



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

**CERTIFIED MAIL
Return Receipt Requested**

March 6, 2009

MCKEE FAMILY LTD PARTNERSHIP
22450 SW MCKEE RD
AMITY, OR 97101

Reference: File S-87159

Dear Applicant:

**THIS IS NOT A PERMIT AND IS
SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.**

This letter is to inform you of the preliminary analysis of your water use permit application and to describe your options. In determining whether a water use permit application may be approved, the Department must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The application proposed the use of 9.19 acre feet (AF) of water from McKee Reservoir, to be constructed under Application R-87158, a tributary to Salt Creek, and 0.1 cubic foot per second (CFS) from runoff, tributary to Salt Creek, tributary to South Yamhill River, for drip irrigation on 110.0 acres and pond maintenance from March 1 through October 31.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from McKee Reservoir, to be constructed under Application R-87158, a tributary to Salt Creek, for irrigation use is allowable March 1 through October 31 under the Willamette Basin Program.

The use of water from runoff, tributary to Salt Creek, for irrigation use is not allowable under the Willamette Basin Program May 1 through October 31.

4. Surface water is not available during the period June 1 through October 31.
5. The irrigation season for the use of live flow will be limited by the Yamhill River Decree which allows the use of water for irrigation from April 1 through September 30. You have requested the season of use to be March 1 through October 31, therefore, if the application is approved for the use of live flow for irrigation, the season allowed will be April 1 through September 30.
6. Stored water in the amount of 9.19 AF is determined to be available for further appropriation from water stored legally, contingent upon the approval of Application R-87158. Although this amount is less than four percent of the standard duty of 2.5 AF per acre (110.0 acres times 2.5 AF/ac = 275 acre feet), you indicated in your application materials that you can make beneficial use of the stored water by using drip irrigation.
7. The standard allowable rate of water necessary for pond maintenance is 0.01 CFS for each acre foot of stored water. Your application requested 0.1 CFS for irrigation on 110.0 acres and for maintenance of a 9.19 AF reservoir. If the application is approved, the rate allowed for pond maintenance will be limited to 0.09 CFS.
8. You are encouraged to contact Yamhill County as you may need to obtain authorization to cross a county road.
9. The Department has determined there are deficiencies with the application. Please refer to the **Additional Information Required** section below for details.

Summary of Initial Determinations

The use of 9.19 AF from McKee Reservoir, tributary to Salt Creek, for irrigation use on 110.0 acres is allowable March 1 through October 31, contingent on approval of application R-87158.

The use of 0.09 CFS from runoff, tributary to Salt Creek, for pond maintenance is allowable from November 1 through May 31.

Because not all items above are favorable, the use 0.1 CFS from runoff, tributary to Salt Creek, for irrigation on 110.0 acres is not allowable, and it appears unlikely that you will be issued a permit for the use of live flow for irrigation use.

Because of the favorable the use of stored water for irrigation and the use of live flow for pond maintenance, the Department can now move your application to the next phase of the water rights application review process. However, due to #3, 4, 5, and 7 above your application will likely be limited accordingly.

Additional Information Required:

Additional information is required to process your application. Please provide the following:

- The Department has determined additional fees are needed to continue processing your application. The Department must receive exam fees in the amount of \$380.00. Please include your application number on your check made out to the Oregon Water Resources Department.

Your exam requirements consist of:

Base fee.....	\$500.00
Up to 1 st CFS.....	\$200.00
One additional use and one additional source.....	\$400.00
Appropriate stored water.....	<u>\$200.00</u>
Total Exam Fee Required.....	\$1300.00
Total Exam Fee Paid.....	\$920.00

Please submit this information no later than Thursday, April 9, 2009. If you are unable to submit the information listed above, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested above or a request for an administrative hold by this date, the Department will likely proceed with a proposed final order recommending denial of the application.

Please reference the application number when sending any correspondence regarding the conclusions of this initial review. Comments received within the comment period will be evaluated at the next phase of the process.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$150 processing charge per application.) To accomplish this you must notify the Department in writing by **Friday, March 20, 2009**. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a proposed final order.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. 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 appropriation. 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.
2. You may be required to install fish screens at one or more points of diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.
 3. Irrigation allowed under a permit shall be by drip irrigation or by an equally efficient method.

This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a proposed final order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

The water source identified in your application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to explore ODA's Water Quality Program web site at http://www.oregon.gov/ODA/NRD/water_agplans.shtml to learn more about the plans and how they may affect your proposed water use.

If you have any questions:

Feel free to call me at 503-986-0816 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Kerry Kavanagh, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kerry Kavanagh
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-87159
WAB 2-73562
POU 2-73562
GW

APPLICATION FACT SHEET

Application File Number: S-87159

Applicant: MCKEE FAMILY LTD PARTNERSHIP

County: Yamhill

Watermaster: 16

Priority Date: April 24, 2008

Source: MCKEE RESERVOIR, A TRIBUTARY OF SALT CREEK; RUNOFF, TRIBUTARY TO SALT CREEK

Use: IRRIGATION USE ON 110.0 ACRES; POND MAINTENANCE

Quantity: 9.19 ACRE FEET AND 0.1 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 11A SALT CR

Point of Diversion Location: SENW, SECTION 32, T5S, R4W, W.M.; 1800 FEET SOUTH AND 1570 FEET EAST FROM NW CORNER, SECTION 32 NW CORNER, SECTION 32

Place of Use:

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 18.1 ACRES IRRIGATION
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 5.4 ACRES IRRIGATION
SECTION 31

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 0.6 ACRE IRRIGATION
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 30.5 ACRES IRRIGATION
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 21.6 ACRES IRRIGATION AND POND MAINTENANCE
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 17.2 ACRES IRRIGATION
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 16.6 ACRES IRRIGATION
SECTION 32
TOWNSHIP 5 SOUTH, RANGE 4 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, March 20, 2009

PUBLIC NOTICE DATE: Tuesday, March 10, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, April 9, 2009

Mailing List for IR Copies

Application #S-87159

IR Date : March 6, 2009

Original mailed to applicant:

MCKEE FAMILY LTD PARTNERSHIP
22450 SW MCKEE RD
AMITY, OR 97101

Copies sent to:

1. WRD - File # S-87159
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent via e-mail to:

3. WRD - Watermaster # 16
4. ODFW: Danette Ehlers
5. DEQ: Nancy Gramlich

IR, Map, and Fact Sheet Copies sent to:

6. Department of Agriculture

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

7. Urstadt, Eric, CWRE #385
Stuntzner Engineering & Forestry, LLC, 2137 19th Avenue, Forest Grove OR 97116
8. Yamhill County Public Works, 2060 Lafayette Avenue, McMinnville, OR 97128

COPYSHT.IR

Caseworker: Kerry Kavanagh

REMINDER: Copy **all** IR's for uses in the Klamath Basin to DEQ and ODFW contacts, regardless of whether they are subject to Division 33. (If they are not subject to Division 33, do not include Division 33 forms.)

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>
