BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Butter Creek 2006 Annual Allocation of Ground Water, Morrow County, Oregon	)))	FINAL ORDER APPROVING ALLOCATION OF GROUND WATER

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Oregon Revised Statute (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. Oregon Administrative Rule (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) OAR 690-507-0610 states in pertinent part that the Director issued an order on August 18, 1986 declaring the Butter Creek Critical Ground Water Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the ground water resource. Two additional subareas were created through rule adoption (OAR 690-57-0647). The response of ground water levels to pumpage from each subarea is largely independent of pumpage within other subareas.

2) OAR 690-507-0630 states in pertinent part that the use of water from the basalt ground water reservoir within the Butter Creek Critical Ground Water Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0635 and 690-507-0670. Water from the basalt ground water reservoir in the Butter Creek Critical Ground Water Area shall be used for irrigation only during the irrigation season. The irrigation season begins on the 15th of March and ends on the 1st of November. No new applications for appropriation of water from the basalt ground water reservoir within the Butter Creek Critical Area shall be accepted.

3) OAR 690-507-0640 states in pertinent part that appropriation of ground water from the Butter Creek Critical Ground Water Area is prohibited unless the water user meets the

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

following requirements:

- 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) Finley Buttes Landfill Co. is the holder of a senior water right in the West Subarea.

2) The sustainable annual yield for the West Subarea has not been allocated.

3) Finley Buttes Landfill Co. filed a request for water use in 2006 from the Butter Creek Critical Ground Water Area, authorized under Application G-5096 as follows:

4)

Subarea:	West
Certificate:	No Certificate – See Transfer T-7262
Use:	Industrial
Priority Date:	February 10, 1969
Quantity:	??? cubic feet per second (cfs)
Request:	128 acre-feet
Allocated:	50 acre-feet

Sustainable Annual Yield: 5670 acre-feet

DISCUSSION

Finley Buttes Landfill Co. filed a timely request for water use in 2006 from the Butter Creek Critical Ground Water Area, authorized under Transfer T-7262. Finley Buttes Landfill Co.'s allocation is based on pumpage in recent years and does not exceed the limits of their water rights. The sustainable annual yield for the West Subarea is 5670 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 50 acre-feet of water be allocated to Finley Buttes Landfill Co. under Transfer T-7262 for the year 2006 from the West Subarea of the Butter Creek Critical Ground Water Area.

Dated at Salem, Oregon this 19 day of August, 2005.

Barry R. Norris, Administrator
Technical Services Division