

**Oregon Water Resources Department
Water Right Services Division**

Water Right Application S-89363 in the)	FINAL ORDER
name of DAVID AND BETTE MCKIBBEN)	APPROVING THE USE OF
TRUST; DAVID AND BETTE MCKIBBEN)	STORED WATER
TRUSTEES		

Summary: Order approving Application S-89363 and issuing Permit S-55474.

Authority

Oregon Revised Statute (ORS) 537.147 establishes the process by which an application to use stored water exclusively may be submitted. Oregon Administrative Rule (OAR) Chapter 690, Divisions 310 and 340 implement the statute, and provide the Department’s procedures and criteria for evaluating applications to use stored water exclusively. These statutes and rules can be viewed on the following website: www.oregon.gov/OWRD/programs/policylawandrules

The Department’s main page is: www.oregon.gov/OWRD

FINDINGS OF FACT

1. On May 1, 2023, David and Bette McKibben Trust; David and Bette McKibben Trustees submitted an application for a water-use permit pursuant to ORS 537.147.

Source: MOUNT PISGAH RESERVOIR, CONSTRUCTED UNDER PERMIT R-13073,
TRIBUTARY TO MIDDLE FORK ASH CREEK
Use: IRRIGATION OF 283.8 ACRES
Volume: 13.0 ACRE-FEET (AF)
Period of Use: APRIL 1 THROUGH OCTOBER 31
County: POLK COUNTY
Places of Use: SECTIONS 10, 14, AND 15, TOWNSHIP 8 SOUTH, RANGE 5 WEST, W.M.
2. The required examination fees were paid, and the minimum application requirements were met.
3. The Department has determined that the proposed use is an authorized use under the water right permit, certificate, or decree that allows the storage of water.
4. On May 9, 2023, the Department provided public notice of the application in the Department’s weekly public notice. A 30-day comment period followed.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than contested case. This order is subject to judicial review under ORS 536.075 and 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 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.

5. The Department has not received public comments related to the possible issuance of the attached permit. Therefore, the Department has determined that no public interest issues as identified in ORS 537.170(8) have been raised.
6. On March 22, 2024, the Department received forms for voluntary cancellation of Permit S-53746. Permit S-53746 allows for the use of 45.0 acre-feet of water stored in Mount Pisgah Reservoir, constructed under Permit R-13073. Cancellation of Permit S-53756 will result in this 45.0 acre-feet of water being eligible for allocation under Applications S-89361, S-89362 and S-89363. The Department will issue a separate order canceling Permit S-53746 concurrently with issuance of this final order and permit.

CONCLUSIONS OF LAW

1. Application S-89363 is consistent with the requirements of ORS 537.147 and OAR Chapter 690.

ORDER

Application S-89363 is approved and Permit S-55474 is issued as limited by the conditions contained therein.

DATED MAY 3, 2024

Katherine Ratcliffe

Katherine Ratcliffe
Water Rights Section Manager, for
Douglas E. Woodcock, Acting Director
Oregon Water Resources Department

If you have questions about statements contained in this document, please contact Lucinda Vranizan at lucinda.r.vranizan@water.oregon.gov or 971-375-2256.

If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.