

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

In the Matter of Transfer Application            )    PRELIMINARY DETERMINATION  
T-10212, Lane County                            )    PROPOSING APPROVAL OF AN  
  )    ADDITIONAL POINT OF DIVERSION

**Authority**

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

WEYERHAEUSER COMPANY  
LOREN LEIGHTON  
P.O. BOX 275  
SPRINGFIELD, OREGON 97477

**Findings of Fact**

1. On July 3, 2006, Loren Leighton, on behalf of Weyerhaeuser Company, filed a transfer application for an additional point of diversion under Certificate 20942. Adam Sussman of CH2M Hill, is the agent authorized to act on the applicant's behalf. The Department assigned the application number T-10212.

2. The right to be transferred is as follows:

**Certificate:** 20942 in the name of WEYERHAEUSER TIMBER CO. (perfected under Permit S-20053)  
**Use:** MANUFACTURING  
**Priority Date:** DECEMBER 27, 1950  
**Rate:** 30.0 CUBIC FEET PER SECOND  
**Source:** MCKENZIE RIVER, tributary to the WILLAMETTE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
17 S	2 W	WM	32	NE NW	2	None specified on the certificate

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.

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	DLC
17 S	2 W	WM	29	SE SW	61
17 S	2 W	WM	29	SW SE	61
17 S	2 W	WM	29	SE SE	61
17 S	2 W	WM	32	NE NE	61
17 S	2 W	WM	32	NE NE	62
17 S	2 W	WM	32	NW NE	61
17 S	2 W	WM	32	NW NE	62
17 S	2 W	WM	32	SW NE	62
17 S	2 W	WM	32	SE NE	62
17 S	2 W	WM	32	NE NW	61
17 S	2 W	WM	32	NE NW	62

3. The applicant submitted information that more specifically describes the authorized point of diversion as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
17 S	2 W	WM	32	NE NW	2	40 FEET SOUTH AND 1350 FEET EAST FROM THE NW CORNER OF SECTION 29, T 17 S, R 2 W, W.M.

4. Application T-10212 proposes an additional point of diversion on the McKenzie River at the following location:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	2 W	WM	29	NE SW	3,570 FEET SOUTH AND 2,400 FEET EAST FROM THE NW CORNER OF SECTION 29

5. The authorized point of diversion is located on the McKenzie (Kaiser) Slough. The slough connects with the McKenzie River approximately 2000 feet up the slough from the authorized point of diversion. The proposed additional point of diversion is located approximately 150 feet downstream from the entrance to the slough on the river. Therefore, the requested additional point of diversion is, in effect, a downstream transfer.
6. The applicant requested a time period of five years to complete the transfer.
7. Notice of the application for transfer was published on July 11, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. Brad Taylor of the Eugene Water and Electric Board (EWEB) responded to the notice and requested a copy of the proposed order.
8. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device.

9. Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
10. A pump and pipeline system sufficient to use the full amount of water allowed under the existing right is present.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

### **Determination and Proposed Action**

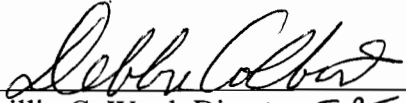
The additional point of diversion proposed in application T-10212 appears to be consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000, and will be approved provided that protests are not filed pursuant to OAR 690-380-4030.

If approved, the change and subsequent use of water shall be subject to the following conditions:

1. 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 Certificate 20942 and any related decree.
2. Water Right Certificate 20942 is cancelled.
3. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
4. The quantity of water diverted at the additional point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
5. Prior to diverting water at the new point of diversion, the water user shall install a fish screen and/or by-pass device as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

6. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 8<sup>th</sup> day of February 2007.

  
Phillip C. Ward, Director *PCW*

This Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Dorothy Pedersen at 503-986-0890 or [Dorothy.I.Pedersen@wrд.state.or.us](mailto:Dorothy.I.Pedersen@wrд.state.or.us).

*Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1271*