



- 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) Transfer T-9296 is for well MORR 50481 that develops water from the Columbia River Basalts. The permitted diversion is 0.97 cfs for 15.4 acres of primary irrigation and 62.95 acres of supplemental irrigation with a priority date of December 17, 1964.
- 2) Sidney and Randy Britt are senior water right holders in the Pine City Subarea.
- 3) On June 4, 2008 the Department sent letters asking water users within the Butter Creek Critical Ground Water Area to request the amount of water that they would need for the 2009 irrigation season.
- 4) A timely request from Mr. and Mrs. Britt was received by the Department on July 29, 2008.
- 5) Based on the 2009 request, Mr. and Mrs. Britt's water needs for the 2009 irrigation season are 200.0 acre feet under Water Right Transfer T-9296.
- 6) The sustainable annual yield for the Pine City Subarea is 4150 acre feet.

- 7) The 200.0 acre feet of water requested for the 2009 irrigation season does not exceed the limits of Mr. and Mrs. Britt's Water Right Transfer T-9296.
- 8) The sustainable annual yield for the Pine City Subarea has not been allocated.
- 9) The allocation for the 2009 irrigation season for Water Rights Transfer T-9296 is 200 acre-feet based on historical usage.
- 10) The allocation to Mr. and Mrs. Britt does not exceed the limits of the water right.
- 11) The use of water is limited to the place of use described in attached Water Rights Transfer T-9296.

### **DISCUSSION**

The Department considered the requests received, the sustainable annual yield for the subarea, the limits of the water right, the priority date, historical usage, the well, the pump, and the distribution system.

### **CONCLUSIONS OF LAW**

The allocation of ground water for the Butter Creek Critical Ground Water Area for the year 2009 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507.

### **PROPOSED ORDER**

Now, THEREFORE, it is ORDERED that 200 acre-feet of water be allocated to Sidney and Randy Britt under Transfer T-9296 for the year 2009 from the Pine City Subarea of the Butter Creek Critical Ground Water Area.

### **OPPORTUNITY FOR HEARING**

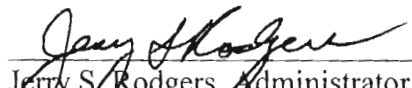
You are entitled to a hearing on this matter as provided by the Administrative Procedures Act (Chapter 183, Oregon Revised Statutes). If you want a hearing, you must file a written request for hearing directed to Ms. Juno Pandian, Manager, Well Construction and Compliance Section, Water Resources Department, 725 Summer Street NE, Suite A, Salem, OR 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 8, 2008 (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.

You may be represented by legal counsel. Legal aid organizations may be able to assist you if you have limited financial resources. If you make a timely request for a hearing, you will be notified of the time and date of such hearing. The rights and procedures in a contested case will be provided to you upon receipt of a request for a formal contested case hearing.

## FINAL ORDER

If you fail to request a hearing within 30 days of receipt of this notice, withdraw a hearing request, notify the Department or the Administrative Law Judge that you will not appear, or fail to appear at a scheduled hearing, this order shall become final. If this order becomes a Final Order by default, the Department designates its file on this matter as the record.

Dated at Salem, Oregon this 8<sup>th</sup> day of August, 2008

  
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Jerry S. Rodgers, Administrator  
Technical Services Division

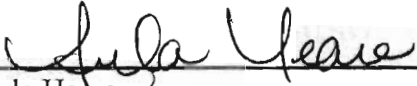
## RIGHT TO JUDICIAL REVIEW OF FINAL ORDER

You have the right to appeal a Final Order to the Oregon Court of Appeals 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 August 8, 2008, I mailed the attached PROPOSED ORDER APPROVING ALLOCATION OF GROUND WATER by certified mail to:

Sidney and Randy Britt  
78540 Big Butter Creek Road  
Echo, OR 97826

  
Arla Heare  
Oregon Water Resources Department