



# Oregon

Kate Brown, Governor

**Water Resources Department**  
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June 5, 2017

STEVEN M. SELF  
226 N PAGE  
PORTLAND, OR 97227

**SUBJECT: Water Right Transfer Application T-12477**

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12477. 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 Medford Mail-Tribune 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 503-986-0827 or [duff.a.martin@oregon.gov](mailto:duff.a.martin@oregon.gov) if I may be of assistance.

Sincerely,

Duff Martin  
Transfer Specialist  
Transfer and Conservation Section

cc: Transfer Application file T-12477  
Shavon Haynes, District 13 Watermaster (*via e-mail*)

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12477, Jackson County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN POINT OF DIVERSION

**Authority**

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish 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. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

STEVEN M. SELF  
226 N PAGE  
PORTLAND, OR 97227

**Findings of Fact**

1. On September 15, 2016, Steven M. Self filed an application for a change in point of diversion under Certificate 4975, 16467, 32990, 42877, 48013, and 48014. The Department assigned the application number T-12477.
2. Notice of the application for transfer was published on September 27, 2016, pursuant to OAR 690-380-4000.
3. On March 30, 2017, the Department notified the applicant of deficiencies in the application. The Department received amended application pages and maps that changed the application to a change in point of diversion on April 13, 2017.
4. On May 25, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12477 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 25, 2017, 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.

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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5. The portion of the first right to be transferred is as follows:

**Certificate:** 4975 in the names of ANDERSON MEE AND LIDA MEE (perfected under Permit S-4564)  
**Use:** SUPPLEMENTAL IRRIGATION OF 9.34 ACRES AND DOMESTIC USE  
**Priority Date:** MARCH 23, 1920  
**Rate:** 0.13 CUBIC FOOT PER SECOND  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent in case of rotation.  
**Source:** RUCH GULCH, tributary of the APPLGATE RIVER

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	4 W	WM	7	SW NE	9.34

DOMESTIC				
Twp	Rng	Mer	Sec	Q-Q
39 S	4 W	WM	7	SW NE

6. Certificate 4975 does not describe the location of the point of diversion, however information provided by the applicant and the Certified Water Right Examiner (CWRE) indicate that the point of diversion is located follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
37 S	4 W	WM	7	NE SW	RUCH GULCH - LATITUDE 42°11'25" LONGITUDE -123°13'14"

7. Transfer Application T-12477 proposes to change the point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized POD
39 S	4 W	WM	7	SW NE	105 FEET NORTH AND 420 FEET WEST FROM THE CENTER E1/16 CORNER OF SECTION 7	Ruch Gulch - 0.3 miles

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

**Certificate:** 16467 in the names of LIDA MEE AND ANDERSON MEE (confirmed by Rogue River Final Decree at Volume 4 Page 1)  
**Use:** IRRIGATION OF 8.0 ACRES, DOMESTIC, AND STOCK USE  
**Priority Date:** 1869  
**Rate:** 0.16 CUBIC FOOT PER SECOND  
**Source:** THOMPSON CREEK, a tributary of the APPLGATE RIVER

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	4 W	WM	7	SW NE	8.00

DOMESTIC				
Twp	Rng	Mer	Sec	Q-Q
39 S	4 W	WM	7	SW NE

LIVESTOCK				
Twp	Rng	Mer	Sec	Q-Q
39 S	4 W	WM	7	SW NE

9. Certificate 16467 does not describe the location of the points of diversion, however information is available from the Rogue River Decree and its associated map, and the CWRE, all indicate the points of diversion are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
39 S	4 W	WM	18	NE SW	MEE DITCH 1 - LATITUDE 42°10'41" LONGITUDE -123°13'24"
39 S	4 W	WM	7	SW SE	MEE DITCH 2 - LATITUDE 42°11'13" LONGITUDE -123°13'08"

10. Transfer Application T-12477 proposes to change the point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized PODS
39 S	4 W	WM	7	SW NE	105 FEET NORTH AND 420 FEET WEST FROM THE CENTER E1/16 CORNER OF SECTION 7	Mee Ditch 1- 1.1 miles Mee Ditch 2- 0.5 miles

11. The portion of the third right to be transferred is as follows:

**Certificate:** 32990 in the names of LYDA AND ANDERSON MEE (confirmed by Rogue River Final Decree )

**Use:** DOMESTIC, STOCK AND IRRIGATION OF 9.34 ACRES

**Priority Dates:** 1857 and 1906

**Rate:** 0.08 CUBIC FOOT PER SECOND (CFS), BEING 0.02 CFS FOR PRIORITY DATE 1857 AND 0.06 CFS FOR PRIORITY DATE 1906

**Sources:** O'BRIEN AND STURGIS FORKS OF CARBERRY FORK OF APPELEGATE RIVER, a tributary of the APPELEGATE RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Source
40 S	5 W	WM	12	SE NW	O'BRIEN FORK
40 S	5 W	WM	15	SE NE	STURGIS FORK

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	4 W	WM	7	SW NE	9.34

DOMESTIC				
Twp	Rng	Mer	Sec	Q-Q
39 S	4 W	WM	7	SW NE

LIVESTOCK				
Twp	Rng	Mer	Sec	Q-Q
39 S	4 W	WM	7	SW NE

12. Certificate 32990 does not describe the measured distances of the points of diversion, however, information is available from the Rogue River Decree and its associated map, and the CWRE, all indicate the points of diversions are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
40 S	5 W	WM	12	SE NW	O'BRIEN FORK – LATITUDE 42°06'18" LONGITUDE -123°14'44"
40 S	5 W	WM	15	SE NE	STURGIS FORK – LATITUDE 42°05'32" LONGITUDE -123°16'18"

13. Transfer Application T-12477 proposes to change the point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized PODS
39 S	4 W	WM	7	SW NE	105 FEET NORTH AND 420 FEET WEST FROM THE CENTER E1/16 CORNER OF SECTION 7	Sturgis Fork- 7.5 miles O'Brien Fork- 6.3 miles

14. The portion of the fourth right to be transferred is as follows:

**Certificate:** 42877 in the name of THOMPSON CREEK IRRIGATION ASSOCIATION (perfected under Permit S-3752)  
**Use:** SUPPLEMENTAL IRRIGATION OF 9.34 ACRES  
**Priority Date:** MARCH 26, 1918  
**Rate:** 0.117 CUBIC FOOT PER SECOND  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent in case of rotation.  
**Sources:** STURGIS AND O'BRIEN FORKS AND TRIBUTARY STREAMS AND MILLERS LAKE, tributaries of the APPLGATE RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Source
40 S	5 W	WM	28	NW	MILLERS LAKE
40 S	5 W	WM	15	SE NE	STURGIS CREEK
40 S	5 W	WM	12	SE NW	O'BRIEN FORK

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	4 W	WM	7	SW NE	9.34

15. Certificate 42877 does not describe the measured distances of the points of diversion, however information provided by the applicant and CWRE indicate the points of diversion are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
40 S	5 W	WM	28	NW	MILLERS LAKE - LATITUDE 42°03'55" LONGITUDE -123°18'10"
40 S	5 W	WM	15	SE NE	STURGIS CREEK - LATITUDE 42°05'32" LONGITUDE -123°16'18"
40 S	5 W	WM	12	SE NW	O'BRIEN FORK - LATITUDE 42°06'18" LONGITUDE -123°14'44"

16. Transfer Application T-12477 proposes to change the point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized POD
39 S	4 W	WM	7	SW NE	105 FEET NORTH AND 420 FEET WEST FROM THE CENTER E1/16 CORNER OF SECTION 7	Sturgis Creek - 7.5 miles O'Brien Fork - 6.3 miles Millers Lake - 9.9 miles

17. The portion of the fifth right to be transferred is as follows:

**Certificate:** 48013 in the name of THOMPSON CREEK IRRIGATION ASSOCIATION (perfected under Permit S-12361)

**Use:** SUPPLEMENTAL IRRIGATION OF 9.34 ACRES

**Priority Date:** SEPTEMBER 26, 1936

**Rate:** 0.3 ACRE FEET

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated from direct flow for lands described as primary and shall be further limited to a diversion of not to exceed 2.5 acre feet per acre for each acre irrigated from direct flow and reservoir constructed under Permit R-697, and shall be further limited to the use of stored water only on the lands described as supplemental.

**Source:** BIG MILLER LAKE RESERVOIR, a tributary of STURGIS CREEK

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q
40 S	5 W	WM	28	NE NW

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	4 W	WM	7	SW NE	9.34

18. Certificate 48013 does not describe the measured distances of the point of diversion, however information provided by the applicant and CWRE indicate the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
40 S	5 W	WM	28	NW	BIG MILLER LAKE - LATITUDE 42°03'55" LONGITUDE -123°18'09"

19. Transfer Application T-12477 proposes to change the point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized POD
39 S	4 W	WM	7	SW NE	105 FEET NORTH AND 420 FEET WEST FROM THE CENTER E1/16 CORNER OF SECTION 7	Big Miller Lake - 7.9 miles

20. The Department identified a scrivener's error in the addition of the supplemental irrigation acres on the certificate and inadvertently left off 0.2 off the total calculation of acres. The remaining right certificate will be issued correcting the total number of acres.

21. The portion of the sixth right to be transferred is as follows:

**Certificate:** 48014 in the name of THOMPSON CREEK IRRIGATION ASSOCIATION (perfected under Permit S-32253)  
**Use:** SUPPLEMENTAL IRRIGATION OF 9.34 ACRES  
**Priority Date:** DECEMBER 28, 1961  
**Rate:** 0.5 ACRE FEET  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to a diversion of not to exceed 4.5 acre feet per acre for each acre irrigated during the irrigation season of each year, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.  
**Source:** BIG MILLER LAKE RESERVOIR CONSTRUCTED UNDER PERMIT R-4929, a tributary of MILLER CREEK

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distance
40 S	5 W	WM	28	NE NW	SOUTH 58° EAST 1980 FEET FROM THE NW CORNER OF SECTION 28.

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	4 W	WM	7	SW NE	9.34

22. Information has been provided by the applicant and CWRE that better describes the point of diversion as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
40 S	5 W	WM	28	NW	BIG MILLER LAKE – LATITUDE 42°03'55" LONGITUDE -123°18'09"

23. Transfer Application T-12477 proposes to change the point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized POD
39 S	4 W	WM	7	SW NE	105 FEET NORTH AND 420 FEET WEST FROM THE CENTER E1/16 CORNER OF SECTION 7	Big Miller Lake Reservoir- 9.7 miles

24. The Department identified a scrivener's error in the addition of the supplemental irrigation acres on the certificate and inadvertently left off 0.2 off the total calculation of acres. The remaining right certificate will be issued correcting the total number of acres.
25. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

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

26. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
27. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-12477.
28. The proposed changes would not result in enlargement of the rights.
29. The proposed changes would not result in injury to other water rights.

**Determination and Proposed Action**

The change in point of diversion proposed in Transfer Application T-12477 appears 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 transfer application will be approved.

*If Transfer Application T-12477 is approved, the final order will include the following:*

1. *The change in point of diversion proposed in Transfer Application T-12477 is approved.*



2. *Water right Certificates 4975, 16467, 32990, 42877, 48013, and 48014 are cancelled. New certificates will be issued describing the portions of the rights not affected by this transfer.*
3. *The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.*
4. *Water use measurement conditions:*
  - a. *Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion new and existing.*
  - b. *The water user shall maintain the meters or measuring devices in good working order.*
  - c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
5. *Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.*  
  
*The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.*
6. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. 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 changes and full beneficial use of the water.*
7. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 5 day of July 2017.

  
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 Dwight French, Water Right Services Administrator, for  
 Thomas M. Byler, Director  
 Oregon Water Resources Department

This Preliminary Determination was prepared by Duff Martin. If you have questions about the information in this document, you may reach me at 503-986-0827 or Duff.A.Martin@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 service members have a right to stay proceedings under the federal Service Members Civil Relief Act, 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>