

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-13988, Klamath County)	EMERGENCY USE DROUGHT
)	TEMPORARY CHANGE IN 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

MLM PROPERTY LLC
PO BOX 195
MERRILL, OR 97633

Findings of Fact

1. On April 22, 2022, MLM PROPERTY LLC filed an application to temporarily change the point of appropriation under Permit G-18390 for the remainder of the 2022 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-13988.
2. Notice of the application for transfer was published on August 9, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The permit to be temporarily transferred is as follows:

Water Use Permit: G- 18390 in the name of MLM PROPERTY LLC (Water Use application G-16044)
Use: SUPPLEMENTAL IRRIGATION of 57.5 ACRES
Priority Date: MARCH 1, 2005

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.

Rate: 0.72 CUBIC FOOT PER SECOND (CFS) BEING 0.72 CFS FROM WELL 1 FOR SUPPLEMENTAL IRRIGATION ON 57.5 ACRES AND 0.71 CFS FROM WELL 2 FOR SUPPLEMENTAL IRRIGATION ON 56.65 ACRES

Limit/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 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: WELL 1 (KLAM 53043) IN DODDS HOLLOW BASIN: WELL 2 (KLAM 10518) IN LOST RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	10 E	WM	29	SW NW	1420 FEET SOUTH AND 20 FEET EAST FROM THE NW CORNER OF SECTION 29
41 S	11 E	WM	7	SW NE	1360 FEET SOUTH AND 1860 FEET WEST FROM THE NE CORNER OF SECTION 7

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	11 E	WM	16	NE NE	1	7.4
41 S	11 E	WM	16	NE NE	6	7.8
41 S	11 E	WM	16	NW NE	2	4.6
41 S	11 E	WM	16	NW NE	9	1.8
41 S	11 E	WM	16	SW NE	9	1.7
41 S	11 E	WM	16	SE NE	10	32.7
41 S	11 E	WM	16	NE SE	11	1.5
Total						57.5

4. Temporary Transfer Application T-13988 proposes to move the authorized points of appropriation approximately 2.0 miles North of Well 1, and 2.0 miles South of Well 2 to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	11 E	WM	16	NE SE	1240 FEET NORTH AND 30 FEET WEST FROM THE SE CORNER OF SECTION 16

Temporary Drought Transfer Review Criteria

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

7. The Governor issued an executive order on March 4, 2022, 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.
8. The proposed changes would not result in enlargement of the permit.
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 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 point of appropriation proposed in Temporary Drought Transfer Application T-13988 is consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

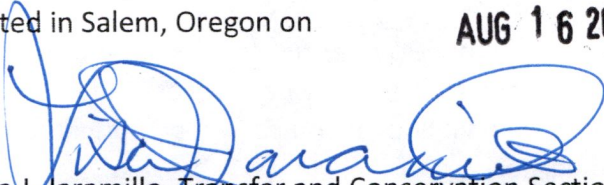
Now, therefore, it is ORDERED:

1. The temporary change in point of appropriation proposed in Temporary Drought Transfer Application T-13988 is approved.
2. 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.
 - 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.
3. The approval of this temporary drought transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
4. The use of water from the temporary point of appropriation authorized by this transfer shall be in accordance with the terms and conditions of Permit G-18390 the use shall revert to the authorized place of use at the end of the 2022 irrigation season.
5. The quantity of water diverted at the proposed temporary point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.

6. The proposed change in point of appropriation shall revert to the authorized points of appropriation at the end of the 2022 irrigation season or the end of the Governor's declared drought, whichever occurs first.

Dated in Salem, Oregon on

AUG 16 2022



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

Mailing Date:

AUG 17 2022