

- A water user may install a functioning airline with a pressure gage in addition to the access port.
 - A water user shall install and maintain a totalizing flow meter on each well authorized by OAR 690-507-0810 except wells authorized for irrigation of ten acres or less. The meter shall meet the requirements of OAR 690-507-0785.
- 4) OAR 690-507-0810 states in pertinent part that the method for distributing the sustainable annual yield from the basalt groundwater reservoir within each managed subarea in the Stage Gulch Critical Groundwater Area is as follows:
- A water user who intends to pump water for any authorized use except municipal use during any year shall make a request to the Department in Salem by July 1st of the preceding year on forms provided by the Department;
 - The Department shall assume that municipal water users intend to pump a quantity of water equivalent to the average pumped for the previous three (3) years, unless the municipal water user informs the Department otherwise by July 1st;
 - The distribution of groundwater for any authorized use except municipal use shall be based on the priority dates of the water rights within the individual subarea;
 - In determining the amount of groundwater each water user is allocated to pump during the next calendar year or irrigation season, the Department may consider:
 - Requests for allocations received;
 - The sustainable annual yield;
 - The limits of the groundwater rights;
 - The relative dates of priority, with preference given without regard to priority date for municipal use;
 - Historical usage;
 - Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - Any other factors deemed appropriate by the Department.
 - If pumpage for a particular year exceeds the sustainable annual yield for a subarea, the total subarea allocation for the second year after that occurrence shall be reduced by that volume.
 - If any water user requests more water than has been historically used, the Department may allocate less water than requested if, upon investigation, it appears unlikely the user will pump the volume requested.

- If any water user requests less water than has been historically used, the Department may allocate more water than requested if, upon investigation, it appears likely that the user will pump more than the volume requested.

FINDINGS OF FACT

- 1) Loyalta, Inc. is a junior water right holder in Subarea A.
- 2) Certificate 53394 was perfected under Permit G-8802, having a priority date of September 19, 1979, and authorizes irrigation of 156.1 acres.
- 3) The sustainable annual yield for Subarea A is 11,450 acre-feet.
- 4) In 2007, 11,450 acre-feet of water was allocated in Subarea A.
- 5) Flow meter and power meter data collected by Department staff indicate that 12,424.7 acre-feet of water was pumped from permitted wells in Subarea A in 2007.
- 6) The Subarea A allocation for 2009 is reduced by 974.7 acre-feet to a total of 10,475.3 acre-feet.
- 7) On May 30, 2008, the Department sent letters requesting water users within the Stage Gulch Critical Ground Water Area to submit their 2009 requests for the volume of water needed.
- 8) Loyalta, Inc. filed a request for water use in 2009, Stage Gulch Critical Ground Water Area, Subarea A, authorized under Water Right Certificate 53394
- 9) Loyalta, Inc. requested 450 acre-feet for 2009, under Water Right Certificate 53394
- 10) Flow meter and power meter records indicate that annual pumpage from the permitted well has varied. The quantity of water allocated for 2009 for Subarea H is allocated to senior rights. Therefore, the 2009 allocation is for 0 acre-feet.
- 11) The use of water is limited to the place of use described in attached Certificate 53394.

DISCUSSION

Loyalta, Inc. is a junior water right holder in Subarea A. The sustainable annual yield for Subarea A is 11,450 acre-feet. Allocations are made to the municipal water users in Subarea A first. Then allocations are made to the senior water rights. Flow meter and power meter records indicate that the permitted wells pumped 12,424.7 acre-feet of water in 2007. The Subarea A allocation for 2009 is reduced by 974.7 acre-feet to a total of 10,475.3 acre-feet. Junior water right holders shall not pump more than the quantity allocated. Therefore, the 2009 allocation is for 0 acre-feet. This is consistent with OAR 690-507-0810.

CONCLUSIONS OF LAW

The allocation of ground water for the State Gulch Critical Ground Water Area for the year 2009 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507.

PROPOSED ORDER

Now, THEREFORE, it is ORDERED that 0 acre-feet of water is allocated to Loyalta, Inc. for the year 2009 under Certificate 53394 for Subarea A of the Stage Gulch Critical Ground Water Area.

OPPORTUNITY FOR HEARING


You are entitled to a hearing on this matter as provided by the Administrative Procedures Act (Chapter 183, Oregon Revised Statutes). If you want a hearing, you must file a written request for hearing directed to Ms. Juno Pandian, Manager, Well Construction and Compliance Section, Water Resources Department, 725 Summer Street NE, Suite A, Salem, Oregon 97301-1271. The request for hearing must state your grounds for disagreement with proposed action and must be received by the Department by 5:00 P.M. on September 15, 2008 (within 30 days of the date of service of this notice). You will be notified of the date set for hearing if a hearing is requested.

Failure to request a hearing by September 15, 2008, shall waive the right to hearing under ORS Chapter 183. You may choose not to request a hearing. If no request for hearing is received within the time set out above, or upon failure to appear at a hearing where one has been set, the existing agency file will be designated as the record in this case and the Department will issue a Final Order.

FINAL ORDER

If you fail to request a hearing within 30 days of receipt of this notice, withdraw a hearing request, notify the Department or the Administrative Law Judge that you will not appear, or fail to appear at a scheduled hearing, this order shall become final. If this order becomes a Final Order by default, the Department designates its file on this matter as the record.

Dated at Salem, Oregon this 15th day of August, 2008.



Jerry S. Rodgers, Administrator
Technical Services Division

RIGHT TO JUDICIAL REVIEW OF FINAL ORDER

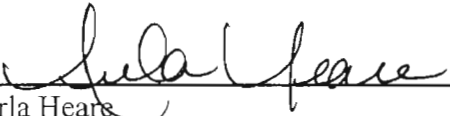
You have the right to appeal a Final Order to the Oregon Court of Appeals pursuant to ORS 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 60 days from the day this Order becomes final.

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CERTIFICATE OF SERVICE

I certify that on August 15, 2008, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUND WATER by certified mail to:

MS TERRI NICKOLOFF
C/O LOYALTA, INC.
5120 NE ALAMEDA
PORTLAND, OR 97213


Arla Heare
Oregon Water Resources Department

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