigation season

**Acres:** 15.65

**Source:** Trout Creek, tributary to Deschutes River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼	Location
9	S	15	E	W.M.	3	SW NW	2622' S & 399' E of the NW corner, Sec 3 (Johnson Gallery)

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼	Acres
9	S	15	E	W.M.	4	NE NE	9.21
9	S	15	E	W.M.	4	NW NE	0.40
9	S	15	E	W.M.	4	SW NE	1.18
9	S	15	E	W.M.	4	SE NE	4.86

10. Application T-9188 proposes to add two points of diversion approximately one mile downstream in Trout Creek:

Township		Range		Meridian	Sec	¼ ¼	Location
9	S	15	E	W.M.	4	SE SE	1280' N & 580' W of the SE corner, Sec 4 (Rhode Gallery)
9	S	15	E	W.M.	9	SE NW	1931' S & 1975' E of the NW corner, Sec 9 (Clarabelle Gallery)

11. Application T-9188 proposes to change the place of use to:

Township		Range		Meridian	Sec	¼ ¼		Acres
9	S	15	E	W.M.	10	SW	NE	0.42
9	S	15	E	W.M.	10	SE	NE	3.02
9	S	15	E	W.M.	10	NE	SE	10.57
9	S	15	E	W.M.	10	NW	SE	1.64

12. The portion of the fourth right to be transferred is as follows:

**Certificate:** 79647 in the name of Columbia Empire Farms Inc. (R-2 Ranch)  
**Use:** Irrigation  
**Priority Date:** 1880  
**Rate/Duty:** Limited to the amount used beneficially, not to exceed 1.5 acre-feet per acre during any 30-day period or 6 acre-feet per acre during any irrigation season  
**Acres:** 5.35  
**Source:** Trout Creek, tributary to Deschutes River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼		Location
9	S	15	E	W.M.	3	SW	NW	2622' S & 399' E of the NW corner, Sec 3 (Johnson Gallery)

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
9	S	15	E	W.M.	4	NE	NE	5.35

13. Application T-9188 proposes to add two points of diversion approximately one mile downstream in Trout Creek:

Township		Range		Meridian	Sec	¼ ¼		Location
9	S	15	E	W.M.	4	SE	SE	1280' N & 580' W of the SE corner, Sec 4 (Rhode Gallery)
9	S	15	E	W.M.	9	SE	NW	1931' S & 1975' E of the NW corner, Sec 9 (Clarabelle Gallery)

14. Application T-9188 proposes to change the place of use to:

Township		Range		Meridian	Sec	¼ ¼		Acres
9	S	15	E	W.M.	10	NE	SE	4.65
9	S	15	E	W.M.	10	NW	SE	0.70

15. The portion of the fifth right to be transferred is as follows:

**Certificate:** 79648 in the name of Columbia Empire Farms Inc. (R-2 Ranch)  
**Use:** Irrigation  
**Priority Date:** November 12, 1915  
**Quantity:** 0.047 cfs  
**Duty:** 2.5 acre-feet per acre  
**Acres:** 3.82  
**Source:** Trout Creek, tributary to Deschutes River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼		Location
9	S	15	E	W.M.	3	SW	NW	2622' S & 399' E of the NW corner, Sec 3 (Johnson Gallery)

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
9	S	15	E	W.M.	4	SW	NE	1.00
9	S	15	E	W.M.	4	SE	NE	2.82

16. Application T-9188 proposes to add two points of diversion approximately one mile downstream in Trout Creek:

Township		Range		Meridian	Sec	¼ ¼		Location
9	S	15	E	W.M.	4	SE	SE	1280' N & 580' W of the SE corner, Sec 4 (Rhode Gallery)
9	S	15	E	W.M.	9	SE	NW	1931' S & 1975' E of the NW corner, Sec 9 (Clarabelle Gallery)

17. Application T-9188 proposes to change the place of use to:

Township		Range		Meridian	Sec	¼ ¼		Acres
9	S	15	E	W.M.	10	NE	SE	3.32
9	S	15	E	W.M.	10	NW	SE	0.50

18. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

19. Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.

20. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.

21. The proposed change would not result in enlargement of the right.

22. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

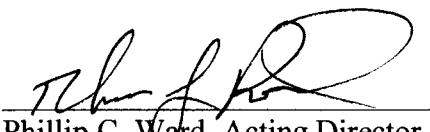
The proposed changes in point of diversion and place of use in application T-9188 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

The changes proposed in T-9188 are approved, subject to the following conditions:

1. The proposed change shall be completed on or before October 1, 2005.
2. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2006.
3. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 79645, 79646, 79647, 79648 and any related decree.
4. Certificates 79645, 79646, 79647, and 79648 are cancelled; Certificates 80672, 80673, 80674, and 80675 shall be issued to describe the remaining rights.
5. The quantity of water diverted at the additional points of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
6. When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

Dated at Salem, Oregon this 12<sup>th</sup> day of July, 2004.

  
Phillip C. Ward, Acting Director

Mailing date: JUL 15 2004