# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-12981, Clackamas, Marion County	)	TEMPORARY CHANGES IN PLACE
	)	OF USE

## Authority

Oregon Revised Statute (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 appropriation authorized under an existing water right. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

## **Applicant**

KRAEMER FARMS RAY STAFFORD AND BILL KREVISHIEN 13318 DOMINIC RD MOUNT ANGEL, OR 97362

## **Findings of Fact**

- On July 23, 2018, KRAEMER FARMS; RAY STAFFORD AND BILL KREVISHIEN filed an application to temporarily change the place of use under Certificates 62395 and 62397 for a period of 1 year. The Department assigned the application number T-12981.
- 2. Notice of the application for transfer was published on July 31, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On August 24, 2018, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of the deficiencies in the application. The Department requested that the deficiencies be resolved by September 24, 2018.
- 4. On August 24, 2018, the applicant's agent submitted a revised Table 1, Table 2, and page 1 of the application clarifying the length of time the applicant was requesting for the temporary transfer.

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.

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

Certificate: 62395 in the name of HAROLD KRAEMER (perfected under Permit

S-47800)

Use: PRIMARY IRRIGATION of 32.1 ACRES

Priority Date: SEPTEMBER 20, 1983

Rate: 0.4 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured

under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year. The right shall be limited to any deficiency in the

available supply of any prior right for the same land and shall not exceed the

limitation allowed herein.

**Source:** BUTTE CREEK, a tributary of PUDDING RIVER

## **Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	1 E	WM	8	SE SE	41	950 FEET NORTH AND 630 FEET WEST FROM THE SE CORNER OF SECTION 8'

#### **Authorized Place of Use:**

	PI	RIMARY	Y IRRI	GATION		
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 E	WM	9	NW NE	42	0.5
6 S	1 E	WM	9	SW NE	42	12.1
6 S	1 E	WM	9	SE NW	42	4.3
6 S	1 E	WM	9	NE SW	42	4.1
6 S	1 E	WM	9	NW SE	42	11.1
					Total	32.1

6. Temporary Transfer Application T-12981 proposes to temporarily change the place of use of the right to:

PRIMARY IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC-	Acres
6 S	1 E	WM	8	NE SW	43	0.7
6 S	1 E	WM	8	SE SW	43	2.7
6 S	1 E	WM	8	NW SE	43	0.8
6 S	1 E	WM	8	SW SE	43	26.0
6 S	1 E	WM	8	SE SE	43	1.9
					Total	32.1

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

Certificate: 62397 in the name of HAROLD KRAEMER (perfected under Permit

G-10143)

Use: SUPPLEMENTAL IRRIGATION of 32.1 ACRES

Priority Date: SEPTEMBER 20, 1983

**Rate:** 0.4 CUBIC FOOT PER SECOND

Limit/Duty:

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year. The right shall be limited to any deficiency in the available supply of any prior right for the same land and shall not exceed the limitation allowed herein.

Source:

TWO WELLS in the BUTTE CREEK BASIN

## **Authorized Points of Appropriation:**

Tw	/p	Rng	Mer	Sec	Q-Q	Measured Distances
6	S	1 E	WM	17	NW NW	1200 FEET SOUTH AND 80 FEET EAST FROM THE NW CORNER OF SECTION 17
6	S	1 E	WM	17	SE NW	1470 FEET SOUTH AND 1990 FEET EAST FROM THE NW CORNER OF SECTION 17

#### **Authorized Place of Use:**

	SUPP	LEMEN	TAL I	RRIGATIO	N	
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1.E	WM	9	NW NE	42	0.5
6 S	1 E	WM	9	SW NE	42	12:1
6 S	1 E	WM	9	SE NW	42	4.3
6 S	1 E	WM	9	NE SW	42	4.1
6 S	1 E	WM	9 .	NW SE	42	11.1
		-			Total ~	32.1

8. Temporary Transfer Application T-12981 proposes to temporarily change the place of use of the right to:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 E	WM	. 8	NE SW	43	0.7
6 S	1 E	WM	8	SE SW	43	2.7
6 S	1 E	WM	8	NW SE	·43	0.8
6 S	1 E	WM	8	SW SE	43	26.0
6 S	1 E	WM	8	SE SE	43	0.8
6 S	1 E	WM	17	NW NE	43	1.1
	•		· ·		Total	32.1

### Temporary Transfer Review Criteria

- 9. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- 10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
- 11. The proposed changes would not result in enlargement of the rights.

12. The proposed changes 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(5) if the Department later finds that the transfer is causing injury to any existing water right.

#### Conclusions of Law

The temporary changes in place of use proposed in Temporary Transfer Application T-12981 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

### Now, therefore, it is ORDERED:

- 1. The temporary changes in place of use proposed in Temporary Transfer Application T-12981 are approved.
- 2. The former places of use **shall not** be irrigated as part of these water rights during the 2018 irrigation season.
- 3. The use shall revert to the authorized places of use at the end of the 2018 irrigation season.
- 4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
- 5. A subsequent application for permanent transfer of Certificates 62395 and 62397 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 62395 and 62397.
- 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. 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 each point of appropriation (new and existing).
  - b. The water user shall maintain the meters or measuring devices in good working order.
  - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

9. The use of the remaining water rights described by Certificates 62395 and 62397 shall continue to be in accordance with the terms and conditions of Certificates 62395 and 62397.
Dated at Salem, Oregon this SEP 1 9 2018
Dwight Kreneh, Water Right Services Administrator, for Thomas W. Byler, Director Oregon Water Resources Department
Mailing Date: SEP <b>2 0</b> 2018