

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-12617, Klamath County)	ADDITIONAL POINT OF
)	APPROPRIATION

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

KLAMATH FALLS CITY SCHOOL DIST. 1 & 2
KLAMATH UNION HIGH SCHOOL
1336 AVALON STREET
KLAMATH FALLS, OR 97603

Agent

ANDERSON ENGINEERING &
SURVEYING INC.
ATTN: DARRYL ANDERSON
P.O. BOX 28
LAKEVIEW, OR 97630

Findings of Fact

1. On March 23, 2017, the Klamath Falls City School District filed an application to add an additional point of appropriation under Certificate 85356. The Department assigned the application number T-12617.
2. Notice of the application for transfer was published on March 28, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 30, 2019, and October 10, 2019, the agent for the applicant submitted revised application pages to clarify the new proposed point of appropriation. Accordingly, on November 8, 2019, the Department's groundwater hydrogeologist re-reviewed the application concluding the new information regarding the applicant's reconstruction of the proposed well and has determined that the new well complies with the same "source" test under the Department's rule OAR 690-380-2110.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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.

4. On December 11, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12617 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 10, 2020, 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.
5. On May 28, 2020, the Department issued a Preliminary Determination proposing to approve Transfer T-12617 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on June 2, 2020, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The right to be transferred is as follows:

Certificate: 85356 in the name of KLAMATH FALLS CITY SCHOOLS DISTRICTS 1 AND 2 (KLAMATH UNION HIGH SCHOOL) (perfected under Permit G-11223)
Use: HEATING
Priority Date: JUNE 1, 1990
Rate: 0.45 CUBIC FOOT PER SECOND
Source: A WELL in the KLAMATH RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
38 S	9 E	WM	28	NW SW	WELL #1 - 1500 FEET NORTH AND 125 FEET EAST FROM THE SW CORNER OF SECTION 28

Authorized Place of Use:

HEATING				
Twp	Rng	Mer	Sec	Q - Q
38 S	9 E	WM	28	SW SW
38 S	9 E	WM	29	SE SE

7. Transfer Application T-12617 proposes an additional point of appropriation (KLAM 12084-orig./KLAM 59952-alteration/KLAM 59980-deepening) northwest approximately 550 feet to:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
38 S	9 E	WM	29	NE SE	WELL #3 - 1725 FEET NORTH AND 380 FEET WEST FROM THE SW CORNER OF SECTION 28

Transfer Review Criteria (OAR 690-380-4010)

8. Water has been used within the five years prior to the submittal of Transfer Application T-12617 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.

9. A well, pump, pipeline, and delivery 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-12617.
10. Based on the new information supplied by the applicant and revisions to the application, the detailed narrative of the proposed rehabilitation on the proposed well shows that the reconditioning, evidenced by first a deepening of the existing well, KLAM 59980/*deepening*, and then the reconditioning/alteration evidenced by KLAM 59952/*alteration* has been completed. This additional information was subsequently reviewed by the Department. The Department is led to conclude that the alteration/reconditioning will ensure appropriation from only the basalt aquifer and enables the Department to make a positive finding of no injury.
11. The Department has determined that the proposed additional Well #3 (KLAM 12084/KLAM 59980/KLAM 59952) will develop the same source of water as the authorized existing Wells #1 (KLAM 12046).
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.

Conclusions of Law

The additional point of appropriation proposed in Transfer Application T-12617 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

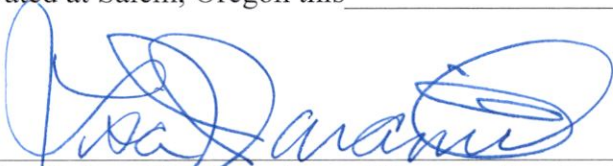
Now, therefore, it is ORDERED:

1. The additional point of appropriation proposed in Transfer Application T-12617 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 85356 and any related decree.
3. Water right Certificate 85356 is cancelled.
4. The quantity of water diverted at the new additional point of appropriation (Well #3), together with that diverted at the original point of appropriation (Well #1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #1).
5. The water user shall case and seal the proposed well such that it appropriates groundwater from only the basalt groundwater bearing zone below 215 feet below land surface.
6. Water shall be acquired from the same aquifer (water source as the original point of appropriation).

7. 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 meter(s) or measuring device(s) in good working order.
 - c. The water user shall allow the Watermaster access to the meter(s) or measuring device(s); provided however, where the meter(s) or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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.
9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

JUL 09 2020

Dated at Salem, Oregon this _____.



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: JUL 10 2020