

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13167, Marion County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

PAUL J. KRAEMER
PO BOX 930
MOUNT ANGEL, OR 97362

Findings of Fact

1. On April 15, 2019, PAUL J. KRAEMER filed an application to change the place of use under Certificate 90684. The Department assigned the application number T-13167.
2. Notice of the application for transfer was published on April 23, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 24, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13167 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 24, 2019, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

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

Certificate: 90684 in the name of PAUL J KRAEMER LIVING TRUST and NORTHWEST FARM SERVICES FLCA (perfected under Permit G-13783)

Use: NURSERY OPERATIONS on 71.8 ACRES

Priority Date: FEBRUARY 19, 1999

Rate: 0.8 CUBIC FOOT PER SECOND

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 in 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 OPERATIONS						
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

5. Transfer Application T-13167 proposes to change the place of use of the right to:

NURSERY OPERATIONS						
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

Transfer Review Criteria (OAR 690-380-4010)

6. 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.
7. A pump, pipeline, and sprinkler system 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-13167.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.
10. All other application requirements are met.

Determination and Proposed Action

The change in place of use proposed in Transfer Application T-13167 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-13167 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-13167 is 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 90684 and any related decree.*
3. *Water right Certificate 90684 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The former place of use of the transferred right shall no longer receive water under the right.*
5. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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 change and full beneficial use of the water.*

6. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this JUN 13 2019,



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

This Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or corey.a.courchane@oregon.gov

Protests should be addressed to the attention of Water Rights Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

Notice Regarding Service Members: Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free number.



Oregon
Kate Brown, Governor

Water Resources Department
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(503) 986-0900
Fax (503) 986-0904

June 13, 2019

PAUL J. KRAEMER
PO BOX 930
MOUNT ANGEL, OR 97362

SUBJECT: Water Right Transfer Application T-13167

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13167. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the Department's notice.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me, at corey.a.courchane@oregon.gov or (503) 986-0825, if I may be of assistance.

Sincerely,

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-13167
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
Doann Hamilton, Agent for the applicant (*via e-mail*)

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