

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

In the Matter of Transfer Application)	FINAL ORDER
T-13411, Klamath County)	APPROVING AN EMERGENCY USE
)	DROUGHT TEMPORARY
)	CHANGE IN PLACE OF USE AND
)	POINT OF APPROPRIATION

Authority

Oregon Revised Statute (ORS) 536.750 establishes the process in which a water right holder may submit a request to temporarily transfer the use, place of use or point of diversion of water in the event of a declaration of drought, without complying with the notice and waiting requirements under ORS 540.520. Oregon Administrative Rule (OAR) Chapter 690, Division 019 implements the statutes and provides the Department's procedures and criteria for evaluating drought transfer applications.

Applicant

ARNOTT K. DUNCAN AND KATHLEEN DUNCAN
TRUSTEES OF THE DUNCAN FAMILY TRUST
18969 W MCDOWELL RD
BUCKEYE, AZ 85396

Findings of Fact

1. On April 13, 2020, ARNOTT K. DUNCAN AND KATHLEEN DUNCAN, TRUSTEES OF THE DUNCAN FAMILY TRUST filed an application to temporarily change the place of use and change the point of appropriation under Permit G-15547 for the remainder of the 2020 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-13411.
2. Notice of the application for transfer was published on April 28, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the right to be temporarily transferred is as follows:
Permit: G-15547 in the name of CARLETON FARMS (assigned to DUNCAN FAMILY TRUST)
Use: SUPPLEMENTAL IRRIGATION on 114.0 ACRES
Priority Date: MARCH 26, 2003
Rate: 1.42 CUBIC FEET PER SECOND

This is a final order in other than a 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 137-004-0080, 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.

Limit/Duty: The amount of water used for irrigation, 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 and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Period of Use: APRIL 1 THROUGH OCTOBER 31

Source: A WELL IN LOST RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	10 E	WM	36	NE NW	100 FEET SOUTH AND 2560 FEET EAST FROM THE NW CORNER OF SECTION 36

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
40 S	10 E	WM	36	NE NW		12.33
40 S	10 E	WM	36	SE NW		9.97
40 S	10 E	WM	36	NE SW		38.0
40 S	10 E	WM	36	SE SW		34.7
40 S	11 E	WM	31	SW NW	2	7.0
41 S	10 E	WM	1	NW SW		12.0
Total						114.0

4. Temporary Drought Transfer Application T-13411 proposes to temporarily change the place of use of the right to:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	
41 S	10 E	WM	9	NE SW	3.48	
41 S	10 E	WM	9	NW SW	8.02	
41 S	10 E	WM	9	SW SW	26.33	
41 S	10 E	WM	9	SE SW	39.61	
41 S	10 E	WM	9	SW SE	36.56	
Total						114.0

5. Temporary Drought Transfer Application T-13411 proposes to move the authorized point of appropriation approximately 4.1 miles southwest to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	10 E	WM	9	NE SW	N 22° 48' W 2606.2 FEET FROM THE SOUTH ¼ CORNER OF SECTION 9

Temporary Drought Transfer Review Criteria

6. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.

8. The Governor issued an executive order on March 2, 2020, declaring a state of drought emergency in Klamath County due to drought and extreme weather conditions, which is still in effect and the water right proposed for transfer is on lands included in the area covered by the drought order.
9. The proposed changes would not result in enlargement of the rights.
10. The proposed changes would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under OAR 690-019-055(3) if injury to existing water rights is shown and cannot be mitigated to the satisfaction of the Director and injured parties.

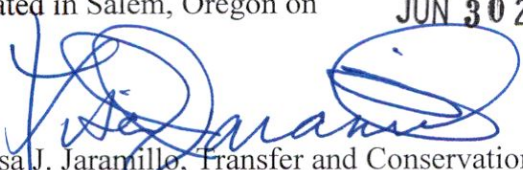
Conclusions of Law

The temporary change in place of use and point of appropriation proposed in Temporary Drought Transfer Application T-13411 are consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

Now, therefore, it is ORDERED:

1. The temporary change in place of use and point of appropriation proposed in Temporary Drought Transfer Application T-13411 are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the remainder of the 2020 irrigation season or until the end of the Governor's declared drought, whichever occurs first.
3. The approval of this temporary drought transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
4. The use of water at the temporary places of use authorized by this transfer shall be in accordance with the terms and conditions of Permit G-15547, the use shall revert to the authorized place of use at the end of the 2020 irrigation season.
5. The proposed change in place of use and point of appropriation shall revert to the authorized place of use and point of appropriation at the end of the 2020 irrigation season or the end of the Governor's declared drought, whichever occurs first.
6. The use of the remaining water right described by Permit G-15547 shall continue to be in accordance with the terms and conditions of Permit G-15547.

Dated in Salem, Oregon on **JUN 30 2020**


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

Mailing Date:

JUL 01 2020