BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Permit Amendments)	FINAL ORDER
T-10970 and T-11029, Klamath County)	APPROVING A CHANGE IN POINT OF
)	APPROPRIATION, AN ADDITIONAL
)	POINT OF APPROPRIATION, AND A
)	CHANGE IN PLACE OF USE

Authority

ORS 537.211 establishes the process in which a water right permit holder may submit a request to change the point of appropriation and/or place of use authorized under an existing water right permit.

Applicants

<u>T-10970</u> <u>T-11029</u>

LARRY J. AND JOAN A. SEES

P.O. BOX 238

BEATTY OR 97621

DAVID KRUEGAR

35000 SPRAGUE RIVER ROAD

SPRAGUE RIVER OR 97639

Findings of Fact

Background

- 1. On October 21, 2009, LARRY J. AND JOAN A. SEES filed an application to change the point of appropriation and to change in place of use of a portion of Permit G-12527. The Department assigned the application number T-10970.
- 2. On March 11, 2010, DAVID KRUEGAR filed an application for an additional point of appropriation and to change in place of use of a portion of Permit G-12527. The Department assigned the application number T-11029.
- 3. The permit to be amended is as follows:

Permit: G-12527 in the names of JOAN A. AND LARRY J. SEES AND DAVID M.

KRUEGAR

Use: IRRIGATION OF 309.24 ACRES

Priority Date: APRIL 13, 1992

Quantity: 3.87 CUBIC FEET PER SECOND

Rate/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

This is a final order in other than 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 137-004-080 and OAR 690-01-005 you may either 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.

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

A WELL within the SPRAGUE RIVER BASIN Source:

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances		
36 S	12 E	WM	28	NE NE	(KLAM 10447) - SOUTH 1° 27' 40" WEST 784 FEET FROM THE NE CORNER OF SECTION 28		

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	Acres			
36 S	12 E	WM	22	NW SW	9.59			
36 S	12 E	WM	22	SW SW	19.21			
36 S	12 E	WM	27	NWNW	19.59			
36 S	12 E	WM	27	SW NW	19.57			
36 S	12 E	WM	28	NE NE	40.22			
36 S	12 E	WM	28	SW NE	40.06			
36 S	12 E	WM	28	SE NE	40.53			
36 S	12 E	WM	28	NE SE	39.97			
36 S	12 E	WM	28	NW SE	40.46			
36 S	12 E	WM	28	SE SE	40.04			

4. Permit Amendment Application T-10970 proposes to change the point of appropriation approximately 1.3 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	
36 S	12 E	WM	22	NE NW	KLAM 2081 - 930 FEET SOUTH AND 2430 FEET EAST FROM THE NW CORNER OF SECTION 22	

5. Permit Amendment Application T-11029 proposes an additional point of appropriation approximately 0.75 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances		
36 S	12 E	WM	22	NE SW	KLAM 2078 - 50 FEET SOUTH AND 2750 FEET WEST FROM THE E¼ OF SECTION 22		

6. Permit Amendment Applications T-10970 and T-11029 also propose to change the place of use of the permit to:

	IRRIGATION									
	_					T-10970	T-11029			
Twp	Rng	Mer	Sec	Q-Q	Original Well	Proposed Sees Well	Proposed Kruegar Well			
1 wp	Kiig	IVICI	Sec	Q-Q	(KLAM 10447)	(KLAM 2081)	(KLAM 2078)			
36 S	12 E	WM	22	NE NW		1.3				
36 S	12 E	WM	22	SW NW	_	6.5				
36 S	12 E	WM	22	SE NW		35.41				
36 S	12 E	WM	22	NW SW	9.59		20.00			
36 S	12 E	WM	22	SW SW	19.21		20.00			
36 S	12 E	WM	27	NWNW	19.59					
36 S	12 E	WM	27	SW NW	19.57					
36 S	12 E	WM	28	NE NE	40.22					
36 S	12 E	WM	28	SW NE	40.06					
36 S	12 E	WM	28	SE NE	40.53					
36 S	12 E	WM	28	NE SE	36.8					
36 S	12 E	WM	28	NW SE	0.46					

The changed place of use is in bold type.

- 7. Notice of the application for the permit amendment T-10970 was published in the Department's weekly notice on October 27, 2009, and in the Klamath Falls Herald and News newspaper on October 22, 29, and November 5, 2010, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
- 8. Notice of the application for the permit amendment T-11029 was published in the Department's weekly notice on March 16, 2010, and in the Klamath Falls Herald and News newspaper on October 22, 29, and November 5, 2010, pursuant to ORS 540.520(5). No comments were filed in response to the notices.

Permit Amendment Review Criteria

- 9. The changes would not result in injury to other water rights.
- 10. The proposed places of use are owned by the permit holders.
- 11. The changes do not enlarge the permit.
- 12. The changes do not alter any other terms of the permit.
- 13. The proposed places of use are contiguous to the authorized place of use.

Conclusions of Law

The change in points of appropriation, additional point of appropriation, and change in place of use proposed by Permit Amendment Applications T-10970 and T-11029 are consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

The changes and subsequent use of water shall be subject to the following conditions:

- The combined quantity of water diverted at the new points of appropriation, together with that diverted at the old point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
- Prior to water use from the proposed points of appropriation, the permittee shall install meters or other suitable measuring devices as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, and shall keep a complete record of the amount of water used each month and shall submit a 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.

The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

- Water shall be acquired from the same aquifer as the original point of appropriation.
- 4. The former places of use shall no longer be irrigated as part of this permit.
- All other terms and conditions of Permit G-12527 remain the same.
- 6. Permit G-12527, in the names of JOAN A. AND LARRY J. SEES AND DAVID M. KRUEGAR is amended as described herein.

Dated at Salem, Oregon this 18 day of November, 2010.

C. WARD, DIRECTOR

Mailing Date: **NOV 1 9 2010**