

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

In the Matter of Transfer Application        )  
T-13137, Klamath County                    )  
  )  
  )        FINAL ORDER APPROVING A  
  )        TEMPORARY CHANGE IN PLACE OF  
  )        USE OF A DETERMINED CLAIM IN  
  )        THE UPPER KLAMATH BASIN

**Authority**

Oregon Revised Statute (ORS) 539.170 establishes 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.

**Applicant**

STEPHEN J. TRAYNHAM JR.  
JAMIE R. TRAYNHAM  
P.O. BOX 100  
MAXWELL, CA 95955

**Findings of Fact**

1. On March 1, 2019, STEPHEN J. TRAYNHAM JR. and JAMIE R. TRAYNHAM filed an application to temporarily change the place of use under Water Right Claim KA-49 for a period of 5 years. The Department assigned the application number T-13137.
2. Notice of the application for transfer was published on March 12, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The claim to be temporarily transferred is as follows:

**Claim:** KA-49 in the name of KENNETH L. AND 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

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.

be further limited to a diversion of not to exceed 4.0 acre-feet 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 C1/4 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

- Temporary Transfer Application T-13137 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

- Certificate 2807 is located on the authorized and proposed place of use. The applicants have stated that Certificate 2807 will not be exercised for the duration of temporary transfer T-13137.

**Temporary Transfer Review Criteria**

- Water has been used within the last five years according to the terms and conditions of the claim. There is no evidence available that would demonstrate that the claim is subject to forfeiture under ORS 540.610.
- A diversion structure and ditch sufficient to use the full amount of water allowed under the existing claim are present.
- The proposed change would not result in enlargement of the claim.
- 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-13137 is consistent with the requirements of ORS 539.170.

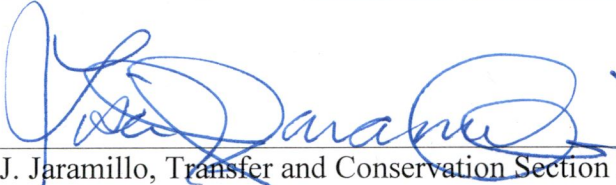
### **Now, therefore, it is ORDERED:**

1. The temporary change in place of use proposed in Temporary Transfer Application T-13137 is approved.
2. The former place of use **shall not** be irrigated as part of this claim during the 2019, 2020, 2021, 2022 and 2023 irrigation seasons.
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. 3 or at the proposed place of use as described in Finding of Fact No. 4 during the 2019, 2020, 2021, 2022 and 2023 irrigation seasons.
4. The use shall revert to the authorized place of use at the end of the 2023 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 Claim KA-49 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 Claim KA-49.
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. 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.

Dated at Salem, Oregon this APR 22 2019,



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Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

Mailing Date: APR 23 2019