

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-12145, Marion County	)	TEMPORARY CHANGE 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**

PAUL KRAEMER  
PO BOX 930  
MOUNT ANGEL, OR 97362

**Findings of Fact**

1. On August 25, 2015, PAUL KRAEMER filed an application to temporarily change the place of use and change the point of appropriation to serve the proposed place of use under Certificate 90684 for a period of 5 years. The Department assigned the application number T-12145.
2. On December 18, 2015, the applicant’s agent, requested to remove the change in point of appropriation, and to proceed with just the change in place of use.
3. Notice of the application for transfer was published on September 1, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. The portion of the right to be transferred is as follows:  
**Certificate:** 90684 in the name of PAUL J KRAEMER LIVING TRUST;  
NORTHWEST FARM SERVICES FLCA (perfected under Permit G-13783)  
**Use:** NURSERY USES of 71.8 ACRES  
**Priority Date:** FEBRUARY 19, 1999  
**Rate:** 0.76 CUBIC FEET PER SECOND

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.

**Limit/Duty:** The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of **containerized nursery plants**, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of **in ground nursery plants** the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre per year. The use of water for NURSERY OPERATIONS may be made at any time, during the period of allowed use specified above, that the use is beneficial. For the irrigation of **any other crop**, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.

**Period of Use:** Year Round

**Source:** A WELL within the ABIQUA CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	1 W	WM	23	NE NE	50	2250 FEET SOUTH AND 1060 FEET EAST FROM THE NW CORNER OF DLC 50

**Authorized Place of Use:**

NURSERY USES						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 W	WM	23	NE NE	50	16.7
6 S	1 W	WM	23	SW NE	50	13.2
6 S	1 W	WM	23	SE NE	50	21.1
6 S	1 W	WM	24	NW NW	50	18.3
6 S	1 W	WM	24	SW NW	50	2.5
Total						71.8

4. Temporary Transfer Application T-12145 proposes to temporarily change the place of use of the right to:

NURSERY USES						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 W	WM	13	SW SW	50	0.6
6 S	1 W	WM	24	NW NE	50	0.2
6 S	1 W	WM	24	NE NW	50	29.3
6 S	1 W	WM	24	NW NW	50	20.0
6 S	1 W	WM	24	SW NW	50	7.1
6 S	1 W	WM	24	SE NW	50	14.6
Total						71.8

**Temporary Transfer Review Criteria**

5. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.

6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
7. The proposed changes would not result in enlargement of the right.
8. 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 change in place of use proposed in Temporary Transfer Application T-12145 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

### **Now, therefore, it is ORDERED:**

9. The temporary change in place of use proposed in Temporary Transfer Application T-12145 is approved.
10. The former place of use **shall not** be irrigated as part of this water right during the 2015, 2016, 2017, 2018 and 2019 irrigation seasons.
11. The use shall revert to the authorized place of use at the end of the 2019 irrigation season.
12. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
13. A subsequent application for permanent transfer of Certificate 90684 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.
14. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 90684.
15. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
16. 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.

17. The use of the remaining water right described by Certificate 90684 shall continue to be in accordance with the terms and conditions of Certificate 90684.

Dated at Salem, Oregon this 22<sup>nd</sup> day of December, 2015.

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

Mailing Date: DEC 23 2015