

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-13181, Clackamas County	)	PROPOSING APPROVAL OF
	)	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.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

4. 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

5. 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

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Existing well
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

6. 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

7. 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

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
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

8. 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

9. 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)***

10. 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.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

**Determination and Proposed Action**

The additional points of appropriation and change in places of use proposed in Transfer Application T-13181 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

*If Transfer Application T-13181 is approved, the final order will include the following:*

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

DEC 31 2020

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

This Preliminary Determination was prepared by Joan Smith. If you have questions about the information in this document, you may reach me at 503-986-0892 or [Joan.M.Smith@oregon.gov](mailto:Joan.M.Smith@oregon.gov)

*Protests should be addressed to the attention of Water Rights Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.*

**Notice Regarding Service Members:** Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free number.



Oregon  
Kate Brown, Governor

Water Resources Department  
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(503) 986-0900  
Fax (503) 986-0904

December 31, 2020

VIA E-MAIL

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

SUBJECT: Water Right Transfer Application T-13181

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13181. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Canby Herald newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0892 or Joan.M.Smith@oregon.gov if I may be of assistance.

Sincerely,

Joan Smith  
Transfer Specialist  
Transfer and Conservation Section

cc: T-13181  
Joel M. Plahn, District 16 Watermaster (*via e-mail*)  
William McGill, Agent for the applicant (*via e-mail*)

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