BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-13100, Marion County)	CHANGE IN POINTS 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

CITY OF KEIZER PO BOX 21000 KEIZER, OR 97307

Findings of Fact

- On January 7, 2019, CITY OF KEIZER filed an application to change the points of appropriation under Certificate 50519. The Department assigned the application number T-13100.
- 2. Notice of the application for transfer was published on January 15, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On October 30, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13100 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 2, 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.

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 20, 2019, the Department issued a Preliminary Determination proposing to approve Transfer T-13100 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 December 24, 2019, and in the Keizertimes newspaper on December 27, 2019, and January 3, 2020 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
- 5. The right to be transferred is as follows:

Certificate: 50519 in the name of JIM NIGHTENGALE (perfected under Permit

G-6838)

Use: QUASI-MUNICIPAL USES

Priority Date: JUNE 27, 1973

Rate: 2.0 CUBIC FEET PER SECOND TOTAL FROM THREE WELLS AT

ONE TIME

Source: THREE WELLS, a tributary of CLAGGETT CREEK

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	3 W	WM	35	NE NE	WELL 2 (KEIZER WELL #12 – 17 TH AVE) - 620 FEET SOUTH AND 10 FEET WEST FROM THE NE CORNER OF SECTION 35
6 S	3 W	WM	35	NW NE	WELL 1 (KEIZER WELL #13 – 13 TH AVE) - 925 FEET SOUTH AND 1540 FEET WEST FROM THE NE CORNER OF SECTION 35
6 S	3 W	WM	36	NE NW	WELL 3 (KEIZER WELL #11 – LAUDERBACK) - 1280 FEET SOUTH AND 1800 FEET EAST FROM THE NE CORNER OF SECTION 35

Authorized Place of Use:

QUASI-MUNICIPAL USES					
Twp	Rng	Mer	Sec	Q-Q	
6 S	3 W	WM	35	NE NE	
6 S	3 W	WM	35	NW NE	
6 S	3 W	WM	35	SW NE	
6 S	3 W	WM	35	SE NE	
6 S	3 W	WM	35	NENW	
6 S	3 W	WM	36	NE NW	
6 S	3 W _	WM	36	NW NW	
6 S	3 W	WM	36	SW NW	
6 S	3 W	WM	36	SE NW	

6. Transfer Application T-13100 proposes to move the authorized points of appropriation from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances		cimate distant oints of appro- feet (ft.)	
6 S	3 W	МW	35	NE NE	KEIZER WELL #12 – 17 TH AVE - 680.11 FEET	WELL 1	WELL 2	WELL 3

Twp	Rng	Mer	Sec	Q-Q	Measured Distances		ximate distar oints of appro feet (ft.)	
					SOUTH AND 780.03 FEET WEST FROM THE NE CORNER OF SECTION 35	1483.1 ft.	90.6 ft.	1971.9 ft.

Transfer Review Criteria (OAR 690-380-4010)

- 7. Water has been used within the last five year's 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.
- 8. A fully metered municipal system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-13100.
- 9. The proposed change would not result in enlargement of the right.
- 10. The proposed change would not result in injury to other water rights:
- 11. All other application requirements are met.

Conclusions of Law

The change in points of appropriation proposed in Transfer Application T-13100 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 change in points of appropriation proposed in Transfer Application T-13100 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 50519 and any related decree.
- 3. Water right Certificate 50519 is cancelled.
- 4. The quantity of water diverted at the new point of appropriation (Keizer Well #12 17th Ave), shall not exceed the quantity of water lawfully available at the original points of appropriation (Well 1 (Keizer Well #13 13th Ave), Well 2 (Keizer Well #12 17th Ave), and Well 3 (Keizer Well #11 Lauderback).
- 5. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.

- 6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2025**. 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.
- 7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on	FEB 0 6 2020				
Lisa J. Jaramillo, Transfer and	Conservation Section Manager, for				

THOMAS M BYLER, DIRECTOR Oregon Water Resources Department

Mailing date: **FEB 0 7** 2020