

**Oregon Water Resources Department  
Water Rights Services Division**

Water Rights Application  
Number S-87734

**Final Order**

*Appeal Rights*

This is a Final Order in other than 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 either 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.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the Final Order is not subject to judicial review.

*Application History*

On July 6, 2011, Robert L. and Leann R. McKee submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on October 30, 2012. The protest period closed December 14, 2012, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest.

**Order**

Application S-87734 is therefore approved as proposed by the Proposed Final Order. **Upon resolution of the outstanding issues described below, a permit shall be issued authorizing the proposed water use. Prior to issuance of a permit, outstanding fees in the amount of \$400 must be paid, and dam plans and specifications for Upper Reservoir under Application R-87735 must be submitted and approved.**

Failure to meet this requirement within 60 days from the date of this Final Order may result in the proposed rejection of the application.

If you need to request additional time, your written request should be received in the Salem office of the Department within 60 days of this Final Order. The Department will evaluate the request and determine whether or not the request may be approved.

**DATED January 17, 2013**

*E. Timothy Wallin*

E. Timothy Wallin, Water Rights Program Manager  
for Phillip C. Ward, Director  
Water Resources Department

*This document was prepared by Kerry Kavanagh. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0816.*

*If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.*

*If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.*

*Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.*

DRAFT

This is not a permit.

DRAFT

STATE OF OREGON

COUNTY OF YAMHILL

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

ROBERT L. AND LEANN R. MCKEE  
24903 SW PERRYDALE RD  
AMITY, OR 97101

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: S-87734

SOURCE OF WATER: LOWER RESERVOIR AND UPPER RESERVOIR (TO BE CONSTRUCTED UNDER APPLICATION R-87735), RUNOFF, AND TWO UNNAMED SPRINGS, TRIBUTARIES TO SALT CREEK

PURPOSE OR USE: IRRIGATION OF 103.0 ACRES AND POND MAINTENANCE

MAXIMUM RATE: 1.64 CUBIC FEET PER SECOND (CFS), BEING 1.0 CFS FOR IRRIGATION OF 103.0 ACRES AND 0.64 CFS FOR POND MAINTENANCE

MAXIMUM VOLUME: 57.7 ACRE FEET (AF), BEING 3.5 AF FROM LOWER RESERVOIR AND 54.2 AF FROM UPPER RESERVOIR

PERIOD OF USE: IRRIGATION FROM LIVE FLOW - MARCH 1 THROUGH APRIL 30  
IRRIGATION FROM STORED WATER - MARCH 1 THROUGH OCTOBER 31  
POND MAINTENANCE - NOVEMBER 1 THROUGH APRIL 30

DATE OF PRIORITY: JULY 6, 2011

POINTS OF DIVERSION LOCATIONS:

POD 1 (UPPER RESERVOIR) - NW ¼ SE ¼, SECTION 31, T5S, R4W, W.M.;  
350 FEET SOUTH AND 400 FEET EAST FROM C1/4 CORNER, SECTION 31

POD 2 (LOWER RESERVOIR) - SW ¼ NE ¼, SECTION 31, T5S, R4W, W.M.;  
1000 FEET NORTH AND 550 FEET EAST FROM C1/4 CORNER, SECTION 31

POD 3 (TWO UNNAMED SPRINGS/DIFFUSE SPRING AREA) - NW ¼ SE ¼,  
SECTION 31, T5S, R4W, W.M.; 100 FEET SOUTH AND 600 FEET EAST FROM  
C1/4 CORNER, SECTION 31

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.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW ¼ NE ¼ 13.4 ACRES IRRIGATION AND POND MAINTENANCE  
 SE ¼ NW ¼ 3.3 ACRES IRRIGATION  
 NE ¼ SW ¼ 7.3 ACRES IRRIGATION  
 SW ¼ SW ¼ 0.6 ACRE IRRIGATION  
 SE ¼ SW ¼ 15.6 ACRES IRRIGATION  
 NW ¼ SE ¼ 12.3 ACRES IRRIGATION AND POND MAINTENANCE  
 SW ¼ SE ¼ 26.0 ACRES IRRIGATION

SECTION 31

TOWNSHIP 5 SOUTH, RANGE 4 WEST, W.M.

NE ¼ NW ¼ 5.6 ACRES IRRIGATION  
 NW ¼ NW ¼ 18.9 ACRES IRRIGATION

SECTION 6

TOWNSHIP 6 SOUTH, RANGE 4 WEST, W.M.

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 diversion. The permittee shall maintain the meter or measuring device in good working order.
- B. The permittee shall keep a complete record of the amount of water diverted 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.
- C. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

Notwithstanding that Oregon Department of Fish and Wildlife has made a determination that fish screens and/or by-pass devices are not necessary at the time of permit issuance, the permittee may be required in the future to install, maintain, and operate fish screening and/or by-pass devices to prevent fish from entering the proposed diversion, and to provide adequate upstream and downstream passage for fish.

#### **STANDARD CONDITIONS**

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

Completion of construction and application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued

DRAFT - THIS IS **NOT** A PERMIT

E. Timothy Wallin, Water Rights Program Manager  
for Phillip C. Ward, Director