

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Stage Gulch)
2010 Annual Allocation of Ground Water,)
Under Water Right Certificate 76118,)
Umatilla County, Oregon)

FINAL ORDER NOT
ALLOCATING GROUND WATER

David Ditchen, c/o Golden Valley East, LLC
34655 Roper Lane
Stanfield, OR 97875

ORS 537.730 and 537.735 establish the process by which the Water Resources Commission may designate an area of the state as a critical ground water area. OAR Chapter 690, Division 507 implements the statutes and provides the Department procedures and criteria for the purpose of managing the ground water resource and evaluating requests for allocation of ground water.

AUTHORITY

- 1) Oregon Administrative Rules (OAR) 690-507-0750 states in pertinent part that the Director issued an order on May 15, 1991, declaring the Stage Gulch Critical Groundwater Area. The order described the exterior boundaries and divided the area with eight subareas for the purposes of managing the groundwater resource. The response of ground-water levels to pumpage in each subarea is largely independent of pumpage within other subareas.
- 2) OAR 690-507-0770 states in pertinent part that the use of water from the basalt groundwater reservoir within the Stage Gulch Critical Groundwater Area shall be limited to the sustainable annual yield. Water from the basalt groundwater reservoir in the Stage Gulch Critical Groundwater Area shall be used for irrigation only during the irrigation season. The irrigation season shall begin on the 1st of March and end on the 30th of November. The Department shall not accept any new applications for appropriation of water from the basalt groundwater reservoir within the Stage Gulch Critical Groundwater Area.
- 3) OAR 690-507-0780 states in pertinent part that appropriation of groundwater from the Stage Gulch Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0810 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - Wells shall have an access port with a minimum diameter of 3/4 inch. The access shall be adequate to determine the water level at any time;
 - 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) Water Right Certificate 76118 in the name of David Ditchen is perfected under Permit G-8209, having a priority date of February 27, 1978, and authorizes irrigation of 925.7 acres. Within Subarea D, Certificate 76118 has a priority date that is junior to all other water rights of record for which a distribution has been made pursuant to OAR 690-507-0810 for the year 2010.
- 2) The sustainable annual yield for Subarea D is 3250 acre-feet.
- 3) In 2008, 3250 acre-feet of water was allocated in Subarea D.
- 4) Flow meter and power meter data collected by Department staff indicate that 2628 acre-feet of water was pumped from permitted wells in Subarea D in 2008.
- 5) The Subarea D allocation for 2010 is 3250 acre-feet, the sustainable annual yield.
- 6) In 2008 no water was pumped from the Zabransky well no. 3 which is located in Subarea D and is described in Certificate 76118. Water is allocated to other permitted wells under Certificate 76118 but these wells are located in Subarea B.
- 7) Ditchen did not request an allocation of water for 2010 for Water Right Certificate 76118.
- 8) The 2010 allocation for the Zabransky well no. 3 as described in Certificate 76118 is for 0 acre-feet.

DISCUSSION

Water Right Certificate 76118 in the name of David Ditchen is a junior water right in Subarea D. The sustainable annual yield for Subarea D is 3250 acre-feet. Flow meter and power meter records indicate that the permitted wells in Subarea D pumped 2628 acre-feet of water in 2008. The allocation for the Zabransky well no. 3 as described in Water Right Certificate 76118 does not exceed the limits of the water right or the sustainable annual yield for Subarea D. Therefore, the 2010 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 2010 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507.

ORDER

Now, THEREFORE, it is ORDERED that 0 acre-feet is allocated to David Ditchen for the year 2010 under Water Right Certificate 76118 for Subarea D of the Stage Gulch Critical Ground Water Area.

Dated at Salem, Oregon this 8 day of June, 2010.



Barry F. Norris, Administrator
Technical Services Division

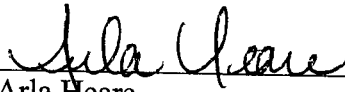
RIGHT TO JUDICIAL REVIEW OF FINAL ORDER

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.

CERTIFICATE OF SERVICE

I certify that on June 10, 2010, I mailed the attached FINAL ORDER NOT ALLOCATING GROUND WATER by certified mail to:

David Ditchen, c/o Golden Valley East, LLC
34655 Roper Lane
Stanfield, OR 97875



Arla Heare
Oregon Water Resources Department