

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13181, Clackamas County)	ADDITIONAL POINTS OF
)	APPROPRIATION AND CHANGES IN
)	PLACES OF USE

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

WEYERHAEUSER CO/AURORA FOREST NURSERY
6051 S LONE ELDER RD
AURORA, OR 97002

Findings of Fact

1. On May 13, 2019, WEYERHAEUSER CO/ AURORA FOREST NURSERY filed an application for additional points of appropriation and to change the place of use under Certificates 72754 and 72472. The Department assigned the application number T-13181.
2. Notice of the application for transfer was published on May 21, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 10, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13181 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 11, 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 and requested the deadline for development be extended to October 1, 2024.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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.

4. On December 31, 2020, the Department issued a Preliminary Determination proposing to approve Transfer T-13181 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on January 5, 2021, and in the Canby Herald newspaper on January 13 and 20, 2021, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
5. The portion of the first right to be transferred is as follows:

Certificate: 72754 in the name of WEYERHAEUSER (AURORA FOREST NURSERY) (perfected under Permit G-11405)
Use: FROST PROTECTION of 20.5 ACRES
Priority Date: FEBRUARY 9, 1990
Rate: 0.72 CUBIC FOOT PER SECOND (CFS)
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 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year. THE USE OF WATER FOR FROST PROTECTION IS LIMITED TO 0.15 CUBIC FOOT PER SECOND PER ACRE.
Source: 5 WELLS in the PUDDING RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 E	WM	7	NW SE	WELL 10 - 2120 FEET NORTH AND 180 FEET WEST FROM THE SE CORNER OF THE SWSE OF SECTION 7
4 S	1 E	WM	7	SW SE	WELL 5 - 1130 FEET NORTH AND 1330 FEET WEST FROM THE SE CORNER OF SECTION 7
4 S	1 E	WM	7	SW SE	WELL 15 - 970 FEET NORTH AND 160 FEET EAST FROM THE 1/4 CORNER BETWEEN SECTIONS 7 AND 18
4 S	1 E	WM	18	NW NE	WELL 6 - 840 FEET SOUTH AND 470 FEET EAST FROM THE 1/4 CORNER BETWEEN SECTIONS 7 AND 18
4 S	1 E	WM	18	NE NW	WELL 14 - 880 FEET SOUTH AND 120 FEET WEST FROM THE 1/4 CORNER BETWEEN SECTIONS 7 AND 18

Authorized Place of Use:

FROST PROTECTION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 E	WM	7	NW SE	7.7
4 S	1 E	WM	7	SW SE	12.8
Total:					20.5

6. Transfer Application T-13181 proposes additional points of appropriation with approximate distances in miles (mi) from existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Existing well
4 S	1 E	WM	7	NW SW	WELL 2 - 1340 FEET NORTH AND 1020 FEET EAST FROM THE SW CORNER OF SECTION 7	Well 5-0.6 mi Well 6-0.6 mi Well 10-0.6 mi Well 14-0.5 mi Well 15-0.4 mi
4 S	1 E	WM	7	SW SW	WELL 12 - 400 FEET NORTH AND 980 FEET EAST FROM THE SW CORNER OF SECTION 7	Well 5-0.6 mi Well 6-0.5 mi Well 10-0.6 mi Well 14-0.4 mi Well 15-0.4 mi
4 S	1 E	WM	7	SE SE	WELL M - 780 FEET NORTH AND 330 FEET WEST FROM THE SE CORNER OF SECTION 7	Well 5-0.2 mi Well 6-0.5 mi Well 10-0.3 mi Well 14-0.6 mi Well 15-0.4 mi
4 S	1 E	WM	12	NE SE	WELL 4 - 1910 FEET NORTH AND 120 FEET WEST FROM THE SE CORNER OF SECTION 12	Well 5-1.0 mi Well 6-0.6 mi Well 10-0.9 mi Well 14-0.4mi Well 15-0.8 mi
4 S	1 E	WM	12	SE SE	WELL 1 - 1140 FEET NORTH AND 370 FEET WEST FROM THE SE CORNER OF SECTION 12	Well 5-0.9 mi Well 6-0.8 mi Well 10-0.6 mi Well 14-0.7 mi Well 15-0.6 mi

7. Transfer Application T-13181 also proposes to change the place of use of the right to:

FROST PROTECTION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 E	WM	7	SE SW	20.5

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

Certificate: 72472 in the name of WEYERHAEUSER (AURORA FOREST NURSERY) (perfected under Permit G-4005 with a date of priority of February 21, 1968, and Permit G-6506 with a date of priority of June 20, 1975)

Use: Irrigation of 4.7 acres and Supplemental Irrigation of 4.7 acres

Priority Dates: February 21, 1968 for irrigation and June 20, 1975 for supplemental irrigation

Rate: 0.06 Cubic Foot per Second (CFS) for Irrigation and 0.06 CFS for supplemental irrigation

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 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: 5 WELLS in the PUDDING RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 E	WM	7	NW SE	WELL 10 - 2120 FEET NORTH AND 180 FEET WEST FROM THE SE CORNER OF THE SW1/4 SE1/4 OF SECTION 7
4 S	1 E	WM	7	SW SE	WELL 5 - 1130 FEET NORTH AND 1330 FEET WEST FROM THE SE CORNER OF SECTION 7
4 S	1 E	WM	7	SW SE	WELL 15 - 970 FEET NORTH AND 160 FEET EAST FROM THE 1/4 CORNER BETWEEN SECTIONS 7 AND 18
4 S	1 E	WM	18	NW NE	WELL 6 - 840 FEET SOUTH AND 470 FEET EAST FROM THE 1/4 CORNER BETWEEN SECTIONS 7 AND 18
4 S	1 E	WM	18	NE NW	WELL 14 - 880 FEET SOUTH AND 120 FEET WEST FROM THE 1/4 CORNER BETWEEN SECTIONS 7 AND 18

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 E	WM	7	SW SE	4.7

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 E	WM	7	SW SE	4.7

9. Transfer Application T-13181 proposes additional points of appropriation with approximate distances in miles from the existing points of appropriation to those as described below:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Existing well
4 S	1 E	WM	7	NW SW	WELL 2 - 1340 FEET NORTH AND 1020 FEET EAST FROM THE SW CORNER OF SECTION 7	Well 5-0.6 mi Well 6-0.6 mi Well 10-0.6 mi Well 14-0.6 mi Well 15-0.4 mi
4 S	1 E	WM	7	SW SW	WELL 12 - 400 FEET NORTH AND 980 FEET EAST FROM THE SW CORNER OF SECTION 7	Well 5-0.6 mi Well 6-0.5 mi Well 10-0.7 mi Well 14-0.4 mi Well 15-0.4 mi
4 S	1 E	WM	7	SE SE	WELL M - 780 FEET NORTH AND 330 FEET WEST FROM THE SE CORNER OF SECTION 7	Well 5-0.2 mi Well 6-0.5 mi Well 10-0.3 mi Well 14-0.6 mi Well 15-0.4 mi
4 S	1W	WM	12	SE SE	WELL 1 - 1140 FEET NORTH AND 370 FEET WEST FROM THE SE CORNER OF SECTION 12	Well 5-0.9 mi Well 6-0.8 mi Well 10-0.9 mi Well 14-0.7 mi Well 15-0.6 mi
4 S	1W	WM	12	NE SE	WELL 4 - 1910 FEET NORTH AND 120 FEET WEST FROM THE SE CORNER OF SECTION 12	Well 5-0.8 mi Well 6-0.9 mi Well 10-0.8 mi Well 14-0.8 mi Well 15-0.6 mi

10. Transfer Application T-13181 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 E	WM	7	SE SW	4.7

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 E	WM	7	SE SW	4.7

Transfer Review Criteria (OAR 690-380-4010)

- 11. Water has been used within the last five years prior to the submittal of Transfer Application T-13181 according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- 12. The proposed change would not result in enlargement of the rights.
- 13. The proposed change would not result in injury to other water rights.
- 14. All other application requirements are met.

Conclusions of Law

The additional points of appropriation and change in places of use proposed in Transfer Application T-13181 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore it is ORDERED:

- 1. The additional points of appropriation and change in place of use proposed in Transfer Application T-13181 are 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 Certificates 72754 and 72472 and any related decree.
- 3. Water right Certificates 72754 and 72472 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.
- 4. The quantity of water diverted at the additional points of appropriation (Wells 1, 2, 4, 12, and M), together with that diverted at the original points of appropriation (Wells 5, 6, 10, 14, and 15), shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 5, 6, 10, 14, and 15).
- 5. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
- 6. The former places of use of the transferred rights shall no longer receive water under the rights.

7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2024**. 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.
8. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on

MAY 12 2021


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

Mailing date: **MAY 13 2021**