

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING AN
T-12950, Klamath County	)	EMERGENCY USE DROUGHT
	)	TEMPORARY CHANGE IN PLACE
	)	OF USE

**Authority**

Oregon Revised Statute (ORS) 536.750 establishes the process in which a water right holder may submit a request to temporarily transfer the use, place of use or point of diversion of water in the event of a declaration of drought, without complying with the notice and waiting requirements under ORS 540.520. Oregon Administrative Rule (OAR) Chapter 690, Division 019 implements the statutes and provides the Department's procedures and criteria for evaluating drought transfer applications.

**Applicant**

STEPHEN J. AND JAMIE R. TRAYNHAM  
PO BOX 100  
MAXWELL, CA 95955

**Agent**

HOLLIE CANNON  
WATER RIGHT SOLUTIONS, LLC  
3246 HAMMER STREET  
KLAMATH FALLS, OR 97603

**Findings of Fact**

1. On June 14, 2018, Stephen J. And Jamie R. Traynham filed an application to temporarily change the place of use under Claim KA-49 for the remainder of the 2018 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-12950.
2. Notice of the application for transfer was published on June 19, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The agent for the applicant has indicated that a portion of Water Right Certificate 2807 is located on portions of the "From" and "To" lands and will not be exercised during the term of the temporary transfer.

This is a final order in other than a 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 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. The claim to be temporarily transferred is as follows:

**Claim:** KA-49 in the name of KENNETH L. & KAREN TUTTLE (described in Partial Order of Determination, entered March 7, 2013 at Sp. Ord. Vol. 89, Page 71)  
**Use:** IRRIGATION OF 30.8 ACRES INCLUDING INCIDENTAL LIVESTOCK WATERING OF UP TO 759 HEAD  
**Priority Date:** OCTOBER 14, 1864  
**Rate:** 0.6 CUBIC FOOT PER SECOND  
**Limit/Duty:** The rate of use for irrigation may not exceed 1/50<sup>th</sup> of one cubic foot per second per acre irrigated during the irrigation season of each year and shall be further limited to a diversion of not to exceed 4.0 acre-feet per acre per acre irrigated during the irrigation season of each year.  
**Period of Use:** April 1 – October 1  
**Source:** FORT CREEK, tributary to the WOOD RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	7.5 E*	WM	23	NE SW	672 FEET SOUTH AND 509 FEET WEST FROM THE C¼ CORNER OF SECTION 23

\*Note: Claim KA-49 contains a scrivener's error in the location of the authorized point of diversion which has been changed (from Range 7) to reflect the correct location for the point of diversion.

**Authorized Place of Use:**

IRRIGATION AND INCIDENTAL LIVESTOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
33 S	7.5 E	WM	22	NE SE	10.0
33 S	7.5 E	WM	23	NW SW	12.5
33 S	7.5 E	WM	23	SW SW	8.3
Total					30.8

5. Temporary Drought Transfer Application T-12950 proposes to temporarily change the place of use of the claim to:

IRRIGATION AND INCIDENTAL LIVESTOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
33 S	7.5 E	WM	22	SW SE	13.0
33 S	7.5 E	WM	27	NW NE	17.8
Total					30.8

### ***Temporary Drought Transfer Review Criteria***

6. An open ditch diversion system sufficient to use the full amount of water allowed under the existing claim is present.
7. The Governor issued an executive order on March 13, 2018, declaring a state of drought emergency in Klamath County due to drought and extreme weather conditions, which is still in effect and the water right proposed for transfer is on lands included in the area covered by the drought order.
8. The proposed change would not result in enlargement of the claim.
9. The proposed change would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under OAR 690-019-055(3) if injury to existing water rights is shown and cannot be mitigated to the satisfaction of the Director and injured parties.

### **Conclusions of Law**


The temporary change in place of use proposed in Temporary Drought Transfer Application T-12950 is consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

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

1. The temporary change in place of use proposed in Temporary Drought Transfer Application T-12950 is approved.
2. The former place of use ("From lands") **shall not** be irrigated during the remainder of the 2018 irrigation season or until the end of the Governor's declared drought, whichever occurs first.
3. The water user shall not use water under portions of Certificate 2807 on the authorized place of use described in Finding of Fact No. 4 or at the proposed place of use as described in Finding of Fact No. 5 during the 2018 irrigation season.
4. The approval of this temporary drought transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
5. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Claim KA-49. The use shall revert to the authorized place of use at the end of the 2018 irrigation season.

6. The proposed change in place of use shall revert to the authorized place of use at the end of the 2018 irrigation season or the end of the Governor's declared drought, whichever occurs first.

Dated at Salem, Oregon this           AUG 23 2018          ,

  
\_\_\_\_\_  
Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

Mailing Date:           AUG 23 2018