

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-10639, Clackamas County) TEMPORARY CHANGES IN PLACE
) OF USE

Authority

ORS 537.705 and 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

KRAEMER FARMS
Attn - RAY STAFFORD
13318 DOMINIC RD.
MT. ANGEL, OR 97362

Agent

PACIFIC HYDRO-GEOLOGY INC.
Attn – GREG or MALIA KUPILLAS
18487 S. VALLEY VISTA RD.
MULINO, OR 97042

Findings of Fact

1. On May 27, 2008, Ray Stafford, on behalf of Kraemer Farms, filed an application to temporarily change the place of use under Certificates 64872 and 64871 for a period of five years. The Department assigned the application number T-10639.

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

Certificate: 64872 in the name of HAROLD KRAEMER (perfected under Permit S-45090)
Use: IRRIGATION of 53.4 ACRES
Priority Date: MAY 13, 1980
Rate: 0.67 CUBIC FOOT PER SECOND (cfs)
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season of each year
Source: BUTTE CREEK, tributary to the PUDDING RIVER

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.

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
6 S	1 E	WM	8	NE NW	41	1050 FEET SOUTH AND 70 FEET WEST FROM THE N1/4 CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 E	WM	8	NE SW	43	4.7
6 S	1 E	WM	8	NW SW	43	0.2
6 S	1 E	WM	8	SW SW	43	1.2
6 S	1 E	WM	8	SE SW	43	24.4
6 S	1 E	WM	17	NE NW	43	21.8
6 S	1 E	WM	17	NW NW	43	1.1

3. Transfer Application T-10639 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 W	WM	17	SW NW	48	14.2
6 S	1 W	WM	17	NW SW	48	15.8
6 S	1 W	WM	18	SE NE	48	7.7
6 S	1 W	WM	18	NE SE	48	13.7
6 S	1 W	WM	18	SE SE	48	2.0

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

Certificate: 64871 in the name of HAROLD KRAEMER (perfected under Permit G-8954)

Use: SUPPLEMENTAL IRRIGATION of 53.4 ACRES

Priority Date: MAY 13, 1980

Rate: 0.69 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season of each year.

If water from either or both wells is placed into Butte Creek as a means of delivery to the lands, the amount of water placed into Butte Creek from the wells shall be measured by a flow meter or other device approved by the Watermaster. The amount of water removed from Butte Creek provided by either or both wells shall also be measured at each point of diversion from Butte Creek. Measurement from Butte Creek shall be made by a flow meter or other device approved by the Watermaster. The total quantity of water removed from Butte Creek under this right shall not exceed the quantity of water placed into Butte Creek from the wells at any time less any transmission losses. Transmission losses shall be determined by the watermaster.

Sources: WELL 1 and LONE PINE WELL in the ZOLNER CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
6 S	1 E	WM	17	NW NW	43	WELL 1 - 90 FEET NORTH AND 600 FEET EAST FROM THE NW CORNER OF DLC 48
6 S	1 E	WM	17	SE NW	48	LONE PINE WELL - 150 FEET SOUTH AND 2590 FEET EAST FROM THE NW CORNER OF DLC 48

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 E	WM	8	NE SW	43	4.7
6 S	1 E	WM	8	NW SW	43	0.2
6 S	1 E	WM	8	SW SW	43	1.2
6 S	1 E	WM	8	SE SW	43	24.4
6 S	1 E	WM	17	NE NW	43	21.8
6 S	1 E	WM	17	NW NW	43	1.1

5. Transfer Application T-10639 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 W	WM	17	SW NW	48	14.2
6 S	1 W	WM	17	NW SW	48	15.8
6 S	1 W	WM	18	SE NE	48	7.7
6 S	1 W	WM	18	NE SE	48	13.7
6 S	1 W	WM	18	SE SE	48	2.0

6. Notice of the application for temporary transfer was published on June 3, 2008, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
7. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
9. The proposed change would not result in enlargement of the rights.
10. 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(6) if the Department later finds that the transfer is causing injury to any existing water right.

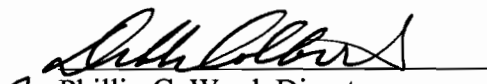
Conclusions of Law

The temporary changes in places of use proposed in Transfer Application T-10639 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The changes in place of use proposed in Transfer Application T-10639 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2008, 2009, 2010, 2011 and 2012 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2012 irrigation season.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
5. A subsequent application for permanent transfer of Certificates 64872 and 64871 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.
6. 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 64872 and 64871.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
8. Prior to diverting of water at the new point of diversion, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
9. The use of the remaining water rights described by Certificates 64872 and 64871 shall continue to be in accordance with the terms and conditions of Certificates 64872 and 64871.

Dated at Salem, Oregon this 3rd day of July, 2008.


Phillip C. Ward, Director

Mailing Date: JUL 08 2008