

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12617, Klamath County)	PROPOSING APPROVAL FOR AN
)	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.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.
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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. 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

6. 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)

7. 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.
8. 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.
9. 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.

10. 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).
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The additional point of appropriation proposed in Transfer Application T-12617 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12617 is approved, the final order will include the following:

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.*

MAY 28 2020

Dated at Salem, Oregon this _____.



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

This Preliminary Determination was prepared by was prepared by Ken Dowden. T-12617 has now been assigned to Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or corey.a.courchane@oregon.gov.

Protests should be addressed to the attention of Water Rights Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>



Oregon

Kate Brown, Governor

Water Resources Department

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May 28, 2020

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

SUBJECT: Water Right Transfer Application T-12617

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12617. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the Department's notice.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

Please do not hesitate to contact me, at corey.a.courchane@oregon.gov or (503) 986-0825, if I may be of assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Corey Courchane".

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-12617
Danette Watson, District 17 Watermaster (*via e-mail*)
Anderson Engineering and Surveying, Agent for the applicant (*via e-mail*)

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