

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING AN
T-13702, Klamath County	)	EMERGENCY USE DROUGHT TEMPORARY
	)	CHANGE IN PLACE OF USE AND 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**

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

**Findings of Fact**

1. On May 12, 2021, DUANE MARTIN RANCHES, LP filed an application to temporarily change the place of use and change the point of appropriation under Certificate 41860 for the remainder of the 2021 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-13702.
2. Notice of the application for transfer was published on May 18, 2021, 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:  
**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

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:** 0.56 CUBIC FOOT PER SECOND

**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 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-13702 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
36 S	11 E	WM	15	NE SW	19	17.50
36 S	11 E	WM	15	NE SW	22	5.30
36 S	11 E	WM	15	NW SW	21	3.40
36 S	11 E	WM	15	NW SW	20	18.50
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-13702 proposes to move the authorized point of appropriation approximately 2076 feet northwest to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
36 S	11 E	WM	15	SW SE	31	WELL #6 - 720 FEET SOUTH AND 200 FEET WEST FROM THE CENTER OF SECTION 15

**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 31, 2021, 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 right.
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**

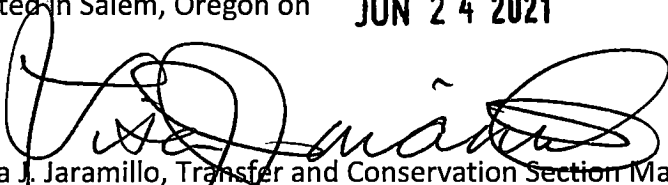
The temporary changes in place of use and point of appropriation proposed in Temporary Drought Transfer Application T-13702 are consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

### **Now, therefore, it is ORDERED:**

1. The temporary changes in place of use and point of appropriation proposed in Temporary Drought Transfer Application T-13702 are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the remainder of the 2021 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 Certificate 41860. The use shall revert to the authorized place of use at the end of the 2021 irrigation season.
5. 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, with the exception that water rights issued to the Bureau of Reclamation or an irrigation district (or similar entity) are not subject to this condition.
  - 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.

6. The proposed changes 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 2021 irrigation season or the end of the Governor's declared drought, whichever occurs first.
7. 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 **JUN 24 2021**



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

*Mailing Date:* **JUN 25 2021**