

A water user authorized by OAR 690-507-0670 to pump water from the basalt ground water 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 gauge in addition to the access port.
 - A water user shall install and maintain a totalizing flow meter on each well authorized by OAR 690-507-0670. The meter shall meet the requirements of OAR 690-507-0645.
 - A water user shall record flow meter and power meter readings on a weekly basis at times when water is being used. The water user shall use forms provided by the Department and shall mail the readings to the Department in Salem by December 1st of the same year.
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Ground Water Area shall be managed according to the sustainable annual yield within that subarea. The Department shall refine the sustainable annual yield value over time through the use of pumpage data and the response of ground water levels. The initial sustainable annual yield for each of the eight subareas was calculated using data from the 1983 through the 1989 irrigation seasons and is listed below by subarea followed by the sustainable annual yield in Acre Feet:
- North, 250 Acre Feet;
 - Section 21, 28 Acre Feet;
 - Echo Junction, 1,260 Acre Feet;
 - Fourmile Canyon, 1,300 Acre Feet;
 - West, 5,670 Acre Feet;
 - East, 720 Acre Feet;
 - Pine City, 4,150 Acre Feet;
 - South, 1,000 Acre Feet.
- 5) OAR 690-507-0670 states in pertinent part that the method for distributing the sustainable annual yield from the basalt ground water reservoir within each subarea in the Butter Creek Critical Ground Water Area is as follows:
- A water user who intends to pump water 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 distribution of ground water shall be based on the priority dates of the water rights within the individual subarea.
- In determining the amount of ground water each water user is allocated to pump during the next calendar year or irrigation season, the Department may consider:
 - Request for allocations received;
 - The sustainable annual yield;
 - The limits of the ground water rights;
 - The relative dates of priority;
 - 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) Frank Mueller is the holder of a junior water right in the North Subarea.
- 2) The sustainable annual yield for the North Subarea has been allocated.
- 3) Mr. Mueller did not file a request for water use in 2006 from the Butter Creek Critical Ground Water Area, authorized under Application G-3749 as follows:
- 4)

Subarea:	North
Certificate:	38388 in the name of Mrs. Rose Mueller
Use:	Irrigation
Priority Date:	December 8, 1966
Quantity:	0.86 cubic feet per second (cfs)
Request:	0 acre-feet
Allocated:	0 acre-feet

Sustainable Annual Yield: 250 acre-feet

DISCUSSION

The Mr. Mueller did not file a timely request for water use in 2006, from the North Subarea of the Butter Creek Critical Ground Water Area, authorized under Application G-3749. The sustainable annual yield for the North Subarea is 250 acre-feet.

CONCLUSIONS OF LAW

The allocation of ground water for the Butter Creek Critical Ground Water Area for the year 2006 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 no water be allocated to Frank Mueller under Certificate 38388 for the year 2006 from the North Subarea of the Butter Creek Critical Ground Water Area.

Dated at Salem, Oregon this 29 day of August, 2005.



Barry A. Norris, Administrator
Technical Services Division