

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-6686, Jackson County	)	PROPOSING DENIAL OF A CHANGE
	)	IN PLACE OF USE

**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**

U.S. Forest Service  
Applegate Ranger District  
3040 Biddle Rd.  
Medford, OR 97504

**Contact**

Stephan L. Barott  
Forest Land Surveyor and Water Rights Examiner  
3040 Biddle Rd.  
Medford, OR 97704

**Findings of Fact**

**Background**

1. On March 12, 1992, U.S. FOREST SERVICE, APPLGATE RANGER DISTRICT filed an application to change the place of use under Certificate 39140. The Department assigned the application number T-6686.
2. The portion of the right to be transferred is as follows:  
**Certificate:** 39140 in the name of U.S. FOREST SERVICE (perfected under Permit S-33179)  
**Use:** DOMESTIC USE OF TWELVE FAMILIES AND MAINTENANCE OF FIRE SUPPRESSION SYSTEM  
**Priority Date:** JANUARY 24, 1968  
**Rate:** 0.04 CUBIC FOOT PER SECOND (cfs) being, 0.03 cfs for domestic and 0.01 cfs for maintenance of fire suppression system  
**Source:** APPLGATE RIVER, tributary to ROGUE RIVER

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.
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**Authorized Point of Diversion:**

<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>Q-Q</b>	<b>Survey Coordinates</b>
39 S	3 W	WM	28	SE NE	NORTH 89 DEGREES 27 MINUTES 42 SECONDS WEST, 1312.83 FEET FROM THE E1/4 CORNER OF SECTION 28

**Authorized Place of Use:**

<b>DOMESTIC AND MAINTENANCE OF FIRE SUPPRESSION SYSTEM</b>					
<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>Q-Q</b>	
39 S	3 W	WM	28	NE NE	
39 S	3 W	WM	28	SE NE	
39 S	3 W	WM	28	SW NE	

3. Application T-6686 proposes to change the place of use of the right to:

<b>DOMESTIC AND MAINTENANCE OF FIRE SUPPRESSION SYSTEM</b>					
<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>Q-Q</b>	<b>Use</b>
39 S	3 W	WM	28	SW NE	DOMESTIC AND MAINTENANCE OF FIRE SUPPRESSION SYSTEM
39 S	3 W	WM	28	SE NE	MAINTENANCE OF FIRE SUPPRESSION SYSTEM
39 S	3 W	WM	28	NE NW	DOMESTIC AND MAINTENANCE OF FIRE SUPPRESSION SYSTEM

4. Notice of the application for transfer was published on March 25, 1992, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
5. On April 22, 2003 and again on November 3, 2003, letters requesting additional information were sent to the applicants. The record does not contain information that the applicant responded to these requests.
6. On March 15, 2006, a deficiency letter requesting additional information to resolve multiple deficiencies in the application was mailed to the applicant. This letter requested information about (1) the authorized point of diversion, (2) the location of the place of use for the use(s) other than irrigation, (3) clarification as to whether the application proposes to change the place of use for domestic and where the applicant proposes to move the use "to" and (4) these amendments would also need to be shown on an amended transfer application map. This letter set forth a deadline of April 20, 2006 by which time a response from the applicant must be received by the Department.
7. On April 18, 2006 the Department received a telephone call from Stephen Barott of the U.S. Forest Service concerning the application. Mr. Barott conveyed to the Department the applicant's intent to pursue the changes proposed in Transfer Application T-6686.
8. On May 10, 2006, the contacted the applicant by telephone to ascertain whether there had been progress in addressing the application's multiple deficiencies.
9. On August 9, 2006, the Department again mailed a letter to the applicants requesting information to clarify the deficiencies in T-6686. This letter set forth a deadline of

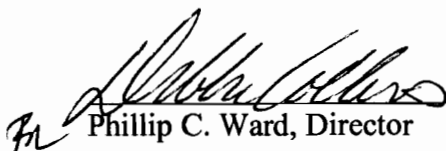
September 1, 2006 by which time the applicant must provide information to resolve the deficiencies in the transfer application. No response was received.

10. On September 26, 2006, the Department issued a draft Preliminary Determination intending to deny Transfer Application T-6686. The letter that accompanied the draft Preliminary Determination set forth a deadline of October 20, 2006 by which time the applicant must establish contact with the Department.
11. On October 29, 2006, the applicant contacted the Department and requested until January, 15, 2007, to resolve the deficiencies in the application. Additionally the applicant again stated the intent to continue with process involved with Transfer Application T-6686. The Department placed the application on Administrative Hold until January, 15, 2007.
12. On February 21, 2007, the Department contacted the applicant by email inquiring about progress toward resolution of the deficiencies in Transfer Application T-6686. No response from the applicant is included in the record.
13. On April 5, 2007, the Department again contacted the applicant by email requesting resolution to the deficiencies in Transfer Application T-6686. This email set forth a date of April 16, 2007, by which time the applicant must respond or the Department would issue a Preliminary Determination to deny the application. To date, there has been no response from the applicant.
14. As identified in Findings of Fact #6 through #13 above, the transfer application does not meet standards for completeness as per ORS 540.520 and OAR 690, Division 15 which were in effect at the time of filing the application, nor does it meet OAR 690, Division 380 completeness standards currently in effect.
15. Without a complete application, the Department is unable to determine whether the proposed change would result in enlargement of the water right.
16. The proposed change not would result in injury to other water rights.

#### **Determination and Proposed Action**

The changes in place of use proposed in application T-6686 appear to be not consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. The application is incomplete and cannot be processed. If protests are not filed pursuant to OAR 690-380-4030, the application will be denied.

Dated at Salem, Oregon this 19<sup>th</sup> day of June 2007.

  
Phillip C. Ward, Director

This Preliminary Determination was prepared by Vern Church and Susan Douthit. If you have questions about the information in this document you may reach Susan at 503-986-0858 or Susan.M.Douthit@wrd.state.or.us.

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