

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

In the Matter of Transfer Application        )        FINAL ORDER APPROVING A TEMPORARY  
T-13941, Klamath County                    )        CHANGE IN PLACE OF USE AND CHANGE  
  )        IN POINT OF APPROPRIATION

**Authority**

Oregon Revised Statute (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of appropriation authorized under an existing water right. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

**Applicant**

DUANE MARTIN RANCHES, LP  
2021 STATE HWY 88  
IONE, CA 95640

**Findings of Fact**

1. On March 9, 2022, DUANE MARTIN RANCHES, LP filed an application to temporarily change the place of use and change the point of appropriation to serve the proposed place of use under Certificate 41860 for a period of 5 years. The Department assigned the application number T-13941.

2. Notice of the application for transfer was published on March 15, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

3. The portion of the right to be transferred is as follows:

- Certificate:** 41860 in the name of ROBERT A. JOHNSON (perfected under Permit G-2588)
- Use:** IRRIGATION of 44.7 ACRES
- Priority Date:** MARCH 4, 1964
- Rate:** 0.56 CUBIC FOOT 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** NEATHORY WELL NO. 1 a tributary of SPRAGUE RIVER

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
36 S	11 E	WM	15	SW SE	31	NEATHORY WELL NO. 1 - 270 FEET NORTH AND 1620 FEET WEST FROM THE SE CORNER OF SECTION 15

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
36 S	11 E	WM	15	NE SE	17	15.7
36 S	11 E	WM	15	NE SE	24	20.0
36 S	11 E	WM	15	SE SE	25	9.0
					Total	44.7

4. Temporary Transfer Application T-13941 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
36 S	11 E	WM	15	NE SW	19	17.5
36 S	11 E	WM	15	NE SW	22	5.3
36 S	11 E	WM	15	NW SW	20	18.5
36 S	11 E	WM	15	NW SW	21	3.4
					Total	44.7

5. A change in point of appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13941 proposes to move the authorized point of appropriation approximately 2000 feet northwest to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
36 S	11 E	WM	15	NE SW	22	WELL 6 - 720 FEET SOUTH AND 200 FEET WEST FROM THE C1/4 CORNER OF SECTION 15

**Temporary 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 proposed changes would prevent the lands from which the water right is removed during the period of the temporary transfer from receiving water under the transferred right, as required by ORS 540.523(7).
9. 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 ORS 540.523(5) if the Department later finds that the transfer is causing injury to any existing water right.

### Conclusions of Law

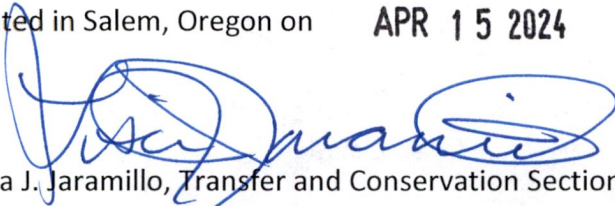
The temporary change in place of use and point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-13941 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

### Now, therefore, it is ORDERED:

1. The temporary change in place of use and change in point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-13941 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2023, 2024, 2025, 2026, and 2027 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2027 irrigation season. The authorization to use the temporary point of appropriation shall be terminated concurrently.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. The quantity of water diverted at the proposed temporary point of appropriation (Well 6) shall not exceed the quantity of water lawfully available at the original point of appropriation (Neathory Well No. 1).
6. A subsequent application for permanent transfer of Certificate 41860 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
7. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 41860.
8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.

9. 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.
10. The use of the remaining water right described by Certificate 41860 shall continue to be in accordance with the terms and conditions of Certificate 41860.

Dated in Salem, Oregon on **APR 15 2024**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
DOUGLAS E. WOODCOCK, ACTING DIRECTOR  
Oregon Water Resources Department

Mailing Date: **APR 16 2024**