

5. On June 7, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-12324 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on June 13, 2017, and in the Medford Mail Tribune newspaper on June 16, and 23, 2017, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

6. The right to be transferred is as follows:

Certificate: 66591 in the name of ROBERT DEAN PECK (perfected under Permit S-46380)
Use: DOMESTIC USE FOR ONE FAMILY INCLUDING IRRIGATION OF NOT TO EXCEED ONE HALF ACRE LAWN AND NONCOMMERCIAL GARDEN
Priority Date: AUGUST 7, 1981
Rate: 0.01 CUBIC FOOT PER SECOND (CFS)
Source: A SPRING, tributary of TRAIL CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	1 W	WM	17	SE NW	710 FEET NORTH AND 3850 FEET WEST FROM THE E1/4 CORNER OF SECTION 17

Authorized Place of Use:

DOMESTIC USE FOR ONE FAMILY INCLUDING IRRIGATION OF NOT TO EXCEED ONE HALF ACRE LAWN AND NONCOMMERCIAL GARDEN				
Twp	Rng	Mer	Sec	Q-Q
33 S	1 W	WM	17	NW SE

7. Transfer Application T-12324 proposes to change the place of use of the right to within:

NURSERY					
Twp	Rng	Mer	Sec	Q-Q	Acre
33 S	1 W	WM	17	NW SE	0.8

8. Transfer Application T-12324 proposes to change the character of use of 0.01 cfs to nursery.

9. The amount of water used for nursery use is limited to 0.15 cubic foot per second per acre and 5.0 acre feet per acre per year. For irrigation of containerized nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made at any time, during the period of allowed use specified above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted under this right, together with the

amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second and 2.5 acre feet per acre during the irrigation season of each year.

10. Using the Nursery use rate and duty described in Finding of Fact No. 9, the maximum acreage for nursery use for 0.01 cfs is 0.067 acre, further limited to:

Containerized – $(1/40(0.025)\text{cfs/ac}) 0.01 \text{ cfs} \div 0.025 = 0.4 \text{ acres}$, further limited to 0.4 acre x 5.0 acre feet = 2.0 acre feet year.

In-Ground – $(1/80(0.0125)\text{cfs/ac}) 0.01 \text{ cfs} \div 0.0125 = 0.8 \text{ acres}$, further limited to 0.8 acre x 2.5 = 2.0 acre feet year.

Transfer Review Criteria [OAR 690-380-4010(2)]

11. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
12. A pump, with gravity flow from the spring to the household and garden area sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-12324.
13. The proposed change, as conditioned, would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in place of use and change in character of use proposed in Transfer Application T-12324 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.


Now, therefore, it is ORDERED:

1. The changes in place of use and change in character of use proposed in Transfer Application T-12324 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 66591 and any related decree.
3. Water right Certificate 66591 is cancelled.
4. The quantity of water and place of use allowed for the proposed nursery use shall not exceed a rate of diversion of 0.01 cubic foot per second (cfs) and a place of use of 0.067 acre in area. Containerized nursery use shall be limited to a rate of diversion of 0.01 cfs and a place of use of 0.4 acre in area, further limited to a total volume of water diverted being 2.0 acre feet per year. In-ground nursery use shall be limited to a rate of diversion of 0.01 cfs and a

place of use of 0.8 acre in acre, further limited to a total volume of water diverted being 2.0 acre feet per year.

5. 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 the point of diversion.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user 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.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 24 day of July, 2017.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: JUL 26 2017