

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

In the Matter of Transfer Application            )  
T-9087, Yamhill County                            )  
  )  
  )    **PRELIMINARY DETERMINATION  
  )    PROPOSING APPROVAL OF A  
  )    CHANGE IN CHARACTER OF USE**

**Authority**

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**

LeCep II  
C/O Floyd Aylor, Columbia Empire Farms  
31461 NE Bell Road  
Sherwood, Oregon 97140

**Findings of Fact**

***Background***

1. On April 9, 2002, Columbia Empire Farms, Inc., filed an application to change the use under Certificates 58449 and 58450. The Department assigned the application number T-9087.
2. On August 3, 2007, a letter amending application T-9087 was received from Martha Pagel, attorney for the applicant. The letter removed Certificate 58450 from the application and amended the proposed use for Certificate 58449 from storage for irrigation to storage for multiple purposes, including, but not limited to, irrigation and stock.
3. On October 15, 2007, the application was assigned from Columbia Empire Farms, Inc. to LeCep II, C/O Floyd Aylor, Columbia Empire Farms.
4. The right to be transferred is as follows:  
**Certificate:** 58449 in the name of Lloyd M. Adams (perfected under Permit R-8186)  
**Use:** Storage for irrigation and stock  
**Priority Date:** September 26, 1980  
**Rate:** 1.0 acre foot (af), being 0.7 af for irrigation and 0.3 af for stock  
**Source:** Unnamed stream, tributary to Hawn Creek

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

**Authorized Place of Use:**

STORAGE FOR IRRIGATION AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	DLC
3 S	4 W	WM	35	SE SE	74

5. Application T-9087 proposes to change the character of use to storage for multiple purposes, including, but not limited to irrigation and stock.
6. Notice of the application for transfer was published on April 30, 2002, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On August 8, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-9087 to the applicant. The applicant did not have any comments regarding the draft and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

***Transfer Review Criteria [OAR 690-380-4010(2)]***

8. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
9. A diversion structure sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of application T-9087.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.

**Determination and Proposed Action**

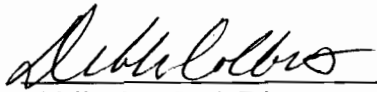
The change in character of use proposed in application T-9087 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

*If application T-9087 is approved, the final order will include the following:*

1. *The change in character of use proposed in application T-9087 is approved.*
2. *Water right certificate 58449 is cancelled.*
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 Certificate 58449 and any related decree.*

4. *The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2009. A Claim of Beneficial Use prepared by a Certified Water Rights 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.*
5. *When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 27<sup>th</sup> day of December 2007.

  
Phillip C. Ward, Director

This Preliminary Determination was prepared by Kelly Starnes. If you have questions about the information in this document, you may reach me at 503-986-0886 or Patrick.K.Starnes@wrdd.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.