BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11862, Clackamas, Marion County)	TEMPORARY CHANGE IN PLACE OF
)	USE

Authority

ORS 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 LLC ATTN: RAY STAFFORD 13318 DOMINIC RD NE MT ANGEL OR 97362

Findings of Fact

- 1. On July 16, 2014, KRAEMER FARMS LLC. filed an application to temporarily change the place of use and change the point of diversion to serve the proposed place of use under Certificate 41645 for a period of FIVE years. The Department assigned the application number T-11862.
- 2. Notice of the application for transfer was published on July 22, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On July 25, 2014, the Department contacted Malia Kupillas, the applicant's agent, by written correspondence to notify the applicant of the deficiencies in the application. The Department requested that the deficiencies be resolved by August 25, 2014. Final amended application pages were received September 16, 2014. An amended map was received September 19, 2014.
- 4. The application was amended to only temporarily change the place of use under Certificate 41645 for a period of FIVE years.

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 right to be temporarily transferred is as follows:

Certificate: 41645 in the name of JAMES D. LONG (perfected under Permit S-23891)

Use: IRRIGATION of 6.3 ACRES

Priority Date: NOVEMBER 3, 1955

Rate: 0.08 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.

Source: BUTTE CREEK, a tributary of PUDDING RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
6 S	1 E	WM	8	NE SE	41	520 FEET NORTH AND 520 FEET WEST FROM THE NE CORNER OF JACK DLC 43

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres		
6 S	1 E	WM	8	SE SE	43	6.3		

6. Temporary Transfer Application T-11862 proposes to temporarily change the place of use of the right to:

IRRIGATION								
Twp Rng Mer Sec Q-Q DLC Acres								
6 S	1 E	WM	9	NW NE	42	1.3		
6 S	1 E	WM	9	NE SW	42	2.3		
6 S	1 E	WM	9	NW SW	41	2.7		

7. Water Right Certificate 84590, with an approved period of use from March 1 through May 31 exists on the proposed place of use for Temporary Transfer Application T-11862.

Temporary Transfer Review Criteria

- 8. 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.
- 9. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
- 10. The proposed change would not result in enlargement of the right.

11. 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(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 application Temporary Transfer Application T-11862 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

- 1. The temporary change in place of use proposed in Temporary Transfer Application T-11862 is approved.
- 2. The former place of use **shall not** be irrigated as part of this water right during the 2014, 2015, 2016, 2017 and 2018 irrigation seasons.
- 3. On the lands covered by Water Right Certificate 84590, this Temporary Transfer Application T-11862 shall only be exercised when water under Water Right Certificate 84590 is unavailable.
- 4. The use shall revert to the authorized place of use at the end of the 2018 irrigation season.
- 5. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
- 6. A subsequent application for permanent transfer of Certificate 41645 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.
- 7. 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 41645.
- 8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
- 9. The use of the remaining water right described by Certificate 41645 shall continue to be in accordance with the terms and conditions of Certificate 41645.

Dated at Salen	n, Oregon	this _	10	day of October, 2014
Design	h A	\mathcal{U}_{\perp}		
Dwight Frenc	i, Water F	Right S	ervices	s Administrator, for
Thomas M. B	yler, Direc	ctor,		
Oregon Water	Resource	s Depa	artment	14
Mailing Date:		UUT	1 6 201	<u> 14 </u>