

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

In the Matter of Transfer Application            )  
T-6585, Jackson County                            )  
  )  
  ) PRELIMINARY DETERMINATION  
  ) PROPOSING APPROVAL OF  
  ) CHANGES IN CHARACTER OF USE  
  ) AND 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**

S & S UNLIMITED, INC.  
ATTN: JAMES BLANKENSHIP, PRESIDENT  
P.O. BOX 1165  
SHADY COVE, OR 97539

**Findings of Fact**

***Background***

1. Vito Minerva (Secretary) of M.V.S. Enterprises filed an application on July 15, 1991, to change the character of use under Certificate 14479. The Department assigned the application number T-6585.
2. On January 30, 1998, Transfer T-6585 was assigned from M.V.S. Enterprises to S & S Unlimited, Inc. and the transfer application was modified to identify the portion of Certificate 14479 to be affected by Transfer T-6585 and to include a change in place of use.
3. The portion of the right to be transferred is as follows:  
**Certificate:** 14479 in the name of JOSEPH B. AND CHRISTINE E. DOBBYN  
(perfected under Permit S-13794)  
**Use:** DOMESTIC AND CAMPGROUND USE  
**Priority Date:** JUNE 3, 1939  
**Quantity:** 0.023 CUBIC FOOT PER SECOND (CFS), or 15,000 gallons per day  
**Source:** HOLE IN GROUND CREEK, tributary to the 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.

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	¼ ¼
33 S	2 E	WM	9	NW SE

**Authorized Place of Use:**

DOMESTIC & CAMPGROUND USE				
Twp	Rng	Mer	Sec	¼ ¼
33 S	2 E	WM	9	SW SE

4. Application T-6585 proposes to change the character of use and the place of use of the right as follows:

QUASI-MUNICIPAL USE				
Twp	Rng	Mer	Sec	¼ ¼
33 S	2 E	WM	9	SW SE
33 S	2 E	WM	9	SE SE

5. Notice of the application for transfer was published on July 19, 1991, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
6. On May 13, 2004, the Department mailed a copy of the draft Preliminary Determination to the applicant indicating the transfer application was incomplete, but if all application deficiencies were resolved the Department may be able to approve Transfer Application T-6585. The draft Preliminary Determination outlined the deficient items and set forth a deadline of June 16, 2004, for the applicant to submit the missing information. The applicant did not submit the requested information.
7. The Department mailed a copy of a revised draft Preliminary Determination to the applicant on August 9, 2007, proposing to deny Transfer Application T-6585 because the application did not meet completeness requirements. The revised draft Preliminary Determination set forth a deadline of September 10, 2007, for the applicant to respond and resolve the application deficiencies.
8. On September 7, 2007, the applicant submitted the following items, thus completing the transfer application: 1) a copy of the deed for the subject land to which Certificate 14479 is appurtenant; 2) notarized statements from the other owners of record for the subject land consenting to the changes proposed by the transfer; 3) information that sufficiently resolves land use issues; 4) and a notarized statement from the encumbrance holders consenting to the proposed transfer. The applicant requested that the Department proceed with issuance of the Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

9. Because the applicant resolved the deficiency issues, as described in Finding No. 8, the Department sent a second revised draft Preliminary Determination proposing to approve Transfer T-6585 to the applicant on September 18, 2007. The applicant reviewed the document and asked the Department on September 21, 2007, to proceed with issuance of the Preliminary Determination.

***Transfer Review Criteria [OAR 690-380-4010(2)]***

10. The portion of water under Certificate 14479 proposed for transfer, being 0.023 cfs, has been used for domestic and campground use within the five years prior to filing of the application according to the terms and conditions of the right and no evidence is available that would demonstrate that this portion of the right is subject to forfeiture under ORS 540.610.
11. A diversion structure and pipeline sufficient to use the full amount of water allowed under the existing right are present.
12. The proposed changes would not result in enlargement of the right.
13. The proposed changes would not result in injury to other water rights.

**Determination and Proposed Action**


The changes in character of use and place of use proposed in application T-6580 appear to be consistent with the requirements of ORS 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 application T-6585 is approved, the final order will include the following:*

1. *The changes in character of use and place of use proposed in application T-6585 are approved.*
2. *Water right certificate 14479 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
3. *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 14479 and any related decree.*
4. *The former place of use of the transferred right shall no longer receive water under the right.*
5. *When required by the Department, the water user shall install, maintain and operate an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*

6. *When required by the Department, the water user shall install, maintain and operate a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*
7. *The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2009**. 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.*
8. *When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 25<sup>th</sup> day of September 2007.

  
Phillip C. Ward, Director

This Preliminary Determination was prepared by Lisa Jaramillo. If you have questions about the information in this document, you may reach me at 503-986-0880 or [Lisa.J.Jaramillo@wrд.state.or.us](mailto:Lisa.J.Jaramillo@wrд.state.or.us).

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