

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

In the Matter of Butter Creek	)	WITHDRAWAL OF PROPOSED
Under Water Right Certificate 89382	)	ORDER NOT ALLOCATING
2017 Annual Allocation of Groundwater,	)	GROUNDWATER AND
Umatilla County, Oregon	)	OPPORTUNITY FOR HEARING

**AUTHORITY**

Oregon Revised Statutes (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 groundwater area. Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes and provides the Water Resources Department (Department) procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

**FINDINGS OF FACT**

1. On May 25, 2016, the Department sent letters requesting water users within the Butter Creek Critical Ground Water Area to submit their 2017 requests for the volume of water needed.
2. Bud Rich Potato did not file a request for water use in 2017, Butter Creek Critical Ground Water Area, North Subarea, authorized under Water Right Certificate 89382.
3. On July 28, 2016, the Department issued a Proposed Order Not Allocating Groundwater and Opportunity For Hearing to Bud Rich Potato for the year 2017 under Water Right Certificate 89382 for The North Subarea of the Butter Creek Critical Ground Water Area.
4. On April 5, 2017, Bud Rich Potato, through their legal counsel submitted a request for allocation of groundwater for 2017. The request maintains that Bud Rich Potato did not receive request forms from the Department for 2017 Butter Creek allocations. Bud Rich Potato requests that the Department reconsider the Proposed Order, withdraw it, and issue a superseding order that allocates 40 acre-feet under Certificate 89382 for 2017.
5. Upon review of the April 5, 2017 request from Bud Rich Potato, the Department has determined that Bud Rich Potato did not receive Allocation Request forms for the year 2017 for the North Subarea of the Butter Creek Critical Ground Water Area. Additionally, the Department has determined that 40 acre-feet of water is available for allocation for the year

2017 under Water Right Certificate 89382 for The North Subarea of the Butter Creek Critical Ground Water Area. In order to remedy the matter, the Department is withdrawing the July 28, 2016 Proposed Order and will issue a Superceding Proposed Order that allocates 40 acre-feet of water to Bud Rich Potato for the year 2017.

### DEPARTMENT'S ACTION

The Proposed Order Not Allocating Groundwater and Opportunity for Hearing issued on July 28, 2016 to Bud Rich Potato for the year 2017 under Water Right Certificate 89382 for The North Subarea of the Butter Creek Critical Ground Water Area is withdrawn and of no further force or effect.

Dated at Salem, Oregon this 17<sup>th</sup> day of April, 2017.

Brenda G. Bateman

Brenda G. Bateman, PH. D.  
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.

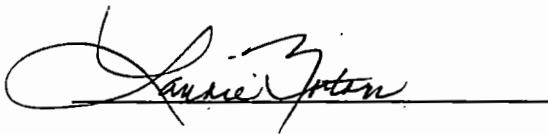
CERTIFICATE OF SERVICE

I certify that on April 17, 2017 I mailed the attached WITHDRAWAL OF PROPOSED ORDER NOT ALLOCATING GROUNDWATER AND OPPORTUNITY FOR HEARING by certified mail to:

Bud Rich Potato

P.O. Box 224

Hermiston, OR 97838

A handwritten signature in black ink, appearing to read "Laurie Norton", is written over a solid horizontal line.

Laurie Norton  
Oregon Water Resources Department