

STATE OF OREGON

COUNTY OF JEFFERSON

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

COLUMBIA EMPIRE FARMS INC.  
R. B. PAMPLIN JR  
31461 NE BELL ROAD  
SHERWOOD, OREGON 97140

(503) 538-2156

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: R-84331

SOURCE OF WATER: PONY CREEK AND TROUT CREEK, TRIBUTARIES OF DESCHUTES RIVER

STORAGE FACILITY: A RESERVOIR

PURPOSE OR USE OF THE STORED WATER: FISH AND WILDLIFE AND TO BE MAINTAINED UNDER APPLICATION G-15105, PERMIT G-13875, FOR RECREATION

MAXIMUM VOLUME: 250 ACRE-FEET PER YEAR

WATER MAY BE APPROPRIATED FOR STORAGE FROM: FOR THE YEAR 2001 ONLY: THE DATE OF ISSUANCE OF THIS PERMIT THROUGH APRIL 14, 2001; THEREAFTER, FROM JANUARY 1 THROUGH JANUARY 31 AND MARCH 1 THROUGH APRIL 14 OF EACH YEAR.

DATE OF PRIORITY: FEBRUARY 1, 2000

The area submerged by the reservoir, when full, will be 19.4 acres and the maximum depth of water will be 23.0 feet. The maximum height of the dam shall not exceed 30.0 feet.

DAM LOCATION: SW 1/4 NW 1/4, SECTION 10, T9S, R15E, W.M.; 720 FEET NORTH AND 330 FEET EAST FROM THE W 1/4 CORNER SECTION 10

POINT OF DIVERSION LOCATION:

POD 1: Cram Ditch - NW 1/4 NE 1/4 SECTION 2, BEING 430' S & 1868' W OF NE CORNER SECTION 2;

POD 2: Johnson Infiltration Gallery - SW 1/4 NW 1/4 SECTION 3, BEING 2576' S & 353' E OF NW CORNER SECTION 3;

POD 3; Clarabelle Infiltration Gallery - SE 1/4 NW 1/4 SECTION 9, BEING 1945' S & 2068' E OF NW CORNER SECTION 9;

POD 4; Pony Creek Diversion - NW 1/4 NE 1/4 SECTION 10, BEING

1023'S & 2564' W OF NE CORNER SECTION 10; ALL BEING WITHIN TOWNSHIP  
9 SOUTH RANGE 15 EAST, W.M.

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

SW 1/4 NW 1/4

SE 1/4 NW 1/4

SECTION 10

TOWNSHIP 9 SOUTH, RANGE 15 EAST, W.M.

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.

Trout Creek Diversion (POD 1, 2 and 3)

For the first year of use only (storage season of 2001), permittee shall have the option of utilizing any of the points of diversion described below, or any combination of such points of diversion not to exceed the total authorized maximum volume of water. Use of POD 1 for diversion shall require compliance with fish screening and fish passage conditions contained in this permit.

After 2001, permittee shall not utilize POD 1 for diversion of water under this permit. Permittee may continue to utilize POD 2 and/or 3, with existing infiltration galleries. In the event permittee may desire to change the method of diversion from the existing infiltration galleries, permittee shall first obtain written approval of the Water Resources Department, in consultation with the Department of Fish and Wildlife, to ensure the new method of diversion complies with fish screening and/or fish passage conditions of this permit, and permittee shall not be authorized to

revert to the use of push-up dams.

In order to ensure protection of instream uses, permittee shall only divert water under this permit when stream flow in Trout Creek is sufficient to meet the established Instream Water Right, being 25.0 CFS during January, and 73.0 CFS during February, March and April of each year. Compliance with this permit condition shall be demonstrated by Permittee by a schedule of monitoring of the Trout Creek at Clemens Drive near Gateway, Oregon (station number 14095255) stream gaging station once each day during the period of use.

The permittee shall install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screens and by-pass devices are to be in place, functional and approved by an ODFW representative prior to diversion of any water.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish. The applicant is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, Portland, Oregon, before beginning construction of any in-channel obstruction.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area.

The use may be restricted if the quality of the source stream or downstream water decrease to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

The dam shall be constructed, operated, and maintained according to the plans and specifications approved **October 12, 2000** on file with the Water Resources Department. In accordance with such plans, and in order to further ensure against potential adverse impact to fish or aquatic resources, the project shall not be located within the streambed or channel of any waterway and does not result in direct discharge into Trout Creek or any waterway during normal operations.

The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

Routine maintenance of the dam, it's spillway and all appurtenant structures shall be performed as necessary to remove trees, brush and

debris, and to repair slumps, areas of erosion, or defective equipment.

The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program. Any significant change in the approved design prior to or during construction shall be documented by the project engineer in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

No fill shall be placed until excavation of the cutoff trench has been completed in its entirety and approved by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

No water shall be stored until this department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If construction deviates from the approved design, a set of reproducible as built drawings, including a revised reservoir capacity graph/table must accompany the engineer's written certification of completion.

The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structure.

#### CONDITIONS

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

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 the beneficial use of water without waste. The water

user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

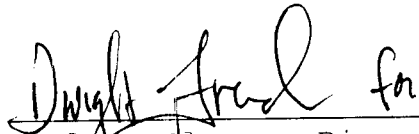
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 2005. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued January 17 , 2001

  
Paul J. Cleary, Director  
Water Resources Department

NOTE: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

Application R-84331  
Basin 5

Water Resources Department  
Volume 3 TROUT CR

PERMIT R-12964  
District 11

AMH