

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

In the Matter of Stage Gulch)	PROPOSED ORDER APPROVING
2008 Annual Allocation of Ground Water,)	ALLOCATION OF GROUND WATER
Under Order Approving Transfer T-7112,)	AND OPPORTUNITY FOR HEARING
Umatilla County, Oregon)	

SHERMAN REESE
36489 REESE ROAD
ECHO, OR 97826

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.

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 ___, 2007 (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 ___, 2007, 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.

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) Sherman Reese is a senior water right holder in Subarea H.
- 2) Order Approving Transfer T-7112 is perfected under Permit U-680, having a priority date of September 16, 1954, and authorizes irrigation of 20.55 acres.
- 3) The sustainable annual yield for Subarea H is 8850 acre-feet.
- 4) In 2006, 7644 acre-feet of water was allocated in Subarea H.
- 5) Flow meter and power meter data collected by Department staff indicate that 9075 acre-feet of water was pumped from permitted wells in Subarea H in 2006.
- 6) The Subarea H allocation for 2008 is reduced by 225 acre-feet to a total of 8625 acre-feet.
- 7) On May 31, 2007, the Department sent letters requesting water users within the Stage Gulch Critical Ground Water Area to submit their 2008 requests for the volume of water needed.
- 8) Sherman Reese filed a request for water use in 2008, Stage Gulch Critical Ground Water Area, Subarea H, authorized under Order Approving Transfer T-7112.
- 9) Sherman Reese requested 65 acre-feet for 2008 under Order Approving Transfer T-7112.
- 10) Flow meter and power meter records indicate that annual pumpage from the permitted well has varied. Less water was pumped in 2006 than in prior years. Therefore, the 2008 allocation is for 61.71 acre-feet.

11) The use of water is limited to the place of use described in attached Order Approving Transfer T-7112.

DISCUSSION

Sherman Reese is a senior water right holder in Subarea H. The sustainable annual yield for Subarea H is 8850 acre-feet. Flow meter and power meter records indicate that the permitted wells pumped 9075 acre-feet of water in 2006. The Subarea H allocation for 2008 is reduced by 225 acre-feet to a total of 8625 acre-feet. The allocation for Sherman Reese does not exceed the limits of the water right or the quantity allocated for Subarea H. Therefore, the 2008 allocation is for 61.71 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 2008 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 61.71 acre-feet is allocated to Sherman Reese for the year 2008 under Order Approving Transfer T-7112 for Subarea H of the Stage Gulch Critical Ground Water Area.

Dated at Salem, Oregon this 13TH day of August, 2007.



Jerry S. Rodgers, Administrator
Technical Services Division

STATE OF OREGON

COUNTY OF UMATILLA

ORDER APPROVING A CHANGE IN POINT OF APPROPRIATION AND
CANCELLATION OF A PORTION OF TWO WATER RIGHTS

Pursuant to ORS 537.705, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 7112 submitted by

LEON REESE
1017 NW 12TH
PENDLETON, OREGON 97801.

The right to be modified, as evidenced by a portion of Certificate 24686, was perfected under Permit U-680 with a date of priority of SEPTEMBER 16, 1954. The right allows the use of A WELL, in the UMATILLA RIVER BASIN, for IRRIGATION OF 20.55 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.25 cubic foot per second, if available at the original well; NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 9, T 3 N, R 30 E, W.M.; NORTH 21° 38' EAST 2360.47 FEET FROM THE SW CORNER, SECTION 9, or its equivalent in case of rotation, measured at the well.

NOTICE: Under the provisions of OAR 137-004-0080, the applicant may petition for reconsideration of this order. The petition shall set forth specific grounds for reconsideration. The petition for reconsideration must be filed within 60 days after the date this order is served.

T-7112.BW

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The amount of water used for irrigation, together with the amount secured under any other right existing on the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 ACRE-FEET per acre for each acre irrigated during the irrigation season of each year.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is as follows:

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 19.68 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.87 ACRE

SECTION 9

TOWNSHIP 3 NORTH, RANGE 30 EAST, W.M.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described.

The applicant proposes to change the point of appropriation to:

NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 9, T 3 N, R 30 E, W.M.; 520 FEET SOUTH AND 940 FEET EAST FROM THE W $\frac{1}{4}$ CORNER, SECTION 9.

An affidavit was received from Donald Gene Reese, the owner of certain land and the water right appurtenant to it. The water right has been abandoned and is requested to be canceled.

The abandoned water right is a portion of the right described by Certificate 24686, State Record of Water Right Certificates. The abandoned water right is for the use of water from a well, in the Umatilla River Basin. The date of priority is September 16, 1954. The abandoned water right is for the irrigation of 0.02 acre. No quantity of water is being abandoned. The total quantity of water for the right is being used for irrigation of the remaining lands.

A description of the place of use of the abandoned water right is as follows:

SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ 0.02 ACRE
SECTION 8
TOWNSHIP 3 NORTH, RANGE 30 EAST, W.M.

An affidavit was received from Leon Reese, the owner of certain land and the water right appurtenant to it. The supplemental water right has been abandoned and is requested to be canceled.

The abandoned water right is a portion of the right described by Certificate 52823, State Record of Water Right Certificates. The abandoned water right is for the use of 0.25 cubic foot per second of water from a well, in the Stage Gulch Basin. The date of priority is November 30, 1973. The abandoned water right is for Supplemental Irrigation of 20.55 acres.

A description of the place of use of the abandoned water right is as follows:

SUPPLEMENTAL
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.87 ACRE
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 19.68 ACRES
SECTION 9
TOWNSHIP 3 NORTH, RANGE 30 EAST, W.M.

ORS 540.621 provides: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the Commission shall enter an order canceling the water right."

THIS CHANGE TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

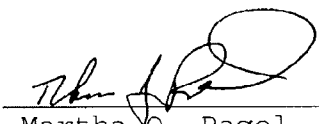
1. The proposed change shall be completed on or before October 1, 2000.

2. The quantity of water diverted at the new point of appropriation (well), together with the quantity diverted at the old point of appropriation, shall not exceed the quantity of water lawfully available from the original point of appropriation.
3. The water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. 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.
4. Water shall be acquired from the same aquifer as the original point of appropriation.

The portions of the water rights requested to be canceled are canceled. Certificates 24686 and 52823 are canceled. A new certificate will be issued to confirm that portion of the right NOT involved in this transfer or cancellation. When satisfactory proof of the completed change is received, a new certificate confirming the water right will be issued.

WITNESS the signature of the Water Resources Director,

affixed SEP 09 1999.


For Martha O. Pagel, Director