

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-13355, Klamath County)	ADDITIONAL POINT OF
)	APPROPRIATION AND 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

RODNEY R. AND MARIE M. LYON
20302 PAYGR RD
MALIN, OR 97632

Findings of Fact

1. On January 27, 2020, RODNEY R. AND MARIE M. LYON filed an application for an additional point of appropriation and to change the place of use under Certificates 67582 and 91653. The Department assigned the application number T-13355.
2. Notice of the application for transfer was published on February 4, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 30, 2020, the Department contacted the applicant and agent requesting an Affidavit of Voluntary Diminution, along with a corresponding map and application table revisions. On April 3, 2020, the agent complied.
4. On June 2, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13355 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of July 2, 2020, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary

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.

Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

5. On July 15, 2020, the Department issued a Preliminary Determination proposing to approve Transfer T-13355 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 July 28, 2020, and in the Klamath Herald and News newspaper on October 4 and October 11, 2020 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

6. The first right to be transferred is as follows:

Certificate: 67582 in the name of ROD AND MARIE LYON (perfected under Permit G-10650)

Use: IRRIGATION of 278.5 ACRES

Priority Date: OCTOBER 7, 1986

Rate: 3.48 CUBIC FEET 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 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 (or its equivalent) and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL in the KLAMATH BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	12 E	WM	35	SE SW	WELL #2 (KLAM 11008) - 750 FEET NORTH AND 2550 FEET EAST FROM THE SW CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
40 S	12 E	WM	34	NE SE		37.1
40 S	12 E	WM	35	NE SW		12.4
40 S	12 E	WM	35	NW SW		36.8
40 S	12 E	WM	35	SE SW		35.9
40 S	12 E	WM	35	SW SE		7.6
40 S	12 E	WM	35	SE SE		0.1
41 S	12 E	WM	2	NE NE	4	8.8
41 S	12 E	WM	2	NW NE	3	40.0
41 S	12 E	WM	2	SW NE		22.0
41 S	12 E	WM	2	SE NE		0.2
41 S	12 E	WM	2	NE NW	2	40.0
41 S	12 E	WM	2	SE NW		36.4
41 S	12 E	WM	2	NE SW		1.2
TOTAL						278.5

7. Transfer Application T-13355 proposes an additional point of appropriation approximately 0.5 mile (mi.) from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	12 E	WM	35	NW SW	WELL #1 (KLAM 50168) - 1420 FEET NORTH AND 100 FEET EAST FROM THE SW CORNER OF SECTION 35

8. Transfer Application T-13355 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
40 S	12 E	WM	34	NE SE		38.7
40 S	12 E	WM	35	NE SW		12.4
40 S	12 E	WM	35	NW SW		38.2
40 S	12 E	WM	35	SE SW		35.9
40 S	12 E	WM	35	SW SE		7.5
41 S	12 E	WM	2	NE NE	4	5.2
41 S	12 E	WM	2	NW NE	3	39.9
41 S	12 E	WM	2	SW NE		22.0
41 S	12 E	WM	2	SE NE		0.2
41 S	12 E	WM	2	NE NW	2	40.0
41 S	12 E	WM	2	SE NW		36.4
41 S	12 E	WM	3	NE NE		2.1
TOTAL						278.5

9. Transfer Application T-13355 also proposes to diminish 2.1 acres to supplemental irrigation as follows:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
41 S	12 E	WM	3	NE NE	2.1

10. The second right to be transferred is as follows:

Certificate: 91653 in the name of RODNEY LYON AND MARIE LYON AND DRISCOLL STRAWBERRY ASSOCIATES INC. C/O HOLLY BURGESS (perfected under Permit G-15406)

Use: SUPPLEMENTAL IRRIGATION of 74.9 ACRES

Priority Date: MAY 24, 2001

Rate: 0.55 CUBIC FOOT PER SECOND (CFS), BEING 0.55 CFS FROM WELL #1 AND 0.43 CFS FROM WELL #2, in any combination, or its equivalent in case of rotation, measured at the well.

Limit/Duty: 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 (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: WELL #1 AND WELL #2 IN LOST RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	12 E	WM	35	NW SW	WELL #1 - 1420 FEET NORTH AND 100 FEET EAST FROM THE SW CORNER OF SECTION 35
40 S	12 E	WM	35	SE SW	WELL #2 - SOUTH 73 DEGREES 45 MINUTES 30 SECONDS WEST, 2638 FEET TO THE SW CORNER OF SECTION 35

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
41 S	12 E	WM	2	NW NW	38.2
41 S	12 E	WM	2	SW NW	36.7
TOTAL					74.9

11. Transfer Application T-13355 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
41 S	12 E	WM	2	NW NW	33.2
41 S	12 E	WM	2	SW NW	23.8
41 S	12 E	WM	3	NE NE	17.9
TOTAL					74.9

12. Transfer Application T-13355 proposes to transfer a water right within the boundaries of Shasta View Irrigation District. On January 24, 2020, the applicant certified that the District was notified about the proposed water right transfer application in person.

Transfer Review Criteria (OAR 690-380-4010)

- 13. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- 14. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-13355.
- 15. The proposed changes would not result in enlargement of the rights.
- 16. The proposed changes would not result in injury to other water rights.
- 17. All other application requirements are met.

Partial Diminution of a Certain Water Right

- 18. On April 8, 2020, the applicant's agent sent a Voluntary Partial Diminution of a Water Right to the Department. The agent intends to diminish 2.1 acres of Certificate 67582 to supplemental irrigation, as the land is served by a primary water right held by Shasta View Irrigation District, Claim KA-1000.

19. The right proposed to be diminished from primary to supplemental irrigation is described as follows:

Certificate: 67582 in the name of ROD and MARIE LYON (perfected under Permit G-10650)
Use: IRRIGATION of 2.1 ACRES
Priority Date: OCTOBER 7, 1986
Rate: 0.03 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 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 (or its equivalent) and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL in the KLAMATH BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	12 E	WM	35	NW SW	WELL #1 (KLAM 50168) 1420 FEET NORTH AND 100 FEET EAST FROM THE SW CORNER OF SECTION 35
40 S	12 E	WM	35	SE SW	WELL #2 (KLAM 11008) - 750 FEET NORTH AND 2550 FEET EAST FROM SW CORNER, SECTION 35

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
41 S	12 E	WM	3	NENE	2.1

Conclusions of Law

The additional point of appropriation and change in place of use proposed in Transfer Application T-13355 are 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 and change in place of use proposed in Transfer Application T-13355 are approved. Certificate 67582 is diminished.
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 91653 and 91653 and any related decree.
3. Water right Certificates 67852 and 91653 are cancelled. A new certificate will be issued describing those portions of the Certificate 91653 not affected by this transfer.
4. The quantity of water for Certificate 67852, diverted at the additional point of appropriation, (Well #1), combined with the original point of appropriation, (Well #2),

shall not exceed the quantity of water lawfully available at the original point of appropriation, (Well #2).

5. 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.
6. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
7. The former places of use of the transferred rights shall no longer receive water under the right.
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 changes 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.

FEB 0 2 2021

Dated in Salem, Oregon on _____



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

Mailing date: **FEB 0 3 2021**