

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11522, Polk County)	TEMPORARY CHANGE IN PLACE OF
)	USE

Authority

ORS 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of diversion 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

BOB MCKEE
24903 SW PERRYDALE RD
AMITY, OR 97101

Findings of Fact

1. On January 11, 2013, BOB MCKEE filed an application to temporarily change the place of use under Certificates 24172, 24173, and Permit S-54144 for a period of one year. The Department assigned the application number T-11522.

2. The portion of the first right to be temporarily transferred is as follows:

Certificate:	24172 in the name of JOE J. DAUENHAUER (perfected under Permit S-22232)
Use:	IRRIGATION OF 27.0 ACRES
Priority Date:	APRIL 6, 1953
Rate:	0.225 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 from direct flow and storage from reservoir constructed under Permit No. R-1390.

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.

Sources: SALT CREEK AND RESERVOIR CONSTRUCTED UNDER PERMIT R-1390, within the SOUTH YAMHILL RIVER BASIN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot
6 S	5 W	WM	12	NW NW	3

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	5 W	WM	1	SE SW	2	1.0
6 S	5 W	WM	12	NE NW		26.0
Total						27.0

3. Temporary Transfer Application T-11522 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	5 W	WM	1	SW SW	67	18.8
6 S	5 W	WM	1	SE SW	67	5.1
6 S	5 W	WM	12	NW NW	67	3.1
Total						27.0

4. The portion of the second right to be temporarily transferred is as follows:

Certificate: 24173 in the name of JOE J. DAUENHAUER (perfected under Permit S-21570)

Use: IRRIGATION OF 19.9 ACRES

Priority Date: AUGUST 16, 1949

Rate: 0.241 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 from direct flow 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 from direct flow and storage from reservoir constructed under Permit No. R-1390.

Source: SALT CREEK AND RESERVOIR CONSTRUCTED UNDER APPLICATION NO. R-24013, PERMIT NO. R-1390, tributaries of the SOUTH YAMHILL RIVER.

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot
6 S	5 W	WM	12	NW NW	3

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	5 W	WM	12	NW NW	3	19.9

5. Temporary Transfer Application T-11522 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	5 W	WM	1	SW SW	67	19.9

6. The portion of the permit to be temporarily transferred is as follows:

Certificate: S-54144 in the name of BOB MCKEE (perfected under Permit S-54144)

Use: SUPPLEMENTAL IRRIGATION ON 46.9 ACRES

Priority Date: AUGUST 10, 2004

Rate: 7.87 ACRE FEET

Limit/Duty: The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

Period of Use: APRIL 1 THROUGH SEPTEMBER 30

Source: MCKEE RESERVOIR, CONSTRUCTED UNDER PERMIT R-14088, a tributary of SALT CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
6 S	5 W	WM	12	NW NW	3	535 FEET SOUTH AND 185 FEET EAST FROM THE NW CORNER OF SECTION 12

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	5 W	WM	1	SE SW	2	1.0
6 S	5 W	WM	12	NE NW		26.0
6 S	5 W	WM	12	NW NW	3	19.9
Total						46.9

7. Temporary Transfer Application T-11522 proposes to temporarily change the place of use of the permit to:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	5 W	WM	1	SW SW	67	19.9
6 S	5 W	WM	1	SW SW	67	18.8
6 S	5 W	WM	1	SE SW	67	5.1
6 S	5 W	WM	12	NW NW	67	3.1
Total						46.9

8. Notice of the application for transfer was published on January 22, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

Temporary Transfer Review Criteria

9. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
11. The proposed change would not result in enlargement of the rights.
12. 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 ORS 540.523(5) if the Department later finds that the transfer is causing injury to any existing water right.

Conclusions of Law


The temporary change in place of use proposed in Temporary Transfer Application T-11522 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary change in place of use proposed in Temporary Transfer Application T-11522 is approved.
2. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
3. The former place of use **shall not** be irrigated as part of these water rights during the 2013 irrigation season.
4. The use shall revert to the authorized place of use at the end of the 2013 irrigation season.
5. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.

6. A subsequent application for permanent transfer of Certificate 24172, 24173, and Permit S-54144 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
7. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 24172, 24173, and Permit S-54144.
8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
9. The use of the remaining water rights described by Certificates 24172, 24173 and Permit S-54144 shall continue to be in accordance with the terms and conditions of Certificates 24172, 24173 and Permit S-54144.

Dated at Salem, Oregon this 21 day of February, 2013.



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing Date: FEB 28 2013