

**Oregon Water Resources Department
Water Right Services Division**

Water Right Application G-18596 in the
name of JON BARRY KRAXBERGER
LIVING TRUST

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FINAL ORDER

Summary: Order approving Application G-18596, as amended, and issuing a draft permit.

Authority

The application was processed in accordance with Oregon Revised Statute (ORS) 537.615 through 537.628, and 390.826, and Oregon Administrative Rule (OAR) Chapter 690, Divisions 5, 8, 9, 33, 300, 310, 400, 410 and the Willamette Basin 690-502. These statutes and rules can be viewed on the following website: <https://www.oregon.gov/OWRD/programs/policylawandrules/Pages.default.aspx>.

The Department's main page is <http://www.oregon.gov/OWRD>.

This Final Order is issued pursuant to ORS 537.625 and OAR 690-310-0200.

FINDINGS OF FACT

1. On January 5, 2018, Jon Barry Kraxberger Living Trust submitted an application to the Department for a water use permit.
2. The Department issued a Proposed Final Order on May 14, 2019. The protest period closed June 28, 2019, and no protest was filed
3. The findings of fact in the Proposed Final Order are incorporated herein.

CONCLUSIONS OF LAW

1. The conclusions of law in the Proposed Final Order are incorporated herein.
2. The proposed use, as conditioned, will ensure the preservation of the public welfare, safety and health.

NOTE: When issuing permits, ORS 537.628(1) authorizes the Department to include limitations and conditions which have been determined necessary to protect the public welfare, safety and health.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is a Final Order in other than contested case. This order is subject to judicial review under ORS 536.075 and 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 OAR 137-004-0080 you may 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.

ORDER

Application G-18596 is approved. A permit consistent with the attached draft permit shall be issued upon payment of outstanding permit recording fees.

A permit recording fee in the amount of \$100.00 is due no later than 60 days from the date of this Final Order. Failure to pay the required permit recording fee within 60 days of this Final Order may result in the proposed rejection of Application G-18596.

If you need to request additional time to submit the required documentation and/or fees, the written request should be received in the Salem Office of the Department by the deadline above. The Department will evaluate the request and determine whether or not the request may be granted.

DATED JUL 25 2019



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

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- If you have any questions about statements contained in this document, please contact Kim French at Kim.R.French@oregon.gov or 503-986-0816.
 - If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.
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STATE OF OREGON
COUNTY OF WASHINGTON

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

JON BARRY KRAXBERGER LIVING TRUST
PO BOX 2073
BEAVERTON OR 97075

THIS DRAFT PERMIT SHALL EXPIRE ON SEPTEMBER 30, 2021

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-18596

SOURCE OF WATER: WELL 1 (WASH 53693/L14736) IN MCFEE CREEK BASIN

PURPOSE OR USE: IRRIGATION OF 11.1 ACRES

MAXIMUM RATE: 0.019 CUBIC FOOT PER SECOND

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: JANUARY 5, 2018

WELL LOCATION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	2 W	WM	17	SW SE	900 FEET NORTH AND 1600 FEET WEST FROM SE CORNER, SECTION 17

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second and **1.0 acre-foot** for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	2 W	WM	17	NE SE	0.3
2 S	2 W	WM	17	NW SE	0.2
2 S	2 W	WM	17	SW SE	7.5
2 S	2 W	WM	17	SE SE	3.1

1. Water Use Measurement, Recording, and Reporting Condition:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of appropriation. The permittee shall maintain the device in good working order.
- B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The permittee shall keep a complete record of the volume of water used each month, and shall submit an annual report which includes the recorded water-use measurements to the Department annually, or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

2. Static Water Level Condition:

Use of water from any well, as allowed herein, shall be controlled or shut off if the well displays:

- A. An average water-level decline of 3 or more feet per year for five consecutive years; or
- B. A total water-level decline of 15 or more feet; or
- C. A hydraulic interference decline of 15 or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.

The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the well(s).

- A. Use of water from a new well shall not begin until an initial static water level in the well has been measured and reported to the Department.
- B. In addition to the measurement required in the subsection above, a water-level measurement shall be made each year during the period March 1 through March 31.
- C. All water-level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the permittee/appropriator.
- D. Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment is available from the Department.

The permittee/appropriator shall report the record of measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited herein are evidenced by the well measurement required in the static water level condition.

3. Special Permit Conditions:

- A. Irrigation allowed under this permit shall be by drip irrigation or by an equally efficient method.
- B. This permit expires **September 30, 2021**. This permit may be renewed for additional periods of time, not to exceed five years, if the Director finds the groundwater resource can likely support the continued use. The following conditions shall have been met by the permittee in order for the Department to consider renewal:
 - a. Within two years of permit issuance, the permittee shall prepare a plan for the Director which shall indicate the steps for obtaining a long term water supply.
 - b. Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

4. Well Identification Tag Condition:

Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

STANDARD CONDITIONS

- 1. Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.
- 2. If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may be subject to cancellation, unless the Department authorizes the change in writing.
- 3. If substantial interference with surface water or a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

4. The well(s) shall be constructed and maintained in accordance with the General Standards for the Construction and Maintenance of Water Supply Wells in Oregon. The works shall be equipped with a usable access port adequate to determine water-level elevation in the well at all times.
5. Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.
6. The permit holder shall submit to the Water Resources Department the results of a pump test meeting the Department's standards for each point of appropriation (well), unless an exemption has been obtained in writing under OAR 690-217. The Director may require water-level or pump-test data every ten years thereafter.
7. This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
8. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.
9. Construction of the well shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the construction deadline to begin is missed.
10. Complete application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Issued _____

DRAFT – THIS IS NOT A PERMIT

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