

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-86962

Final Order

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.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

Application History

On AUGUST 20, 2007, COLUMBIA EMPIRE FARMS submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on April 29, 2008. The protest period closed June 13, 2008, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest.

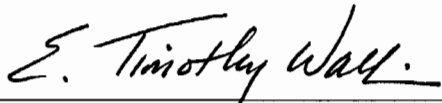
Order

Application R-86962 is therefore approved as proposed by the Proposed Final Order. Upon payment of outstanding fees in the amount of \$293.00, a permit shall be issued authorizing the proposed water use.

Failure to meet this requirement within 60 days from the date of this Final Order may result in the proposed rejection of the application.

If you need to request additional time, your written request should be received in the Salem office of the Department within 60 days of this Final Order. The Department will evaluate the request and determine whether or not the request may be approved.

DATED July 3, 2008



for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Joel Plahn. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0815.

If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

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

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

DRAFT

This is not a permit.
STATE OF OREGON

DRAFT

COUNTY OF JEFFERSON

DRAFT PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

COLUMBIA EMPIRE FARMS
31461 NE BELL RD
SHERWOOD, OR 97140

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

APPLICATION FILE NUMBER: R-86962

SOURCE OF WATER: PONY CREEK, TRIBUTARY TO TROUT CREEK, AND TROUT CREEK, TRIBUTARY TO DESCHUTES RIVER

STORAGE FACILITY: R-2 RANCH LAKE

PURPOSE OR USE OF THE STORED WATER: FISH CULTURE AND WILDLIFE

MAXIMUM VOLUME: 52.4 ACRE FEET EACH YEAR (ENLARGEMENT OF RESERVOIR, CONSTRUCTED UNDER PERMIT R-12964)

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: FEBRUARY 1 THROUGH APRIL 14

DATE OF PRIORITY: AUGUST 20, 2007

The area submerged by the reservoir, when full, will be 23.5 ACRES. The maximum height of the dam shall not exceed 32.0 FEET.

DAM LOCATION: SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 10, T9S, R15E, W.M.; 720 FEET NORTH AND 330 FEET EAST FROM WEST $\frac{1}{4}$ CORNER, SECTION 10

POINT OF DIVERSION LOCATIONS:

PONY CREEK POD - NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 10, T9S, R15E, W.M.;
1023 FEET SOUTH AND 2564 FEET WEST FROM NE CORNER, SECTION
10

POD 1 - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 3, T9S, R15E, W.M.; 2622 FEET
SOUTH AND 299 FEET EAST FROM NW CORNER, SECTION 3

POD 2 - SE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 4, T9S, R15E, W.M.; 1188 FEET
NORTH AND 647 FEET WEST FROM SE CORNER, SECTION 4

POD 3 - SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 9, T9S, R15E, W.M.; 1931 FEET
SOUTH AND 1975 FEET EAST FROM NW CORNER, SECTION 9

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

SW ¼ NW ¼
SE ¼ NW ¼
NE ¼ SW ¼
NW ¼ SW ¼
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 totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion. 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.

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

In order to ensure protection of instream uses, the permittee shall only divert water under this permit when stream flow in Trout Creek exceeds 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 Trout Creek at Clemens Drive near Gateway, Oregon (station number 14095255) stream gaging station once each day during the period of use. If said flows are not met, the water user shall discontinue diversion.

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.

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

Routine maintenance of the dam, 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. All structures shall be maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

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.

The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe, or the provision of other means to evacuate water when determined necessary by the Water Resources Director to satisfy prior downstream rights.

The permittee shall pass all live flow outside the storage season described above.

This permit does not provide for the appropriation of water for out-of-reservoir uses, the maintenance of the water level or maintaining a suitable freshwater condition. If any water is used for out-of-reservoir purposes, or any live flow is appropriated to maintain either the water level or a suitable freshwater condition, a secondary water right is required.

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

STANDARD CONDITIONS

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.

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.

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 in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635, Division 415, Section 030 adopted November 13, 1991 shall be followed.

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

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.

Construction shall be completed, the reservoir shall be filled, and complete application of the water to the use shall be made on or before October 1, 2012. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

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 _____, 2008

DRAFT - THIS IS NOT A PERMIT

for Phillip C. Ward, Director
Water Resources Department