BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING OF
T-12446, Clackamas County)	ADDITIONAL POINTS OF
)	APPROPRIATION

Authority

Oregon Revised Statutes (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

COLUMBIA FRUIT LLC C/O STEVEN PETERSON **2526 DIKE RD** WOODLAND, WA 98674

Findings of Fact

- 1. On July 27, 2016, COLUMBIA FRUIT LLC, C/O STEVEN PETERSON, filed an application for additional points of appropriation under Certificates 91546, 91547, and 91548. The Department assigned the application number T-12446.
- 2. Notice of the application for transfer was published on August 9, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On May 19, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12446 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 19, 2017, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

This final order is subject to judicial review by the Court of Appeals under ORS 183,482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may 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.

- 4. On August 14, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-12446 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on August 22, 2017, and in the Woodburn Independent newspaper on August 23 & 30, 2017 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
- 5. The first right to be transferred is as follows:

Certificate: 91546 in the name of HESSEL BIERMA

(perfected under Permit G-5164)

Use: IRRIGATION of 150.9 ACRES

Priority Date: MAY 25, 1973

Rate: 0.5 CUBIC FOOT PER SECOND

Limit/Duty: 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 2.5 acre-feet per acre for each acre irrigated during the irrigation

season of each year.

Source: A WELL, a tributary to BUTTE CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	19	NW NE	WELL 1 - 570 FEET SOUTH AND 2420 FEET WEST FROM THE NE CORNER OF SECTION 19

Authorized Place of Use:

		IRRIGA	TION		
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	18	SE SW	0.3
5 S	1 E	WM	18	SW SE	19.7
5 S	1 E	WM	18	SE SE	19.0
5 S	1 E	WM	19	NE NE	39.0
5 S	1 E	WM	19	NW NE	32.9
5 S	1 E	WM	20	SW NW	40.0
				TOTAL	150.9

8. Transfer Application T-12446 proposes additional points of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from original well location measured in feet (ft)
5 S	1 E	WM	18	SW SE	WELL 3 - 630 FEET NORTH AND 2460 FEET WEST FROM THE SE CORNER OF SECTION 18	1200
5 S	1 E	WM	18	SE SE	WELL 4 - 630 FEET NORTH AND 1180 FEET WEST FROM THE SE CORNER OF SECTION 18	1700
5 S	1 E	WM	19	NE NE	WELL 2 - 530 FEET SOUTH AND 670 FEET WEST FROM THE NE CORNER OF SECTION 19	1700
5 S	ΙE	WM	19	NW NE	WELL 6 - 60 FEET SOUTH AND 2510 FEET WEST FROM THE NE CORNER OF SECTION 19	1000
5 S	1 E	WM	19	NE NW	WELL 5 - 65 FEET SOUTH AND 3435 FEET WEST FROM THE NE CORNER OF SECTION 19	1200

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

Certificate: 91:

91548 in the name of HESSEL BIERMA

(perfected under Permit G-6711)

Use:

SUPPLEMENTAL IRRIGATION of 170.1 ACRES

Priority Date: MARCH 1, 1976

Rate:

0.54 CUBIC FOOT PER SECOND

Limit/Duty:

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 2.5 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.

Source:

WELL NO. 2, a tributary of ROCK CREEK

Authorized Point of Appropriation:

Тwp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	19	NE NE	WELL 2 - 530 FEET SOUTH AND 670 FEET WEST FROM THE NE CORNER OF SECTION 19

6. Transfer Application T-12446 proposes additional points of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from original well location measured in feet (ft)
5 S	1 E	WM	18	SW SE	WELL 3 - 630 FEET NORTH AND 2460 FEET WEST FROM THE SE CORNER OF SECTION 18	1200 ft
5 S	1 E	WM	18	SE SE	WELL 4 - 630 FEET NORTH AND 1180 FEET WEST FROM THE SE CORNER OF SECTION 18	1700 ft
5 S	1 E	WM	19	NE NE	WELL 2 - 530 FEET SOUTH AND 670 FEET WEST FROM THE NE CORNER OF SECTION 19	1700 ft
5 S	1 E	WM	19	NW NE	WELL 6 - 60 FEET SOUTH AND 2510 FEET WEST FROM THE NE CORNER OF SECTION 19	1000 ft
5 S	1 E	WM	19	NENW	WELL 5 - 65 FEET SOUTH AND 3435 FEET WEST FROM THE NE CORNER OF SECTION 19	1200 ft

7. The second right to be transferred is as follows:

Certificate: 91547 in the name of HESSEL BIERMA

(perfected under Permit G-6083)

Use: IRRIGATION of 19.2 ACRES Priority Date: JANUARY 24, 1975

Rate: 0.24 CUBIC FOOT PER SECOND

Limit/Duty: 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 2.5 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.

Source: A WELL, a tributary to BUTTE CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	19	NW NE	WELL 1 - 570 FEET SOUTH AND 2420 FEET WEST FROM THE NE CORNER OF SECTION 19

Authorized Place of Use:

	J	RRIGA	TION		
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	19	NE NW	19.2

Authorized Place of Use:

	SUPPLEN	/ENTAI	IRRI	GATION	
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	18	SE SW	0.3
5 S	1 E	WM	18	SW SE	19.7
5 S	1 E	WM	18	SE SE	19.0
5 S	ΙE	WM	19	NE NE	39.0
5 S	1 E	WM	19	NWNE	32.9
5 S	1 E	WM	19	NE NW	19.2
5 S	ΙE	WM	20	SW NW	40.0
				TOTAL	170.1

10. Transfer Application T-12446 proposes additional points of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from original well location measured in feet (ft)
5 S	1 E	WM	18	SW SE	WELL 3 - 630 FEET NORTH AND 2460 FEET WEST FROM THE SE CORNER OF SECTION 18	2100
5 S	1 E	WM	18	SE SE	WELL 4 - 630 FEET NORTH AND 1180 FEET WEST FROM THE SE CORNER OF SECTION 18	1200
5 S	1 E	WM	19	NW NE	WELL 1 - 570 FEET SOUTH AND 2420 FEET WEST FROM THE NE CORNER OF SECTION 19	1700
5 S	1 E	WM	19	NW NE	WELL 6 - 60 FEET SOUTH AND 2510 FEET WEST FROM THE NE CORNER OF SECTION 19	1900
5 S	1 E	WM	19	NE NW	WELL 5 - 65 FEET SOUTH AND 3435 FEET WEST FROM THE NE CORNER OF SECTION 19	2800

Transfer Review Criteria (OAR 690-380-4010)

- 11. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- 12. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-12446.
- 13. The proposed changes would not result in enlargement of the rights.
- 14. The proposed changes would not result in injury to other water rights.
- 15. All other application requirements are met.

Conclusions of Law

The additional points of appropriation proposed in Transfer Application T-12446, are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

- 1. The additional points of appropriation proposed in Transfer Application T-12446 are approved.
- 2. 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 91546, 91547, 91548 and any related decree.
- 3. Water right Certificates 91546, 91547, and 91548 are cancelled.
- 4. The quantity of water diverted at the additional points of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
- 5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
- 6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
- 7. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dwight French, Thomas M. Byl		rvices Administrator, for
	Resources Depart	tment
Mailing date:	OCT 1 3 2017	