

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Inchoate Transfer T 10517,	)	
Umatilla County, Oregon	)	

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. GOLDEN VALLEY FARMS is a water user in the Subarea H of the Stage Gulch CGWA.
2. Inchoate Transfer T 10517 is a valid water right in the Subarea H with a priority date of August 2, 1978.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Inchoate Transfer T 10517 is 1070.1 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Inchoate Transfer T 10517 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Inchoate Transfer T 10517.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Certificate 84095,	)	
Umatilla County, Oregon	)	

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. GOLDEN VALLEY FARMS is a water user in the Subarea H of the Stage Gulch CGWA.
2. Certificate 84095 is a valid water right in the Subarea H with a priority date of August 2, 1978.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Certificate 84095 is 539.1 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 84095 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 84095.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875



Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea C,	)	
Under Water Right	)	
Certificate 87320,	)	
Umatilla County, Oregon	)	

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. GOLDEN VALLEY FARMS is a water user in the Subarea C of the Stage Gulch CGWA.
2. Certificate 87320 is a valid water right in the Subarea C with a priority date of December 26, 1978.
3. For 2024, the sustainable annual yield in the Subarea C is 400.00 acre-feet.
4. In 2022, 400.00 acre-feet of water was allocated for the Subarea C.
5. In 2022, .00 acre-feet of water was pumped in the Subarea C.
6. For 2024, 400.00 acre-feet is allocated for the Subarea C. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 2792.1 acre-feet for the Subarea C subarea.
9. The 2024 annual allocation request under Water Right Certificate 87320 is 2777.1 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea C in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea C.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 365 acre-feet of water is allocated under Certificate 87320 for the year 2024 from the Subarea C of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 87320.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea C
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 400.00 acre-feet
Total Allocation: 400.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2928	0.00	0.00	0.00	0.00	10.00
MILLS MINT FARM	Cert:53479 OR *	08/13/1973		Water Right Total:			0.00	10.00
			UMAT 2918		0.00	0.00	0.00	10.00
MILLS MINT FARM	Cert:53482 OR *	01/10/1977		Water Right Total:			0.00	10.00
			UMAT 2912		0.00	0.00	15.00	15.00
GOLDEN VALLEY FARMS	Cert:76131 CF *	04/10/1978		Water Right Total:			15.00	15.00
			UMAT 2903	237.90	159.32	0.00	2,777.10	365.00
GOLDEN VALLEY FARMS	Cert:87320 (RR) *	12/26/1978		Water Right Total:			2,777.10	365.00
			UMAT 2903	237.90	159.32	0.00	0.00	0.00
GOLDEN VALLEY FARMS	Cert:87322 (RR) *	06/13/1983		Water Right Total:			0.00	0.00
Subarea C Total:				237.90	159.32	0.00	2,792.10	400.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea B,	)	
Under Water Right	)	
Certificate 87321,	)	
Umatilla County, Oregon	)	

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. GOLDEN VALLEY FARMS is a water user in the Subarea B of the Stage Gulch CGWA.
2. Certificate 87321 is a valid water right in the Subarea B with a priority date of February 27, 1978.
3. For 2024, the sustainable annual yield in the Subarea B is 200.00 acre-feet.
4. In 2022, 200.00 acre-feet of water was allocated for the Subarea B.
5. In 2022, 3.40 acre-feet of water was pumped in the Subarea B.
6. For 2024, 200.00 acre-feet is allocated for the Subarea B. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 2777.1 acre-feet for the Subarea B subarea.
9. The 2024 annual allocation request under Water Right Certificate 87321 is 2777.1 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea B in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea B.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 10 acre-feet of water is allocated under Certificate 87321 for the year 2024 from the Subarea B of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 87321.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea B
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 200.00 acre-feet
Total Allocation: 200.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2907	30.50	2.48	3.40	0.00	190.00
GOLDEN VALLEY FARMS	Cert:76117 CF *	04/08/1965		Water Right Total:			0.00	190.00
			UMAT 2909	0.00	0.00	0.00	1,388.55	5.00
			UMAT 2910	0.00	0.00	0.00	1,388.55	5.00
GOLDEN VALLEY FARMS	Cert:87321 (RR) *	02/27/1978		Water Right Total:			2,777.10	10.00
			UMAT 2907	30.50	2.48	3.40	0.00	0.00
			UMAT 2909	0.00	0.00	0.00	0.00	0.00
			UMAT 2910	0.00	0.00	0.00	0.00	0.00
GOLDEN VALLEY FARMS	Cert:87322 (RR) *	06/13/1983		Water Right Total:			0.00	0.00
Subarea B Total:				30.50	2.48	3.40	2,777.10	200.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea D,	)	
Under Water Right	)	
Certificate 87321,	)	
Umatilla County, Oregon	)	

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. GOLDEN VALLEY FARMS is a water user in the Subarea D of the Stage Gulch CGWA.
2. Certificate 87321 is a valid water right in the Subarea D with a priority date of February 27, 1978.
3. For 2024, the sustainable annual yield in the Subarea D is 3250.00 acre-feet.
4. In 2022, 3250.00 acre-feet of water was allocated for the Subarea D.
5. In 2022, 564.99 acre-feet of water was pumped in the Subarea D.
6. For 2024, 3250.00 acre-feet is allocated for the Subarea D. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 3250 acre-feet for the Subarea D subarea.
9. The 2024 annual allocation request under Water Right Certificate 87321 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea D in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea D.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 87321 for the year 2024 from the Subarea D of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 87321.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875



Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea D
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 3250.00 acre-feet
Total Allocation: 3250.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1238	429.49	448.53	0.14	40.00	40.00
			UMAT 1286	0.00	0.00	0.00	40.00	40.00
			UMAT 1294	490.11	357.39	0.50	40.00	40.00
			UMAT 1341	585.28	504.57	517.57	40.00	40.00
			UMAT 1347	0.00	0.00	0.00	0.00	0.00
FARMLAND RESERVE INC	Cert:74762 CF *	03/25/1955		Water Right Total:			160.00	160.00
			UMAT 1282	61.85	557.04	46.78	80.00	80.00
FARMLAND RESERVE INC	Cert:91070 CF *	04/08/1963		Water Right Total:			80.00	80.00
			UMAT 1238	429.49	448.53	0.14	80.00	80.00
			UMAT 1286	0.00	0.00	0.00	80.00	80.00
			UMAT 1294	490.11	357.39	0.50	80.00	80.00
			UMAT 1341	585.28	504.57	517.57	80.00	80.00
			UMAT 1347	0.00	0.00	0.00	0.00	0.00
FARMLAND RESERVE INC	Cert:92001 CF (T 6787 RR) *	04/08/1963		Water Right Total:			320.00	320.00
			UMAT 1238	429.49	448.53	0.14	125.00	125.00
			UMAT 1286	0.00	0.00	0.00	125.00	125.00
			UMAT 1294	490.11	357.39	0.50	125.00	125.00
			UMAT 1341	585.28	504.57	517.57	125.00	125.00
			UMAT 1347	0.00	0.00	0.00	0.00	0.00
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971		Water Right Total:			500.00	500.00
			UMAT 1282	61.85	557.04	46.78	440.00	440.00
FARMLAND RESERVE INC	Cert:91071 CF *	06/08/1971		Water Right Total:			440.00	440.00
			UMAT 1282	61.85	557.04	46.78	650.00	650.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973		Water Right Total:			650.00	650.00
			UMAT 1238	429.49	448.53	0.14	275.00	275.00
			UMAT 1286	0.00	0.00	0.00	275.00	275.00
			UMAT 1294	490.11	357.39	0.50	275.00	275.00
			UMAT 1341	585.28	504.57	517.57	275.00	275.00
			UMAT 1347	0.00	0.00	0.00	0.00	0.00
FARMLAND RESERVE INC	Cert:87042 CF *	02/16/1973		Water Right Total:			1,100.00	1,100.00
			UMAT 2992		0.00	0.00	0.00	0.00
GOLDEN VALLEY FARMS	Cert:87321 (RR) *	02/27/1978		Water Right Total:			0.00	0.00
			UMAT 2992		0.00	0.00	0.00	0.00
GOLDEN VALLEY FARMS	Cert:87322 (RR) *	06/13/1983		Water Right Total:			0.00	0.00
Subarea D Total:				1,566.73	1,867.53	564.99	3,250.00	3,250.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea B,	)	
Under Water Right	)	
Certificate 87322,	)	
Umatilla County, Oregon	)	

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. GOLDEN VALLEY FARMS is a water user in the Subarea B of the Stage Gulch CGWA.
2. Certificate 87322 is a valid water right in the Subarea B with a priority date of June 13, 1983.
3. For 2024, the sustainable annual yield in the Subarea B is 200.00 acre-feet.
4. In 2022, 200.00 acre-feet of water was allocated for the Subarea B.
5. In 2022, 3.40 acre-feet of water was pumped in the Subarea B.
6. For 2024, 200.00 acre-feet is allocated for the Subarea B. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 2777.1 acre-feet for the Subarea B subarea.
9. The 2024 annual allocation request under Water Right Certificate 87322 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea B in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea B.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 87322 for the year 2024 from the Subarea B of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 87322.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea B
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 200.00 acre-feet
Total Allocation: 200.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2907	30.50	2.48	3.40	0.00	190.00
GOLDEN VALLEY FARMS	Cert:76117 CF *	04/08/1965		Water Right Total:			0.00	190.00
			UMAT 2909	0.00	0.00	0.00	1,388.55	5.00
			UMAT 2910	0.00	0.00	0.00	1,388.55	5.00
GOLDEN VALLEY FARMS	Cert:87321 (RR) *	02/27/1978		Water Right Total:			2,777.10	10.00
			UMAT 2907	30.50	2.48	3.40	0.00	0.00
			UMAT 2909	0.00	0.00	0.00	0.00	0.00
			UMAT 2910	0.00	0.00	0.00	0.00	0.00
GOLDEN VALLEY FARMS	Cert:87322 (RR) *	06/13/1983		Water Right Total:			0.00	0.00
Subarea B Total:				30.50	2.48	3.40	2,777.10	200.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea C,	)	
Under Water Right	)	
Certificate 87322,	)	
Umatilla County, Oregon	)	

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. GOLDEN VALLEY FARMS is a water user in the Subarea C of the Stage Gulch CGWA.
2. Certificate 87322 is a valid water right in the Subarea C with a priority date of June 13, 1983.
3. For 2024, the sustainable annual yield in the Subarea C is 400.00 acre-feet.
4. In 2022, 400.00 acre-feet of water was allocated for the Subarea C.
5. In 2022, .00 acre-feet of water was pumped in the Subarea C.
6. For 2024, 400.00 acre-feet is allocated for the Subarea C. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 2792.1 acre-feet for the Subarea C subarea.
9. The 2024 annual allocation request under Water Right Certificate 87322 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea C in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea C.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 87322 for the year 2024 from the Subarea C of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 87322.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea C
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 400.00 acre-feet
Total Allocation: 400.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2928	0.00	0.00	0.00	0.00	10.00
MILLS MINT FARM	Cert:53479 OR *	08/13/1973		Water Right Total:			0.00	10.00
			UMAT 2918		0.00	0.00	0.00	10.00
MILLS MINT FARM	Cert:53482 OR *	01/10/1977		Water Right Total:			0.00	10.00
			UMAT 2912		0.00	0.00	15.00	15.00
GOLDEN VALLEY FARMS	Cert:76131 CF *	04/10/1978		Water Right Total:			15.00	15.00
			UMAT 2903	237.90	159.32	0.00	2,777.10	365.00
GOLDEN VALLEY FARMS	Cert:87320 (RR) *	12/26/1978		Water Right Total:			2,777.10	365.00
			UMAT 2903	237.90	159.32	0.00	0.00	0.00
GOLDEN VALLEY FARMS	Cert:87322 (RR) *	06/13/1983		Water Right Total:			0.00	0.00
Subarea C Total:				237.90	159.32	0.00	2,792.10	400.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea D,	)	
Under Water Right	)	
Certificate 87322,	)	
Umatilla County, Oregon	)	

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. GOLDEN VALLEY FARMS is a water user in the Subarea D of the Stage Gulch CGWA.
2. Certificate 87322 is a valid water right in the Subarea D with a priority date of June 13, 1983.
3. For 2024, the sustainable annual yield in the Subarea D is 3250.00 acre-feet.
4. In 2022, 3250.00 acre-feet of water was allocated for the Subarea D.
5. In 2022, 564.99 acre-feet of water was pumped in the Subarea D.
6. For 2024, 3250.00 acre-feet is allocated for the Subarea D. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 3250 acre-feet for the Subarea D subarea.
9. The 2024 annual allocation request under Water Right Certificate 87322 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea D in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea D.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 87322 for the year 2024 from the Subarea D of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 87322.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

DAVID DITCHEN
GOLDEN VALLEY FARMS
34655 ROPER LANE
STANFIELD OR 97875

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea D
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 3250.00 acre-feet
Total Allocation: 3250.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1238	429.49	448.53	0.14	40.00	40.00
			UMAT 1286	0.00	0.00	0.00	40.00	40.00
			UMAT 1294	490.11	357.39	0.50	40.00	40.00
			UMAT 1341	585.28	504.57	517.57	40.00	40.00
			UMAT 1347	0.00	0.00	0.00	0.00	0.00
FARMLAND RESERVE INC	Cert:74762 CF *	03/25/1955		Water Right Total:			160.00	160.00
			UMAT 1282	61.85	557.04	46.78	80.00	80.00
FARMLAND RESERVE INC	Cert:91070 CF *	04/08/1963		Water Right Total:			80.00	80.00
			UMAT 1238	429.49	448.53	0.14	80.00	80.00
			UMAT 1286	0.00	0.00	0.00	80.00	80.00
			UMAT 1294	490.11	357.39	0.50	80.00	80.00
			UMAT 1341	585.28	504.57	517.57	80.00	80.00
			UMAT 1347	0.00	0.00	0.00	0.00	0.00
FARMLAND RESERVE INC	Cert:92001 CF (T 6787 RR) *	04/08/1963		Water Right Total:			320.00	320.00
			UMAT 1238	429.49	448.53	0.14	125.00	125.00
			UMAT 1286	0.00	0.00	0.00	125.00	125.00
			UMAT 1294	490.11	357.39	0.50	125.00	125.00
			UMAT 1341	585.28	504.57	517.57	125.00	125.00
			UMAT 1347	0.00	0.00	0.00	0.00	0.00
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971		Water Right Total:			500.00	500.00
			UMAT 1282	61.85	557.04	46.78	440.00	440.00
FARMLAND RESERVE INC	Cert:91071 CF *	06/08/1971		Water Right Total:			440.00	440.00
			UMAT 1282	61.85	557.04	46.78	650.00	650.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973		Water Right Total:			650.00	650.00
			UMAT 1238	429.49	448.53	0.14	275.00	275.00
			UMAT 1286	0.00	0.00	0.00	275.00	275.00
			UMAT 1294	490.11	357.39	0.50	275.00	275.00
			UMAT 1341	585.28	504.57	517.57	275.00	275.00
			UMAT 1347	0.00	0.00	0.00	0.00	0.00
FARMLAND RESERVE INC	Cert:87042 CF *	02/16/1973		Water Right Total:			1,100.00	1,100.00
			UMAT 2992		0.00	0.00	0.00	0.00
GOLDEN VALLEY FARMS	Cert:87321 (RR) *	02/27/1978		Water Right Total:			0.00	0.00
			UMAT 2992		0.00	0.00	0.00	0.00
GOLDEN VALLEY FARMS	Cert:87322 (RR) *	06/13/1983		Water Right Total:			0.00	0.00
Subarea D Total:				1,566.73	1,867.53	564.99	3,250.00	3,250.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 64103,	)	
Umatilla County, Oregon	)	

H T BURNS INC
PO BOX 1713
HERMISTON OR 97838-3713

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).
 - b) A water user may install a functioning airline with a pressure gauge in addition to the access port.

The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).

- c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507

-0670(6)).

FINDINGS OF FACTS

1. H T BURNS INC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 64103 is a valid water right in the Subarea A with a priority date of June 18, 1974.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 64103 is 300 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 300 acre-feet of water is allocated under Certificate 64103 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 64103.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

H T BURNS INC
PO BOX 1713
HERMISTON OR 97838-3713

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive style with a large, stylized 'K' and 'S'.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 75134,	)	
Umatilla County, Oregon	)	

H T BURNS INC
PO BOX 1713
HERMISTON OR 97838-3713

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).
 - b) A water user may install a functioning airline with a pressure gauge in addition to the access port.

The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).

- c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507

-0670(6)).

FINDINGS OF FACTS

1. H T BURNS INC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 75134 is a valid water right in the Subarea A with a priority date of January 29, 1981.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 75134 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 75134 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 75134.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

H T BURNS INC
PO BOX 1713
HERMISTON OR 97838-3713

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 75149,	)	
Umatilla County, Oregon	)	

H T BURNS INC
PO BOX 1713
HERMISTON OR 97838-3713

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).
 - b) A water user may install a functioning airline with a pressure gauge in addition to the access port.

The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).

- c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507

-0670(6)).

FINDINGS OF FACTS

1. H T BURNS INC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 75149 is a valid water right in the Subarea A with a priority date of June 18, 1974.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 75149 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 24 acre-feet of water is allocated under Certificate 75149 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 75149.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

H T BURNS INC
PO BOX 1713
HERMISTON OR 97838-3713

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 48688,	)	
Umatilla County, Oregon	)	

TROY BETZ
HERMISTON 353
PO BOX 130
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. HERMISTON 353 is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 48688 is a valid water right in the Subarea A with a priority date of June 16, 1977.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 48688 is 105 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 105 acre-feet of water is allocated under Certificate 48688 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 48688.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TROY BETZ
HERMISTON 353
PO BOX 130
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 74445,	)	
Umatilla County, Oregon	)	

TROY BETZ
HERMISTON 353
PO BOX 130
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. HERMISTON 353 is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 74445 is a valid water right in the Subarea A with a priority date of March 14, 1968.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 74445 is 121.2 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 121.2 acre-feet of water is allocated under Certificate 74445 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 74445.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TROY BETZ
HERMISTON 353
PO BOX 130
HERMISTON OR 97838



Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 46626,	)	
Umatilla County, Oregon	)	

JOSEPH E BURNS
HERMISTON CEMETERY DISTRICT
PO BOX 265
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. HERMISTON CEMETERY DISTRICT is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 46626 is a valid water right in the Subarea A with a priority date of April 29, 1975.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 46626 is 60 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 60 acre-feet of water is allocated under Certificate 46626 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 46626.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

JOSEPH E BURNS
HERMISTON CEMETERY DISTRICT
PO BOX 265
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 89052,	)	
Umatilla County, Oregon	)	

HERMISTON PARTNERS
2302 SE 9TH ST
HERMISTON OR 97383

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).
 - b) A water user may install a functioning airline with a pressure gauge in addition to the access port.

The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).

- c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507

-0670(6)).

FINDINGS OF FACTS

1. HERMISTON PARTNERS is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 89052 is a valid water right in the Subarea A with a priority date of February 25, 1977.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 89052 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 18.5 acre-feet of water is allocated under Certificate 89052 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 89052.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

HERMISTON PARTNERS
2302 SE 9TH ST
HERMISTON OR 97383

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 33377,	)	
Umatilla County, Oregon	)	

HERMISTON SCHOOL DISTRICT
305 SW 11TH ST
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).
 - b) A water user may install a functioning airline with a pressure gauge in addition to the access port.

The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).

- c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507

-0670(6)).

FINDINGS OF FACTS

1. HERMISTON SCHOOL DISTRICT is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 33377 is a valid water right in the Subarea A with a priority date of November 7, 1962.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 33377 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 9.6 acre-feet of water is allocated under Certificate 33377 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 33377.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

HERMISTON SCHOOL DISTRICT
305 SW 11TH ST
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 54088,	)	
Umatilla County, Oregon	)	

HERMISTON SCHOOL DISTRICT
305 SW 11TH ST
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).
 - b) A water user may install a functioning airline with a pressure gauge in addition to the access port.

The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).

- c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507

-0670(6)).

FINDINGS OF FACTS

1. HERMISTON SCHOOL DISTRICT is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 54088 is a valid water right in the Subarea A with a priority date of January 12, 1981.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 54088 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 3.5 acre-feet of water is allocated under Certificate 54088 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 54088.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

HERMISTON SCHOOL DISTRICT
305 SW 11TH ST
HERMISTON OR 97838

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Certificate 55842,	)	
Umatilla County, Oregon	)	

HARRIET ISOM
74661 YOAKUM ROAD
ECHO OR 97823

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. HARRIET ISOM is a water user in the Subarea H of the Stage Gulch CGWA.
2. Certificate 55842 is a valid water right in the Subarea H with a priority date of March 17, 1980.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Certificate 55842 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 55842 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 55842.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

HARRIET ISOM
74661 YOAKUM ROAD
ECHO OR 97823

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 76263,	)	
Umatilla County, Oregon	)	

ROB COX
J R SIMPLOT CO
PO BOX 850
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. J R SIMPLOT CO is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 76263 is a valid water right in the Subarea A with a priority date of June 12, 1972.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 76263 is 724.8 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 600 acre-feet of water is allocated under Certificate 76263 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 76263.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

ROB COX
J R SIMPLOT CO
PO BOX 850
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 79993,	)	
Umatilla County, Oregon	)	

ROB COX
J R SIMPLOT CO
PO BOX 850
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. J R SIMPLOT CO is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 79993 is a valid water right in the Subarea A with a priority date of June 12, 1972.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 79993 is 45 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 45 acre-feet of water is allocated under Certificate 79993 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 79993.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

ROB COX
J R SIMPLOT CO
PO BOX 850
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Inchoate Transfer T 6783,	)	
Umatilla County, Oregon	)	

ROB COX
J R SIMPLOT CO
PO BOX 850
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. J R SIMPLOT CO is a water user in the Subarea A of the Stage Gulch CGWA.
2. Inchoate Transfer T 6783 is a valid water right in the Subarea A with a priority date of April 23, 1980.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Inchoate Transfer T 6783 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Inchoate Transfer T 6783 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Inchoate Transfer T 6783.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

ROB COX
J R SIMPLOT CO
PO BOX 850
HERMISTON OR 97838

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Inchoate Transfer T 6783,	)	
Umatilla County, Oregon	)	

ROB COX
J R SIMPLOT CO
PO BOX 850
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. J R SIMPLOT CO is a water user in the Subarea A of the Stage Gulch CGWA.
2. Inchoate Transfer T 6783 is a valid water right in the Subarea A with a priority date of March 22, 1978.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Inchoate Transfer T 6783 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Inchoate Transfer T 6783 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Inchoate Transfer T 6783.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

ROB COX
J R SIMPLOT CO
PO BOX 850
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 85549,	)	
Umatilla County, Oregon	)	

ROB COX
J R SIMPLOT CO
PO BOX 850
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. J R SIMPLOT CO is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 85549 is a valid water right in the Subarea A with a priority date of March 22, 1978.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 85549 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 85549 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 85549.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

ROB COX
J R SIMPLOT CO
PO BOX 850
HERMISTON OR 97838



Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 86130,	)	
Umatilla County, Oregon	)	

ROB COX
J R SIMPLOT CO
PO BOX 850
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. J R SIMPLOT CO is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 86130 is a valid water right in the Subarea A with a priority date of April 23, 1980.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 86130 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 86130 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 86130.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

ROB COX
J R SIMPLOT CO
PO BOX 850
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 80923,	)	
Umatilla County, Oregon	)	

TROY BETZ
JB LAND
PO BOX 130
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. JB LAND is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 80923 is a valid water right in the Subarea A with a priority date of March 14, 1968.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 80923 is 145 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 80 acre-feet of water is allocated under Certificate 80923 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 80923.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TROY BETZ
JB LAND
PO BOX 130
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 88346,	)	
Umatilla County, Oregon	)	

TROY BETZ
JB LAND
PO BOX 130
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. JB LAND is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 88346 is a valid water right in the Subarea A with a priority date of March 14, 1968.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 88346 is 32 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 32 acre-feet of water is allocated under Certificate 88346 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 88346.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TROY BETZ
JB LAND
PO BOX 130
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 88907,	)	
Umatilla County, Oregon	)	

TROY BETZ
JB LAND
PO BOX 130
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. JB LAND is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 88907 is a valid water right in the Subarea A with a priority date of June 26, 1981.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 88907 is 40 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 40 acre-feet of water is allocated under Certificate 88907 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 88907.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TROY BETZ
JB LAND
PO BOX 130
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Certificate 67300,	)	
Umatilla County, Oregon	)	

Phil Morrison
JML
P.O. Box 1166
Pendleton OR 97891

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. JML is a water user in the Subarea H of the Stage Gulch CGWA.
2. Certificate 67300 is a valid water right in the Subarea H with a priority date of May 23, 1977.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Certificate 67300 is 1147.5 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 635 acre-feet of water is allocated under Certificate 67300 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 67300.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Phil Morrison
JML
P.O. Box 1166
Pendleton OR 97891

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 95493,	)	
Umatilla County, Oregon	)	

L and L Farms
PO Box 611
Echo OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).
 - b) A water user may install a functioning airline with a pressure gauge in addition to the access port.

The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).

- c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507

-0670(6)).

FINDINGS OF FACTS

1. L and L Farms is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 95493 is a valid water right in the Subarea A with a priority date of April 19, 1979.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 95493 is 895 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 715 acre-feet of water is allocated under Certificate 95493 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 95493.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

L and L Farms
PO Box 611
Echo OR 97826

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 96884,	)	
Umatilla County, Oregon	)	

Robert Levy
1000 Highway 395 South #423
Hermiston OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Robert Levy is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 96884 is a valid water right in the Subarea A with a priority date of August 22, 1975.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 96884 is 750 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 500 acre-feet of water is allocated under Certificate 96884 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 96884.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Robert Levy
1000 Highway 395 South #423
Hermiston OR 97838

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 96885,	)	
Umatilla County, Oregon	)	

Robert Levy
1000 Highway 395 South #423
Hermiston OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Robert Levy is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 96885 is a valid water right in the Subarea A with a priority date of February 25, 1977.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 96885 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 96885 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 96885.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

Robert Levy
1000 Highway 395 South #423
Hermiston OR 97838

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 96886,	)	
Umatilla County, Oregon	)	

Robert Levy
1000 Highway 395 South #423
Hermiston OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Robert Levy is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 96886 is a valid water right in the Subarea A with a priority date of July 12, 1984.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 96886 is 50 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 is allocated under Certificate 96886 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 96886.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Robert Levy
1000 Highway 395 South #423
Hermiston OR 97838

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Certificate 94466,	)	
Umatilla County, Oregon	)	

LARRY LORENZEN
LORENZEN RANCHES, INC
PO BOX 1519
PENDLETON OR 97801

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. LORENZEN RANCHES, INC is a water user in the Subarea H of the Stage Gulch CGWA.
2. Certificate 94466 is a valid water right in the Subarea H with a priority date of March 28, 1983.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Certificate 94466 is 692.4 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 94466 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 94466.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

LARRY LORENZEN
LORENZEN RANCHES, INC
PO BOX 1519
PENDLETON OR 97801

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 53394,	)	
Umatilla County, Oregon	)	

SANDY BURLEY - TREASURER
LOYALTA INC
11201 S PARKLAND CT
OREGON CITY OR 97045

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. LOYALTA INC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 53394 is a valid water right in the Subarea A with a priority date of September 19, 1979.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 53394 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 53394 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 53394.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

SANDY BURLEY - TREASURER
LOYALTA INC
11201 S PARKLAND CT
OREGON CITY OR 97045

A handwritten signature in cursive script, reading "Kristi Seyfried". The signature is written in dark ink on a light background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 76119,	)	
Umatilla County, Oregon	)	

SANDY BURLEY - TREASURER
LOYALTA INC
11201 S PARKLAND CT
OREGON CITY OR 97045

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. LOYALTA INC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 76119 is a valid water right in the Subarea A with a priority date of November 7, 1962.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 76119 is 475 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 300 acre-feet of water is allocated under Certificate 76119 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 76119.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

SANDY BURLEY - TREASURER
LOYALTA INC
11201 S PARKLAND CT
OREGON CITY OR 97045

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 76120,	)	
Umatilla County, Oregon	)	

SANDY BURLEY - TREASURER
LOYALTA INC
11201 S PARKLAND CT
OREGON CITY OR 97045

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. LOYALTA INC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 76120 is a valid water right in the Subarea A with a priority date of September 11, 1974.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 76120 is 952.5 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 400 acre-feet of water is allocated under Certificate 76120 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 76120.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

SANDY BURLEY - TREASURER
LOYALTA INC
11201 S PARKLAND CT
OREGON CITY OR 97045

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 51696,	)	
Umatilla County, Oregon	)	

JOHN & DEBBIE MCBEE
1062 NW SKYLINE DR
PENDLETON OR 97801-1269

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. JOHN & DEBBIE MCBEE is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 51696 is a valid water right in the Subarea A with a priority date of August 25, 1976.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 51696 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 59 acre-feet of water is allocated under Certificate 51696 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 51696.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

JOHN & DEBBIE MCBEE
1062 NW SKYLINE DR
PENDLETON OR 97801-1269

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Inchoate Transfer T 13632,	)	
Umatilla County, Oregon	)	

Dan McCarty
27471 McCarty Ranch Lane
Echo OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Dan McCarty is a water user in the Subarea H of the Stage Gulch CGWA.
2. Inchoate Transfer T 13632 is a valid water right in the Subarea H with a priority date of September 9, 1976.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Inchoate Transfer T 13632 is 318 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 84.5 acre-feet of water is allocated under Inchoate Transfer T 13632 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Inchoate Transfer T 13632.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Dan McCarty
27471 McCarty Ranch Lane
Echo OR 97826

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 53186,	)	
Umatilla County, Oregon	)	

MIKAMI BROTHERS
PO BOX 780
HERMISTON OR 97838-0780

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).
 - b) A water user may install a functioning airline with a pressure gauge in addition to the access port.

The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).

- c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507

-0670(6)).

FINDINGS OF FACTS

1. MIKAMI BROTHERS is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 53186 is a valid water right in the Subarea A with a priority date of January 25, 1979.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 53186 is 10 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 10 acre-feet of water is allocated under Certificate 53186 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 53186.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

MIKAMI BROTHERS
PO BOX 780
HERMISTON OR 97838-0780

A handwritten signature in cursive script, reading "Kristi Seyfried". The signature is written in dark ink on a light background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea C,	)	
Under Water Right	)	
Certificate 53479,	)	
Umatilla County, Oregon	)	

DON MILLS
MILLS MINT FARM
77356 N LOOP RD
STANFIELD OR 97875

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. MILLS MINT FARM is a water user in the Subarea C of the Stage Gulch CGWA.
2. Certificate 53479 is a valid water right in the Subarea C with a priority date of August 13, 1973.
3. For 2024, the sustainable annual yield in the Subarea C is 400.00 acre-feet.
4. In 2022, 400.00 acre-feet of water was allocated for the Subarea C.
5. In 2022, .00 acre-feet of water was pumped in the Subarea C.
6. For 2024, 400.00 acre-feet is allocated for the Subarea C. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 2792.1 acre-feet for the Subarea C subarea.
9. The 2024 annual allocation request under Water Right Certificate 53479 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea C in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea C.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 10 acre-feet of water is allocated under Certificate 53479 for the year 2024 from the Subarea C of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 53479.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

DON MILLS
MILLS MINT FARM
77356 N LOOP RD
STANFIELD OR 97875

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea C
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 400.00 acre-feet
Total Allocation: 400.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2928	0.00	0.00	0.00	0.00	10.00
MILLS MINT FARM	Cert:53479 OR *	08/13/1973		Water Right Total:			0.00	10.00
			UMAT 2918		0.00	0.00	0.00	10.00
MILLS MINT FARM	Cert:53482 OR *	01/10/1977		Water Right Total:			0.00	10.00
			UMAT 2912		0.00	0.00	15.00	15.00
GOLDEN VALLEY FARMS	Cert:76131 CF *	04/10/1978		Water Right Total:			15.00	15.00
			UMAT 2903	237.90	159.32	0.00	2,777.10	365.00
GOLDEN VALLEY FARMS	Cert:87320 (RR) *	12/26/1978		Water Right Total:			2,777.10	365.00
			UMAT 2903	237.90	159.32	0.00	0.00	0.00
GOLDEN VALLEY FARMS	Cert:87322 (RR) *	06/13/1983		Water Right Total:			0.00	0.00
Subarea C Total:				237.90	159.32	0.00	2,792.10	400.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea C,	)	
Under Water Right	)	
Certificate 53482,	)	
Umatilla County, Oregon	)	

DON MILLS
MILLS MINT FARM
77356 N LOOP RD
STANFIELD OR 97875

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. MILLS MINT FARM is a water user in the Subarea C of the Stage Gulch CGWA.
2. Certificate 53482 is a valid water right in the Subarea C with a priority date of January 10, 1977.
3. For 2024, the sustainable annual yield in the Subarea C is 400.00 acre-feet.
4. In 2022, 400.00 acre-feet of water was allocated for the Subarea C.
5. In 2022, .00 acre-feet of water was pumped in the Subarea C.
6. For 2024, 400.00 acre-feet is allocated for the Subarea C. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 2792.1 acre-feet for the Subarea C subarea.
9. The 2024 annual allocation request under Water Right Certificate 53482 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea C in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea C.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 10 acre-feet of water is allocated under Certificate 53482 for the year 2024 from the Subarea C of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 53482.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

DON MILLS
MILLS MINT FARM
77356 N LOOP RD
STANFIELD OR 97875

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea C
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 400.00 acre-feet
Total Allocation: 400.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2928	0.00	0.00	0.00	0.00	10.00
MILLS MINT FARM	Cert:53479 OR *	08/13/1973		Water Right Total:			0.00	10.00
			UMAT 2918		0.00	0.00	0.00	10.00
MILLS MINT FARM	Cert:53482 OR *	01/10/1977		Water Right Total:			0.00	10.00
			UMAT 2912		0.00	0.00	15.00	15.00
GOLDEN VALLEY FARMS	Cert:76131 CF *	04/10/1978		Water Right Total:			15.00	15.00
			UMAT 2903	237.90	159.32	0.00	2,777.10	365.00
GOLDEN VALLEY FARMS	Cert:87320 (RR) *	12/26/1978		Water Right Total:			2,777.10	365.00
			UMAT 2903	237.90	159.32	0.00	0.00	0.00
GOLDEN VALLEY FARMS	Cert:87322 (RR) *	06/13/1983		Water Right Total:			0.00	0.00
Subarea C Total:				237.90	159.32	0.00	2,792.10	400.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea F,	)	
Under Water Right	)	
Inchoate Transfer T 6442,	)	
Umatilla County, Oregon	)	

BRIAN MONTECUCCO
4015 N. LOCUST
CANBY OR 97013

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. BRIAN MONTECUCCO is a water user in the Subarea F of the Stage Gulch CGWA.
2. Inchoate Transfer T 6442 is a valid water right in the Subarea F with a priority date of April 27, 1978.
3. For 2024, the sustainable annual yield in the Subarea F is 200.00 acre-feet.
4. In 2022, 107.87 acre-feet of water was allocated for the Subarea F.
5. In 2022, 60.33 acre-feet of water was pumped in the Subarea F.
6. For 2024, 200.00 acre-feet is allocated for the Subarea F. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 200 acre-feet for the Subarea F subarea.
9. The 2024 annual allocation request under Water Right Inchoate Transfer T 6442 is 13.12 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea F in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea F.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 13.12 acre-feet of water is allocated under Inchoate Transfer T 6442 for the year 2024 from the Subarea F of the Stage Gulch Critical Groundwater Area to be used under the terms of Inchoate Transfer T 6442.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

BRIAN MONTECUCCO
4015 N. LOCUST
CANBY OR 97013

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea F
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 200.00 acre-feet
Total Allocation: 200.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1278	292.13	284.84	60.33	13.12	13.12
BRIAN MONTECUCCO	Inchoate: T 6442 CF 04/27/1978 (REG) *			Water Right Total:			13.12	13.12
			UMAT 1278	292.13	284.84	60.33	186.88	186.88
BRIAN MONTECUCCO	Cert:76307 (T 6442 04/27/1978 RR) *			Water Right Total:			186.88	186.88
Subarea F Total:				292.13	284.84	60.33	200.00	200.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea F,	)	
Under Water Right	)	
Certificate 76307,	)	
Umatilla County, Oregon	)	

BRIAN MONTECUCCO
4015 N. LOCUST
CANBY OR 97013

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. BRIAN MONTECUCCO is a water user in the Subarea F of the Stage Gulch CGWA.
2. Certificate 76307 is a valid water right in the Subarea F with a priority date of April 27, 1978.
3. For 2024, the sustainable annual yield in the Subarea F is 200.00 acre-feet.
4. In 2022, 107.87 acre-feet of water was allocated for the Subarea F.
5. In 2022, 60.33 acre-feet of water was pumped in the Subarea F.
6. For 2024, 200.00 acre-feet is allocated for the Subarea F. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 200 acre-feet for the Subarea F subarea.
9. The 2024 annual allocation request under Water Right Certificate 76307 is 186.88 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea F in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea F.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 186.88 acre-feet of water is allocated under Certificate 76307 for the year 2024 from the Subarea F of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 76307.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

BRIAN MONTECUCCO
4015 N. LOCUST
CANBY OR 97013

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea F
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 200.00 acre-feet
Total Allocation: 200.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1278	292.13	284.84	60.33	13.12	13.12
BRIAN MONTECUCCO	Inchoate: T 6442 CF 04/27/1978 (REG) *			Water Right Total:			13.12	13.12
			UMAT 1278	292.13	284.84	60.33	186.88	186.88
BRIAN MONTECUCCO	Cert:76307 (T 6442 04/27/1978 RR) *			Water Right Total:			186.88	186.88
Subarea F Total:				292.13	284.84	60.33	200.00	200.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Inchoate Transfer T 13113,	)	
Umatilla County, Oregon	)	

Clayton Morrison
Morrison Ranch LLC
78025 Stage Gulch Road
Pendleton OR

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Morrison Ranch LLC is a water user in the Subarea H of the Stage Gulch CGWA.
2. Inchoate Transfer T 13113 is a valid water right in the Subarea H with a priority date of January 28, 1953.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Inchoate Transfer T 13113 is 70.8 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 70.8 acre-feet of water is allocated under Inchoate Transfer T 13113 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Inchoate Transfer T 13113.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Clayton Morrison
Morrison Ranch LLC
78025 Stage Gulch Road
Pendleton OR

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is positioned above a horizontal line.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Inchoate Transfer T 13113,	)	
Umatilla County, Oregon	)	

Clayton Morrison
Morrison Ranch LLC
78025 Stage Gulch Road
Pendleton OR

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Morrison Ranch LLC is a water user in the Subarea H of the Stage Gulch CGWA.
2. Inchoate Transfer T 13113 is a valid water right in the Subarea H with a priority date of March 28, 1983.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Inchoate Transfer T 13113 is 25.5 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Inchoate Transfer T 13113 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Inchoate Transfer T 13113.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

Clayton Morrison
Morrison Ranch LLC
78025 Stage Gulch Road
Pendleton OR

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 76114,	)	
Umatilla County, Oregon	)	

Troy Murray
PO Box 214
Echo OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Troy Murray is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 76114 is a valid water right in the Subarea A with a priority date of May 31, 1983.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 76114 is 10 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 10 acre-feet of water is allocated under Certificate 76114 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 76114.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Troy Murray
PO Box 214
Echo OR 97826

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 55012,	)	
Umatilla County, Oregon	)	

TIM WEINKE
OSU Exp Station HAREC
2121 S FIRST ST
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. OSU Exp Station HAREC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 55012 is a valid water right in the Subarea A with a priority date of May 9, 1977.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 55012 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 60 acre-feet of water is allocated under Certificate 55012 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 55012.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TIM WEINKE
OSU Exp Station HAREC
2121 S FIRST ST
HERMISTON OR 97838

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 89233,	)	
Umatilla County, Oregon	)	

JASON FITZPATRICK
PIONEER HI-BRED INTERNATIONAL INC
2212 SE 9TH STREET
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. PIONEER HI-BRED INTERNATIONAL INC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 89233 is a valid water right in the Subarea A with a priority date of February 25, 1977.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 89233 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 42.5 acre-feet of water is allocated under Certificate 89233 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 89233.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

JASON FITZPATRICK
PIONEER HI-BRED INTERNATIONAL INC
2212 SE 9TH STREET
HERMISTON OR 97838

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 87374,	)	
Umatilla County, Oregon	)	

Kim Puzey
PORT OF UMATILLA
500 Willamette Street
PO Box 879
UMATILLA OR 97882

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |

- 5) 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) 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 (OAR 690-507-0810(1)(a)).
 - b) 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 (OAR 690-507-0810(1)(b)).
 - c) 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 (OAR 690-507-0810(1)(c)).
 - d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
 - e) 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 (OAR 690-507-0810(2)).
 - f) 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 (OAR 690-507-0810(3)).
 - g) 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 (OAR 690-507-0810(4)).
 - h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
 - i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and

- requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. PORT OF UMATILLA is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 87374 is a valid water right in the Subarea A with a priority date of February 25, 1977.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 87374 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 63 acre-feet of water is allocated under Certificate 87374 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 87374.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Kim Puzey
PORT OF UMATILLA
500 Willamette Street
PO Box 879
UMATILLA OR 97882



Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 95542,	)	
Umatilla County, Oregon	)	

Chester Prior
32327 Oregon Trail Rd.
Echo OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Chester Prior is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 95542 is a valid water right in the Subarea A with a priority date of March 26, 1974.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 95542 is 18 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 18 acre-feet of water is allocated under Certificate 95542 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 95542.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Chester Prior
32327 Oregon Trail Rd.
Echo OR 97826

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea G,	)	
Under Water Right	)	
Certificate 95542,	)	
Umatilla County, Oregon	)	

Chester Prior
32327 Oregon Trail Rd.
Echo OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Chester Prior is a water user in the Subarea G of the Stage Gulch CGWA.
2. Certificate 95542 is a valid water right in the Subarea G with a priority date of March 26, 1974.
3. For 2024, the sustainable annual yield in the Subarea G is 2750.00 acre-feet.
4. In 2022, 2750.00 acre-feet of water was allocated for the Subarea G.
5. In 2022, 483.91 acre-feet of water was pumped in the Subarea G.
6. For 2024, 2750.00 acre-feet is allocated for the Subarea G. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 2750 acre-feet for the Subarea G subarea.
9. The 2024 annual allocation request under Water Right Certificate 95542 is 150 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea G in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea G.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 150 acre-feet of water is allocated under Certificate 95542 for the year 2024 from the Subarea G of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 95542.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Chester Prior
32327 Oregon Trail Rd.
Echo OR 97826

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea G
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 2750.00 acre-feet
Total Allocation: 2750.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
EAGLE RANCH			UMAT 1226	173.20	435.64	138.34	450.00	450.00
			UMAT 1235	259.20	350.43	47.93	150.00	150.00
	Cert:80652 (T 9591 RR) *	03/26/1974	Water Right Total:			600.00	600.00	
Chester Prior			UMAT 1226	173.20	435.64	138.34	0.00	0.00
			UMAT 1235	259.20	350.43	47.93	150.00	150.00
	Cert:95542 CF *	03/26/1974	Water Right Total:			150.00	150.00	
EAGLE RANCH			UMAT 469	64.52	267.03	153.58	189.90	189.90
			UMAT 470	0.00	0.00		0.00	0.00
			UMAT 1285	107.53	368.59	144.06	250.00	250.00
	Cert:75127 CF *	09/05/1974	Water Right Total:			439.90	439.90	
EAGLE RANCH			UMAT 469	64.52	267.03	153.58	83.70	83.70
			UMAT 476		0.00	0.00	0.00	0.00
			UMAT 1285	107.53	368.59	144.06	0.00	0.00
	Cert:79672 CF *	10/15/1975	Water Right Total:			83.70	83.70	
EAGLE RANCH			UMAT 469	64.52	267.03	153.58	592.20	592.20
			UMAT 470	0.00	0.00		0.00	0.00
			UMAT 1226	173.20	435.64	138.34	450.00	450.00
EAGLE RANCH			UMAT 1235	259.20	350.43	47.93	150.00	150.00
			UMAT 1285	107.53	368.59	144.06	250.00	250.00
	Cert:61534 OR *	03/30/1976	Water Right Total:			1,442.20	1,442.20	
EAGLE RANCH			UMAT 469	64.52	267.03	153.58	34.20	34.20
			UMAT 476		0.00	0.00	0.00	0.00
			UMAT 1285	107.53	368.59	144.06	0.00	0.00
	Cert:79673 CF *	10/15/1976	Water Right Total:			34.20	34.20	
Subarea G Total:				604.45	1,421.69	483.91	2,750.00	2,750.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Certificate 55613,	)	
Umatilla County, Oregon	)	

Arleta REESE-THORNE
REESE FARM
1057 Skyline Lane
Pendleton OR 97801

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. REESE FARM is a water user in the Subarea H of the Stage Gulch CGWA.
2. Certificate 55613 is a valid water right in the Subarea H with a priority date of February 2, 1972.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Certificate 55613 is 300 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 200 acre-feet of water is allocated under Certificate 55613 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 55613.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Arleta REESE-THORNE
REESE FARM
1057 Skyline Lane
Pendleton OR 97801

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Certificate 56073,	)	
Umatilla County, Oregon	)	

Arleta REESE-THORNE
REESE FARM
1057 Skyline Lane
Pendleton OR 97801

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. REESE FARM is a water user in the Subarea H of the Stage Gulch CGWA.
2. Certificate 56073 is a valid water right in the Subarea H with a priority date of May 10, 1979.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Certificate 56073 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 56073 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 56073.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

Arleta REESE-THORNE
REESE FARM
1057 Skyline Lane
Pendleton OR 97801

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Certificate 55015,	)	
Umatilla County, Oregon	)	

GLENN ROHDE
39007 ROHDE ROAD
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. GLENN ROHDE is a water user in the Subarea H of the Stage Gulch CGWA.
2. Certificate 55015 is a valid water right in the Subarea H with a priority date of December 6, 1977.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Certificate 55015 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 is allocated under Certificate 55015 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 55015.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

GLENN ROHDE
39007 ROHDE ROAD
ECHO OR 97826

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC			UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
	Inchoate: T 13113 CF (REG) *	01/28/1953		Water Right Total:			70.80	70.80
FARMLAND RESERVE INC			UMAT 1351	373.00	378.16	199.51	61.65	61.65
	Inchoate: T 11473 CF (REG) *	09/16/1954		Water Right Total:			61.65	61.65
GLENN ROHDE			UMAT 1356	149.40	109.52	117.83	0.00	118.65
	Cert:55612 CF *	10/04/1966		Water Right Total:			0.00	118.65
FARMLAND RESERVE INC			UMAT 1295	898.76	538.19	517.57	0.00	540.00
	Cert:85124 (T 6775 RR) CR *	06/08/1971		Water Right Total:			0.00	540.00
REESE FARM			UMAT 1364	153.06	241.64	170.93	300.00	200.00
	Cert:55613 CF *	02/02/1972		Water Right Total:			300.00	200.00
FARMLAND RESERVE INC			UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973		Water Right Total:			1,246.00	260.00
FARMLAND RESERVE INC			UMAT 1351	373.00	378.16	199.51	212.40	212.40
	Inchoate: T 11473 CF (REG) *	11/30/1973		Water Right Total:			212.40	212.40
RICHARD & ASHLEY SNOW			UMAT 1359	0.00	0.00	0.00	0.00	0.00
	Cert:47008 OR *	07/19/1974		Water Right Total:			0.00	0.00
FARMLAND RESERVE INC			UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
	Cert:87666 CF *	07/19/1974		Water Right Total:			600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE			UMAT 1382	0.00	0.00	0.00	0.00	0.00
	Cert:86213 (RR) *	10/21/1974		Water Right Total:			0.00	0.00
FARMLAND RESERVE INC			UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
	Cert:87667 CF *	10/21/1974		Water Right Total:			361.40	361.40
GOLDEN VALLEY FARMS			UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
	Inchoate: T 10517 CF (REG) *	11/12/1975		Water Right Total:			1,200.00	1,200.00
FARMLAND RESERVE INC			UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
	Cert:80849 CF *	12/29/1975		Water Right Total:			2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Certificate 55612,	)	
Umatilla County, Oregon	)	

GLENN ROHDE
39007 ROHDE ROAD
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. GLENN ROHDE is a water user in the Subarea H of the Stage Gulch CGWA.
2. Certificate 55612 is a valid water right in the Subarea H with a priority date of October 4, 1966.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Certificate 55612 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 118.65 acre-feet of water is allocated under Certificate 55612 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 55612.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

GLENN ROHDE
39007 ROHDE ROAD
ECHO OR 97826

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Certificate 47008,	)	
Umatilla County, Oregon	)	

RICHARD & ASHLEY SNOW
75198 YOAKUM ROAD
PENDLETON OR 97801

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. RICHARD & ASHLEY SNOW is a water user in the Subarea H of the Stage Gulch CGWA.
2. Certificate 47008 is a valid water right in the Subarea H with a priority date of July 19, 1974.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Certificate 47008 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 47008 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 47008.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

RICHARD & ASHLEY SNOW
75198 YOAKUM ROAD
PENDLETON OR 97801

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
			UMAT 1356	149.40	109.52	117.83	0.00	118.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
			UMAT 1364	153.06	241.64	170.93	300.00	200.00
REESE FARM	Cert:55613 CF *	02/02/1972	Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
			UMAT 1351	373.00	378.16	199.51	212.40	212.40
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
			UMAT 1295	898.76	538.19	517.57	150.00	150.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
			UMAT 1382	0.00	0.00	0.00	0.00	0.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Certificate 80295,	)	
Umatilla County, Oregon	)	

ST HILAIRE
84186 HIGHWAY 37
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).
 - b) A water user may install a functioning airline with a pressure gauge in addition to the access port.

The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).

- c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507

-0670(6)).

FINDINGS OF FACTS

1. ST HILAIRE is a water user in the Subarea H of the Stage Gulch CGWA.
2. Certificate 80295 is a valid water right in the Subarea H with a priority date of February 15, 1978.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Certificate 80295 is 6813 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 1678.5 acre-feet of water is allocated under Certificate 80295 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 80295.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

ST HILAIRE
84186 HIGHWAY 37
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Certificate 88817,	)	
Umatilla County, Oregon	)	

ST HILAIRE
84186 HIGHWAY 37
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).
 - b) A water user may install a functioning airline with a pressure gauge in addition to the access port.

The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).

- c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507

-0670(6)).

FINDINGS OF FACTS

1. ST HILAIRE is a water user in the Subarea H of the Stage Gulch CGWA.
2. Certificate 88817 is a valid water right in the Subarea H with a priority date of February 15, 1978.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Certificate 88817 is 55.18 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 43.18 acre-feet of water is allocated under Certificate 88817 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 88817.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

ST HILAIRE
84186 HIGHWAY 37
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried". The signature is written in dark ink on a light background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Inchoate Transfer T 11254,	)	
Umatilla County, Oregon	)	

Herb Stahl
STANFIELD HUTTERIAN BRETHREN
36345 DESPAIN GULCH RD
STANFIELD OR 97875

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. STANFIELD HUTTERIAN BRETHREN is a water user in the Subarea A of the Stage Gulch CGWA.
2. Inchoate Transfer T 11254 is a valid water right in the Subarea A with a priority date of February 25, 1977.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Inchoate Transfer T 11254 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 101 acre-feet of water is allocated under Inchoate Transfer T 11254 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Inchoate Transfer T 11254.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Herb Stahl
STANFIELD HUTTERIAN BRETHREN
36345 DESPAIN GULCH RD
STANFIELD OR 97875

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 87368,	)	
Umatilla County, Oregon	)	

Herb Stahl
STANFIELD HUTTERIAN BRETHREN
36345 DESPAIN GULCH RD
STANFIELD OR 97875

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. STANFIELD HUTTERIAN BRETHREN is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 87368 is a valid water right in the Subarea A with a priority date of February 25, 1977.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 87368 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 295 acre-feet of water is allocated under Certificate 87368 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 87368.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Herb Stahl
STANFIELD HUTTERIAN BRETHREN
36345 DESPAIN GULCH RD
STANFIELD OR 97875



Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 94233,	)	
Umatilla County, Oregon	)	

Herb Stahl
STANFIELD HUTTERIAN BRETHREN
36345 DESPAIN GULCH RD
STANFIELD OR 97875

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. STANFIELD HUTTERIAN BRETHREN is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 94233 is a valid water right in the Subarea A with a priority date of December 28, 1970.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 94233 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 94233 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 94233.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

Herb Stahl
STANFIELD HUTTERIAN BRETHREN
36345 DESPAIN GULCH RD
STANFIELD OR 97875

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 60744,	)	
Umatilla County, Oregon	)	

STEVE KOESTER
STEVE KOESTER FARMS
1980 NW 11TH ST
HERMISTON OR 97838-6668

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. STEVE KOESTER FARMS is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 60744 is a valid water right in the Subarea A with a priority date of July 14, 1983.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 60744 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 60744 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 60744.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

STEVE KOESTER
STEVE KOESTER FARMS
1980 NW 11TH ST
HERMISTON OR 97838-6668

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea H,	)	
Under Water Right	)	
Certificate 97009,	)	
Umatilla County, Oregon	)	

M and Shirley Temple
1215 NW Carden Ave
Pendleton OR 97801

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. M and Shirley Temple is a water user in the Subarea H of the Stage Gulch CGWA.
2. Certificate 97009 is a valid water right in the Subarea H with a priority date of September 9, 1976.
3. For 2024, the sustainable annual yield in the Subarea H is 8850.00 acre-feet.
4. In 2022, 8850.00 acre-feet of water was allocated for the Subarea H.
5. In 2022, 4729.69 acre-feet of water was pumped in the Subarea H.
6. For 2024, 8850.00 acre-feet is allocated for the Subarea H. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 19755.73 acre-feet for the Subarea H subarea.
9. The 2024 annual allocation request under Water Right Certificate 97009 is 177 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea H in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea H.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 45.5 acre-feet of water is allocated under Certificate 97009 for the year 2024 from the Subarea H of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 97009.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

M and Shirley Temple
1215 NW Carden Ave
Pendleton OR 97801

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive style with a large, looping "K" and a long, sweeping "S".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	01/28/1953	UMAT 3010	70.00	685.71	5.14	35.40	35.40
			UMAT 58365			0.00	35.40	35.40
			Water Right Total:				70.80	70.80
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	09/16/1954	UMAT 1351	373.00	378.16	199.51	61.65	61.65
			Water Right Total:				61.65	61.65
GLENN ROHDE	Cert:55612 CF *	10/04/1966	UMAT 1356	149.40	109.52	117.83	0.00	118.65
			Water Right Total:				0.00	118.65
FARMLAND RESERVE INC	Cert:85124 (T 6775 RR) CR *	06/08/1971	UMAT 1295	898.76	538.19	517.57	0.00	540.00
			Water Right Total:				0.00	540.00
REESE FARM	Cert:55613 CF *	02/02/1972	UMAT 1364	153.06	241.64	170.93	300.00	200.00
			Water Right Total:				300.00	200.00
FARMLAND RESERVE INC	Cert:80850 (T 6775, T 11086 RR) *	02/16/1973	UMAT 1300	93.20	139.26	30.89	1,246.00	260.00
			Water Right Total:				1,246.00	260.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	11/30/1973	UMAT 1351	373.00	378.16	199.51	212.40	212.40
			Water Right Total:				212.40	212.40
RICHARD & ASHLEY SNOW	Cert:47008 OR *	07/19/1974	UMAT 1359	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87666 CF *	07/19/1974	UMAT 1295	898.76	538.19	517.57	150.00	150.00
			UMAT 1300	93.20	139.26	30.89	150.00	150.00
			UMAT 1326	239.09	216.25	188.14	150.00	150.00
			UMAT 54853	495.84	1,097.64	1,197.65	150.00	150.00
			Water Right Total:				600.00	600.00
EMA TRUST, ERIC ANDERSON, TRUSTEE	Cert:86213 (RR) *	10/21/1974	UMAT 1382	0.00	0.00	0.00	0.00	0.00
			Water Right Total:				0.00	0.00
FARMLAND RESERVE INC	Cert:87667 CF *	10/21/1974	UMAT 1295	898.76	538.19	517.57	90.35	90.35
			UMAT 1300	93.20	139.26	30.89	90.35	90.35
			UMAT 1326	239.09	216.25	188.14	90.35	90.35
			UMAT 54853	495.84	1,097.64	1,197.65	90.35	90.35
			Water Right Total:				361.40	361.40
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	11/12/1975	UMAT 1361	1,140.27	1,004.93	786.93	600.00	600.00
			UMAT 1369	327.35	319.16	438.88	600.00	600.00
			Water Right Total:				1,200.00	1,200.00
FARMLAND RESERVE INC	Cert:80849 CF *	12/29/1975	UMAT 1329	0.00	0.00	0.00	0.00	0.00
			UMAT 54853	495.84	1,097.64	1,197.65	2,142.00	1,484.62
			Water Right Total:				2,142.00	1,484.62

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 1362	924.46	840.23	715.93	1,027.50	620.00
Branstetter Ranch	Cert:85256 (RR) *	07/16/1976		Water Right Total:			1,027.50	620.00
			UMAT 1362	924.46	840.23	715.93	328.20	207.00
Branstetter Ranch	Cert:89677 CF *	07/16/1976		Water Right Total:			328.20	207.00
			UMAT 1367	130.44	153.97	106.23	318.00	84.50
Dan McCarty	Inchoate: T 13632 CF (REG) *	09/09/1976		Water Right Total:			318.00	84.50
			UMAT 1367	130.44	153.97	106.23	177.00	45.50
M and Shirley Temple	Cert:97009 (T 13632 RR) *	09/09/1976		Water Right Total:			177.00	45.50
			UMAT 1300	93.20	139.26	30.89	75.36	75.36
			UMAT 1326	239.09	216.25	188.14	75.36	75.36
			UMAT 1361	1,140.27	1,004.93	786.93	75.36	75.36
			UMAT 1369	327.35	319.16	438.88	75.36	75.36
			UMAT 54853	495.84	1,097.64	1,197.65	75.36	75.36
FARMLAND RESERVE INC	Cert:87713 CF *	12/15/1976		Water Right Total:			376.80	376.80
			UMAT 2998	640.26	356.69	16.09	1,147.50	635.00
JML	Cert:67300 CF *	05/23/1977		Water Right Total:			1,147.50	635.00
			UMAT 1356	149.40	109.52	117.83	0.00	50.00
GLENN ROHDE	Cert:55015 OR *	12/06/1977		Water Right Total:			0.00	50.00
			UMAT 2999	509.96	0.00	0.00	1,980.00	425.00
			UMAT 3000	1,762.89	399.75	15.56	3,168.00	1,050.00
			UMAT 3004	868.79	261.89	196.23	166.50	150.00
			UMAT 3007	16.71	39.40	26.18	1,498.50	53.50
ST HILAIRE	Cert:80295 (T 8688 RR) *	02/15/1978		Water Right Total:			6,813.00	1,678.50
			UMAT 2999	509.96	0.00	0.00	20.00	20.00
			UMAT 3000	1,762.89	399.75	15.56	32.00	20.00
			UMAT 3004	868.79	261.89	196.23	1.68	1.68
			UMAT 3007	16.71	39.40	26.18	1.50	1.50
ST HILAIRE	Cert:88817 CF *	02/15/1978		Water Right Total:			55.18	43.18
			UMAT 1361	1,140.27	1,004.93	786.93	185.40	0.00
			UMAT 1369	327.35	319.16	438.88	185.40	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	02/21/1978		Water Right Total:			370.80	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	535.05	0.00
			UMAT 1369	327.35	319.16	438.88	535.05	0.00
GOLDEN VALLEY FARMS	Inchoate: T 10517 CF (REG) *	08/02/1978		Water Right Total:			1,070.10	0.00
			UMAT 1361	1,140.27	1,004.93	786.93	539.10	0.00
GOLDEN VALLEY FARMS	Cert:84095 (T 10517 RR) *	08/02/1978		Water Right Total:			539.10	0.00
			UMAT 1364	153.06	241.64	170.93	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea H
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 8850.00 acre-feet
Total Allocation: 8850.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
REESE FARM	Cert:56073 OR *	05/10/1979		Water Right Total:			0.00	0.00
			UMAT 1351	373.00	378.16	199.51	108.90	0.00
FARMLAND RESERVE INC	Inchoate: T 11473 CF (REG) *	05/10/1979		Water Right Total:			108.90	0.00
			UMAT 1383		0.00	0.00	0.00	0.00
HARRIET ISOM	Cert:55842 OR *	03/17/1980		Water Right Total:			0.00	0.00
			UMAT 1362	924.46	840.23	715.93	232.50	0.00
Branstetter Ranch	Cert:85257 (RR) *	03/12/1981		Water Right Total:			232.50	0.00
			UMAT 1362	924.46	840.23	715.93	279.00	0.00
Branstetter Ranch	Cert:89678 CF *	03/12/1981		Water Right Total:			279.00	0.00
			UMAT 3010	70.00	685.71	5.14	0.00	0.00
			UMAT 58365			0.00	25.50	0.00
Morrison Ranch LLC	Inchoate: T 13113 CF (REG) *	03/28/1983		Water Right Total:			25.50	0.00
			UMAT 3010	70.00	685.71	5.14	692.40	0.00
LORENZEN RANCHES, INC	Cert:94466 (T 13113 RR) *	03/28/1983		Water Right Total:			692.40	0.00
Subarea H Total:				7,583.20	6,782.39	4,729.69	19,755.73	8,850.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 42977,	)	
Umatilla County, Oregon	)	

SCOTT & SHARON TULLIS
32293 E LOOP RD
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. SCOTT & SHARON TULLIS is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 42977 is a valid water right in the Subarea A with a priority date of August 20, 1971.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 42977 is 4 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 4 acre-feet of water is allocated under Certificate 42977 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 42977.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

SCOTT & SHARON TULLIS
32293 E LOOP RD
HERMISTON OR 97838

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive style with a large, looping "K" and a long, sweeping "S".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 54117,	)	
Umatilla County, Oregon	)	

JESSICA JOHNSON
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS
1400 DOUGLAS STREET STOP 1030
OMAHA NE 68179

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 54117 is a valid water right in the Subarea A with a priority date of February 3, 1950.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 54117 is 36 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 51.43 acre-feet of water is allocated under Certificate 54117 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 54117.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

JESSICA JOHNSON
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS
1400 DOUGLAS STREET STOP 1030
OMAHA NE 68179

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 87373,	)	
Umatilla County, Oregon	)	

VERDON LLC
34801 OLD HIGHWAY 320
ECHO OR 97826-9653

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).
 - b) A water user may install a functioning airline with a pressure gauge in addition to the access port.

The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).

- c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507

-0670(6)).

FINDINGS OF FACTS

1. VERDON LLC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 87373 is a valid water right in the Subarea A with a priority date of February 25, 1977.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 87373 is 88.5 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 65 acre-feet of water is allocated under Certificate 87373 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 87373.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

VERDON LLC
34801 OLD HIGHWAY 320
ECHO OR 97826-9653

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 76116,	)	
Umatilla County, Oregon	)	

CLINTON PATRICK WALCHLI
WALCHLI FARMS
32697 E LOOP RD
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. WALCHLI FARMS is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 76116 is a valid water right in the Subarea A with a priority date of October 9, 1981.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 76116 is 325 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 100 acre-feet of water is allocated under Certificate 76116 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 76116.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

CLINTON PATRICK WALCHLI
WALCHLI FARMS
32697 E LOOP RD
HERMISTON OR 97838

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 95964,	)	
Umatilla County, Oregon	)	

FRED WIDMAN
2001 E GERONE ST
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. FRED WIDMAN is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 95964 is a valid water right in the Subarea A with a priority date of February 16, 1973.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 95964 is 22.98 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 22.98 acre-feet of water is allocated under Certificate 95964 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 95964.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

FRED WIDMAN
2001 E GERONE ST
ECHO OR 97826

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 49823,	)	
Umatilla County, Oregon	)	

MITCHELL S & CINDY L WILSON
PO BOX 165
HERMISTON OR 97838-0165

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. MITCHELL S & CINDY L WILSON is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 49823 is a valid water right in the Subarea A with a priority date of February 25, 1977.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 49823 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 10 acre-feet of water is allocated under Certificate 49823 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 49823.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

MITCHELL S & CINDY L WILSON
PO BOX 165
HERMISTON OR 97838-0165

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 52574,	)	
Umatilla County, Oregon	)	

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. WINDY RIVER LLC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 52574 is a valid water right in the Subarea A with a priority date of February 25, 1977.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 52574 is 668 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 421.15 acre-feet of water is allocated under Certificate 52574 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 52574.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 75124,	)	
Umatilla County, Oregon	)	

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. WINDY RIVER LLC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 75124 is a valid water right in the Subarea A with a priority date of July 19, 1976.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 75124 is 300 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 300 acre-feet of water is allocated under Certificate 75124 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 75124.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838



Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 75554,	)	
Umatilla County, Oregon	)	

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. WINDY RIVER LLC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 75554 is a valid water right in the Subarea A with a priority date of July 19, 1976.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 75554 is 122.5 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 122.5 acre-feet of water is allocated under Certificate 75554 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 75554.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838



Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 75555,	)	
Umatilla County, Oregon	)	

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. WINDY RIVER LLC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 75555 is a valid water right in the Subarea A with a priority date of December 2, 1976.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 75555 is 175 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 175 acre-feet of water is allocated under Certificate 75555 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 75555.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838



Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 76128,	)	
Umatilla County, Oregon	)	

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. WINDY RIVER LLC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 76128 is a valid water right in the Subarea A with a priority date of April 27, 1978.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 76128 is 461.4 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 100 acre-feet of water is allocated under Certificate 76128 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 76128.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 79990,	)	
Umatilla County, Oregon	)	

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. WINDY RIVER LLC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 79990 is a valid water right in the Subarea A with a priority date of July 19, 1976.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 79990 is 122.5 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 122.5 acre-feet of water is allocated under Certificate 79990 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 79990.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Stage Gulch Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Subarea A,	)	
Under Water Right	)	
Certificate 79991,	)	
Umatilla County, Oregon	)	

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

AUTHORITY

- 1) 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 purpose 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:
 - a) 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 (OAR 690-507-0780(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0780(2)(b)).
 - c) 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 (OAR 690-507-0780(2)(c)).
 - d) If a flow meter is required, 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. The Department may accept other power-use information from a water user in lieu of weekly powermeter readings. Acceptable power-use information may include, but is not limited to, copies of monthly statements provided by the water user or directly by the utility (OAR 690-507-0780(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0780(4)).
 - f) A water user shall notify the Department in Salem or the watermaster in Pendleton prior to commencing any repair or modification work on a pump or well. If emergency repairs are required at times that preclude prior Department notification, a water user shall notify the Department by 5 p.m. on the first business day following commencement of the repair work. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0780(5)).
- 4) OAR 690-507-0790 states in pertinent part that each of the subareas in the Stage Gulch Critical Groundwater 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 groundwater levels. The initial sustainable annual yield for each of the seven managed subareas in the Stage Gulch Critical Groundwater Area was determined using data from the 1980 through the 1989 irrigation seasons and is listed below:
- | | | |
|---|--------|------------|
| A | 11,450 | Acre Feet. |
| B | 200 | Acre Feet. |
| C | 400 | Acre Feet. |
| D | 3,250 | Acre Feet. |
| F | 200 | Acre Feet. |
| G | 2,750 | Acre Feet. |
| H | 8,850 | Acre Feet. |
- 5) 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) 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 (OAR 690-507-0810(1)(a)).
- b) 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 (OAR 690-507-0810(1)(b)).
- c) 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 (OAR 690-507-0810(1)(c)).
- d) 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:
 - i. Requests for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority, with preference given without regard to priority date for municipal use;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0810(1)(d)).
- e) 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 (OAR 690-507-0810(2)).
- f) 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 (OAR 690-507-0810(3)).
- g) 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 (OAR 690-507-0810(4)).
- h) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0810(5)).
- i) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or

- iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. WINDY RIVER LLC is a water user in the Subarea A of the Stage Gulch CGWA.
2. Certificate 79991 is a valid water right in the Subarea A with a priority date of December 2, 1976.
3. For 2024, the sustainable annual yield in the Subarea A is 11450.00 acre-feet.
4. In 2022, 11550.00 acre-feet of water was allocated for the Subarea A.
5. In 2022, 5064.07 acre-feet of water was pumped in the Subarea A.
6. For 2024, 11450.00 acre-feet is allocated for the Subarea A. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-0810(1)(a).
8. For 2024, the Department received allocation requests totaling 9300.48 acre-feet for the Subarea A subarea.
9. The 2024 annual allocation request under Water Right Certificate 79991 is 175 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Subarea A in 2024. The attached table describes the past water use and the 2024 allocation of water for the Subarea A.

CONCLUSIONS OF LAW

The allocation of groundwater for the Stage Gulch Critical Groundwater Area for the year 2024 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 175 acre-feet of water is allocated under Certificate 79991 for the year 2024 from the Subarea A of the Stage Gulch Critical Groundwater Area to be used under the terms of Certificate 79991.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Cert:92295 CF *	08/24/1945		Water Right Total:			0.00	72.29
			UMAT 2049	0.00	0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	288.48
CITY OF HERMISTON	Cert:87263 CF *	09/28/1945		Water Right Total:			0.00	288.48
			UMAT 5735	308.78	278.14	140.24	0.00	242.39
CITY OF HERMISTON	Cert:19619 OR *	06/03/1949		Water Right Total:			0.00	242.39
			UMAT 2585	0.00	0.00	0.00	36.00	36.00
			UMAT 2586	7.21	16.72	22.35	0.00	15.43
UNION PACIFIC ENVIRONMENTAL CENTRAL FUNCTIONS	Cert:54117 CF *	02/03/1950		Water Right Total:			36.00	51.43
			UMAT 1315	0.00	0.00	0.00	0.00	0.00
			UMAT 5970	161.48	172.27	99.96	0.00	72.29
CITY OF ECHO	Inchoate: T 7044 CF 09/24/1953 (REG) *			Water Right Total:			0.00	72.29
			UMAT 2075		0.00	0.00	0.00	0.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87264 CF *	02/05/1958		Water Right Total:			0.00	144.24
			UMAT 2974	0.00	2.08	0.00	0.00	2.08
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Cert:95563 CF *	03/06/1959		Water Right Total:			0.00	309.48
			UMAT 50789	80.89	58.06	28.29	0.00	9.60
HERMISTON SCHOOL DISTRICT	Cert:33377 OR *	11/07/1962		Water Right Total:			0.00	9.60
			UMAT 2937	134.63	252.70	104.42	475.00	300.00
LOYALTA INC	Cert:76119 CF CR *	11/07/1962		Water Right Total:			475.00	300.00
			UMAT 2974	0.00	2.08	0.00	0.00	100.00
CITY OF STANFIELD	Cert:33489 OR *	07/29/1963		Water Right Total:			0.00	100.00
			UMAT 2067	5.00	5.00	5.00	0.00	0.00
DESERAL INDUSTRIES INC	Cert:38849 OR *	08/30/1965		Water Right Total:			0.00	0.00
			UMAT 2061	372.07	439.40	511.59	0.00	441.02
CITY OF HERMISTON	Cert:38852 OR *	05/11/1967		Water Right Total:			0.00	441.02
			UMAT 2500	282.85	264.41	283.54	121.20	121.20
HERMISTON 353	Cert:74445 (T 7531 RR) *	03/14/1968		Water Right Total:			121.20	121.20
			UMAT 51260	96.56	96.56	92.69	145.00	80.00
JB LAND	Cert:80923 (RR) *	03/14/1968		Water Right Total:			145.00	80.00
			UMAT 51260	96.56	96.56	92.69	32.00	32.00
JB LAND	Cert:88346 CF *	03/14/1968		Water Right Total:			32.00	32.00
			UMAT 2872		0.00	0.00	0.00	0.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
STANFIELD HUTTERIAN BRETHREN	Cert:94233 CF *	12/28/1970		Water Right Total:			0.00	0.00
			UMAT 2799		4.00	4.00	4.00	4.00
SCOTT & SHARON TULLIS	Cert:42977 OR *	08/20/1971		Water Right Total:			4.00	4.00
			UMAT 1224	415.98	510.47	343.62	724.80	600.00
J R SIMPLOT CO	Cert:76263 (T 7197 RR) *	06/12/1972		Water Right Total:			724.80	600.00
			UMAT 1224	415.98	510.47	343.62	15.00	15.00
			UMAT 2561	0.00	0.00	0.00	15.00	15.00
			UMAT 2562	0.00	0.00	0.00	15.00	15.00
J R SIMPLOT CO	Cert:79993 CF *	06/12/1972		Water Right Total:			45.00	45.00
			UMAT 1303	0.00	0.00	0.00	22.98	22.98
			UMAT 54154	512.93	348.76	206.52	0.00	0.00
FRED WIDMAN	Cert:95964 CF *	02/16/1973		Water Right Total:			22.98	22.98
			UMAT 1232	312.64	329.35	172.04	51.90	51.90
			UMAT 1233	151.20	413.40	30.79	51.90	51.90
EAGLE RANCH	Cert:80652 (T 9591 RR) *	03/26/1974		Water Right Total:			103.80	103.80
			UMAT 1232	312.64	329.35	172.04	9.00	9.00
			UMAT 1233	151.20	413.40	30.79	9.00	9.00
Chester Prior	Cert:95542 CF *	03/26/1974		Water Right Total:			18.00	18.00
			UMAT 2816	210.44	282.03	43.64	300.00	300.00
H T BURNS INC	Cert:64103 (T 6305 RR) *	06/18/1974		Water Right Total:			300.00	300.00
			UMAT 2816	210.44	282.03	43.64	0.00	24.00
H T BURNS INC	Cert:75149 CF *	06/18/1974		Water Right Total:			0.00	24.00
			UMAT 2937	134.63	252.70	104.42	952.50	400.00
LOYALTA INC	Cert:76120 CF *	09/11/1974		Water Right Total:			952.50	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	145.00
AMSTAD FARMS	Cert:75128 CF *	09/26/1974		Water Right Total:			0.00	145.00
			UMAT 2103	111.37	85.07	105.91	111.00	111.00
WILLIAM & YVONNE ELFERING	Cert:84626 (RR) *	12/02/1974		Water Right Total:			111.00	111.00
			UMAT 1306	2.92	6.53	3.51	89.70	80.73
DESERT SPRINGS BOTTLED WATER CO	Cert:93648 CF *	12/02/1974		Water Right Total:			89.70	80.73
			UMAT 2167	56.99	60.55	51.32	60.00	60.00
HERMISTON CEMETERY DISTRICT	Cert:46626 OR *	04/29/1975		Water Right Total:			60.00	60.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	250.00	250.00
			UMAT 2937	134.63	252.70	104.42	250.00	250.00

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 54342	0.00	0.00	0.00	250.00	0.00
Robert Levy	Cert:96884 CF *	08/22/1975		Water Right Total:			750.00	500.00
			UMAT 1232	312.64	329.35	172.04	539.10	320.00
			UMAT 1233	151.20	413.40	30.79	439.10	331.54
			UMAT 1318	265.38	469.95	87.55	0.00	500.00
			UMAT 1321	97.99	305.41	80.58	0.00	400.00
			UMAT 1334	11.49	44.58	611.25	0.00	400.00
			UMAT 1335	99.17	207.27	113.83	0.00	400.00
AMSTAD FARMS	Cert:61534 OR *	03/30/1976		Water Right Total:			978.20	2,351.54
			UMAT 1216	0.00	414.52	49.23	300.00	300.00
WINDY RIVER LLC	Cert:75124 CF *	07/19/1976		Water Right Total:			300.00	300.00
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:75554 (T 6970 RR) *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1215	417.32	196.12	89.42	122.50	122.50
WINDY RIVER LLC	Cert:79990 CF *	07/19/1976		Water Right Total:			122.50	122.50
			UMAT 1176	9.44	53.81	41.28	0.00	59.00
JOHN & DEBBIE MCBEE	Cert:51696 OR *	08/25/1976		Water Right Total:			0.00	59.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:75555 (T 6970 RR) *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 1214	620.30	657.53	73.63	175.00	175.00
WINDY RIVER LLC	Cert:79991 CF *	12/02/1976		Water Right Total:			175.00	175.00
			UMAT 2783		10.00	10.00	0.00	10.00
MITCHELL S & CINDY L WILSON	Cert:49823 OR *	02/25/1977		Water Right Total:			0.00	10.00
			UMAT 2881	369.78	637.96	255.70	668.00	421.15
WINDY RIVER LLC	Cert:52574 (T 5501 RR) *	02/25/1977		Water Right Total:			668.00	421.15
			UMAT 2507	875.04	265.48	199.77	0.00	60.00
			UMAT 55585	193.18	223.00	211.66	0.00	41.00
STANFIELD HUTTERIAN BRETHREN	Inchoate: T 11254 CF (REG) *	02/25/1977		Water Right Total:			0.00	101.00
			UMAT 2507	875.04	265.48	199.77	0.00	120.00
			UMAT 55585	193.18	223.00	211.66	0.00	175.00
STANFIELD HUTTERIAN BRETHREN	Cert:87368 (RR) *	02/25/1977		Water Right Total:			0.00	295.00
			UMAT 2507	875.04	265.48	199.77	0.00	63.00
PORT OF UMATILLA	Cert:87374 (RR) *	02/25/1977		Water Right Total:			0.00	63.00
			UMAT 2515		0.00	0.00	88.50	65.00
VERDON LLC	Cert:87373 (RR) *	02/25/1977		Water Right Total:			88.50	65.00
			UMAT 56771	59.90	43.49	7.44	0.00	18.50

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HERMISTON PARTNERS	Cert:89052 CF *	02/25/1977		Water Right Total:			0.00	18.50
			UMAT 56771	59.90	43.49	7.44	0.00	42.50
PIONEER HI-BRED INTERNATIONAL INC	Cert:89233 CF *	02/25/1977		Water Right Total:			0.00	42.50
			UMAT 54154	512.93	348.76	206.52	713.40	520.00
FARMLAND RESERVE INC	Cert:94107 CF *	02/25/1977		Water Right Total:			713.40	520.00
			UMAT 2881	369.78	637.96	255.70	0.00	0.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96885 CF *	02/25/1977		Water Right Total:			0.00	0.00
			UMAT 1334	11.49	44.58	611.25	0.00	130.00
AMSTAD FARMS	Cert:75122 CF *	03/14/1977		Water Right Total:			0.00	130.00
			UMAT 2510	33.30	60.19	11.00	0.00	60.00
OSU Exp Station HAREC	Cert:55012 OR *	05/09/1977		Water Right Total:			0.00	60.00
			UMAT 2500	282.85	264.41	283.54	105.00	105.00
HERMISTON 353	Cert:48688 OR *	06/16/1977		Water Right Total:			105.00	105.00
			UMAT 2634	62.82	72.70	64.44	1.00	1.00
DOUBLE M RANCH	Cert:79538 (T 8865 RR) *	06/24/1977		Water Right Total:			1.00	1.00
			UMAT 2634	62.82	72.70	64.44	30.00	30.00
DOUBLE M RANCH	Cert:79537 (T 8865 RR) *	06/24/1977		Water Right Total:			30.00	30.00
			UMAT 2634	62.82	72.70	64.44	19.00	19.00
DOUBLE M RANCH	Cert:81756 CF *	06/24/1977		Water Right Total:			19.00	19.00
			UMAT 2634	62.82	72.70	64.44	20.00	20.00
DOUBLE M RANCH	Cert:81755 CF *	06/24/1977		Water Right Total:			20.00	20.00
			UMAT 2962	6.58	6.58	0.00	0.00	6.58
			UMAT 50189	12.28	0.00	0.00	0.00	4.09
			UMAT 57155	832.29	593.83	418.29	0.00	307.40
CITY OF STANFIELD	Permit: G 17091 *	09/22/1977		Water Right Total:			0.00	318.07
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 2562	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:85549 (T 6783 RR) *	03/22/1978		Water Right Total:			0.00	0.00
			UMAT 1279	11.67	14.28	0.04	461.40	100.00
WINDY RIVER LLC	Cert:76128 CF CR *	04/27/1978		Water Right Total:			461.40	100.00
			UMAT 1311	79.01	71.57	70.13	0.00	73.57
CITY OF ECHO	Permit: G 18545 *	06/21/1978		Water Right Total:			0.00	73.57

Stage Gulch Critical Groundwater Area, Subarea A
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 11450.00 acre-feet
Total Allocation: 11450.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2508		0.00	0.00	10.00	10.00
MIKAMI BROTHERS	Cert:53186 OR *	01/25/1979		Water Right Total:			10.00	10.00
			UMAT 1214	620.30	657.53	73.63	350.00	300.00
			UMAT 1215	417.32	196.12	89.42	245.00	225.00
			UMAT 1216	0.00	414.52	49.23	300.00	190.00
L and L Farms	Cert:95493 CF (T 9845, T 10251 RR) *	04/19/1979		Water Right Total:			895.00	715.00
			UMAT 2878		0.00	0.00	0.00	0.00
LOYALTA INC	Cert:53394 OR *	09/19/1979		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Inchoate: T 6783 CF (REG) *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2561	0.00	0.00	0.00	0.00	0.00
J R SIMPLOT CO	Cert:86130 (RR) CR *	04/23/1980		Water Right Total:			0.00	0.00
			UMAT 2050		3.52	2.27	0.00	3.50
HERMISTON SCHOOL DISTRICT	Cert:54088 OR *	01/12/1981		Water Right Total:			0.00	3.50
			UMAT 2816	210.44	282.03	43.64	0.00	0.00
H T BURNS INC	Cert:75134 CF *	01/29/1981		Water Right Total:			0.00	0.00
			UMAT 51260	96.56	96.56	92.69	40.00	40.00
JB LAND	Cert:88907 CR *	06/26/1981		Water Right Total:			40.00	40.00
			UMAT 2862	0.00	0.00	0.00	325.00	100.00
WALCHLI FARMS	Cert:76116 CF *	10/09/1981		Water Right Total:			325.00	100.00
			UMAT 2771		0.00	0.00	10.00	10.00
Troy Murray	Cert:76114 CF *	05/31/1983		Water Right Total:			10.00	10.00
			UMAT 2944	0.00	0.00	0.00	0.00	0.00
STEVE KOESTER FARMS	Cert:60744 OR *	07/14/1983		Water Right Total:			0.00	0.00
			UMAT 2881	369.78	637.96	255.70	50.00	50.00
			UMAT 2935	130.05	287.92	171.42	0.00	0.00
			UMAT 2937	134.63	252.70	104.42	0.00	0.00
			UMAT 54342	0.00	0.00	0.00	0.00	0.00
Robert Levy	Cert:96886 CF *	07/12/1984		Water Right Total:			50.00	50.00
			UMAT 5450	287.28	332.39	245.76	0.00	144.24
CITY OF HERMISTON	Cert:87262 CF *	08/15/1984		Water Right Total:			0.00	144.24
Subarea A Total:				6,481.11	8,626.48	5,064.07	9,300.48	11,450.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
East Subarea,	)	
Under Water Right	)	
Certificate 31201,	)	
Umatilla County, Oregon	)	

JESSIE ASHBECK
A & A FARMS
71384 HWY 207
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. A & A FARMS is a water user in the East Subarea of the Butter Creek CGWA.
2. Certificate 31201 is a valid water right in the East Subarea with a priority date of April 18, 1952.
3. For 2024, the sustainable annual yield in the East Subarea is 720.00 acre-feet.
4. In 2022, 720.00 acre-feet of water was allocated for the East Subarea.
5. In 2022, 600.71 acre-feet of water was pumped in the East Subarea.
6. For 2024, 720.00 acre-feet is allocated for the East Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 787.5 acre-feet for the East Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 31201 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the East Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the East Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 90 acre-feet of water is allocated under Certificate 31201 for the year 2024 from the East Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 31201.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

JESSIE ASHBECK
A & A FARMS
71384 HWY 207
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, East Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 720.00 acre-feet
Total Allocation: 720.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 465	91.93	88.91	42.60		90.00
A & A FARMS	Cert:31201 OR *	04/18/1952		Water Right Total:				90.00
			MORR 563	241.34	367.85	245.92	543.00	250.00
MADER - RUST INC	Cert:31096 OR *	05/07/1952		Water Right Total:			543.00	250.00
			MORR 491	28.78	33.91	44.28	51.00	51.00
			MORR 492	98.56	154.62	90.49	193.50	150.00
VEY RANCH	Cert:26092 OR *	02/11/1958		Water Right Total:			244.50	201.00
			UMAT 462	178.37	228.82	177.41		7.16
HAWKINS CO INC	Inchoate: T 7570 CF 10/08/1962 (REG) *			Water Right Total:				7.16
			UMAT 462	178.37	228.82	177.41		94.87
HAWKINS CO INC	Cert:76318 (T 7570 10/08/1962 RR) *			Water Right Total:				94.87
			UMAT 462	178.37	228.82	177.41		76.97
HAWKINS CO INC	Cert:83002 CF *	10/08/1962		Water Right Total:				76.97
			UMAT 465	91.93	88.91	42.60		0.00
A & A FARMS	Cert:38846 OR *	01/22/1965		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:81062 (RR) *	09/11/1967		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:85705 CF *	09/11/1967		Water Right Total:				0.00
East Subarea Total:				638.98	874.10	600.71	787.50	720.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
East Subarea,	)	
Under Water Right	)	
Certificate 38846,	)	
Umatilla County, Oregon	)	

JESSIE ASHBECK
A & A FARMS
71384 HWY 207
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. A & A FARMS is a water user in the East Subarea of the Butter Creek CGWA.
2. Certificate 38846 is a valid water right in the East Subarea with a priority date of January 22, 1965.
3. For 2024, the sustainable annual yield in the East Subarea is 720.00 acre-feet.
4. In 2022, 720.00 acre-feet of water was allocated for the East Subarea.
5. In 2022, 600.71 acre-feet of water was pumped in the East Subarea.
6. For 2024, 720.00 acre-feet is allocated for the East Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 787.5 acre-feet for the East Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 38846 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the East Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the East Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 38846 for the year 2024 from the East Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 38846.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

JESSIE ASHBECK
A & A FARMS
71384 HWY 207
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, East Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 720.00 acre-feet
Total Allocation: 720.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 465	91.93	88.91	42.60		90.00
A & A FARMS	Cert:31201 OR *	04/18/1952		Water Right Total:				90.00
			MORR 563	241.34	367.85	245.92	543.00	250.00
MADER - RUST INC	Cert:31096 OR *	05/07/1952		Water Right Total:			543.00	250.00
			MORR 491	28.78	33.91	44.28	51.00	51.00
			MORR 492	98.56	154.62	90.49	193.50	150.00
VEY RANCH	Cert:26092 OR *	02/11/1958		Water Right Total:			244.50	201.00
			UMAT 462	178.37	228.82	177.41		7.16
HAWKINS CO INC	Inchoate: T 7570 CF 10/08/1962 (REG) *			Water Right Total:				7.16
			UMAT 462	178.37	228.82	177.41		94.87
HAWKINS CO INC	Cert:76318 (T 7570 10/08/1962 RR) *			Water Right Total:				94.87
			UMAT 462	178.37	228.82	177.41		76.97
HAWKINS CO INC	Cert:83002 CF *	10/08/1962		Water Right Total:				76.97
			UMAT 465	91.93	88.91	42.60		0.00
A & A FARMS	Cert:38846 OR *	01/22/1965		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:81062 (RR) *	09/11/1967		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:85705 CF *	09/11/1967		Water Right Total:				0.00
East Subarea Total:				638.98	874.10	600.71	787.50	720.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
East Subarea,	)	
Under Water Right	)	
Certificate 81062,	)	
Umatilla County, Oregon	)	

JESSIE ASHBECK
A & A FARMS
71384 HWY 207
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. A & A FARMS is a water user in the East Subarea of the Butter Creek CGWA.
2. Certificate 81062 is a valid water right in the East Subarea with a priority date of September 11, 1967.
3. For 2024, the sustainable annual yield in the East Subarea is 720.00 acre-feet.
4. In 2022, 720.00 acre-feet of water was allocated for the East Subarea.
5. In 2022, 600.71 acre-feet of water was pumped in the East Subarea.
6. For 2024, 720.00 acre-feet is allocated for the East Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 787.5 acre-feet for the East Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 81062 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the East Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the East Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 81062 for the year 2024 from the East Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 81062.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

JESSIE ASHBECK
A & A FARMS
71384 HWY 207
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
East Subarea,	)	
Under Water Right	)	
Certificate 85705,	)	
Umatilla County, Oregon	)	

JESSIE ASHBECK
A & A FARMS
71384 HWY 207
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. A & A FARMS is a water user in the East Subarea of the Butter Creek CGWA.
2. Certificate 85705 is a valid water right in the East Subarea with a priority date of September 11, 1967.
3. For 2024, the sustainable annual yield in the East Subarea is 720.00 acre-feet.
4. In 2022, 720.00 acre-feet of water was allocated for the East Subarea.
5. In 2022, 600.71 acre-feet of water was pumped in the East Subarea.
6. For 2024, 720.00 acre-feet is allocated for the East Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 787.5 acre-feet for the East Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 85705 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the East Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the East Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 85705 for the year 2024 from the East Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 85705.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

JESSIE ASHBECK
A & A FARMS
71384 HWY 207
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, East Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 720.00 acre-feet
Total Allocation: 720.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 465	91.93	88.91	42.60		90.00
A & A FARMS	Cert:31201 OR *	04/18/1952		Water Right Total:				90.00
			MORR 563	241.34	367.85	245.92	543.00	250.00
MADER - RUST INC	Cert:31096 OR *	05/07/1952		Water Right Total:			543.00	250.00
			MORR 491	28.78	33.91	44.28	51.00	51.00
			MORR 492	98.56	154.62	90.49	193.50	150.00
VEY RANCH	Cert:26092 OR *	02/11/1958		Water Right Total:			244.50	201.00
			UMAT 462	178.37	228.82	177.41		7.16
HAWKINS CO INC	Inchoate: T 7570 CF 10/08/1962 (REG) *			Water Right Total:				7.16
			UMAT 462	178.37	228.82	177.41		94.87
HAWKINS CO INC	Cert:76318 (T 7570 10/08/1962 RR) *			Water Right Total:				94.87
			UMAT 462	178.37	228.82	177.41		76.97
HAWKINS CO INC	Cert:83002 CF *	10/08/1962		Water Right Total:				76.97
			UMAT 465	91.93	88.91	42.60		0.00
A & A FARMS	Cert:38846 OR *	01/22/1965		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:81062 (RR) *	09/11/1967		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:85705 CF *	09/11/1967		Water Right Total:				0.00
East Subarea Total:				638.98	874.10	600.71	787.50	720.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 80767,	)	
Umatilla County, Oregon	)	

ARCUS, LLC
PO BOX 250
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. ARCUS, LLC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 80767 is a valid water right in the Pine City Subarea with a priority date of December 17, 1964.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 80767 is 300 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 300 acre-feet of water is allocated under Certificate 80767 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 80767.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

ARCUS, LLC
PO BOX 250
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 91182,	)	
Umatilla County, Oregon	)	

ARCUS, LLC
PO BOX 250
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. ARCUS, LLC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 91182 is a valid water right in the Pine City Subarea with a priority date of December 17, 1964.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 91182 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 91182 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 91182.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

ARCUS, LLC
PO BOX 250
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 91185,	)	
Umatilla County, Oregon	)	

ARCUS, LLC
PO BOX 250
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. ARCUS, LLC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 91185 is a valid water right in the Pine City Subarea with a priority date of October 14, 1957.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 91185 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 91185 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 91185.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

ARCUS, LLC
PO BOX 250
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 42527,	)	
Umatilla County, Oregon	)	

MITCH ASHBECK
69359 LITTLE BUTTER CREEK ROAD
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. MITCH ASHBECK is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 42527 is a valid water right in the Pine City Subarea with a priority date of May 27, 1966.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 42527 is 165 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 100 acre-feet of water is allocated under Certificate 42527 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 42527.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

MITCH ASHBECK
69359 LITTLE BUTTER CREEK ROAD
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
West Subarea,	)	
Under Water Right	)	
Certificate 61848,	)	
Umatilla County, Oregon	)	

TIM TIPPETT
BAKER PRODUCE SOUTH
PO BOX 3110
PASCO WA 99302

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. BAKER PRODUCE SOUTH is a water user in the West Subarea of the Butter Creek CGWA.
2. Certificate 61848 is a valid water right in the West Subarea with a priority date of August 7, 1967.
3. For 2024, the sustainable annual yield in the West Subarea is 5670.00 acre-feet.
4. In 2022, 5670.00 acre-feet of water was allocated for the West Subarea.
5. In 2022, 2787.91 acre-feet of water was pumped in the West Subarea.
6. For 2024, 5670.00 acre-feet is allocated for the West Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 2748 acre-feet for the West Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 61848 is 1250 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the West Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the West Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 1250 acre-feet of water is allocated under Certificate 61848 for the year 2024 from the West Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 61848.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TIM TIPPETT
BAKER PRODUCE SOUTH
PO BOX 3110
PASCO WA 99302



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, West Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 5670.00 acre-feet
Total Allocation: 5670.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 408	0.00	0.00	0.00		0.00
			MORR 412	0.00	0.00	0.00		500.00
GRIEB FARMS INC	Cert:43515 OR *	07/19/1967	Water Right Total:					500.00
			MORR 538	0.78	1.05	1.02	250.00	250.00
			MORR 1706	568.55	581.53	433.04	1,000.00	1,000.00
BAKER PRODUCE SOUTH	Cert:61848 CF *	08/07/1967	Water Right Total:				1,250.00	1,250.00
			MORR 529	0.00	0.00	0.00		0.00
			MORR 1504	23.78	39.27	30.03	400.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6387 CF 08/15/1968 (REG) *		Water Right Total:				400.00	50.00
			MORR 560	670.04	684.53	735.68	900.00	850.00
CURT PERKINS	Cert:56274 (T 5892 12/16/1968 RR) *		Water Right Total:				900.00	850.00
			MORR 547	0.00	0.00	0.00		0.00
ALVIN BEAM	Cert:82184 CF *	12/16/1968	Water Right Total:					0.00
			MORR 537	134.63	289.06	225.08		500.00
			MORR 538	0.78	1.05	1.02		0.00
BAKER PRODUCE SOUTH	Cert:61849 CF *	02/10/1969	Water Right Total:					500.00
			MORR 1504	23.78	39.27	30.03	128.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6270 CF 02/03/1970 (REG) *		Water Right Total:				128.00	50.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		1,200.00
			MORR 545	519.53	218.24	431.57		1,200.00
LINDSAY RANCH PARTNERSHIP	Cert:80507 (T 9290 02/03/1970 RR) *		Water Right Total:					2,400.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		0.00
			MORR 545	519.53	218.24	431.57		0.00
LINDSAY RANCH PARTNERSHIP	Cert:88562 CF *	02/03/1970	Water Right Total:					0.00
			MORR 1778	48.65	46.77	31.04	70.00	70.00
Olam Food Ingredients	Cert:89248 CF *	02/03/1970	Water Right Total:				70.00	70.00
			MORR 533	0.00	0.00	0.00		0.00
	Cert:52733 OR *	03/25/1971	Water Right Total:					0.00
West Subarea Total:				3,073.95	2,901.85	2,787.91	2,748.00	5,670.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
West Subarea,	)	
Under Water Right	)	
Certificate 61849,	)	
Umatilla County, Oregon	)	

TIM TIPPETT
BAKER PRODUCE SOUTH
PO BOX 3110
PASCO WA 99302

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. BAKER PRODUCE SOUTH is a water user in the West Subarea of the Butter Creek CGWA.
2. Certificate 61849 is a valid water right in the West Subarea with a priority date of February 10, 1969.
3. For 2024, the sustainable annual yield in the West Subarea is 5670.00 acre-feet.
4. In 2022, 5670.00 acre-feet of water was allocated for the West Subarea.
5. In 2022, 2787.91 acre-feet of water was pumped in the West Subarea.
6. For 2024, 5670.00 acre-feet is allocated for the West Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 2748 acre-feet for the West Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 61849 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the West Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the West Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 500 acre-feet of water is allocated under Certificate 61849 for the year 2024 from the West Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 61849.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TIM TIPPETT
BAKER PRODUCE SOUTH
PO BOX 3110
PASCO WA 99302



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, West Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 5670.00 acre-feet
Total Allocation: 5670.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 408	0.00	0.00	0.00		0.00
			MORR 412	0.00	0.00	0.00		500.00
GRIEB FARMS INC	Cert:43515 OR *	07/19/1967	Water Right Total:					500.00
			MORR 538	0.78	1.05	1.02	250.00	250.00
			MORR 1706	568.55	581.53	433.04	1,000.00	1,000.00
BAKER PRODUCE SOUTH	Cert:61848 CF *	08/07/1967	Water Right Total:				1,250.00	1,250.00
			MORR 529	0.00	0.00	0.00		0.00
			MORR 1504	23.78	39.27	30.03	400.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6387 CF 08/15/1968 (REG) *		Water Right Total:				400.00	50.00
			MORR 560	670.04	684.53	735.68	900.00	850.00
CURT PERKINS	Cert:56274 (T 5892 12/16/1968 RR) *		Water Right Total:				900.00	850.00
			MORR 547	0.00	0.00	0.00		0.00
ALVIN BEAM	Cert:82184 CF *	12/16/1968	Water Right Total:					0.00
			MORR 537	134.63	289.06	225.08		500.00
			MORR 538	0.78	1.05	1.02		0.00
BAKER PRODUCE SOUTH	Cert:61849 CF *	02/10/1969	Water Right Total:					500.00
			MORR 1504	23.78	39.27	30.03	128.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6270 CF 02/03/1970 (REG) *		Water Right Total:				128.00	50.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		1,200.00
			MORR 545	519.53	218.24	431.57		1,200.00
LINDSAY RANCH PARTNERSHIP	Cert:80507 (T 9290 02/03/1970 RR) *		Water Right Total:					2,400.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		0.00
			MORR 545	519.53	218.24	431.57		0.00
LINDSAY RANCH PARTNERSHIP	Cert:88562 CF *	02/03/1970	Water Right Total:					0.00
			MORR 1778	48.65	46.77	31.04	70.00	70.00
Olam Food Ingredients	Cert:89248 CF *	02/03/1970	Water Right Total:				70.00	70.00
			MORR 533	0.00	0.00	0.00		0.00
	Cert:52733 OR *	03/25/1971	Water Right Total:					0.00
West Subarea Total:				3,073.95	2,901.85	2,787.91	2,748.00	5,670.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
West Subarea,	)	
Under Water Right	)	
Certificate 82184,	)	
Umatilla County, Oregon	)	

ALVIN BEAM
74681 ALPINE LANE
LEXINGTON OR 97839

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. ALVIN BEAM is a water user in the West Subarea of the Butter Creek CGWA.
2. Certificate 82184 is a valid water right in the West Subarea with a priority date of December 16, 1968.
3. For 2024, the sustainable annual yield in the West Subarea is 5670.00 acre-feet.
4. In 2022, 5670.00 acre-feet of water was allocated for the West Subarea.
5. In 2022, 2787.91 acre-feet of water was pumped in the West Subarea.
6. For 2024, 5670.00 acre-feet is allocated for the West Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 2748 acre-feet for the West Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 82184 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the West Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the West Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 82184 for the year 2024 from the West Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 82184.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

ALVIN BEAM
74681 ALPINE LANE
LEXINGTON OR 97839



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, West Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 5670.00 acre-feet
Total Allocation: 5670.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 408	0.00	0.00	0.00		0.00
			MORR 412	0.00	0.00	0.00		500.00
GRIEB FARMS INC	Cert:43515 OR *	07/19/1967		Water Right Total:				500.00
			MORR 538	0.78	1.05	1.02	250.00	250.00
			MORR 1706	568.55	581.53	433.04	1,000.00	1,000.00
BAKER PRODUCE SOUTH	Cert:61848 CF *	08/07/1967		Water Right Total:			1,250.00	1,250.00
			MORR 529	0.00	0.00	0.00		0.00
			MORR 1504	23.78	39.27	30.03	400.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6387 CF 08/15/1968 (REG) *			Water Right Total:			400.00	50.00
			MORR 560	670.04	684.53	735.68	900.00	850.00
CURT PERKINS	Cert:56274 (T 5892 12/16/1968 RR) *			Water Right Total:			900.00	850.00
			MORR 547	0.00	0.00	0.00		0.00
ALVIN BEAM	Cert:82184 CF *	12/16/1968		Water Right Total:				0.00
			MORR 537	134.63	289.06	225.08		500.00
			MORR 538	0.78	1.05	1.02		0.00
BAKER PRODUCE SOUTH	Cert:61849 CF *	02/10/1969		Water Right Total:				500.00
			MORR 1504	23.78	39.27	30.03	128.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6270 CF 02/03/1970 (REG) *			Water Right Total:			128.00	50.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		1,200.00
			MORR 545	519.53	218.24	431.57		1,200.00
LINDSAY RANCH PARTNERSHIP	Cert:80507 (T 9290 02/03/1970 RR) *			Water Right Total:				2,400.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		0.00
			MORR 545	519.53	218.24	431.57		0.00
LINDSAY RANCH PARTNERSHIP	Cert:88562 CF *	02/03/1970		Water Right Total:				0.00
			MORR 1778	48.65	46.77	31.04	70.00	70.00
Olam Food Ingredients	Cert:89248 CF *	02/03/1970		Water Right Total:			70.00	70.00
			MORR 533	0.00	0.00	0.00		0.00
	Cert:52733 OR *	03/25/1971		Water Right Total:				0.00
West Subarea Total:				3,073.95	2,901.85	2,787.91	2,748.00	5,670.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
North Subarea,	)	
Under Water Right	)	
Certificate 38388,	)	
Umatilla County, Oregon	)	

JORDAN BENNETT
PO BOX 948
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. JORDAN BENNETT is a water user in the North Subarea of the Butter Creek CGWA.
2. Certificate 38388 is a valid water right in the North Subarea with a priority date of December 8, 1966.
3. For 2024, the sustainable annual yield in the North Subarea is 250.00 acre-feet.
4. In 2022, 250.00 acre-feet of water was allocated for the North Subarea.
5. In 2022, 114.46 acre-feet of water was pumped in the North Subarea.
6. For 2024, 250.00 acre-feet is allocated for the North Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 40 acre-feet for the North Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 38388 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the North Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the North Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 20 acre-feet of water is allocated under Certificate 38388 for the year 2024 from the North Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 38388.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

JORDAN BENNETT
PO BOX 948
HERMISTON OR 97838



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, North Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 250.00 acre-feet
Total Allocation: 250.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2286	0.00	0.00	0.00		0.00
MIKAMI BROTHERS	Cert:55007 CF *	04/13/1950		Water Right Total:				0.00
			UMAT 50632	117.31	103.54	96.34		190.00
CITY OF UMATILLA	Cert:76316 (T 8264 RR) *	12/24/1963		Water Right Total:				190.00
			UMAT 2041	0.00	0.00	0.00		0.00
	Cert:52573 (RR) *	08/19/1966		Water Right Total:				0.00
			UMAT 2603	0.00	0.00	0.00		0.00
BUD RICH POTATO	Cert:76741 CF *	09/29/1966		Water Right Total:				0.00
			UMAT 2614	0.00	0.00	0.00		20.00
JORDAN BENNETT	Cert:38388 OR *	12/08/1966		Water Right Total:				20.00
			UMAT 2603	0.00	0.00	0.00		0.00
G-2 FARMING LLC	Cert:80812 (T 9717 RR) *	11/13/1967		Water Right Total:				0.00
			UMAT 2569	0.00	0.00	0.00		0.00
			UMAT 2594	12.00	12.63	18.13	40.00	40.00
BUD RICH POTATO	Cert:89382 CF *	11/13/1967		Water Right Total:			40.00	40.00
			UMAT 2609	0.00	0.00	0.00		0.00
DANIEL WOOD	Cert:76770 (RR) *	02/15/1968		Water Right Total:				0.00
			UMAT 1959	0.00	0.00	0.00		0.00
TIM MARTIN	Cert:38739 OR *	01/21/1969		Water Right Total:				0.00
			UMAT 1958	0.00	0.00	0.00		0.00
HERMAN BUSH	Cert:76762 CF *	02/28/1969		Water Right Total:				0.00
			UMAT 2335	0.00	0.00	0.00		0.00
JOSEPH JUDD	Cert:85522 (RR) CR *	05/01/1973		Water Right Total:				0.00
North Subarea Total:				117.31	116.17	114.46	40.00	250.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Section 21 Subarea,	)	
Under Water Right	)	
Inchoate Transfer T 12209,	)	
Umatilla County, Oregon	)	

Harry Larson
Broken Spur Ranch LLC
PO Box 1361
Hermiston OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Broken Spur Ranch LLC is a water user in the Section 21 Subarea of the Butter Creek CGWA.
2. Inchoate Transfer T 12209 is a valid water right in the Section 21 Subarea with a priority date of May 22, 1972.
3. For 2024, the sustainable annual yield in the Section 21 Subarea is 28.00 acre-feet.
4. In 2022, 28.00 acre-feet of water was allocated for the Section 21 Subarea.
5. In 2022, 10.84 acre-feet of water was pumped in the Section 21 Subarea.
6. For 2024, 28.00 acre-feet is allocated for the Section 21 Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 27 acre-feet for the Section 21 Subarea subarea.
9. The 2024 annual allocation request under Water Right Inchoate Transfer T 12209 is 27 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Section 21 Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Section 21 Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 27 acre-feet of water is allocated under Inchoate Transfer T 12209 for the year 2024 from the Section 21 Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Inchoate Transfer T 12209.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Harry Larson
Broken Spur Ranch LLC
PO Box 1361
Hermiston OR 97838



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Section 21 Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 28.00 acre-feet
Total Allocation: 28.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 51968	0.00	0.00	0.00		1.00
Current Owner	Cert:42439 OR *	03/27/1968		Water Right Total:				1.00
			UMAT 3384	0.00	0.00	0.00		0.00
			UMAT 57981	0.00	17.81	10.84	27.00	27.00
Broken Spur Ranch LLC	Inchoate: T 12209	05/22/1972		Water Right Total:			27.00	27.00
	CF (REG) *							
Section 21 Subarea Total:				0.00	17.81	10.84	27.00	28.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
North Subarea,	)	
Under Water Right	)	
Certificate 76741,	)	
Umatilla County, Oregon	)	

TROY BETZ
BUD RICH POTATO
PO BOX 224
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. BUD RICH POTATO is a water user in the North Subarea of the Butter Creek CGWA.
2. Certificate 76741 is a valid water right in the North Subarea with a priority date of September 29, 1966.
3. For 2024, the sustainable annual yield in the North Subarea is 250.00 acre-feet.
4. In 2022, 250.00 acre-feet of water was allocated for the North Subarea.
5. In 2022, 114.46 acre-feet of water was pumped in the North Subarea.
6. For 2024, 250.00 acre-feet is allocated for the North Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 40 acre-feet for the North Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 76741 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the North Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the North Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 76741 for the year 2024 from the North Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 76741.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

TROY BETZ
BUD RICH POTATO
PO BOX 224
HERMISTON OR 97838



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, North Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 250.00 acre-feet
Total Allocation: 250.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2286	0.00	0.00	0.00		0.00
MIKAMI BROTHERS	Cert:55007 CF *	04/13/1950		Water Right Total:				0.00
			UMAT 50632	117.31	103.54	96.34		190.00
CITY OF UMATILLA	Cert:76316 (T 8264 RR) *	12/24/1963		Water Right Total:				190.00
			UMAT 2041	0.00	0.00	0.00		0.00
	Cert:52573 (RR) *	08/19/1966		Water Right Total:				0.00
			UMAT 2603	0.00	0.00	0.00		0.00
BUD RICH POTATO	Cert:76741 CF *	09/29/1966		Water Right Total:				0.00
			UMAT 2614	0.00	0.00	0.00		20.00
JORDAN BENNETT	Cert:38388 OR *	12/08/1966		Water Right Total:				20.00
			UMAT 2603	0.00	0.00	0.00		0.00
G-2 FARMING LLC	Cert:80812 (T 9717 RR) *	11/13/1967		Water Right Total:				0.00
			UMAT 2569	0.00	0.00	0.00		0.00
			UMAT 2594	12.00	12.63	18.13	40.00	40.00
BUD RICH POTATO	Cert:89382 CF *	11/13/1967		Water Right Total:			40.00	40.00
			UMAT 2609	0.00	0.00	0.00		0.00
DANIEL WOOD	Cert:76770 (RR) *	02/15/1968		Water Right Total:				0.00
			UMAT 1959	0.00	0.00	0.00		0.00
TIM MARTIN	Cert:38739 OR *	01/21/1969		Water Right Total:				0.00
			UMAT 1958	0.00	0.00	0.00		0.00
HERMAN BUSH	Cert:76762 CF *	02/28/1969		Water Right Total:				0.00
			UMAT 2335	0.00	0.00	0.00		0.00
JOSEPH JUDD	Cert:85522 (RR) CR *	05/01/1973		Water Right Total:				0.00
North Subarea Total:				117.31	116.17	114.46	40.00	250.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
North Subarea,	)	
Under Water Right	)	
Certificate 89382,	)	
Umatilla County, Oregon	)	

TROY BETZ
BUD RICH POTATO
PO BOX 224
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. BUD RICH POTATO is a water user in the North Subarea of the Butter Creek CGWA.
2. Certificate 89382 is a valid water right in the North Subarea with a priority date of November 13, 1967.
3. For 2024, the sustainable annual yield in the North Subarea is 250.00 acre-feet.
4. In 2022, 250.00 acre-feet of water was allocated for the North Subarea.
5. In 2022, 114.46 acre-feet of water was pumped in the North Subarea.
6. For 2024, 250.00 acre-feet is allocated for the North Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 40 acre-feet for the North Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 89382 is 40 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the North Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the North Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 40 acre-feet of water is allocated under Certificate 89382 for the year 2024 from the North Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 89382.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TROY BETZ
BUD RICH POTATO
PO BOX 224
HERMISTON OR 97838



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, North Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 250.00 acre-feet
Total Allocation: 250.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2286	0.00	0.00	0.00		0.00
MIKAMI BROTHERS	Cert:55007 CF *	04/13/1950		Water Right Total:				0.00
			UMAT 50632	117.31	103.54	96.34		190.00
CITY OF UMATILLA	Cert:76316 (T 8264 RR) *	12/24/1963		Water Right Total:				190.00
			UMAT 2041	0.00	0.00	0.00		0.00
	Cert:52573 (RR) *	08/19/1966		Water Right Total:				0.00
			UMAT 2603	0.00	0.00	0.00		0.00
BUD RICH POTATO	Cert:76741 CF *	09/29/1966		Water Right Total:				0.00
			UMAT 2614	0.00	0.00	0.00		20.00
JORDAN BENNETT	Cert:38388 OR *	12/08/1966		Water Right Total:				20.00
			UMAT 2603	0.00	0.00	0.00		0.00
G-2 FARMING LLC	Cert:80812 (T 9717 RR) *	11/13/1967		Water Right Total:				0.00
			UMAT 2569	0.00	0.00	0.00		0.00
			UMAT 2594	12.00	12.63	18.13	40.00	40.00
BUD RICH POTATO	Cert:89382 CF *	11/13/1967		Water Right Total:			40.00	40.00
			UMAT 2609	0.00	0.00	0.00		0.00
DANIEL WOOD	Cert:76770 (RR) *	02/15/1968		Water Right Total:				0.00
			UMAT 1959	0.00	0.00	0.00		0.00
TIM MARTIN	Cert:38739 OR *	01/21/1969		Water Right Total:				0.00
			UMAT 1958	0.00	0.00	0.00		0.00
HERMAN BUSH	Cert:76762 CF *	02/28/1969		Water Right Total:				0.00
			UMAT 2335	0.00	0.00	0.00		0.00
JOSEPH JUDD	Cert:85522 (RR) CR *	05/01/1973		Water Right Total:				0.00
North Subarea Total:				117.31	116.17	114.46	40.00	250.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
North Subarea,	)	
Under Water Right	)	
Certificate 76762,	)	
Umatilla County, Oregon	)	

HERMAN BUSH
29802 ROYCE LN
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. HERMAN BUSH is a water user in the North Subarea of the Butter Creek CGWA.
2. Certificate 76762 is a valid water right in the North Subarea with a priority date of February 28, 1969.
3. For 2024, the sustainable annual yield in the North Subarea is 250.00 acre-feet.
4. In 2022, 250.00 acre-feet of water was allocated for the North Subarea.
5. In 2022, 114.46 acre-feet of water was pumped in the North Subarea.
6. For 2024, 250.00 acre-feet is allocated for the North Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 40 acre-feet for the North Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 76762 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the North Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the North Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 76762 for the year 2024 from the North Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 76762.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

HERMAN BUSH
29802 ROYCE LN
HERMISTON OR 97838



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, North Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 250.00 acre-feet
Total Allocation: 250.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2286	0.00	0.00	0.00		0.00
MIKAMI BROTHERS	Cert:55007 CF *	04/13/1950		Water Right Total:				0.00
			UMAT 50632	117.31	103.54	96.34		190.00
CITY OF UMATILLA	Cert:76316 (T 8264 RR) *	12/24/1963		Water Right Total:				190.00
			UMAT 2041	0.00	0.00	0.00		0.00
	Cert:52573 (RR) *	08/19/1966		Water Right Total:				0.00
			UMAT 2603	0.00	0.00	0.00		0.00
BUD RICH POTATO	Cert:76741 CF *	09/29/1966		Water Right Total:				0.00
			UMAT 2614	0.00	0.00	0.00		20.00
JORDAN BENNETT	Cert:38388 OR *	12/08/1966		Water Right Total:				20.00
			UMAT 2603	0.00	0.00	0.00		0.00
G-2 FARMING LLC	Cert:80812 (T 9717 RR) *	11/13/1967		Water Right Total:				0.00
			UMAT 2569	0.00	0.00	0.00		0.00
			UMAT 2594	12.00	12.63	18.13	40.00	40.00
BUD RICH POTATO	Cert:89382 CF *	11/13/1967		Water Right Total:			40.00	40.00
			UMAT 2609	0.00	0.00	0.00		0.00
DANIEL WOOD	Cert:76770 (RR) *	02/15/1968		Water Right Total:				0.00
			UMAT 1959	0.00	0.00	0.00		0.00
TIM MARTIN	Cert:38739 OR *	01/21/1969		Water Right Total:				0.00
			UMAT 1958	0.00	0.00	0.00		0.00
HERMAN BUSH	Cert:76762 CF *	02/28/1969		Water Right Total:				0.00
			UMAT 2335	0.00	0.00	0.00		0.00
JOSEPH JUDD	Cert:85522 (RR) CR *	05/01/1973		Water Right Total:				0.00
North Subarea Total:				117.31	116.17	114.46	40.00	250.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Groundwater Registration GR 4142,	)	
Umatilla County, Oregon	)	

TOM PRICE
BUTTER CREEK RANCHES LLC
PO BOX 487
PENDLETON OR 97801

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. BUTTER CREEK RANCHES LLC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Groundwater Registration GR 4142 is a valid water right in the Pine City Subarea with a priority date of December 31, 1925.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Groundwater Registration GR 4142 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Groundwater Registration GR 4142 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Groundwater Registration GR 4142.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

TOM PRICE
BUTTER CREEK RANCHES LLC
PO BOX 487
PENDLETON OR 97801



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 26072,	)	
Umatilla County, Oregon	)	

TOM PRICE
BUTTER CREEK RANCHES LLC
PO BOX 487
PENDLETON OR 97801

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. BUTTER CREEK RANCHES LLC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 26072 is a valid water right in the Pine City Subarea with a priority date of November 14, 1952.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 26072 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 26072 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 26072.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

TOM PRICE
BUTTER CREEK RANCHES LLC
PO BOX 487
PENDLETON OR 97801



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 34283,	)	
Umatilla County, Oregon	)	

TOM PRICE
BUTTER CREEK RANCHES LLC
PO BOX 487
PENDLETON OR 97801

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. BUTTER CREEK RANCHES LLC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 34283 is a valid water right in the Pine City Subarea with a priority date of February 5, 1962.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 34283 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 34283 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 34283.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

TOM PRICE
BUTTER CREEK RANCHES LLC
PO BOX 487
PENDLETON OR 97801



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 34284,	)	
Umatilla County, Oregon	)	

TOM PRICE
BUTTER CREEK RANCHES LLC
PO BOX 487
PENDLETON OR 97801

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. BUTTER CREEK RANCHES LLC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 34284 is a valid water right in the Pine City Subarea with a priority date of November 8, 1963.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 34284 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 132 acre-feet of water is allocated under Certificate 34284 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 34284.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TOM PRICE
BUTTER CREEK RANCHES LLC
PO BOX 487
PENDLETON OR 97801



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 38714,	)	
Umatilla County, Oregon	)	

TOM PRICE
BUTTER CREEK RANCHES LLC
PO BOX 487
PENDLETON OR 97801

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. BUTTER CREEK RANCHES LLC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 38714 is a valid water right in the Pine City Subarea with a priority date of April 1, 1966.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 38714 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 73 acre-feet of water is allocated under Certificate 38714 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 38714.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TOM PRICE
BUTTER CREEK RANCHES LLC
PO BOX 487
PENDLETON OR 97801



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
North Subarea,	)	
Under Water Right	)	
Certificate 76316,	)	
Umatilla County, Oregon	)	

PUBLIC WORKS
CITY OF UMATILLA
PO BOX 130
UMATILLA OR 97882

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. CITY OF UMATILLA is a water user in the North Subarea of the Butter Creek CGWA.
2. Certificate 76316 is a valid water right in the North Subarea with a priority date of December 24, 1963.
3. For 2024, the sustainable annual yield in the North Subarea is 250.00 acre-feet.
4. In 2022, 250.00 acre-feet of water was allocated for the North Subarea.
5. In 2022, 114.46 acre-feet of water was pumped in the North Subarea.
6. For 2024, 250.00 acre-feet is allocated for the North Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 40 acre-feet for the North Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 76316 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the North Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the North Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 190 acre-feet of water is allocated under Certificate 76316 for the year 2024 from the North Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 76316.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

PUBLIC WORKS
CITY OF UMATILLA
PO BOX 130
UMATILLA OR 97882



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, North Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 250.00 acre-feet
Total Allocation: 250.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2286	0.00	0.00	0.00		0.00
MIKAMI BROTHERS	Cert:55007 CF *	04/13/1950		Water Right Total:				0.00
			UMAT 50632	117.31	103.54	96.34		190.00
CITY OF UMATILLA	Cert:76316 (T 8264 RR) *	12/24/1963		Water Right Total:				190.00
			UMAT 2041	0.00	0.00	0.00		0.00
	Cert:52573 (RR) *	08/19/1966		Water Right Total:				0.00
			UMAT 2603	0.00	0.00	0.00		0.00
BUD RICH POTATO	Cert:76741 CF *	09/29/1966		Water Right Total:				0.00
			UMAT 2614	0.00	0.00	0.00		20.00
JORDAN BENNETT	Cert:38388 OR *	12/08/1966		Water Right Total:				20.00
			UMAT 2603	0.00	0.00	0.00		0.00
G-2 FARMING LLC	Cert:80812 (T 9717 RR) *	11/13/1967		Water Right Total:				0.00
			UMAT 2569	0.00	0.00	0.00		0.00
			UMAT 2594	12.00	12.63	18.13	40.00	40.00
BUD RICH POTATO	Cert:89382 CF *	11/13/1967		Water Right Total:			40.00	40.00
			UMAT 2609	0.00	0.00	0.00		0.00
DANIEL WOOD	Cert:76770 (RR) *	02/15/1968		Water Right Total:				0.00
			UMAT 1959	0.00	0.00	0.00		0.00
TIM MARTIN	Cert:38739 OR *	01/21/1969		Water Right Total:				0.00
			UMAT 1958	0.00	0.00	0.00		0.00
HERMAN BUSH	Cert:76762 CF *	02/28/1969		Water Right Total:				0.00
			UMAT 2335	0.00	0.00	0.00		0.00
JOSEPH JUDD	Cert:85522 (RR) CR *	05/01/1973		Water Right Total:				0.00
North Subarea Total:				117.31	116.17	114.46	40.00	250.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 88457,	)	
Umatilla County, Oregon	)	

JEFF COELHO
78550 BIG BUTTER CREEK RD
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. JEFF COELHO is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 88457 is a valid water right in the Pine City Subarea with a priority date of December 17, 1964.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 88457 is 63 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 63 acre-feet of water is allocated under Certificate 88457 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 88457.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

JEFF COELHO
78550 BIG BUTTER CREEK RD
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Section 21 Subarea,	)	
Under Water Right	)	
Certificate 42439,	)	
Umatilla County, Oregon	)	

Current Owner
30017 Bensel Rd
Hermiston OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Current Owner is a water user in the Section 21 Subarea of the Butter Creek CGWA.
2. Certificate 42439 is a valid water right in the Section 21 Subarea with a priority date of March 27, 1968.
3. For 2024, the sustainable annual yield in the Section 21 Subarea is 28.00 acre-feet.
4. In 2022, 28.00 acre-feet of water was allocated for the Section 21 Subarea.
5. In 2022, 10.84 acre-feet of water was pumped in the Section 21 Subarea.
6. For 2024, 28.00 acre-feet is allocated for the Section 21 Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 27 acre-feet for the Section 21 Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 42439 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Section 21 Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Section 21 Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 1 acre-feet of water is allocated under Certificate 42439 for the year 2024 from the Section 21 Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 42439.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Current Owner
30017 Bensel Rd
Hermiston OR 97838



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Section 21 Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 28.00 acre-feet
Total Allocation: 28.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 51968	0.00	0.00	0.00		1.00
Current Owner	Cert:42439 OR *	03/27/1968		Water Right Total:				1.00
			UMAT 3384	0.00	0.00	0.00		0.00
			UMAT 57981	0.00	17.81	10.84	27.00	27.00
Broken Spur Ranch LLC	Inchoate: T 12209	05/22/1972		Water Right Total:			27.00	27.00
	CF (REG) *							
Section 21 Subarea Total:				0.00	17.81	10.84	27.00	28.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
South South Subarea,	)	
Under Water Right	)	
Certificate 38712,	)	
Umatilla County, Oregon	)	

CURTIS CUTSFORTH
675 HAGER ST
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. CURTIS CUTSFORTH is a water user in the South South Subarea of the Butter Creek CGWA.
2. Certificate 38712 is a valid water right in the South South Subarea with a priority date of March 30, 1965.
3. For 2024, the sustainable annual yield in the South South Subarea is 1000.00 acre-feet.
4. In 2022, 1000.00 acre-feet of water was allocated for the South South Subarea.
5. In 2022, 413.08 acre-feet of water was pumped in the South South Subarea.
6. For 2024, 1000.00 acre-feet is allocated for the South South Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling acre-feet for the South South Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 38712 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the South South Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the South South Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 38712 for the year 2024 from the South South Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 38712.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

CURTIS CUTSFORTH
675 HAGER ST
HEPPNER OR 97836



Kristi Seyfried
Oregon Water Resources Department

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 38473,	)	
Umatilla County, Oregon	)	

WJ DOHERTY
70644 DOHERTY ROAD
LEXINGTON OR 97839

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. WJ DOHERTY is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 38473 is a valid water right in the Pine City Subarea with a priority date of March 13, 1967.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 38473 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 38473 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 38473.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

WJ DOHERTY
70644 DOHERTY ROAD
LEXINGTON OR 97839



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 62326,	)	
Umatilla County, Oregon	)	

WJ DOHERTY
70644 DOHERTY ROAD
LEXINGTON OR 97839

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. WJ DOHERTY is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 62326 is a valid water right in the Pine City Subarea with a priority date of June 24, 1970.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 62326 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 62326 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 62326.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

WJ DOHERTY
70644 DOHERTY ROAD
LEXINGTON OR 97839



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Echo Junction Subarea,	)	
Under Water Right	)	
Certificate 96964,	)	
Umatilla County, Oregon	)	

FARMLAND RESERVE INC
79 MAIN STREET SUITE 1000
SALT LAKE CITY UT 84111

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. FARMLAND RESERVE INC is a water user in the Echo Junction Subarea of the Butter Creek CGWA.
2. Certificate 96964 is a valid water right in the Echo Junction Subarea with a priority date of September 3, 1968.
3. For 2024, the sustainable annual yield in the Echo Junction Subarea is 1260.00 acre-feet.
4. In 2022, 1260.00 acre-feet of water was allocated for the Echo Junction Subarea.
5. In 2022, 1005.46 acre-feet of water was pumped in the Echo Junction Subarea.
6. For 2024, 1260.00 acre-feet is allocated for the Echo Junction Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. On May 8, 2007, Hale Brothers, Inc., Michael and Jane McCarty, and the Oregon Water Resources Department entered into a Water Allocation Agreement wherein the parties stipulated and agreed to specific allocation requests for Hale Brothers, Inc. and Michael and Jane McCarty.
8. A Water User Agreement between all of the water users in the Echo Junction Subarea became effective on May 4, 2007. Hale Brothers Inc. and Michael and Jane McCarty, being the two most senior water rights holders in the subarea, have agreed that their water use will not exceed the allocations ordered by the Department and have agreed that regardless of the seniority of their respective water rights, exceeding the allocation is subject to regulation pursuant to the Water User Agreement for the Echo Junction Subarea, dated May 4, 2007.
9. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
10. For 2024, the Department received allocation requests totaling 2146.93 acre-feet for the Echo Junction Subarea subarea.
11. The 2024 annual allocation request under Water Right Certificate 96964 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Echo Junction Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Echo Junction Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507. The Water User Agreement for the Echo Junction Subarea, unless terminated, shall control distribution of water in lieu of any order the Department may issue pursuant to

ORS 540.045(1)(a).

ORDER

Now, THEREFORE, it is ORDERED that 0 acre-feet of water is allocated under Certificate 96964 for the year 2024 from the Echo Junction Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 96964.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

FARMLAND RESERVE INC
79 MAIN STREET SUITE 1000
SALT LAKE CITY UT 84111

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Echo Junction Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1260.00 acre-feet
Total Allocation: 1260.00 acre-feet

Owner Name	Water Right	Priority Date	Logid		Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 456		378.00	378.00	378.00		272.00
MICHAEL MCCARTY	Cert:68349 (RR) CR *	03/04/1952			Water Right Total:				272.00
			UMAT 456		378.00	378.00	378.00		106.00
MICHAEL MCCARTY	Cert:67876 (RR) *	04/09/1953			Water Right Total:				106.00
			UMAT 440		0.00	0.00	0.00		0.00
			UMAT 441		508.09	504.28	538.76	290.25	290.25
			UMAT 450		212.21	175.63	88.70	645.18	591.75
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81408 CF *	01/21/1957			Water Right Total:			935.43	882.00
			UMAT 441		508.09	504.28	538.76	163.50	0.00
			UMAT 450		212.21	175.63	88.70	548.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81409 CF *	01/21/1959			Water Right Total:			711.50	0.00
			UMAT 1204		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:32696 OR *	09/02/1960			Water Right Total:				0.00
			UMAT 1166		0.00	0.00	0.00		0.00
KENT MADISON	Cert:32592 OR *	09/21/1960			Water Right Total:				0.00
			UMAT 461		0.00	0.00	0.00		0.00
MICHAEL MCCARTY	Cert:38847 OR *	01/13/1967			Water Right Total:				0.00
			UMAT 1220		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75131 CF *	03/21/1967			Water Right Total:			250.00	0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:76726 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:93580 (T 12662 05/24/1967 RR) *				Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:94695 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1219		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75130 CF *	12/18/1967			Water Right Total:			250.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
FARMLAND RESERVE INC	Cert:96964 (T 13525 09/03/1968 RR) *				Water Right Total:				0.00
Echo Junction Subarea Total:					1,098.30	1,057.92	1,005.46	2,146.93	1,260.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
West Subarea,	)	
Under Water Right	)	
Inchoate Transfer T 6387,	)	
Umatilla County, Oregon	)	

FINLEY BUTTES LIMITED PARTNERSHIP
PO BOX 350
BOARDMAN OR 97818

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. FINLEY BUTTES LIMITED PARTNERSHIP is a water user in the West Subarea of the Butter Creek CGWA.
2. Inchoate Transfer T 6387 is a valid water right in the West Subarea with a priority date of August 15, 1968.
3. For 2024, the sustainable annual yield in the West Subarea is 5670.00 acre-feet.
4. In 2022, 5670.00 acre-feet of water was allocated for the West Subarea.
5. In 2022, 2787.91 acre-feet of water was pumped in the West Subarea.
6. For 2024, 5670.00 acre-feet is allocated for the West Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 2748 acre-feet for the West Subarea subarea.
9. The 2024 annual allocation request under Water Right Inchoate Transfer T 6387 is 400 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the West Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the West Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 is allocated under Inchoate Transfer T 6387 for the year 2024 from the West Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Inchoate Transfer T 6387.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

FINLEY BUTTES LIMITED PARTNERSHIP
PO BOX 350
BOARDMAN OR 97818

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, West Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 5670.00 acre-feet
Total Allocation: 5670.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 408	0.00	0.00	0.00		0.00
			MORR 412	0.00	0.00	0.00		500.00
GRIEB FARMS INC	Cert:43515 OR *	07/19/1967		Water Right Total:				500.00
			MORR 538	0.78	1.05	1.02	250.00	250.00
			MORR 1706	568.55	581.53	433.04	1,000.00	1,000.00
BAKER PRODUCE SOUTH	Cert:61848 CF *	08/07/1967		Water Right Total:			1,250.00	1,250.00
			MORR 529	0.00	0.00	0.00		0.00
			MORR 1504	23.78	39.27	30.03	400.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6387 CF 08/15/1968 (REG) *			Water Right Total:			400.00	50.00
			MORR 560	670.04	684.53	735.68	900.00	850.00
CURT PERKINS	Cert:56274 (T 5892 12/16/1968 RR) *			Water Right Total:			900.00	850.00
			MORR 547	0.00	0.00	0.00		0.00
ALVIN BEAM	Cert:82184 CF *	12/16/1968		Water Right Total:				0.00
			MORR 537	134.63	289.06	225.08		500.00
			MORR 538	0.78	1.05	1.02		0.00
BAKER PRODUCE SOUTH	Cert:61849 CF *	02/10/1969		Water Right Total:				500.00
			MORR 1504	23.78	39.27	30.03	128.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6270 CF 02/03/1970 (REG) *			Water Right Total:			128.00	50.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		1,200.00
			MORR 545	519.53	218.24	431.57		1,200.00
LINDSAY RANCH PARTNERSHIP	Cert:80507 (T 9290 02/03/1970 RR) *			Water Right Total:				2,400.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		0.00
			MORR 545	519.53	218.24	431.57		0.00
LINDSAY RANCH PARTNERSHIP	Cert:88562 CF *	02/03/1970		Water Right Total:				0.00
			MORR 1778	48.65	46.77	31.04	70.00	70.00
Olam Food Ingredients	Cert:89248 CF *	02/03/1970		Water Right Total:			70.00	70.00
			MORR 533	0.00	0.00	0.00		0.00
	Cert:52733 OR *	03/25/1971		Water Right Total:				0.00
West Subarea Total:				3,073.95	2,901.85	2,787.91	2,748.00	5,670.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
West Subarea,	)	
Under Water Right	)	
Inchoate Transfer T 6270,	)	
Umatilla County, Oregon	)	

FINLEY BUTTES LIMITED PARTNERSHIP
PO BOX 350
BOARDMAN OR 97818

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. FINLEY BUTTES LIMITED PARTNERSHIP is a water user in the West Subarea of the Butter Creek CGWA.
2. Inchoate Transfer T 6270 is a valid water right in the West Subarea with a priority date of February 3, 1970.
3. For 2024, the sustainable annual yield in the West Subarea is 5670.00 acre-feet.
4. In 2022, 5670.00 acre-feet of water was allocated for the West Subarea.
5. In 2022, 2787.91 acre-feet of water was pumped in the West Subarea.
6. For 2024, 5670.00 acre-feet is allocated for the West Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 2748 acre-feet for the West Subarea subarea.
9. The 2024 annual allocation request under Water Right Inchoate Transfer T 6270 is 128 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the West Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the West Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 is allocated under Inchoate Transfer T 6270 for the year 2024 from the West Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Inchoate Transfer T 6270.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

FINLEY BUTTES LIMITED PARTNERSHIP
PO BOX 350
BOARDMAN OR 97818

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, West Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 5670.00 acre-feet
Total Allocation: 5670.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 408	0.00	0.00	0.00		0.00
			MORR 412	0.00	0.00	0.00		500.00
GRIEB FARMS INC	Cert:43515 OR *	07/19/1967	Water Right Total:					500.00
			MORR 538	0.78	1.05	1.02	250.00	250.00
			MORR 1706	568.55	581.53	433.04	1,000.00	1,000.00
BAKER PRODUCE SOUTH	Cert:61848 CF *	08/07/1967	Water Right Total:				1,250.00	1,250.00
			MORR 529	0.00	0.00	0.00		0.00
			MORR 1504	23.78	39.27	30.03	400.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6387 CF 08/15/1968 (REG) *		Water Right Total:				400.00	50.00
			MORR 560	670.04	684.53	735.68	900.00	850.00
CURT PERKINS	Cert:56274 (T 5892 12/16/1968 RR) *		Water Right Total:				900.00	850.00
			MORR 547	0.00	0.00	0.00		0.00
ALVIN BEAM	Cert:82184 CF *	12/16/1968	Water Right Total:					0.00
			MORR 537	134.63	289.06	225.08		500.00
			MORR 538	0.78	1.05	1.02		0.00
BAKER PRODUCE SOUTH	Cert:61849 CF *	02/10/1969	Water Right Total:					500.00
			MORR 1504	23.78	39.27	30.03	128.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6270 CF 02/03/1970 (REG) *		Water Right Total:				128.00	50.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		1,200.00
			MORR 545	519.53	218.24	431.57		1,200.00
LINDSAY RANCH PARTNERSHIP	Cert:80507 (T 9290 02/03/1970 RR) *		Water Right Total:					2,400.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		0.00
			MORR 545	519.53	218.24	431.57		0.00
LINDSAY RANCH PARTNERSHIP	Cert:88562 CF *	02/03/1970	Water Right Total:					0.00
			MORR 1778	48.65	46.77	31.04	70.00	70.00
Olam Food Ingredients	Cert:89248 CF *	02/03/1970	Water Right Total:				70.00	70.00
			MORR 533	0.00	0.00	0.00		0.00
	Cert:52733 OR *	03/25/1971	Water Right Total:					0.00
West Subarea Total:				3,073.95	2,901.85	2,787.91	2,748.00	5,670.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
South South Subarea,	)	
Under Water Right	)	
Certificate 49209,	)	
Umatilla County, Oregon	)	

Todd Lindsay
FRITZ CUTSFORTH LAND CO
75655 Baseline Lane
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. FRITZ CUTSFORTH LAND CO is a water user in the South South Subarea of the Butter Creek CGWA.
2. Certificate 49209 is a valid water right in the South South Subarea with a priority date of July 15, 1957.
3. For 2024, the sustainable annual yield in the South South Subarea is 1000.00 acre-feet.
4. In 2022, 1000.00 acre-feet of water was allocated for the South South Subarea.
5. In 2022, 413.08 acre-feet of water was pumped in the South South Subarea.
6. For 2024, 1000.00 acre-feet is allocated for the South South Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling acre-feet for the South South Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 49209 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the South South Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the South South Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 100 acre-feet of water is allocated under Certificate 49209 for the year 2024 from the South South Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 49209.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Todd Lindsay
FRITZ CUTSFORTH LAND CO
75655 Baseline Lane
HEPPNER OR 97836

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a light gray rectangular background.

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, South South Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1000.00 acre-feet
Total Allocation: 1000.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 63	0.00	0.00	0.00		100.00
FRITZ CUTSFORTH LAND CO	Cert:49209 CF *	07/15/1957		Water Right Total:				100.00
			MORR 63	0.00	0.00	0.00		66.00
FRITZ CUTSFORTH LAND CO	Cert:49210 CF *	09/24/1964		Water Right Total:				66.00
			MORR 69	0.00	0.00	0.00		0.00
CURTIS CUTSFORTH	Cert:38712 OR *	03/30/1965		Water Right Total:				0.00
			MORR 440	190.21	176.93	199.75		488.00
FRITZ CUTSFORTH LAND CO	Cert:49558 OR *	08/30/1971		Water Right Total:				488.00
			MORR 441	197.68	150.16	213.34		346.00
FRITZ CUTSFORTH LAND CO	Cert:49557 OR *	12/02/1971		Water Right Total:				346.00
			MORR 63	0.00	0.00	0.00		0.00
FRITZ CUTSFORTH LAND CO	Cert:50523 OR *	06/24/1975		Water Right Total:				0.00
South South Subarea Total:				387.89	327.09	413.08		1,000.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
South South Subarea,	)	
Under Water Right	)	
Certificate 49210,	)	
Umatilla County, Oregon	)	

Todd Lindsay
FRITZ CUTSFORTH LAND CO
75655 Baseline Lane
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. FRITZ CUTSFORTH LAND CO is a water user in the South South Subarea of the Butter Creek CGWA.
2. Certificate 49210 is a valid water right in the South South Subarea with a priority date of September 24, 1964.
3. For 2024, the sustainable annual yield in the South South Subarea is 1000.00 acre-feet.
4. In 2022, 1000.00 acre-feet of water was allocated for the South South Subarea.
5. In 2022, 413.08 acre-feet of water was pumped in the South South Subarea.
6. For 2024, 1000.00 acre-feet is allocated for the South South Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling acre-feet for the South South Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 49210 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the South South Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the South South Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 66 acre-feet of water is allocated under Certificate 49210 for the year 2024 from the South South Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 49210.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Todd Lindsay
FRITZ CUTSFORTH LAND CO
75655 Baseline Lane
HEPPNER OR 97836

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive style with a large, stylized "K" and "S".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, South South Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1000.00 acre-feet
Total Allocation: 1000.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 63	0.00	0.00	0.00		100.00
FRITZ CUTSFORTH LAND CO	Cert:49209 CF *	07/15/1957		Water Right Total:				100.00
			MORR 63	0.00	0.00	0.00		66.00
FRITZ CUTSFORTH LAND CO	Cert:49210 CF *	09/24/1964		Water Right Total:				66.00
			MORR 69	0.00	0.00	0.00		0.00
CURTIS CUTSFORTH	Cert:38712 OR *	03/30/1965		Water Right Total:				0.00
			MORR 440	190.21	176.93	199.75		488.00
FRITZ CUTSFORTH LAND CO	Cert:49558 OR *	08/30/1971		Water Right Total:				488.00
			MORR 441	197.68	150.16	213.34		346.00
FRITZ CUTSFORTH LAND CO	Cert:49557 OR *	12/02/1971		Water Right Total:				346.00
			MORR 63	0.00	0.00	0.00		0.00
FRITZ CUTSFORTH LAND CO	Cert:50523 OR *	06/24/1975		Water Right Total:				0.00
South South Subarea Total:				387.89	327.09	413.08		1,000.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
South South Subarea,	)	
Under Water Right	)	
Certificate 49557,	)	
Umatilla County, Oregon	)	

Todd Lindsay
FRITZ CUTSFORTH LAND CO
75655 Baseline Lane
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. FRITZ CUTSFORTH LAND CO is a water user in the South South Subarea of the Butter Creek CGWA.
2. Certificate 49557 is a valid water right in the South South Subarea with a priority date of December 2, 1971.
3. For 2024, the sustainable annual yield in the South South Subarea is 1000.00 acre-feet.
4. In 2022, 1000.00 acre-feet of water was allocated for the South South Subarea.
5. In 2022, 413.08 acre-feet of water was pumped in the South South Subarea.
6. For 2024, 1000.00 acre-feet is allocated for the South South Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling acre-feet for the South South Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 49557 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the South South Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the South South Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 346 acre-feet of water is allocated under Certificate 49557 for the year 2024 from the South South Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 49557.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Todd Lindsay
FRITZ CUTSFORTH LAND CO
75655 Baseline Lane
HEPPNER OR 97836

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive style with a large, looped "K" and a long, sweeping "S".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, South South Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1000.00 acre-feet
Total Allocation: 1000.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 63	0.00	0.00	0.00		100.00
FRITZ CUTSFORTH LAND CO	Cert:49209 CF *	07/15/1957		Water Right Total:				100.00
			MORR 63	0.00	0.00	0.00		66.00
FRITZ CUTSFORTH LAND CO	Cert:49210 CF *	09/24/1964		Water Right Total:				66.00
			MORR 69	0.00	0.00	0.00		0.00
CURTIS CUTSFORTH	Cert:38712 OR *	03/30/1965		Water Right Total:				0.00
			MORR 440	190.21	176.93	199.75		488.00
FRITZ CUTSFORTH LAND CO	Cert:49558 OR *	08/30/1971		Water Right Total:				488.00
			MORR 441	197.68	150.16	213.34		346.00
FRITZ CUTSFORTH LAND CO	Cert:49557 OR *	12/02/1971		Water Right Total:				346.00
			MORR 63	0.00	0.00	0.00		0.00
FRITZ CUTSFORTH LAND CO	Cert:50523 OR *	06/24/1975		Water Right Total:				0.00
South South Subarea Total:				387.89	327.09	413.08		1,000.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
South South Subarea,	)	
Under Water Right	)	
Certificate 49558,	)	
Umatilla County, Oregon	)	

Todd Lindsay
FRITZ CUTSFORTH LAND CO
75655 Baseline Lane
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. FRITZ CUTSFORTH LAND CO is a water user in the South South Subarea of the Butter Creek CGWA.
2. Certificate 49558 is a valid water right in the South South Subarea with a priority date of August 30, 1971.
3. For 2024, the sustainable annual yield in the South South Subarea is 1000.00 acre-feet.
4. In 2022, 1000.00 acre-feet of water was allocated for the South South Subarea.
5. In 2022, 413.08 acre-feet of water was pumped in the South South Subarea.
6. For 2024, 1000.00 acre-feet is allocated for the South South Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling acre-feet for the South South Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 49558 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the South South Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the South South Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 488 acre-feet of water is allocated under Certificate 49558 for the year 2024 from the South South Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 49558.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Todd Lindsay
FRITZ CUTSFORTH LAND CO
75655 Baseline Lane
HEPPNER OR 97836



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, South South Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1000.00 acre-feet
Total Allocation: 1000.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 63	0.00	0.00	0.00		100.00
FRITZ CUTSFORTH LAND CO	Cert:49209 CF *	07/15/1957		Water Right Total:				100.00
			MORR 63	0.00	0.00	0.00		66.00
FRITZ CUTSFORTH LAND CO	Cert:49210 CF *	09/24/1964		Water Right Total:				66.00
			MORR 69	0.00	0.00	0.00		0.00
CURTIS CUTSFORTH	Cert:38712 OR *	03/30/1965		Water Right Total:				0.00
			MORR 440	190.21	176.93	199.75		488.00
FRITZ CUTSFORTH LAND CO	Cert:49558 OR *	08/30/1971		Water Right Total:				488.00
			MORR 441	197.68	150.16	213.34		346.00
FRITZ CUTSFORTH LAND CO	Cert:49557 OR *	12/02/1971		Water Right Total:				346.00
			MORR 63	0.00	0.00	0.00		0.00
FRITZ CUTSFORTH LAND CO	Cert:50523 OR *	06/24/1975		Water Right Total:				0.00
South South Subarea Total:				387.89	327.09	413.08		1,000.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
South South Subarea,	)	
Under Water Right	)	
Certificate 50523,	)	
Umatilla County, Oregon	)	

Todd Lindsay
FRITZ CUTSFORTH LAND CO
75655 Baseline Lane
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. FRITZ CUTSFORTH LAND CO is a water user in the South South Subarea of the Butter Creek CGWA.
2. Certificate 50523 is a valid water right in the South South Subarea with a priority date of June 24, 1975.
3. For 2024, the sustainable annual yield in the South South Subarea is 1000.00 acre-feet.
4. In 2022, 1000.00 acre-feet of water was allocated for the South South Subarea.
5. In 2022, 413.08 acre-feet of water was pumped in the South South Subarea.
6. For 2024, 1000.00 acre-feet is allocated for the South South Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling acre-feet for the South South Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 50523 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the South South Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the South South Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 50523 for the year 2024 from the South South Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 50523.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

Todd Lindsay
FRITZ CUTSFORTH LAND CO
75655 Baseline Lane
HEPPNER OR 97836

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive style with a large, stylized "K" and "S".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, South South Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1000.00 acre-feet
Total Allocation: 1000.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 63	0.00	0.00	0.00		100.00
FRITZ CUTSFORTH LAND CO	Cert:49209 CF *	07/15/1957		Water Right Total:				100.00
			MORR 63	0.00	0.00	0.00		66.00
FRITZ CUTSFORTH LAND CO	Cert:49210 CF *	09/24/1964		Water Right Total:				66.00
			MORR 69	0.00	0.00	0.00		0.00
CURTIS CUTSFORTH	Cert:38712 OR *	03/30/1965		Water Right Total:				0.00
			MORR 440	190.21	176.93	199.75		488.00
FRITZ CUTSFORTH LAND CO	Cert:49558 OR *	08/30/1971		Water Right Total:				488.00
			MORR 441	197.68	150.16	213.34		346.00
FRITZ CUTSFORTH LAND CO	Cert:49557 OR *	12/02/1971		Water Right Total:				346.00
			MORR 63	0.00	0.00	0.00		0.00
FRITZ CUTSFORTH LAND CO	Cert:50523 OR *	06/24/1975		Water Right Total:				0.00
South South Subarea Total:				387.89	327.09	413.08		1,000.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
North Subarea,	)	
Under Water Right	)	
Certificate 80812,	)	
Umatilla County, Oregon	)	

TROY BETZ
G-2 FARMING LLC
PO BOX 130
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. G-2 FARMING LLC is a water user in the North Subarea of the Butter Creek CGWA.
2. Certificate 80812 is a valid water right in the North Subarea with a priority date of November 13, 1967.
3. For 2024, the sustainable annual yield in the North Subarea is 250.00 acre-feet.
4. In 2022, 250.00 acre-feet of water was allocated for the North Subarea.
5. In 2022, 114.46 acre-feet of water was pumped in the North Subarea.
6. For 2024, 250.00 acre-feet is allocated for the North Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 40 acre-feet for the North Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 80812 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the North Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the North Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 80812 for the year 2024 from the North Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 80812.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

TROY BETZ
G-2 FARMING LLC
PO BOX 130
HERMISTON OR 97838



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, North Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 250.00 acre-feet
Total Allocation: 250.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2286	0.00	0.00	0.00		0.00
MIKAMI BROTHERS	Cert:55007 CF *	04/13/1950		Water Right Total:				0.00
			UMAT 50632	117.31	103.54	96.34		190.00
CITY OF UMATILLA	Cert:76316 (T 8264 RR) *	12/24/1963		Water Right Total:				190.00
			UMAT 2041	0.00	0.00	0.00		0.00
	Cert:52573 (RR) *	08/19/1966		Water Right Total:				0.00
			UMAT 2603	0.00	0.00	0.00		0.00
BUD RICH POTATO	Cert:76741 CF *	09/29/1966		Water Right Total:				0.00
			UMAT 2614	0.00	0.00	0.00		20.00
JORDAN BENNETT	Cert:38388 OR *	12/08/1966		Water Right Total:				20.00
			UMAT 2603	0.00	0.00	0.00		0.00
G-2 FARMING LLC	Cert:80812 (T 9717 RR) *	11/13/1967		Water Right Total:				0.00
			UMAT 2569	0.00	0.00	0.00		0.00
			UMAT 2594	12.00	12.63	18.13	40.00	40.00
BUD RICH POTATO	Cert:89382 CF *	11/13/1967		Water Right Total:			40.00	40.00
			UMAT 2609	0.00	0.00	0.00		0.00
DANIEL WOOD	Cert:76770 (RR) *	02/15/1968		Water Right Total:				0.00
			UMAT 1959	0.00	0.00	0.00		0.00
TIM MARTIN	Cert:38739 OR *	01/21/1969		Water Right Total:				0.00
			UMAT 1958	0.00	0.00	0.00		0.00
HERMAN BUSH	Cert:76762 CF *	02/28/1969		Water Right Total:				0.00
			UMAT 2335	0.00	0.00	0.00		0.00
JOSEPH JUDD	Cert:85522 (RR) CR *	05/01/1973		Water Right Total:				0.00
North Subarea Total:				117.31	116.17	114.46	40.00	250.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 42431,	)	
Umatilla County, Oregon	)	

SAM MYERS
GENERATION FARM
68453 LITTLE BUTTER CREEK RD
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. GENERATION FARM is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 42431 is a valid water right in the Pine City Subarea with a priority date of July 24, 1968.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 42431 is 200 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 200 acre-feet of water is allocated under Certificate 42431 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 42431.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

SAM MYERS
GENERATION FARM
68453 LITTLE BUTTER CREEK RD
HEPPNER OR 97836

A handwritten signature in dark ink, appearing to read "Kristi Seyfried", is written over a horizontal line.

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
West Subarea,	)	
Under Water Right	)	
Certificate 43515,	)	
Umatilla County, Oregon	)	

Ken GRIEB
GRIEB FARMS INC
72540 Alpine Ln.
LEXINGTON OR 97839

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. GRIEB FARMS INC is a water user in the West Subarea of the Butter Creek CGWA.
2. Certificate 43515 is a valid water right in the West Subarea with a priority date of July 19, 1967.
3. For 2024, the sustainable annual yield in the West Subarea is 5670.00 acre-feet.
4. In 2022, 5670.00 acre-feet of water was allocated for the West Subarea.
5. In 2022, 2787.91 acre-feet of water was pumped in the West Subarea.
6. For 2024, 5670.00 acre-feet is allocated for the West Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 2748 acre-feet for the West Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 43515 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the West Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the West Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 500 acre-feet of water is allocated under Certificate 43515 for the year 2024 from the West Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 43515.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Ken GRIEB
GRIEB FARMS INC
72540 Alpine Ln.
LEXINGTON OR 97839



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, West Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 5670.00 acre-feet
Total Allocation: 5670.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 408	0.00	0.00	0.00		0.00
			MORR 412	0.00	0.00	0.00		500.00
GRIEB FARMS INC	Cert:43515 OR *	07/19/1967	Water Right Total:					500.00
			MORR 538	0.78	1.05	1.02	250.00	250.00
			MORR 1706	568.55	581.53	433.04	1,000.00	1,000.00
BAKER PRODUCE SOUTH	Cert:61848 CF *	08/07/1967	Water Right Total:				1,250.00	1,250.00
			MORR 529	0.00	0.00	0.00		0.00
			MORR 1504	23.78	39.27	30.03	400.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6387 CF 08/15/1968 (REG) *		Water Right Total:				400.00	50.00
			MORR 560	670.04	684.53	735.68	900.00	850.00
CURT PERKINS	Cert:56274 (T 5892 12/16/1968 RR) *		Water Right Total:				900.00	850.00
			MORR 547	0.00	0.00	0.00		0.00
ALVIN BEAM	Cert:82184 CF *	12/16/1968	Water Right Total:					0.00
			MORR 537	134.63	289.06	225.08		500.00
			MORR 538	0.78	1.05	1.02		0.00
BAKER PRODUCE SOUTH	Cert:61849 CF *	02/10/1969	Water Right Total:					500.00
			MORR 1504	23.78	39.27	30.03	128.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6270 CF 02/03/1970 (REG) *		Water Right Total:				128.00	50.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		1,200.00
			MORR 545	519.53	218.24	431.57		1,200.00
LINDSAY RANCH PARTNERSHIP	Cert:80507 (T 9290 02/03/1970 RR) *		Water Right Total:					2,400.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		0.00
			MORR 545	519.53	218.24	431.57		0.00
LINDSAY RANCH PARTNERSHIP	Cert:88562 CF *	02/03/1970	Water Right Total:					0.00
			MORR 1778	48.65	46.77	31.04	70.00	70.00
Olam Food Ingredients	Cert:89248 CF *	02/03/1970	Water Right Total:				70.00	70.00
			MORR 533	0.00	0.00	0.00		0.00
	Cert:52733 OR *	03/25/1971	Water Right Total:					0.00
West Subarea Total:				3,073.95	2,901.85	2,787.91	2,748.00	5,670.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
East Subarea,	)	
Under Water Right	)	
Inchoate Transfer T 7570,	)	
Umatilla County, Oregon	)	

KELLY HAWKINS
HAWKINS CO INC
PO BOX 246
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. HAWKINS CO INC is a water user in the East Subarea of the Butter Creek CGWA.
2. Inchoate Transfer T 7570 is a valid water right in the East Subarea with a priority date of October 8, 1962.
3. For 2024, the sustainable annual yield in the East Subarea is 720.00 acre-feet.
4. In 2022, 720.00 acre-feet of water was allocated for the East Subarea.
5. In 2022, 600.71 acre-feet of water was pumped in the East Subarea.
6. For 2024, 720.00 acre-feet is allocated for the East Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 787.5 acre-feet for the East Subarea subarea.
9. The 2024 annual allocation request under Water Right Inchoate Transfer T 7570 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the East Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the East Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 7.16 acre-feet of water is allocated under Inchoate Transfer T 7570 for the year 2024 from the East Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Inchoate Transfer T 7570.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

KELLY HAWKINS
HAWKINS CO INC
PO BOX 246
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, East Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 720.00 acre-feet
Total Allocation: 720.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 465	91.93	88.91	42.60		90.00
A & A FARMS	Cert:31201 OR *	04/18/1952		Water Right Total:				90.00
			MORR 563	241.34	367.85	245.92	543.00	250.00
MADER - RUST INC	Cert:31096 OR *	05/07/1952		Water Right Total:			543.00	250.00
			MORR 491	28.78	33.91	44.28	51.00	51.00
			MORR 492	98.56	154.62	90.49	193.50	150.00
VEY RANCH	Cert:26092 OR *	02/11/1958		Water Right Total:			244.50	201.00
			UMAT 462	178.37	228.82	177.41		7.16
HAWKINS CO INC	Inchoate: T 7570 CF 10/08/1962 (REG) *			Water Right Total:				7.16
			UMAT 462	178.37	228.82	177.41		94.87
HAWKINS CO INC	Cert:76318 (T 7570 10/08/1962 RR) *			Water Right Total:				94.87
			UMAT 462	178.37	228.82	177.41		76.97
HAWKINS CO INC	Cert:83002 CF *	10/08/1962		Water Right Total:				76.97
			UMAT 465	91.93	88.91	42.60		0.00
A & A FARMS	Cert:38846 OR *	01/22/1965		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:81062 (RR) *	09/11/1967		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:85705 CF *	09/11/1967		Water Right Total:				0.00
East Subarea Total:				638.98	874.10	600.71	787.50	720.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
East Subarea,	)	
Under Water Right	)	
Certificate 76318,	)	
Umatilla County, Oregon	)	

KELLY HAWKINS
HAWKINS CO INC
PO BOX 246
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. HAWKINS CO INC is a water user in the East Subarea of the Butter Creek CGWA.
2. Certificate 76318 is a valid water right in the East Subarea with a priority date of October 8, 1962.
3. For 2024, the sustainable annual yield in the East Subarea is 720.00 acre-feet.
4. In 2022, 720.00 acre-feet of water was allocated for the East Subarea.
5. In 2022, 600.71 acre-feet of water was pumped in the East Subarea.
6. For 2024, 720.00 acre-feet is allocated for the East Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 787.5 acre-feet for the East Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 76318 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the East Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the East Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 94.87 acre-feet of water is allocated under Certificate 76318 for the year 2024 from the East Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 76318.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

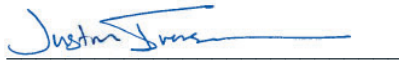
1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

KELLY HAWKINS
HAWKINS CO INC
PO BOX 246
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, East Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 720.00 acre-feet
Total Allocation: 720.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 465	91.93	88.91	42.60		90.00
A & A FARMS	Cert:31201 OR *	04/18/1952		Water Right Total:				90.00
			MORR 563	241.34	367.85	245.92	543.00	250.00
MADER - RUST INC	Cert:31096 OR *	05/07/1952		Water Right Total:			543.00	250.00
			MORR 491	28.78	33.91	44.28	51.00	51.00
			MORR 492	98.56	154.62	90.49	193.50	150.00
VEY RANCH	Cert:26092 OR *	02/11/1958		Water Right Total:			244.50	201.00
			UMAT 462	178.37	228.82	177.41		7.16
HAWKINS CO INC	Inchoate: T 7570 CF 10/08/1962 (REG) *			Water Right Total:				7.16
			UMAT 462	178.37	228.82	177.41		94.87
HAWKINS CO INC	Cert:76318 (T 7570 10/08/1962 RR) *			Water Right Total:				94.87
			UMAT 462	178.37	228.82	177.41		76.97
HAWKINS CO INC	Cert:83002 CF *	10/08/1962		Water Right Total:				76.97
			UMAT 465	91.93	88.91	42.60		0.00
A & A FARMS	Cert:38846 OR *	01/22/1965		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:81062 (RR) *	09/11/1967		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:85705 CF *	09/11/1967		Water Right Total:				0.00
East Subarea Total:				638.98	874.10	600.71	787.50	720.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
East Subarea,	)	
Under Water Right	)	
Certificate 83002,	)	
Umatilla County, Oregon	)	

KELLY HAWKINS
HAWKINS CO INC
PO BOX 246
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. HAWKINS CO INC is a water user in the East Subarea of the Butter Creek CGWA.
2. Certificate 83002 is a valid water right in the East Subarea with a priority date of October 8, 1962.
3. For 2024, the sustainable annual yield in the East Subarea is 720.00 acre-feet.
4. In 2022, 720.00 acre-feet of water was allocated for the East Subarea.
5. In 2022, 600.71 acre-feet of water was pumped in the East Subarea.
6. For 2024, 720.00 acre-feet is allocated for the East Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 787.5 acre-feet for the East Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 83002 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the East Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the East Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 76.97 acre-feet of water is allocated under Certificate 83002 for the year 2024 from the East Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 83002.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

KELLY HAWKINS
HAWKINS CO INC
PO BOX 246
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, East Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 720.00 acre-feet
Total Allocation: 720.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 465	91.93	88.91	42.60		90.00
A & A FARMS	Cert:31201 OR *	04/18/1952		Water Right Total:				90.00
			MORR 563	241.34	367.85	245.92	543.00	250.00
MADER - RUST INC	Cert:31096 OR *	05/07/1952		Water Right Total:			543.00	250.00
			MORR 491	28.78	33.91	44.28	51.00	51.00
			MORR 492	98.56	154.62	90.49	193.50	150.00
VEY RANCH	Cert:26092 OR *	02/11/1958		Water Right Total:			244.50	201.00
			UMAT 462	178.37	228.82	177.41		7.16
HAWKINS CO INC	Inchoate: T 7570 CF 10/08/1962 (REG) *			Water Right Total:				7.16
			UMAT 462	178.37	228.82	177.41		94.87
HAWKINS CO INC	Cert:76318 (T 7570 10/08/1962 RR) *			Water Right Total:				94.87
			UMAT 462	178.37	228.82	177.41		76.97
HAWKINS CO INC	Cert:83002 CF *	10/08/1962		Water Right Total:				76.97
			UMAT 465	91.93	88.91	42.60		0.00
A & A FARMS	Cert:38846 OR *	01/22/1965		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:81062 (RR) *	09/11/1967		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:85705 CF *	09/11/1967		Water Right Total:				0.00
East Subarea Total:				638.98	874.10	600.71	787.50	720.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 42428,	)	
Umatilla County, Oregon	)	

BRIAN KNOWLES
HEALY RANCH LLC
67207 LITTLE BUTTER CREEK ROAD
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. HEALY RANCH LLC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 42428 is a valid water right in the Pine City Subarea with a priority date of April 23, 1968.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 42428 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 110 acre-feet of water is allocated under Certificate 42428 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 42428.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

BRIAN KNOWLES
HEALY RANCH LLC
67207 LITTLE BUTTER CREEK ROAD
HEPPNER OR 97836



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 82664,	)	
Umatilla County, Oregon	)	

Aaron Heideman
33999 Riverview Dr.
Hermiston OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Aaron Heideman is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 82664 is a valid water right in the Pine City Subarea with a priority date of December 17, 1952.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 82664 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 1 acre-feet of water is allocated under Certificate 82664 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 82664.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Aaron Heideman
33999 Riverview Dr.
Hermiston OR 97838



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Echo Junction Subarea,	)	
Under Water Right	)	
Certificate 32696,	)	
Umatilla County, Oregon	)	

J R SIMPLOT
PO BOX 27
BOISE ID 83707

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. J R SIMPLOT is a water user in the Echo Junction Subarea of the Butter Creek CGWA.
2. Certificate 32696 is a valid water right in the Echo Junction Subarea with a priority date of September 2, 1960.
3. For 2024, the sustainable annual yield in the Echo Junction Subarea is 1260.00 acre-feet.
4. In 2022, 1260.00 acre-feet of water was allocated for the Echo Junction Subarea.
5. In 2022, 1005.46 acre-feet of water was pumped in the Echo Junction Subarea.
6. For 2024, 1260.00 acre-feet is allocated for the Echo Junction Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. On May 8, 2007, Hale Brothers, Inc., Michael and Jane McCarty, and the Oregon Water Resources Department entered into a Water Allocation Agreement wherein the parties stipulated and agreed to specific allocation requests for Hale Brothers, Inc. and Michael and Jane McCarty.
8. A Water User Agreement between all of the water users in the Echo Junction Subarea became effective on May 4, 2007. Hale Brothers Inc. and Michael and Jane McCarty, being the two most senior water rights holders in the subarea, have agreed that their water use will not exceed the allocations ordered by the Department and have agreed that regardless of the seniority of their respective water rights, exceeding the allocation is subject to regulation pursuant to the Water User Agreement for the Echo Junction Subarea, dated May 4, 2007.
9. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
10. For 2024, the Department received allocation requests totaling 2146.93 acre-feet for the Echo Junction Subarea subarea.
11. The 2024 annual allocation request under Water Right Certificate 32696 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Echo Junction Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Echo Junction Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507. The Water User Agreement for the Echo Junction Subarea, unless terminated, shall control distribution of water in lieu of any order the Department may issue pursuant to ORS 540.045(1)(a).

ORDER

Now, THEREFORE, it is ORDERED that 0 acre-feet of water is allocated under Certificate 32696 for the year 2024 from the Echo Junction Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 32696.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

J R SIMPLOT
PO BOX 27
BOISE ID 83707

A handwritten signature in dark ink, appearing to read "Kristi Seyfried". The signature is fluid and cursive, with the first name "Kristi" being more prominent than the last name "Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Echo Junction Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1260.00 acre-feet
Total Allocation: 1260.00 acre-feet

Owner Name	Water Right	Priority Date	Logid		Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 456		378.00	378.00	378.00		272.00
MICHAEL MCCARTY	Cert:68349 (RR) CR *	03/04/1952			Water Right Total:				272.00
			UMAT 456		378.00	378.00	378.00		106.00
MICHAEL MCCARTY	Cert:67876 (RR) *	04/09/1953			Water Right Total:				106.00
			UMAT 440		0.00	0.00	0.00		0.00
			UMAT 441		508.09	504.28	538.76	290.25	290.25
			UMAT 450		212.21	175.63	88.70	645.18	591.75
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81408 CF *	01/21/1957			Water Right Total:			935.43	882.00
			UMAT 441		508.09	504.28	538.76	163.50	0.00
			UMAT 450		212.21	175.63	88.70	548.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81409 CF *	01/21/1959			Water Right Total:			711.50	0.00
			UMAT 1204		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:32696 OR *	09/02/1960			Water Right Total:				0.00
			UMAT 1166		0.00	0.00	0.00		0.00
KENT MADISON	Cert:32592 OR *	09/21/1960			Water Right Total:				0.00
			UMAT 461		0.00	0.00	0.00		0.00
MICHAEL MCCARTY	Cert:38847 OR *	01/13/1967			Water Right Total:				0.00
			UMAT 1220		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75131 CF *	03/21/1967			Water Right Total:			250.00	0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:76726 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:93580 (T 12662 05/24/1967 RR) *				Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:94695 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1219		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75130 CF *	12/18/1967			Water Right Total:			250.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
FARMLAND RESERVE INC	Cert:96964 (T 13525 09/03/1968 RR) *				Water Right Total:				0.00
Echo Junction Subarea Total:					1,098.30	1,057.92	1,005.46	2,146.93	1,260.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Echo Junction Subarea,	)	
Under Water Right	)	
Certificate 76726,	)	
Umatilla County, Oregon	)	

J R SIMPLOT
PO BOX 27
BOISE ID 83707

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. J R SIMPLOT is a water user in the Echo Junction Subarea of the Butter Creek CGWA.
2. Certificate 76726 is a valid water right in the Echo Junction Subarea with a priority date of May 24, 1967.
3. For 2024, the sustainable annual yield in the Echo Junction Subarea is 1260.00 acre-feet.
4. In 2022, 1260.00 acre-feet of water was allocated for the Echo Junction Subarea.
5. In 2022, 1005.46 acre-feet of water was pumped in the Echo Junction Subarea.
6. For 2024, 1260.00 acre-feet is allocated for the Echo Junction Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. On May 8, 2007, Hale Brothers, Inc., Michael and Jane McCarty, and the Oregon Water Resources Department entered into a Water Allocation Agreement wherein the parties stipulated and agreed to specific allocation requests for Hale Brothers, Inc. and Michael and Jane McCarty.
8. A Water User Agreement between all of the water users in the Echo Junction Subarea became effective on May 4, 2007. Hale Brothers Inc. and Michael and Jane McCarty, being the two most senior water rights holders in the subarea, have agreed that their water use will not exceed the allocations ordered by the Department and have agreed that regardless of the seniority of their respective water rights, exceeding the allocation is subject to regulation pursuant to the Water User Agreement for the Echo Junction Subarea, dated May 4, 2007.
9. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
10. For 2024, the Department received allocation requests totaling 2146.93 acre-feet for the Echo Junction Subarea subarea.
11. The 2024 annual allocation request under Water Right Certificate 76726 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Echo Junction Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Echo Junction Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507. The Water User Agreement for the Echo Junction Subarea, unless terminated, shall control distribution of water in lieu of any order the Department may issue pursuant to ORS 540.045(1)(a).

ORDER

Now, THEREFORE, it is ORDERED that 0 acre-feet of water is allocated under Certificate 76726 for the year 2024 from the Echo Junction Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 76726.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

J R SIMPLOT
PO BOX 27
BOISE ID 83707

A handwritten signature in cursive script, reading "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Echo Junction Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1260.00 acre-feet
Total Allocation: 1260.00 acre-feet

Owner Name	Water Right	Priority Date	Logid		Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 456		378.00	378.00	378.00		272.00
MICHAEL MCCARTY	Cert:68349 (RR) CR *	03/04/1952			Water Right Total:				272.00
			UMAT 456		378.00	378.00	378.00		106.00
MICHAEL MCCARTY	Cert:67876 (RR) *	04/09/1953			Water Right Total:				106.00
			UMAT 440		0.00	0.00	0.00		0.00
			UMAT 441		508.09	504.28	538.76	290.25	290.25
			UMAT 450		212.21	175.63	88.70	645.18	591.75
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81408 CF *	01/21/1957			Water Right Total:			935.43	882.00
			UMAT 441		508.09	504.28	538.76	163.50	0.00
			UMAT 450		212.21	175.63	88.70	548.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81409 CF *	01/21/1959			Water Right Total:			711.50	0.00
			UMAT 1204		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:32696 OR *	09/02/1960			Water Right Total:				0.00
			UMAT 1166		0.00	0.00	0.00		0.00
KENT MADISON	Cert:32592 OR *	09/21/1960			Water Right Total:				0.00
			UMAT 461		0.00	0.00	0.00		0.00
MICHAEL MCCARTY	Cert:38847 OR *	01/13/1967			Water Right Total:				0.00
			UMAT 1220		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75131 CF *	03/21/1967			Water Right Total:			250.00	0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:76726 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:93580 (T 12662 05/24/1967 RR) *				Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:94695 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1219		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75130 CF *	12/18/1967			Water Right Total:			250.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
FARMLAND RESERVE INC	Cert:96964 (T 13525 09/03/1968 RR) *				Water Right Total:				0.00
Echo Junction Subarea Total:					1,098.30	1,057.92	1,005.46	2,146.93	1,260.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Echo Junction Subarea,	)	
Under Water Right	)	
Certificate 93580,	)	
Umatilla County, Oregon	)	

J R SIMPLOT
PO BOX 27
BOISE ID 83707

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. J R SIMPLOT is a water user in the Echo Junction Subarea of the Butter Creek CGWA.
2. Certificate 93580 is a valid water right in the Echo Junction Subarea with a priority date of May 24, 1967.
3. For 2024, the sustainable annual yield in the Echo Junction Subarea is 1260.00 acre-feet.
4. In 2022, 1260.00 acre-feet of water was allocated for the Echo Junction Subarea.
5. In 2022, 1005.46 acre-feet of water was pumped in the Echo Junction Subarea.
6. For 2024, 1260.00 acre-feet is allocated for the Echo Junction Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. On May 8, 2007, Hale Brothers, Inc., Michael and Jane McCarty, and the Oregon Water Resources Department entered into a Water Allocation Agreement wherein the parties stipulated and agreed to specific allocation requests for Hale Brothers, Inc. and Michael and Jane McCarty.
8. A Water User Agreement between all of the water users in the Echo Junction Subarea became effective on May 4, 2007. Hale Brothers Inc. and Michael and Jane McCarty, being the two most senior water rights holders in the subarea, have agreed that their water use will not exceed the allocations ordered by the Department and have agreed that regardless of the seniority of their respective water rights, exceeding the allocation is subject to regulation pursuant to the Water User Agreement for the Echo Junction Subarea, dated May 4, 2007.
9. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
10. For 2024, the Department received allocation requests totaling 2146.93 acre-feet for the Echo Junction Subarea subarea.
11. The 2024 annual allocation request under Water Right Certificate 93580 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Echo Junction Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Echo Junction Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507. The Water User Agreement for the Echo Junction Subarea, unless terminated, shall control distribution of water in lieu of any order the Department may issue pursuant to ORS 540.045(1)(a).

ORDER

Now, THEREFORE, it is ORDERED that 0 acre-feet of water is allocated under Certificate 93580 for the year 2024 from the Echo Junction Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 93580.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

J R SIMPLOT
PO BOX 27
BOISE ID 83707

A handwritten signature in cursive script, appearing to read "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Echo Junction Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1260.00 acre-feet
Total Allocation: 1260.00 acre-feet

Owner Name	Water Right	Priority Date	Logid		Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 456		378.00	378.00	378.00		272.00
MICHAEL MCCARTY	Cert:68349 (RR) CR *	03/04/1952			Water Right Total:				272.00
			UMAT 456		378.00	378.00	378.00		106.00
MICHAEL MCCARTY	Cert:67876 (RR) *	04/09/1953			Water Right Total:				106.00
			UMAT 440		0.00	0.00	0.00		0.00
			UMAT 441		508.09	504.28	538.76	290.25	290.25
			UMAT 450		212.21	175.63	88.70	645.18	591.75
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81408 CF *	01/21/1957			Water Right Total:			935.43	882.00
			UMAT 441		508.09	504.28	538.76	163.50	0.00
			UMAT 450		212.21	175.63	88.70	548.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81409 CF *	01/21/1959			Water Right Total:			711.50	0.00
			UMAT 1204		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:32696 OR *	09/02/1960			Water Right Total:				0.00
			UMAT 1166		0.00	0.00	0.00		0.00
KENT MADISON	Cert:32592 OR *	09/21/1960			Water Right Total:				0.00
			UMAT 461		0.00	0.00	0.00		0.00
MICHAEL MCCARTY	Cert:38847 OR *	01/13/1967			Water Right Total:				0.00
			UMAT 1220		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75131 CF *	03/21/1967			Water Right Total:			250.00	0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:76726 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:93580 (T 12662 05/24/1967 RR) *				Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:94695 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1219		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75130 CF *	12/18/1967			Water Right Total:			250.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
FARMLAND RESERVE INC	Cert:96964 (T 13525 09/03/1968 RR) *				Water Right Total:				0.00
Echo Junction Subarea Total:					1,098.30	1,057.92	1,005.46	2,146.93	1,260.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Echo Junction Subarea,	)	
Under Water Right	)	
Certificate 94695,	)	
Umatilla County, Oregon	)	

J R SIMPLOT
PO BOX 27
BOISE ID 83707

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. J R SIMPLOT is a water user in the Echo Junction Subarea of the Butter Creek CGWA.
2. Certificate 94695 is a valid water right in the Echo Junction Subarea with a priority date of May 24, 1967.
3. For 2024, the sustainable annual yield in the Echo Junction Subarea is 1260.00 acre-feet.
4. In 2022, 1260.00 acre-feet of water was allocated for the Echo Junction Subarea.
5. In 2022, 1005.46 acre-feet of water was pumped in the Echo Junction Subarea.
6. For 2024, 1260.00 acre-feet is allocated for the Echo Junction Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. On May 8, 2007, Hale Brothers, Inc., Michael and Jane McCarty, and the Oregon Water Resources Department entered into a Water Allocation Agreement wherein the parties stipulated and agreed to specific allocation requests for Hale Brothers, Inc. and Michael and Jane McCarty.
8. A Water User Agreement between all of the water users in the Echo Junction Subarea became effective on May 4, 2007. Hale Brothers Inc. and Michael and Jane McCarty, being the two most senior water rights holders in the subarea, have agreed that their water use will not exceed the allocations ordered by the Department and have agreed that regardless of the seniority of their respective water rights, exceeding the allocation is subject to regulation pursuant to the Water User Agreement for the Echo Junction Subarea, dated May 4, 2007.
9. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
10. For 2024, the Department received allocation requests totaling 2146.93 acre-feet for the Echo Junction Subarea subarea.
11. The 2024 annual allocation request under Water Right Certificate 94695 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Echo Junction Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Echo Junction Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507. The Water User Agreement for the Echo Junction Subarea, unless terminated, shall control distribution of water in lieu of any order the Department may issue pursuant to ORS 540.045(1)(a).

ORDER

Now, THEREFORE, it is ORDERED that 0 acre-feet of water is allocated under Certificate 94695 for the year 2024 from the Echo Junction Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 94695.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

J R SIMPLOT
PO BOX 27
BOISE ID 83707

A handwritten signature in cursive script, appearing to read "Kristi Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Echo Junction Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1260.00 acre-feet
Total Allocation: 1260.00 acre-feet

Owner Name	Water Right	Priority Date	Logid		Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 456		378.00	378.00	378.00		272.00
MICHAEL MCCARTY	Cert:68349 (RR) CR *	03/04/1952			Water Right Total:				272.00
			UMAT 456		378.00	378.00	378.00		106.00
MICHAEL MCCARTY	Cert:67876 (RR) *	04/09/1953			Water Right Total:				106.00
			UMAT 440		0.00	0.00	0.00		0.00
			UMAT 441		508.09	504.28	538.76	290.25	290.25
			UMAT 450		212.21	175.63	88.70	645.18	591.75
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81408 CF *	01/21/1957			Water Right Total:			935.43	882.00
			UMAT 441		508.09	504.28	538.76	163.50	0.00
			UMAT 450		212.21	175.63	88.70	548.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81409 CF *	01/21/1959			Water Right Total:			711.50	0.00
			UMAT 1204		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:32696 OR *	09/02/1960			Water Right Total:				0.00
			UMAT 1166		0.00	0.00	0.00		0.00
KENT MADISON	Cert:32592 OR *	09/21/1960			Water Right Total:				0.00
			UMAT 461		0.00	0.00	0.00		0.00
MICHAEL MCCARTY	Cert:38847 OR *	01/13/1967			Water Right Total:				0.00
			UMAT 1220		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75131 CF *	03/21/1967			Water Right Total:			250.00	0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:76726 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:93580 (T 12662 05/24/1967 RR) *				Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:94695 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1219		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75130 CF *	12/18/1967			Water Right Total:			250.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
FARMLAND RESERVE INC	Cert:96964 (T 13525 09/03/1968 RR) *				Water Right Total:				0.00
Echo Junction Subarea Total:					1,098.30	1,057.92	1,005.46	2,146.93	1,260.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
North Subarea,	)	
Under Water Right	)	
Certificate 85522,	)	
Umatilla County, Oregon	)	

JOSEPH JUDD
79270 WESTLAND ROAD
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. JOSEPH JUDD is a water user in the North Subarea of the Butter Creek CGWA.
2. Certificate 85522 is a valid water right in the North Subarea with a priority date of May 1, 1973.
3. For 2024, the sustainable annual yield in the North Subarea is 250.00 acre-feet.
4. In 2022, 250.00 acre-feet of water was allocated for the North Subarea.
5. In 2022, 114.46 acre-feet of water was pumped in the North Subarea.
6. For 2024, 250.00 acre-feet is allocated for the North Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 40 acre-feet for the North Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 85522 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the North Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the North Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 85522 for the year 2024 from the North Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 85522.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

JOSEPH JUDD
79270 WESTLAND ROAD
HERMISTON OR 97838



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, North Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 250.00 acre-feet
Total Allocation: 250.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2286	0.00	0.00	0.00		0.00
MIKAMI BROTHERS	Cert:55007 CF *	04/13/1950		Water Right Total:				0.00
			UMAT 50632	117.31	103.54	96.34		190.00
CITY OF UMATILLA	Cert:76316 (T 8264 RR) *	12/24/1963		Water Right Total:				190.00
			UMAT 2041	0.00	0.00	0.00		0.00
	Cert:52573 (RR) *	08/19/1966		Water Right Total:				0.00
			UMAT 2603	0.00	0.00	0.00		0.00
BUD RICH POTATO	Cert:76741 CF *	09/29/1966		Water Right Total:				0.00
			UMAT 2614	0.00	0.00	0.00		20.00
JORDAN BENNETT	Cert:38388 OR *	12/08/1966		Water Right Total:				20.00
			UMAT 2603	0.00	0.00	0.00		0.00
G-2 FARMING LLC	Cert:80812 (T 9717 RR) *	11/13/1967		Water Right Total:				0.00
			UMAT 2569	0.00	0.00	0.00		0.00
			UMAT 2594	12.00	12.63	18.13	40.00	40.00
BUD RICH POTATO	Cert:89382 CF *	11/13/1967		Water Right Total:			40.00	40.00
			UMAT 2609	0.00	0.00	0.00		0.00
DANIEL WOOD	Cert:76770 (RR) *	02/15/1968		Water Right Total:				0.00
			UMAT 1959	0.00	0.00	0.00		0.00
TIM MARTIN	Cert:38739 OR *	01/21/1969		Water Right Total:				0.00
			UMAT 1958	0.00	0.00	0.00		0.00
HERMAN BUSH	Cert:76762 CF *	02/28/1969		Water Right Total:				0.00
			UMAT 2335	0.00	0.00	0.00		0.00
JOSEPH JUDD	Cert:85522 (RR) CR *	05/01/1973		Water Right Total:				0.00
North Subarea Total:				117.31	116.17	114.46	40.00	250.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 42672,	)	
Umatilla County, Oregon	)	

STEVE CURRIN
LAZY K LAND LLC
60732 LITTLE BUTTER CREEK ROAD
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. LAZY K LAND LLC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 42672 is a valid water right in the Pine City Subarea with a priority date of September 16, 1969.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 42672 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 42672 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 42672.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

STEVE CURRIN
LAZY K LAND LLC
60732 LITTLE BUTTER CREEK ROAD
HEPPNER OR 97836



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
West Subarea,	)	
Under Water Right	)	
Certificate 80507,	)	
Umatilla County, Oregon	)	

LARRY LINDSAY
LINDSAY RANCH PARTNERSHIP
PO BOX 307
LEXINGTON OR 97839

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. LINDSAY RANCH PARTNERSHIP is a water user in the West Subarea of the Butter Creek CGWA.
2. Certificate 80507 is a valid water right in the West Subarea with a priority date of February 3, 1970.
3. For 2024, the sustainable annual yield in the West Subarea is 5670.00 acre-feet.
4. In 2022, 5670.00 acre-feet of water was allocated for the West Subarea.
5. In 2022, 2787.91 acre-feet of water was pumped in the West Subarea.
6. For 2024, 5670.00 acre-feet is allocated for the West Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 2748 acre-feet for the West Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 80507 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the West Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the West Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 2400 acre-feet of water is allocated under Certificate 80507 for the year 2024 from the West Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 80507.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

LARRY LINDSAY
LINDSAY RANCH PARTNERSHIP
PO BOX 307
LEXINGTON OR 97839



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, West Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 5670.00 acre-feet
Total Allocation: 5670.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 408	0.00	0.00	0.00		0.00
			MORR 412	0.00	0.00	0.00		500.00
GRIEB FARMS INC	Cert:43515 OR *	07/19/1967		Water Right Total:				500.00
			MORR 538	0.78	1.05	1.02	250.00	250.00
			MORR 1706	568.55	581.53	433.04	1,000.00	1,000.00
BAKER PRODUCE SOUTH	Cert:61848 CF *	08/07/1967		Water Right Total:			1,250.00	1,250.00
			MORR 529	0.00	0.00	0.00		0.00
			MORR 1504	23.78	39.27	30.03	400.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6387 CF 08/15/1968 (REG) *			Water Right Total:			400.00	50.00
			MORR 560	670.04	684.53	735.68	900.00	850.00
CURT PERKINS	Cert:56274 (T 5892 12/16/1968 RR) *			Water Right Total:			900.00	850.00
			MORR 547	0.00	0.00	0.00		0.00
ALVIN BEAM	Cert:82184 CF *	12/16/1968		Water Right Total:				0.00
			MORR 537	134.63	289.06	225.08		500.00
			MORR 538	0.78	1.05	1.02		0.00
BAKER PRODUCE SOUTH	Cert:61849 CF *	02/10/1969		Water Right Total:				500.00
			MORR 1504	23.78	39.27	30.03	128.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6270 CF 02/03/1970 (REG) *			Water Right Total:			128.00	50.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		1,200.00
			MORR 545	519.53	218.24	431.57		1,200.00
LINDSAY RANCH PARTNERSHIP	Cert:80507 (T 9290 02/03/1970 RR) *			Water Right Total:				2,400.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		0.00
			MORR 545	519.53	218.24	431.57		0.00
LINDSAY RANCH PARTNERSHIP	Cert:88562 CF *	02/03/1970		Water Right Total:				0.00
			MORR 1778	48.65	46.77	31.04	70.00	70.00
Olam Food Ingredients	Cert:89248 CF *	02/03/1970		Water Right Total:			70.00	70.00
			MORR 533	0.00	0.00	0.00		0.00
	Cert:52733 OR *	03/25/1971		Water Right Total:				0.00
West Subarea Total:				3,073.95	2,901.85	2,787.91	2,748.00	5,670.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
West Subarea,	)	
Under Water Right	)	
Certificate 88562,	)	
Umatilla County, Oregon	)	

LARRY LINDSAY
LINDSAY RANCH PARTNERSHIP
PO BOX 307
LEXINGTON OR 97839

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. LINDSAY RANCH PARTNERSHIP is a water user in the West Subarea of the Butter Creek CGWA.
2. Certificate 88562 is a valid water right in the West Subarea with a priority date of February 3, 1970.
3. For 2024, the sustainable annual yield in the West Subarea is 5670.00 acre-feet.
4. In 2022, 5670.00 acre-feet of water was allocated for the West Subarea.
5. In 2022, 2787.91 acre-feet of water was pumped in the West Subarea.
6. For 2024, 5670.00 acre-feet is allocated for the West Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 2748 acre-feet for the West Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 88562 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the West Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the West Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 88562 for the year 2024 from the West Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 88562.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

LARRY LINDSAY
LINDSAY RANCH PARTNERSHIP
PO BOX 307
LEXINGTON OR 97839



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, West Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 5670.00 acre-feet
Total Allocation: 5670.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 408	0.00	0.00	0.00		0.00
			MORR 412	0.00	0.00	0.00		500.00
GRIEB FARMS INC	Cert:43515 OR *	07/19/1967		Water Right Total:				500.00
			MORR 538	0.78	1.05	1.02	250.00	250.00
			MORR 1706	568.55	581.53	433.04	1,000.00	1,000.00
BAKER PRODUCE SOUTH	Cert:61848 CF *	08/07/1967		Water Right Total:			1,250.00	1,250.00
			MORR 529	0.00	0.00	0.00		0.00
			MORR 1504	23.78	39.27	30.03	400.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6387 CF 08/15/1968 (REG) *			Water Right Total:			400.00	50.00
			MORR 560	670.04	684.53	735.68	900.00	850.00
CURT PERKINS	Cert:56274 (T 5892 12/16/1968 RR) *			Water Right Total:			900.00	850.00
			MORR 547	0.00	0.00	0.00		0.00
ALVIN BEAM	Cert:82184 CF *	12/16/1968		Water Right Total:				0.00
			MORR 537	134.63	289.06	225.08		500.00
			MORR 538	0.78	1.05	1.02		0.00
BAKER PRODUCE SOUTH	Cert:61849 CF *	02/10/1969		Water Right Total:				500.00
			MORR 1504	23.78	39.27	30.03	128.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6270 CF 02/03/1970 (REG) *			Water Right Total:			128.00	50.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		1,200.00
			MORR 545	519.53	218.24	431.57		1,200.00
LINDSAY RANCH PARTNERSHIP	Cert:80507 (T 9290 02/03/1970 RR) *			Water Right Total:				2,400.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		0.00
			MORR 545	519.53	218.24	431.57		0.00
LINDSAY RANCH PARTNERSHIP	Cert:88562 CF *	02/03/1970		Water Right Total:				0.00
			MORR 1778	48.65	46.77	31.04	70.00	70.00
Olam Food Ingredients	Cert:89248 CF *	02/03/1970		Water Right Total:			70.00	70.00
			MORR 533	0.00	0.00	0.00		0.00
	Cert:52733 OR *	03/25/1971		Water Right Total:				0.00
West Subarea Total:				3,073.95	2,901.85	2,787.91	2,748.00	5,670.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
East Subarea,	)	
Under Water Right	)	
Certificate 31096,	)	
Umatilla County, Oregon	)	

TIM RUST
MADER - RUST INC
77252 MADER - RUST LANE
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. MADER - RUST INC is a water user in the East Subarea of the Butter Creek CGWA.
2. Certificate 31096 is a valid water right in the East Subarea with a priority date of May 7, 1952.
3. For 2024, the sustainable annual yield in the East Subarea is 720.00 acre-feet.
4. In 2022, 720.00 acre-feet of water was allocated for the East Subarea.
5. In 2022, 600.71 acre-feet of water was pumped in the East Subarea.
6. For 2024, 720.00 acre-feet is allocated for the East Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 787.5 acre-feet for the East Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 31096 is 543 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the East Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the East Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 250 acre-feet of water is allocated under Certificate 31096 for the year 2024 from the East Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 31096.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TIM RUST
MADER - RUST INC
77252 MADER - RUST LANE
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, East Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 720.00 acre-feet
Total Allocation: 720.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 465	91.93	88.91	42.60		90.00
A & A FARMS	Cert:31201 OR *	04/18/1952		Water Right Total:				90.00
			MORR 563	241.34	367.85	245.92	543.00	250.00
MADER - RUST INC	Cert:31096 OR *	05/07/1952		Water Right Total:			543.00	250.00
			MORR 491	28.78	33.91	44.28	51.00	51.00
			MORR 492	98.56	154.62	90.49	193.50	150.00
VEY RANCH	Cert:26092 OR *	02/11/1958		Water Right Total:			244.50	201.00
			UMAT 462	178.37	228.82	177.41		7.16
HAWKINS CO INC	Inchoate: T 7570 CF 10/08/1962 (REG) *			Water Right Total:				7.16
			UMAT 462	178.37	228.82	177.41		94.87
HAWKINS CO INC	Cert:76318 (T 7570 10/08/1962 RR) *			Water Right Total:				94.87
			UMAT 462	178.37	228.82	177.41		76.97
HAWKINS CO INC	Cert:83002 CF *	10/08/1962		Water Right Total:				76.97
			UMAT 465	91.93	88.91	42.60		0.00
A & A FARMS	Cert:38846 OR *	01/22/1965		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:81062 (RR) *	09/11/1967		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:85705 CF *	09/11/1967		Water Right Total:				0.00
East Subarea Total:				638.98	874.10	600.71	787.50	720.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Fourmile Canyon Subarea,	)	
Under Water Right	)	
Certificate 46085,	)	
Umatilla County, Oregon	)	

TIM RUST
MADER - RUST INC
77252 MADER - RUST LANE
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. MADER - RUST INC is a water user in the Fourmile Canyon Subarea of the Butter Creek CGWA.
2. Certificate 46085 is a valid water right in the Fourmile Canyon Subarea with a priority date of September 18, 1968.
3. For 2024, the sustainable annual yield in the Fourmile Canyon Subarea is 1300.00 acre-feet.
4. In 2022, 1300.00 acre-feet of water was allocated for the Fourmile Canyon Subarea.
5. In 2022, 1201.13 acre-feet of water was pumped in the Fourmile Canyon Subarea.
6. For 2024, 1300.00 acre-feet is allocated for the Fourmile Canyon Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 5062 acre-feet for the Fourmile Canyon Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 46085 is 5062 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Fourmile Canyon Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Fourmile Canyon Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 1300 acre-feet of water is allocated under Certificate 46085 for the year 2024 from the Fourmile Canyon Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 46085.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TIM RUST
MADER - RUST INC
77252 MADER - RUST LANE
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Fourmile Canyon Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1300.00 acre-feet
Total Allocation: 1300.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 1709	1,122.00	1,360.52	1,201.13	5,062.00	1,300.00
			MORR 1710	0.00	0.00	0.00		0.00
MADER - RUST INC	Cert:46085 OR *	09/18/1968		Water Right Total:			5,062.00	1,300.00
Fourmile Canyon Subarea Total:				1,122.00	760.52	1,201.13	5,062.00	1,300.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Echo Junction Subarea,	)	
Under Water Right	)	
Certificate 32592,	)	
Umatilla County, Oregon	)	

KENT MADISON
29299 MADISON ROAD
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. KENT MADISON is a water user in the Echo Junction Subarea of the Butter Creek CGWA.
2. Certificate 32592 is a valid water right in the Echo Junction Subarea with a priority date of September 21, 1960.
3. For 2024, the sustainable annual yield in the Echo Junction Subarea is 1260.00 acre-feet.
4. In 2022, 1260.00 acre-feet of water was allocated for the Echo Junction Subarea.
5. In 2022, 1005.46 acre-feet of water was pumped in the Echo Junction Subarea.
6. For 2024, 1260.00 acre-feet is allocated for the Echo Junction Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. On May 8, 2007, Hale Brothers, Inc., Michael and Jane McCarty, and the Oregon Water Resources Department entered into a Water Allocation Agreement wherein the parties stipulated and agreed to specific allocation requests for Hale Brothers, Inc. and Michael and Jane McCarty.
8. A Water User Agreement between all of the water users in the Echo Junction Subarea became effective on May 4, 2007. Hale Brothers Inc. and Michael and Jane McCarty, being the two most senior water rights holders in the subarea, have agreed that their water use will not exceed the allocations ordered by the Department and have agreed that regardless of the seniority of their respective water rights, exceeding the allocation is subject to regulation pursuant to the Water User Agreement for the Echo Junction Subarea, dated May 4, 2007.
9. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
10. For 2024, the Department received allocation requests totaling 2146.93 acre-feet for the Echo Junction Subarea subarea.
11. The 2024 annual allocation request under Water Right Certificate 32592 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Echo Junction Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Echo Junction Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507. The Water User Agreement for the Echo Junction Subarea, unless terminated, shall control distribution of water in lieu of any order the Department may issue pursuant to ORS 540.045(1)(a).

ORDER

Now, THEREFORE, it is ORDERED that 0 acre-feet of water is allocated under Certificate 32592 for the year 2024 from the Echo Junction Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 32592.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

KENT MADISON
29299 MADISON ROAD
ECHO OR 97826

A handwritten signature in dark ink, appearing to read "Kristi Seyfried". The signature is fluid and cursive, with the first name "Kristi" being more prominent than the last name "Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Echo Junction Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1260.00 acre-feet
Total Allocation: 1260.00 acre-feet

Owner Name	Water Right	Priority Date	Logid		Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 456		378.00	378.00	378.00		272.00
MICHAEL MCCARTY	Cert:68349 (RR) CR *	03/04/1952			Water Right Total:				272.00
			UMAT 456		378.00	378.00	378.00		106.00
MICHAEL MCCARTY	Cert:67876 (RR) *	04/09/1953			Water Right Total:				106.00
			UMAT 440		0.00	0.00	0.00		0.00
			UMAT 441		508.09	504.28	538.76	290.25	290.25
			UMAT 450		212.21	175.63	88.70	645.18	591.75
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81408 CF *	01/21/1957			Water Right Total:			935.43	882.00
			UMAT 441		508.09	504.28	538.76	163.50	0.00
			UMAT 450		212.21	175.63	88.70	548.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81409 CF *	01/21/1959			Water Right Total:			711.50	0.00
			UMAT 1204		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:32696 OR *	09/02/1960			Water Right Total:				0.00
			UMAT 1166		0.00	0.00	0.00		0.00
KENT MADISON	Cert:32592 OR *	09/21/1960			Water Right Total:				0.00
			UMAT 461		0.00	0.00	0.00		0.00
MICHAEL MCCARTY	Cert:38847 OR *	01/13/1967			Water Right Total:				0.00
			UMAT 1220		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75131 CF *	03/21/1967			Water Right Total:			250.00	0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:76726 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:93580 (T 12662 05/24/1967 RR) *				Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:94695 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1219		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75130 CF *	12/18/1967			Water Right Total:			250.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
FARMLAND RESERVE INC	Cert:96964 (T 13525 09/03/1968 RR) *				Water Right Total:				0.00
Echo Junction Subarea Total:					1,098.30	1,057.92	1,005.46	2,146.93	1,260.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
North Subarea,	)	
Under Water Right	)	
Certificate 38739,	)	
Umatilla County, Oregon	)	

TIM MARTIN
79361 POWERLINE ROAD
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. TIM MARTIN is a water user in the North Subarea of the Butter Creek CGWA.
2. Certificate 38739 is a valid water right in the North Subarea with a priority date of January 21, 1969.
3. For 2024, the sustainable annual yield in the North Subarea is 250.00 acre-feet.
4. In 2022, 250.00 acre-feet of water was allocated for the North Subarea.
5. In 2022, 114.46 acre-feet of water was pumped in the North Subarea.
6. For 2024, 250.00 acre-feet is allocated for the North Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 40 acre-feet for the North Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 38739 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the North Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the North Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 38739 for the year 2024 from the North Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 38739.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

TIM MARTIN
79361 POWERLINE ROAD
HERMISTON OR 97838



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, North Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 250.00 acre-feet
Total Allocation: 250.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2286	0.00	0.00	0.00		0.00
MIKAMI BROTHERS	Cert:55007 CF *	04/13/1950		Water Right Total:				0.00
			UMAT 50632	117.31	103.54	96.34		190.00
CITY OF UMATILLA	Cert:76316 (T 8264 RR) *	12/24/1963		Water Right Total:				190.00
			UMAT 2041	0.00	0.00	0.00		0.00
	Cert:52573 (RR) *	08/19/1966		Water Right Total:				0.00
			UMAT 2603	0.00	0.00	0.00		0.00
BUD RICH POTATO	Cert:76741 CF *	09/29/1966		Water Right Total:				0.00
			UMAT 2614	0.00	0.00	0.00		20.00
JORDAN BENNETT	Cert:38388 OR *	12/08/1966		Water Right Total:				20.00
			UMAT 2603	0.00	0.00	0.00		0.00
G-2 FARMING LLC	Cert:80812 (T 9717 RR) *	11/13/1967		Water Right Total:				0.00
			UMAT 2569	0.00	0.00	0.00		0.00
			UMAT 2594	12.00	12.63	18.13	40.00	40.00
BUD RICH POTATO	Cert:89382 CF *	11/13/1967		Water Right Total:			40.00	40.00
			UMAT 2609	0.00	0.00	0.00		0.00
DANIEL WOOD	Cert:76770 (RR) *	02/15/1968		Water Right Total:				0.00
			UMAT 1959	0.00	0.00	0.00		0.00
TIM MARTIN	Cert:38739 OR *	01/21/1969		Water Right Total:				0.00
			UMAT 1958	0.00	0.00	0.00		0.00
HERMAN BUSH	Cert:76762 CF *	02/28/1969		Water Right Total:				0.00
			UMAT 2335	0.00	0.00	0.00		0.00
JOSEPH JUDD	Cert:85522 (RR) CR *	05/01/1973		Water Right Total:				0.00
North Subarea Total:				117.31	116.17	114.46	40.00	250.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Echo Junction Subarea,	)	
Under Water Right	)	
Certificate 81408,	)	
Umatilla County, Oregon	)	

Dan McCarty
27471 McCarty Ranch Lane
Echo OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Dan McCarty is a water user in the Echo Junction Subarea of the Butter Creek CGWA.
2. Certificate 81408 is a valid water right in the Echo Junction Subarea with a priority date of January 21, 1957.
3. For 2024, the sustainable annual yield in the Echo Junction Subarea is 1260.00 acre-feet.
4. In 2022, 1260.00 acre-feet of water was allocated for the Echo Junction Subarea.
5. In 2022, 1005.46 acre-feet of water was pumped in the Echo Junction Subarea.
6. For 2024, 1260.00 acre-feet is allocated for the Echo Junction Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. On May 8, 2007, Hale Brothers, Inc., Michael and Jane McCarty, and the Oregon Water Resources Department entered into a Water Allocation Agreement wherein the parties stipulated and agreed to specific allocation requests for Hale Brothers, Inc. and Michael and Jane McCarty.
8. A Water User Agreement between all of the water users in the Echo Junction Subarea became effective on May 4, 2007. Hale Brothers Inc. and Michael and Jane McCarty, being the two most senior water rights holders in the subarea, have agreed that their water use will not exceed the allocations ordered by the Department and have agreed that regardless of the seniority of their respective water rights, exceeding the allocation is subject to regulation pursuant to the Water User Agreement for the Echo Junction Subarea, dated May 4, 2007.
9. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
10. For 2024, the Department received allocation requests totaling 2146.93 acre-feet for the Echo Junction Subarea subarea.
11. The 2024 annual allocation request under Water Right Certificate 81408 is 935.43 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Echo Junction Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Echo Junction Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507. The Water User Agreement for the Echo Junction Subarea, unless terminated, shall control distribution of water in lieu of any order the Department may issue pursuant to ORS 540.045(1)(a).

ORDER

Now, THEREFORE, it is ORDERED that 882 acre-feet of water is allocated under Certificate 81408 for the year 2024 from the Echo Junction Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 81408.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Dan McCarty
27471 McCarty Ranch Lane
Echo OR 97826

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Echo Junction Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1260.00 acre-feet
Total Allocation: 1260.00 acre-feet

Owner Name	Water Right	Priority Date	Logid		Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 456		378.00	378.00	378.00		272.00
MICHAEL MCCARTY	Cert:68349 (RR) CR *	03/04/1952			Water Right Total:				272.00
			UMAT 456		378.00	378.00	378.00		106.00
MICHAEL MCCARTY	Cert:67876 (RR) *	04/09/1953			Water Right Total:				106.00
			UMAT 440		0.00	0.00	0.00		0.00
			UMAT 441		508.09	504.28	538.76	290.25	290.25
			UMAT 450		212.21	175.63	88.70	645.18	591.75
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81408 CF *	01/21/1957			Water Right Total:			935.43	882.00
			UMAT 441		508.09	504.28	538.76	163.50	0.00
			UMAT 450		212.21	175.63	88.70	548.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81409 CF *	01/21/1959			Water Right Total:			711.50	0.00
			UMAT 1204		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:32696 OR *	09/02/1960			Water Right Total:				0.00
			UMAT 1166		0.00	0.00	0.00		0.00
KENT MADISON	Cert:32592 OR *	09/21/1960			Water Right Total:				0.00
			UMAT 461		0.00	0.00	0.00		0.00
MICHAEL MCCARTY	Cert:38847 OR *	01/13/1967			Water Right Total:				0.00
			UMAT 1220		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75131 CF *	03/21/1967			Water Right Total:			250.00	0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:76726 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:93580 (T 12662 05/24/1967 RR) *				Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:94695 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1219		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75130 CF *	12/18/1967			Water Right Total:			250.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
FARMLAND RESERVE INC	Cert:96964 (T 13525 09/03/1968 RR) *				Water Right Total:				0.00
Echo Junction Subarea Total:					1,098.30	1,057.92	1,005.46	2,146.93	1,260.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Echo Junction Subarea,	)	
Under Water Right	)	
Certificate 81409,	)	
Umatilla County, Oregon	)	

Dan McCarty
27471 McCarty Ranch Lane
Echo OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Dan McCarty is a water user in the Echo Junction Subarea of the Butter Creek CGWA.
2. Certificate 81409 is a valid water right in the Echo Junction Subarea with a priority date of January 21, 1959.
3. For 2024, the sustainable annual yield in the Echo Junction Subarea is 1260.00 acre-feet.
4. In 2022, 1260.00 acre-feet of water was allocated for the Echo Junction Subarea.
5. In 2022, 1005.46 acre-feet of water was pumped in the Echo Junction Subarea.
6. For 2024, 1260.00 acre-feet is allocated for the Echo Junction Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. On May 8, 2007, Hale Brothers, Inc., Michael and Jane McCarty, and the Oregon Water Resources Department entered into a Water Allocation Agreement wherein the parties stipulated and agreed to specific allocation requests for Hale Brothers, Inc. and Michael and Jane McCarty.
8. A Water User Agreement between all of the water users in the Echo Junction Subarea became effective on May 4, 2007. Hale Brothers Inc. and Michael and Jane McCarty, being the two most senior water rights holders in the subarea, have agreed that their water use will not exceed the allocations ordered by the Department and have agreed that regardless of the seniority of their respective water rights, exceeding the allocation is subject to regulation pursuant to the Water User Agreement for the Echo Junction Subarea, dated May 4, 2007.
9. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
10. For 2024, the Department received allocation requests totaling 2146.93 acre-feet for the Echo Junction Subarea subarea.
11. The 2024 annual allocation request under Water Right Certificate 81409 is 711.5 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Echo Junction Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Echo Junction Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507. The Water User Agreement for the Echo Junction Subarea, unless terminated, shall control distribution of water in lieu of any order the Department may issue pursuant to ORS 540.045(1)(a).

ORDER

Now, THEREFORE, it is ORDERED that 0 acre-feet of water is allocated under Certificate 81409 for the year 2024 from the Echo Junction Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 81409.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

Dan McCarty
27471 McCarty Ranch Lane
Echo OR 97826

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive style with a large, stylized "K" and "S".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Echo Junction Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1260.00 acre-feet
Total Allocation: 1260.00 acre-feet

Owner Name	Water Right	Priority Date	Logid		Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 456		378.00	378.00	378.00		272.00
MICHAEL MCCARTY	Cert:68349 (RR) CR *	03/04/1952			Water Right Total:				272.00
			UMAT 456		378.00	378.00	378.00		106.00
MICHAEL MCCARTY	Cert:67876 (RR) *	04/09/1953			Water Right Total:				106.00
			UMAT 440		0.00	0.00	0.00		0.00
			UMAT 441		508.09	504.28	538.76	290.25	290.25
			UMAT 450		212.21	175.63	88.70	645.18	591.75
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81408 CF *	01/21/1957			Water Right Total:			935.43	882.00
			UMAT 441		508.09	504.28	538.76	163.50	0.00
			UMAT 450		212.21	175.63	88.70	548.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81409 CF *	01/21/1959			Water Right Total:			711.50	0.00
			UMAT 1204		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:32696 OR *	09/02/1960			Water Right Total:				0.00
			UMAT 1166		0.00	0.00	0.00		0.00
KENT MADISON	Cert:32592 OR *	09/21/1960			Water Right Total:				0.00
			UMAT 461		0.00	0.00	0.00		0.00
MICHAEL MCCARTY	Cert:38847 OR *	01/13/1967			Water Right Total:				0.00
			UMAT 1220		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75131 CF *	03/21/1967			Water Right Total:			250.00	0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:76726 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:93580 (T 12662 05/24/1967 RR) *				Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:94695 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1219		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75130 CF *	12/18/1967			Water Right Total:			250.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
FARMLAND RESERVE INC	Cert:96964 (T 13525 09/03/1968 RR) *				Water Right Total:				0.00
Echo Junction Subarea Total:					1,098.30	1,057.92	1,005.46	2,146.93	1,260.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Echo Junction Subarea,	)	
Under Water Right	)	
Certificate 38847,	)	
Umatilla County, Oregon	)	

MICHAEL MCCARTY
26943 MCCARTY RANCH LANE
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. MICHAEL MCCARTY is a water user in the Echo Junction Subarea of the Butter Creek CGWA.
2. Certificate 38847 is a valid water right in the Echo Junction Subarea with a priority date of January 13, 1967.
3. For 2024, the sustainable annual yield in the Echo Junction Subarea is 1260.00 acre-feet.
4. In 2022, 1260.00 acre-feet of water was allocated for the Echo Junction Subarea.
5. In 2022, 1005.46 acre-feet of water was pumped in the Echo Junction Subarea.
6. For 2024, 1260.00 acre-feet is allocated for the Echo Junction Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. On May 8, 2007, Hale Brothers, Inc., Michael and Jane McCarty, and the Oregon Water Resources Department entered into a Water Allocation Agreement wherein the parties stipulated and agreed to specific allocation requests for Hale Brothers, Inc. and Michael and Jane McCarty.
8. A Water User Agreement between all of the water users in the Echo Junction Subarea became effective on May 4, 2007. Hale Brothers Inc. and Michael and Jane McCarty, being the two most senior water rights holders in the subarea, have agreed that their water use will not exceed the allocations ordered by the Department and have agreed that regardless of the seniority of their respective water rights, exceeding the allocation is subject to regulation pursuant to the Water User Agreement for the Echo Junction Subarea, dated May 4, 2007.
9. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
10. For 2024, the Department received allocation requests totaling 2146.93 acre-feet for the Echo Junction Subarea subarea.
11. The 2024 annual allocation request under Water Right Certificate 38847 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Echo Junction Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Echo Junction Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507. The Water User Agreement for the Echo Junction Subarea, unless terminated, shall control distribution of water in lieu of any order the Department may issue pursuant to ORS 540.045(1)(a).

ORDER

Now, THEREFORE, it is ORDERED that 0 acre-feet of water is allocated under Certificate 38847 for the year 2024 from the Echo Junction Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 38847.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

MICHAEL MCCARTY
26943 MCCARTY RANCH LANE
ECHO OR 97826

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Echo Junction Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1260.00 acre-feet
Total Allocation: 1260.00 acre-feet

Owner Name	Water Right	Priority Date	Logid		Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 456		378.00	378.00	378.00		272.00
MICHAEL MCCARTY	Cert:68349 (RR) CR *	03/04/1952			Water Right Total:				272.00
			UMAT 456		378.00	378.00	378.00		106.00
MICHAEL MCCARTY	Cert:67876 (RR) *	04/09/1953			Water Right Total:				106.00
			UMAT 440		0.00	0.00	0.00		0.00
			UMAT 441		508.09	504.28	538.76	290.25	290.25
			UMAT 450		212.21	175.63	88.70	645.18	591.75
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81408 CF *	01/21/1957			Water Right Total:			935.43	882.00
			UMAT 441		508.09	504.28	538.76	163.50	0.00
			UMAT 450		212.21	175.63	88.70	548.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81409 CF *	01/21/1959			Water Right Total:			711.50	0.00
			UMAT 1204		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:32696 OR *	09/02/1960			Water Right Total:				0.00
			UMAT 1166		0.00	0.00	0.00		0.00
KENT MADISON	Cert:32592 OR *	09/21/1960			Water Right Total:				0.00
			UMAT 461		0.00	0.00	0.00		0.00
MICHAEL MCCARTY	Cert:38847 OR *	01/13/1967			Water Right Total:				0.00
			UMAT 1220		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75131 CF *	03/21/1967			Water Right Total:			250.00	0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:76726 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:93580 (T 12662 05/24/1967 RR) *				Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:94695 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1219		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75130 CF *	12/18/1967			Water Right Total:			250.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
FARMLAND RESERVE INC	Cert:96964 (T 13525 09/03/1968 RR) *				Water Right Total:				0.00
Echo Junction Subarea Total:					1,098.30	1,057.92	1,005.46	2,146.93	1,260.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Echo Junction Subarea,	)	
Under Water Right	)	
Certificate 67876,	)	
Umatilla County, Oregon	)	

MICHAEL MCCARTY
26943 MCCARTY RANCH LANE
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. MICHAEL MCCARTY is a water user in the Echo Junction Subarea of the Butter Creek CGWA.
2. Certificate 67876 is a valid water right in the Echo Junction Subarea with a priority date of April 9, 1953.
3. For 2024, the sustainable annual yield in the Echo Junction Subarea is 1260.00 acre-feet.
4. In 2022, 1260.00 acre-feet of water was allocated for the Echo Junction Subarea.
5. In 2022, 1005.46 acre-feet of water was pumped in the Echo Junction Subarea.
6. For 2024, 1260.00 acre-feet is allocated for the Echo Junction Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. On May 8, 2007, Hale Brothers, Inc., Michael and Jane McCarty, and the Oregon Water Resources Department entered into a Water Allocation Agreement wherein the parties stipulated and agreed to specific allocation requests for Hale Brothers, Inc. and Michael and Jane McCarty.
8. A Water User Agreement between all of the water users in the Echo Junction Subarea became effective on May 4, 2007. Hale Brothers Inc. and Michael and Jane McCarty, being the two most senior water rights holders in the subarea, have agreed that their water use will not exceed the allocations ordered by the Department and have agreed that regardless of the seniority of their respective water rights, exceeding the allocation is subject to regulation pursuant to the Water User Agreement for the Echo Junction Subarea, dated May 4, 2007.
9. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
10. For 2024, the Department received allocation requests totaling 2146.93 acre-feet for the Echo Junction Subarea subarea.
11. The 2024 annual allocation request under Water Right Certificate 67876 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Echo Junction Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Echo Junction Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507. The Water User Agreement for the Echo Junction Subarea, unless terminated, shall control distribution of water in lieu of any order the Department may issue pursuant to ORS 540.045(1)(a).

ORDER

Now, THEREFORE, it is ORDERED that 106 acre-feet of water is allocated under Certificate 67876 for the year 2024 from the Echo Junction Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 67876.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

MICHAEL MCCARTY
26943 MCCARTY RANCH LANE
ECHO OR 97826

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive style with a large, stylized "K" and "S".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Echo Junction Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1260.00 acre-feet
Total Allocation: 1260.00 acre-feet

Owner Name	Water Right	Priority Date	Logid		Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 456		378.00	378.00	378.00		272.00
MICHAEL MCCARTY	Cert:68349 (RR) CR *	03/04/1952			Water Right Total:				272.00
			UMAT 456		378.00	378.00	378.00		106.00
MICHAEL MCCARTY	Cert:67876 (RR) *	04/09/1953			Water Right Total:				106.00
			UMAT 440		0.00	0.00	0.00		0.00
			UMAT 441		508.09	504.28	538.76	290.25	290.25
			UMAT 450		212.21	175.63	88.70	645.18	591.75
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81408 CF *	01/21/1957			Water Right Total:			935.43	882.00
			UMAT 441		508.09	504.28	538.76	163.50	0.00
			UMAT 450		212.21	175.63	88.70	548.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81409 CF *	01/21/1959			Water Right Total:			711.50	0.00
			UMAT 1204		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:32696 OR *	09/02/1960			Water Right Total:				0.00
			UMAT 1166		0.00	0.00	0.00		0.00
KENT MADISON	Cert:32592 OR *	09/21/1960			Water Right Total:				0.00
			UMAT 461		0.00	0.00	0.00		0.00
MICHAEL MCCARTY	Cert:38847 OR *	01/13/1967			Water Right Total:				0.00
			UMAT 1220		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75131 CF *	03/21/1967			Water Right Total:			250.00	0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:76726 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:93580 (T 12662 05/24/1967 RR) *				Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:94695 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1219		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75130 CF *	12/18/1967			Water Right Total:			250.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
FARMLAND RESERVE INC	Cert:96964 (T 13525 09/03/1968 RR) *				Water Right Total:				0.00
Echo Junction Subarea Total:					1,098.30	1,057.92	1,005.46	2,146.93	1,260.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Echo Junction Subarea,	)	
Under Water Right	)	
Certificate 68349,	)	
Umatilla County, Oregon	)	

MICHAEL MCCARTY
26943 MCCARTY RANCH LANE
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. MICHAEL MCCARTY is a water user in the Echo Junction Subarea of the Butter Creek CGWA.
2. Certificate 68349 is a valid water right in the Echo Junction Subarea with a priority date of March 4, 1952.
3. For 2024, the sustainable annual yield in the Echo Junction Subarea is 1260.00 acre-feet.
4. In 2022, 1260.00 acre-feet of water was allocated for the Echo Junction Subarea.
5. In 2022, 1005.46 acre-feet of water was pumped in the Echo Junction Subarea.
6. For 2024, 1260.00 acre-feet is allocated for the Echo Junction Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. On May 8, 2007, Hale Brothers, Inc., Michael and Jane McCarty, and the Oregon Water Resources Department entered into a Water Allocation Agreement wherein the parties stipulated and agreed to specific allocation requests for Hale Brothers, Inc. and Michael and Jane McCarty.
8. A Water User Agreement between all of the water users in the Echo Junction Subarea became effective on May 4, 2007. Hale Brothers Inc. and Michael and Jane McCarty, being the two most senior water rights holders in the subarea, have agreed that their water use will not exceed the allocations ordered by the Department and have agreed that regardless of the seniority of their respective water rights, exceeding the allocation is subject to regulation pursuant to the Water User Agreement for the Echo Junction Subarea, dated May 4, 2007.
9. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
10. For 2024, the Department received allocation requests totaling 2146.93 acre-feet for the Echo Junction Subarea subarea.
11. The 2024 annual allocation request under Water Right Certificate 68349 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Echo Junction Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Echo Junction Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507. The Water User Agreement for the Echo Junction Subarea, unless terminated, shall control distribution of water in lieu of any order the Department may issue pursuant to ORS 540.045(1)(a).

ORDER

Now, THEREFORE, it is ORDERED that 272 acre-feet of water is allocated under Certificate 68349 for the year 2024 from the Echo Junction Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 68349.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

MICHAEL MCCARTY
26943 MCCARTY RANCH LANE
ECHO OR 97826

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Echo Junction Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1260.00 acre-feet
Total Allocation: 1260.00 acre-feet

Owner Name	Water Right	Priority Date	Logid		Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 456		378.00	378.00	378.00		272.00
MICHAEL MCCARTY	Cert:68349 (RR) CR *	03/04/1952			Water Right Total:				272.00
			UMAT 456		378.00	378.00	378.00		106.00
MICHAEL MCCARTY	Cert:67876 (RR) *	04/09/1953			Water Right Total:				106.00
			UMAT 440		0.00	0.00	0.00		0.00
			UMAT 441		508.09	504.28	538.76	290.25	290.25
			UMAT 450		212.21	175.63	88.70	645.18	591.75
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81408 CF *	01/21/1957			Water Right Total:			935.43	882.00
			UMAT 441		508.09	504.28	538.76	163.50	0.00
			UMAT 450		212.21	175.63	88.70	548.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81409 CF *	01/21/1959			Water Right Total:			711.50	0.00
			UMAT 1204		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:32696 OR *	09/02/1960			Water Right Total:				0.00
			UMAT 1166		0.00	0.00	0.00		0.00
KENT MADISON	Cert:32592 OR *	09/21/1960			Water Right Total:				0.00
			UMAT 461		0.00	0.00	0.00		0.00
MICHAEL MCCARTY	Cert:38847 OR *	01/13/1967			Water Right Total:				0.00
			UMAT 1220		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75131 CF *	03/21/1967			Water Right Total:			250.00	0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:76726 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:93580 (T 12662 05/24/1967 RR) *				Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:94695 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1219		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75130 CF *	12/18/1967			Water Right Total:			250.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
FARMLAND RESERVE INC	Cert:96964 (T 13525 09/03/1968 RR) *				Water Right Total:				0.00
Echo Junction Subarea Total:					1,098.30	1,057.92	1,005.46	2,146.93	1,260.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
North Subarea,	)	
Under Water Right	)	
Certificate 55007,	)	
Umatilla County, Oregon	)	

MIKAMI BROTHERS
PO BOX 780
HERMISTON OR 97838-0780

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. MIKAMI BROTHERS is a water user in the North Subarea of the Butter Creek CGWA.
2. Certificate 55007 is a valid water right in the North Subarea with a priority date of April 13, 1950.
3. For 2024, the sustainable annual yield in the North Subarea is 250.00 acre-feet.
4. In 2022, 250.00 acre-feet of water was allocated for the North Subarea.
5. In 2022, 114.46 acre-feet of water was pumped in the North Subarea.
6. For 2024, 250.00 acre-feet is allocated for the North Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 40 acre-feet for the North Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 55007 is 0 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the North Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the North Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 55007 for the year 2024 from the North Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 55007.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

MIKAMI BROTHERS
PO BOX 780
HERMISTON OR 97838-0780



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, North Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 250.00 acre-feet
Total Allocation: 250.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2286	0.00	0.00	0.00		0.00
MIKAMI BROTHERS	Cert:55007 CF *	04/13/1950		Water Right Total:				0.00
			UMAT 50632	117.31	103.54	96.34		190.00
CITY OF UMATILLA	Cert:76316 (T 8264 RR) *	12/24/1963		Water Right Total:				190.00
			UMAT 2041	0.00	0.00	0.00		0.00
	Cert:52573 (RR) *	08/19/1966		Water Right Total:				0.00
			UMAT 2603	0.00	0.00	0.00		0.00
BUD RICH POTATO	Cert:76741 CF *	09/29/1966		Water Right Total:				0.00
			UMAT 2614	0.00	0.00	0.00		20.00
JORDAN BENNETT	Cert:38388 OR *	12/08/1966		Water Right Total:				20.00
			UMAT 2603	0.00	0.00	0.00		0.00
G-2 FARMING LLC	Cert:80812 (T 9717 RR) *	11/13/1967		Water Right Total:				0.00
			UMAT 2569	0.00	0.00	0.00		0.00
			UMAT 2594	12.00	12.63	18.13	40.00	40.00
BUD RICH POTATO	Cert:89382 CF *	11/13/1967		Water Right Total:			40.00	40.00
			UMAT 2609	0.00	0.00	0.00		0.00
DANIEL WOOD	Cert:76770 (RR) *	02/15/1968		Water Right Total:				0.00
			UMAT 1959	0.00	0.00	0.00		0.00
TIM MARTIN	Cert:38739 OR *	01/21/1969		Water Right Total:				0.00
			UMAT 1958	0.00	0.00	0.00		0.00
HERMAN BUSH	Cert:76762 CF *	02/28/1969		Water Right Total:				0.00
			UMAT 2335	0.00	0.00	0.00		0.00
JOSEPH JUDD	Cert:85522 (RR) CR *	05/01/1973		Water Right Total:				0.00
North Subarea Total:				117.31	116.17	114.46	40.00	250.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
West Subarea,	)	
Under Water Right	)	
Certificate 89248,	)	
Umatilla County, Oregon	)	

Tina Collier
Olam Food Ingredients
One Cascade Way, PO Box 583
Boardman OR 97818

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. Olam Food Ingredients is a water user in the West Subarea of the Butter Creek CGWA.
2. Certificate 89248 is a valid water right in the West Subarea with a priority date of February 3, 1970.
3. For 2024, the sustainable annual yield in the West Subarea is 5670.00 acre-feet.
4. In 2022, 5670.00 acre-feet of water was allocated for the West Subarea.
5. In 2022, 2787.91 acre-feet of water was pumped in the West Subarea.
6. For 2024, 5670.00 acre-feet is allocated for the West Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 2748 acre-feet for the West Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 89248 is 70 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the West Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the West Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 70 acre-feet of water is allocated under Certificate 89248 for the year 2024 from the West Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 89248.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

Tina Collier
Olam Food Ingredients
One Cascade Way, PO Box 583
Boardman OR 97818



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, West Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 5670.00 acre-feet
Total Allocation: 5670.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 408	0.00	0.00	0.00		0.00
			MORR 412	0.00	0.00	0.00		500.00
GRIEB FARMS INC	Cert:43515 OR *	07/19/1967		Water Right Total:				500.00
			MORR 538	0.78	1.05	1.02	250.00	250.00
			MORR 1706	568.55	581.53	433.04	1,000.00	1,000.00
BAKER PRODUCE SOUTH	Cert:61848 CF *	08/07/1967		Water Right Total:			1,250.00	1,250.00
			MORR 529	0.00	0.00	0.00		0.00
			MORR 1504	23.78	39.27	30.03	400.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6387 CF 08/15/1968 (REG) *			Water Right Total:			400.00	50.00
			MORR 560	670.04	684.53	735.68	900.00	850.00
CURT PERKINS	Cert:56274 (T 5892 RR) *	12/16/1968		Water Right Total:			900.00	850.00
			MORR 547	0.00	0.00	0.00		0.00
ALVIN BEAM	Cert:82184 CF *	12/16/1968		Water Right Total:				0.00
			MORR 537	134.63	289.06	225.08		500.00
			MORR 538	0.78	1.05	1.02		0.00
BAKER PRODUCE SOUTH	Cert:61849 CF *	02/10/1969		Water Right Total:				500.00
			MORR 1504	23.78	39.27	30.03	128.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6270 CF 02/03/1970 (REG) *			Water Right Total:			128.00	50.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		1,200.00
			MORR 545	519.53	218.24	431.57		1,200.00
LINDSAY RANCH PARTNERSHIP	Cert:80507 (T 9290 RR) *	02/03/1970		Water Right Total:				2,400.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		0.00
			MORR 545	519.53	218.24	431.57		0.00
LINDSAY RANCH PARTNERSHIP	Cert:88562 CF *	02/03/1970		Water Right Total:				0.00
			MORR 1778	48.65	46.77	31.04	70.00	70.00
Olam Food Ingredients	Cert:89248 CF *	02/03/1970		Water Right Total:			70.00	70.00
			MORR 533	0.00	0.00	0.00		0.00
	Cert:52733 OR *	03/25/1971		Water Right Total:				0.00
West Subarea Total:				3,073.95	2,901.85	2,787.91	2,748.00	5,670.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 42330,	)	
Umatilla County, Oregon	)	

CURT PERKINS
71062 PERKINS ROAD
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. CURT PERKINS is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 42330 is a valid water right in the Pine City Subarea with a priority date of October 7, 1968.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 42330 is 2000 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 1770.6 acre-feet of water is allocated under Certificate 42330 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 42330.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

CURT PERKINS
71062 PERKINS ROAD
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
West Subarea,	)	
Under Water Right	)	
Certificate 56274,	)	
Umatilla County, Oregon	)	

CURT PERKINS
71062 PERKINS ROAD
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. CURT PERKINS is a water user in the West Subarea of the Butter Creek CGWA.
2. Certificate 56274 is a valid water right in the West Subarea with a priority date of December 16, 1968.
3. For 2024, the sustainable annual yield in the West Subarea is 5670.00 acre-feet.
4. In 2022, 5670.00 acre-feet of water was allocated for the West Subarea.
5. In 2022, 2787.91 acre-feet of water was pumped in the West Subarea.
6. For 2024, 5670.00 acre-feet is allocated for the West Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 2748 acre-feet for the West Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 56274 is 900 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the West Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the West Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 850 acre-feet of water is allocated under Certificate 56274 for the year 2024 from the West Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 56274.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

CURT PERKINS
71062 PERKINS ROAD
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, West Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 5670.00 acre-feet
Total Allocation: 5670.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 408	0.00	0.00	0.00		0.00
			MORR 412	0.00	0.00	0.00		500.00
GRIEB FARMS INC	Cert:43515 OR *	07/19/1967	Water Right Total:					500.00
			MORR 538	0.78	1.05	1.02	250.00	250.00
			MORR 1706	568.55	581.53	433.04	1,000.00	1,000.00
BAKER PRODUCE SOUTH	Cert:61848 CF *	08/07/1967	Water Right Total:				1,250.00	1,250.00
			MORR 529	0.00	0.00	0.00		0.00
			MORR 1504	23.78	39.27	30.03	400.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6387 CF 08/15/1968 (REG) *		Water Right Total:				400.00	50.00
			MORR 560	670.04	684.53	735.68	900.00	850.00
CURT PERKINS	Cert:56274 (T 5892 12/16/1968 RR) *		Water Right Total:				900.00	850.00
			MORR 547	0.00	0.00	0.00		0.00
ALVIN BEAM	Cert:82184 CF *	12/16/1968	Water Right Total:					0.00
			MORR 537	134.63	289.06	225.08		500.00
			MORR 538	0.78	1.05	1.02		0.00
BAKER PRODUCE SOUTH	Cert:61849 CF *	02/10/1969	Water Right Total:					500.00
			MORR 1504	23.78	39.27	30.03	128.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6270 CF 02/03/1970 (REG) *		Water Right Total:				128.00	50.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		1,200.00
			MORR 545	519.53	218.24	431.57		1,200.00
LINDSAY RANCH PARTNERSHIP	Cert:80507 (T 9290 02/03/1970 RR) *		Water Right Total:					2,400.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		0.00
			MORR 545	519.53	218.24	431.57		0.00
LINDSAY RANCH PARTNERSHIP	Cert:88562 CF *	02/03/1970	Water Right Total:					0.00
			MORR 1778	48.65	46.77	31.04	70.00	70.00
Olam Food Ingredients	Cert:89248 CF *	02/03/1970	Water Right Total:				70.00	70.00
			MORR 533	0.00	0.00	0.00		0.00
	Cert:52733 OR *	03/25/1971	Water Right Total:					0.00
West Subarea Total:				3,073.95	2,901.85	2,787.91	2,748.00	5,670.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 56513,	)	
Umatilla County, Oregon	)	

KELLY HALE
ROBERT J KILKENNY TRUST
1124 SW MYRTLE DRIVE
PORTLAND OR 97201

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. ROBERT J KILKENNY TRUST is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 56513 is a valid water right in the Pine City Subarea with a priority date of December 17, 1952.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 56513 is 1 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 1 acre-feet of water is allocated under Certificate 56513 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 56513.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

KELLY HALE
ROBERT J KILKENNY TRUST
1124 SW MYRTLE DRIVE
PORTLAND OR 97201

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive style with a large, stylized "K" and "S".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
North Subarea,	)	
Under Water Right	)	
Certificate 52573,	)	
Umatilla County, Oregon	)	

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).
 - b) A water user may install a functioning airline with a pressure gauge in addition to the access port.

The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).

- c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:
- a) 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 (OAR 690-507-0670(1)(a)).

- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. is a water user in the North Subarea of the Butter Creek CGWA.
2. Certificate 52573 is a valid water right in the North Subarea with a priority date of August 19, 1966.
3. For 2024, the sustainable annual yield in the North Subarea is 250.00 acre-feet.
4. In 2022, 250.00 acre-feet of water was allocated for the North Subarea.
5. In 2022, 114.46 acre-feet of water was pumped in the North Subarea.
6. For 2024, 250.00 acre-feet is allocated for the North Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 40 acre-feet for the North Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 52573 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the North Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the North Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 52573 for the year 2024 from the North Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 52573.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

A handwritten signature in cursive script, reading "Kristi Seyfried". The signature is written in dark ink on a light background.

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, North Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 250.00 acre-feet
Total Allocation: 250.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2286	0.00	0.00	0.00		0.00
MIKAMI BROTHERS	Cert:55007 CF *	04/13/1950		Water Right Total:				0.00
			UMAT 50632	117.31	103.54	96.34		190.00
CITY OF UMATILLA	Cert:76316 (T 8264 RR) *	12/24/1963		Water Right Total:				190.00
			UMAT 2041	0.00	0.00	0.00		0.00
	Cert:52573 (RR) *	08/19/1966		Water Right Total:				0.00
			UMAT 2603	0.00	0.00	0.00		0.00
BUD RICH POTATO	Cert:76741 CF *	09/29/1966		Water Right Total:				0.00
			UMAT 2614	0.00	0.00	0.00		20.00
JORDAN BENNETT	Cert:38388 OR *	12/08/1966		Water Right Total:				20.00
			UMAT 2603	0.00	0.00	0.00		0.00
G-2 FARMING LLC	Cert:80812 (T 9717 RR) *	11/13/1967		Water Right Total:				0.00
			UMAT 2569	0.00	0.00	0.00		0.00
			UMAT 2594	12.00	12.63	18.13	40.00	40.00
BUD RICH POTATO	Cert:89382 CF *	11/13/1967		Water Right Total:			40.00	40.00
			UMAT 2609	0.00	0.00	0.00		0.00
DANIEL WOOD	Cert:76770 (RR) *	02/15/1968		Water Right Total:				0.00
			UMAT 1959	0.00	0.00	0.00		0.00
TIM MARTIN	Cert:38739 OR *	01/21/1969		Water Right Total:				0.00
			UMAT 1958	0.00	0.00	0.00		0.00
HERMAN BUSH	Cert:76762 CF *	02/28/1969		Water Right Total:				0.00
			UMAT 2335	0.00	0.00	0.00		0.00
JOSEPH JUDD	Cert:85522 (RR) CR *	05/01/1973		Water Right Total:				0.00
North Subarea Total:				117.31	116.17	114.46	40.00	250.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
West Subarea,	)	
Under Water Right	)	
Certificate 52733,	)	
Umatilla County, Oregon	)	

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).
 - b) A water user may install a functioning airline with a pressure gauge in addition to the access port.

The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).

- c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:
- a) 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 (OAR 690-507-0670(1)(a)).

- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. is a water user in the West Subarea of the Butter Creek CGWA.
2. Certificate 52733 is a valid water right in the West Subarea with a priority date of March 25, 1971.
3. For 2024, the sustainable annual yield in the West Subarea is 5670.00 acre-feet.
4. In 2022, 5670.00 acre-feet of water was allocated for the West Subarea.
5. In 2022, 2787.91 acre-feet of water was pumped in the West Subarea.
6. For 2024, 5670.00 acre-feet is allocated for the West Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 2748 acre-feet for the West Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 52733 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the West Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the West Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 52733 for the year 2024 from the West Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 52733.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

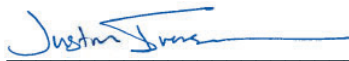
1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive style with a large, looped "K" and a long, sweeping "S".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, West Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 5670.00 acre-feet
Total Allocation: 5670.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			MORR 408	0.00	0.00	0.00		0.00
			MORR 412	0.00	0.00	0.00		500.00
GRIEB FARMS INC	Cert:43515 OR *	07/19/1967		Water Right Total:				500.00
			MORR 538	0.78	1.05	1.02	250.00	250.00
			MORR 1706	568.55	581.53	433.04	1,000.00	1,000.00
BAKER PRODUCE SOUTH	Cert:61848 CF *	08/07/1967		Water Right Total:			1,250.00	1,250.00
			MORR 529	0.00	0.00	0.00		0.00
			MORR 1504	23.78	39.27	30.03	400.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6387 CF 08/15/1968 (REG) *			Water Right Total:			400.00	50.00
			MORR 560	670.04	684.53	735.68	900.00	850.00
CURT PERKINS	Cert:56274 (T 5892 12/16/1968 RR) *			Water Right Total:			900.00	850.00
			MORR 547	0.00	0.00	0.00		0.00
ALVIN BEAM	Cert:82184 CF *	12/16/1968		Water Right Total:				0.00
			MORR 537	134.63	289.06	225.08		500.00
			MORR 538	0.78	1.05	1.02		0.00
BAKER PRODUCE SOUTH	Cert:61849 CF *	02/10/1969		Water Right Total:				500.00
			MORR 1504	23.78	39.27	30.03	128.00	50.00
FINLEY BUTTES LIMITED PARTNERSHIP	Inchoate: T 6270 CF 02/03/1970 (REG) *			Water Right Total:			128.00	50.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		1,200.00
			MORR 545	519.53	218.24	431.57		1,200.00
LINDSAY RANCH PARTNERSHIP	Cert:80507 (T 9290 02/03/1970 RR) *			Water Right Total:				2,400.00
			MORR 526	0.00	0.00	0.00		0.00
			MORR 532	1,108.00	1,041.40	900.45		0.00
			MORR 545	519.53	218.24	431.57		0.00
LINDSAY RANCH PARTNERSHIP	Cert:88562 CF *	02/03/1970		Water Right Total:				0.00
			MORR 1778	48.65	46.77	31.04	70.00	70.00
Olam Food Ingredients	Cert:89248 CF *	02/03/1970		Water Right Total:			70.00	70.00
			MORR 533	0.00	0.00	0.00		0.00
	Cert:52733 OR *	03/25/1971		Water Right Total:				0.00
West Subarea Total:				3,073.95	2,901.85	2,787.91	2,748.00	5,670.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 57734,	)	
Umatilla County, Oregon	)	

CHRIS RAUCH
STARVATION FARMS
72967 STRAWBERRY LANE
LEXINGTON OR 97839

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. STARVATION FARMS is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 57734 is a valid water right in the Pine City Subarea with a priority date of June 24, 1954.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 57734 is 1 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 1 acre-feet of water is allocated under Certificate 57734 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 57734.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

CHRIS RAUCH
STARVATION FARMS
72967 STRAWBERRY LANE
LEXINGTON OR 97839



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 42670,	)	
Umatilla County, Oregon	)	

KATHRYN HEALY THORNE
67179 LITTLE BUTTER CREEK ROAD
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. KATHRYN HEALY THORNE is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 42670 is a valid water right in the Pine City Subarea with a priority date of July 10, 1968.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 42670 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 200 acre-feet of water is allocated under Certificate 42670 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 42670.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

KATHRYN HEALY THORNE
67179 LITTLE BUTTER CREEK ROAD
HEPPNER OR 97836



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 42671,	)	
Umatilla County, Oregon	)	

KATHRYN HEALY THORNE
67179 LITTLE BUTTER CREEK ROAD
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. KATHRYN HEALY THORNE is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 42671 is a valid water right in the Pine City Subarea with a priority date of July 29, 1968.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 42671 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 42671 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 42671.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

KATHRYN HEALY THORNE
67179 LITTLE BUTTER CREEK ROAD
HEPPNER OR 97836



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 51157,	)	
Umatilla County, Oregon	)	

TODD LINDSAY
TURNER RANCH INC
75655 BASELINE LANE
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. TURNER RANCH INC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 51157 is a valid water right in the Pine City Subarea with a priority date of April 24, 1963.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 51157 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 51157 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 51157.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

TODD LINDSAY
TURNER RANCH INC
75655 BASELINE LANE
HEPPNER OR 97836



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 51158,	)	
Umatilla County, Oregon	)	

TODD LINDSAY
TURNER RANCH INC
75655 BASELINE LANE
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. TURNER RANCH INC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 51158 is a valid water right in the Pine City Subarea with a priority date of July 25, 1968.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 51158 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 51158 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 51158.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

TODD LINDSAY
TURNER RANCH INC
75655 BASELINE LANE
HEPPNER OR 97836



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 75648,	)	
Umatilla County, Oregon	)	

TODD LINDSAY
TURNER RANCH INC
75655 BASELINE LANE
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. TURNER RANCH INC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 75648 is a valid water right in the Pine City Subarea with a priority date of April 24, 1963.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 75648 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 230 acre-feet of water is allocated under Certificate 75648 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 75648.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TODD LINDSAY
TURNER RANCH INC
75655 BASELINE LANE
HEPPNER OR 97836



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 75649,	)	
Umatilla County, Oregon	)	

TODD LINDSAY
TURNER RANCH INC
75655 BASELINE LANE
HEPPNER OR 97836

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. TURNER RANCH INC is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 75649 is a valid water right in the Pine City Subarea with a priority date of July 25, 1968.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 75649 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 600 acre-feet of water is allocated under Certificate 75649 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 75649.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

TODD LINDSAY
TURNER RANCH INC
75655 BASELINE LANE
HEPPNER OR 97836



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
East Subarea,	)	
Under Water Right	)	
Certificate 26092,	)	
Umatilla County, Oregon	)	

MARILYN SCHILLER
VEY RANCH
69958 SCHILLER DRIVE
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. VEY RANCH is a water user in the East Subarea of the Butter Creek CGWA.
2. Certificate 26092 is a valid water right in the East Subarea with a priority date of February 11, 1958.
3. For 2024, the sustainable annual yield in the East Subarea is 720.00 acre-feet.
4. In 2022, 720.00 acre-feet of water was allocated for the East Subarea.
5. In 2022, 600.71 acre-feet of water was pumped in the East Subarea.
6. For 2024, 720.00 acre-feet is allocated for the East Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 787.5 acre-feet for the East Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 26092 is 244.5 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the East Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the East Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 201 acre-feet of water is allocated under Certificate 26092 for the year 2024 from the East Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 26092.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

MARILYN SCHILLER
VEY RANCH
69958 SCHILLER DRIVE
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, East Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 720.00 acre-feet
Total Allocation: 720.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 465	91.93	88.91	42.60		90.00
A & A FARMS	Cert:31201 OR *	04/18/1952		Water Right Total:				90.00
			MORR 563	241.34	367.85	245.92	543.00	250.00
MADER - RUST INC	Cert:31096 OR *	05/07/1952		Water Right Total:			543.00	250.00
			MORR 491	28.78	33.91	44.28	51.00	51.00
			MORR 492	98.56	154.62	90.49	193.50	150.00
VEY RANCH	Cert:26092 OR *	02/11/1958		Water Right Total:			244.50	201.00
			UMAT 462	178.37	228.82	177.41		7.16
HAWKINS CO INC	Inchoate: T 7570 CF 10/08/1962 (REG) *			Water Right Total:				7.16
			UMAT 462	178.37	228.82	177.41		94.87
HAWKINS CO INC	Cert:76318 (T 7570 10/08/1962 RR) *			Water Right Total:				94.87
			UMAT 462	178.37	228.82	177.41		76.97
HAWKINS CO INC	Cert:83002 CF *	10/08/1962		Water Right Total:				76.97
			UMAT 465	91.93	88.91	42.60		0.00
A & A FARMS	Cert:38846 OR *	01/22/1965		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:81062 (RR) *	09/11/1967		Water Right Total:				0.00
			UMAT 463	0.00	0.00	0.00		0.00
A & A FARMS	Cert:85705 CF *	09/11/1967		Water Right Total:				0.00
East Subarea Total:				638.98	874.10	600.71	787.50	720.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Pine City Subarea,	)	
Under Water Right	)	
Certificate 80766,	)	
Umatilla County, Oregon	)	

MARILYN SCHILLER
VEY RANCH
69958 SCHILLER DRIVE
ECHO OR 97826

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. VEY RANCH is a water user in the Pine City Subarea of the Butter Creek CGWA.
2. Certificate 80766 is a valid water right in the Pine City Subarea with a priority date of October 14, 1957.
3. For 2024, the sustainable annual yield in the Pine City Subarea is 4150.00 acre-feet.
4. In 2022, 4150.00 acre-feet of water was allocated for the Pine City Subarea.
5. In 2022, 3079.10 acre-feet of water was pumped in the Pine City Subarea.
6. For 2024, 4150.00 acre-feet is allocated for the Pine City Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 3098.4 acre-feet for the Pine City Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 80766 is 368.4 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Pine City Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Pine City Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 368.4 acre-feet of water is allocated under Certificate 80766 for the year 2024 from the Pine City Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 80766.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER ALLOCATING GROUNDWATER by certified mail to:

MARILYN SCHILLER
VEY RANCH
69958 SCHILLER DRIVE
ECHO OR 97826



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 467	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Claim:GR 4142 *	12/31/1925		Water Right Total:				0.00
			MORR 466	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:26072 OR *	11/14/1952		Water Right Total:				0.00
			MORR 50409	0.00	0.00	0.00	1.00	1.00
ROBERT J KILKENNY TRUST	Cert:56513 (T 5904 RR) *	12/17/1952		Water Right Total:			1.00	1.00
			MORR 426	0.00	0.00	0.00		1.00
Aaron Heideman	Cert:82664 CF *	12/17/1952		Water Right Total:				1.00
			MORR 566	0.00	0.00	0.00	1.00	1.00
STARVATION FARMS	Cert:57734 CF *	06/24/1954		Water Right Total:			1.00	1.00
			MORR 476	113.17	35.26	247.48	368.40	368.40
VEY RANCH	Cert:80766 (RR) *	10/14/1957		Water Right Total:			368.40	368.40
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91185 CF *	10/14/1957		Water Right Total:				0.00
			MORR 465	0.00	0.00	0.00		0.00
BUTTER CREEK RANCHES LLC	Cert:34283 OR *	02/05/1962		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
TURNER RANCH INC	Cert:51157 (T 5016 RR) *	04/24/1963		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		230.00
TURNER RANCH INC	Cert:75648 CF *	04/24/1963		Water Right Total:				230.00
			MORR 454	128.32	153.75	59.91		132.00
BUTTER CREEK RANCHES LLC	Cert:34284 OR *	11/08/1963		Water Right Total:				132.00
			MORR 50481	169.60	281.90	70.08	300.00	300.00
ARCUS, LLC	Cert:80767 (RR) *	12/17/1964		Water Right Total:			300.00	300.00
			MORR 51070	39.36	47.71	30.24	63.00	63.00
JEFF COELHO	Cert:88457 CF *	12/17/1964		Water Right Total:			63.00	63.00
			MORR 50481	169.60	281.90	70.08		0.00
ARCUS, LLC	Cert:91182 CF *	12/17/1964		Water Right Total:				0.00
			MORR 454	128.32	153.75	59.91		73.00
BUTTER CREEK RANCHES LLC	Cert:38714 OR *	04/01/1966		Water Right Total:				73.00
			MORR 463	133.88	112.53	78.69	165.00	100.00
MITCH ASHBECK	Cert:42527 OR *	05/27/1966		Water Right Total:			165.00	100.00
			MORR 419	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:38473 OR *	03/13/1967		Water Right Total:				0.00
			MORR 471	101.67	130.56	72.77		110.00

Butter Creek Critical Groundwater Area, Pine City Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 4150.00 acre-feet
Total Allocation: 4150.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
HEALY RANCH LLC	Cert:42428 OR *	04/23/1968		Water Right Total:				110.00
			MORR 482	90.57	126.03	65.60		200.00
KATHRYN HEALY THORNE	Cert:42670 OR *	07/10/1968		Water Right Total:				200.00
			MORR 473	176.40	158.95	58.25	200.00	200.00
GENERATION FARM	Cert:42431 OR *	07/24/1968		Water Right Total:			200.00	200.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		0.00
TURNER RANCH INC	Cert:51158 (T 5017 RR) *	07/25/1968		Water Right Total:				0.00
			MORR 432	377.47	528.63	225.67		0.00
			MORR 434	538.04	708.50	275.90		600.00
TURNER RANCH INC	Cert:75649 CF *	07/25/1968		Water Right Total:				600.00
			MORR 485	0.00	0.00	0.00		0.00
KATHRYN HEALY THORNE	Cert:42671 OR *	07/29/1968		Water Right Total:				0.00
			MORR 565	661.80	1,088.30	1,217.40	1,000.00	770.60
			MORR 51534	1,064.20	569.50	377.30	1,000.00	1,000.00
CURT PERKINS	Cert:42330 OR *	10/07/1968		Water Right Total:			2,000.00	1,770.60
			MORR 481	0.00	0.00	0.00		0.00
LAZY K LAND LLC	Cert:42672 OR *	09/16/1969		Water Right Total:				0.00
			MORR 416	0.00	0.00	0.00		0.00
WJ DOHERTY	Cert:62326 OR *	06/24/1970		Water Right Total:				0.00
Pine City Subarea Total:				3,594.47	3,941.62	3,079.10	3,098.40	4,150.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Echo Junction Subarea,	)	
Under Water Right	)	
Certificate 75130,	)	
Umatilla County, Oregon	)	

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. WINDY RIVER LLC is a water user in the Echo Junction Subarea of the Butter Creek CGWA.
2. Certificate 75130 is a valid water right in the Echo Junction Subarea with a priority date of December 18, 1967.
3. For 2024, the sustainable annual yield in the Echo Junction Subarea is 1260.00 acre-feet.
4. In 2022, 1260.00 acre-feet of water was allocated for the Echo Junction Subarea.
5. In 2022, 1005.46 acre-feet of water was pumped in the Echo Junction Subarea.
6. For 2024, 1260.00 acre-feet is allocated for the Echo Junction Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. On May 8, 2007, Hale Brothers, Inc., Michael and Jane McCarty, and the Oregon Water Resources Department entered into a Water Allocation Agreement wherein the parties stipulated and agreed to specific allocation requests for Hale Brothers, Inc. and Michael and Jane McCarty.
8. A Water User Agreement between all of the water users in the Echo Junction Subarea became effective on May 4, 2007. Hale Brothers Inc. and Michael and Jane McCarty, being the two most senior water rights holders in the subarea, have agreed that their water use will not exceed the allocations ordered by the Department and have agreed that regardless of the seniority of their respective water rights, exceeding the allocation is subject to regulation pursuant to the Water User Agreement for the Echo Junction Subarea, dated May 4, 2007.
9. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
10. For 2024, the Department received allocation requests totaling 2146.93 acre-feet for the Echo Junction Subarea subarea.
11. The 2024 annual allocation request under Water Right Certificate 75130 is 250 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Echo Junction Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Echo Junction Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507. The Water User Agreement for the Echo Junction Subarea, unless terminated, shall control distribution of water in lieu of any order the Department may issue pursuant to ORS 540.045(1)(a).

ORDER

Now, THEREFORE, it is ORDERED that 0 acre-feet of water is allocated under Certificate 75130 for the year 2024 from the Echo Junction Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 75130.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

A handwritten signature in dark ink, appearing to read "Kristi Seyfried". The signature is fluid and cursive, with the first name "Kristi" being more prominent than the last name "Seyfried".

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Echo Junction Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1260.00 acre-feet
Total Allocation: 1260.00 acre-feet

Owner Name	Water Right	Priority Date	Logid		Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 456		378.00	378.00	378.00		272.00
MICHAEL MCCARTY	Cert:68349 (RR) CR *	03/04/1952			Water Right Total:				272.00
			UMAT 456		378.00	378.00	378.00		106.00
MICHAEL MCCARTY	Cert:67876 (RR) *	04/09/1953			Water Right Total:				106.00
			UMAT 440		0.00	0.00	0.00		0.00
			UMAT 441		508.09	504.28	538.76	290.25	290.25
			UMAT 450		212.21	175.63	88.70	645.18	591.75
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81408 CF *	01/21/1957			Water Right Total:			935.43	882.00
			UMAT 441		508.09	504.28	538.76	163.50	0.00
			UMAT 450		212.21	175.63	88.70	548.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81409 CF *	01/21/1959			Water Right Total:			711.50	0.00
			UMAT 1204		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:32696 OR *	09/02/1960			Water Right Total:				0.00
			UMAT 1166		0.00	0.00	0.00		0.00
KENT MADISON	Cert:32592 OR *	09/21/1960			Water Right Total:				0.00
			UMAT 461		0.00	0.00	0.00		0.00
MICHAEL MCCARTY	Cert:38847 OR *	01/13/1967			Water Right Total:				0.00
			UMAT 1220		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75131 CF *	03/21/1967			Water Right Total:			250.00	0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:76726 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:93580 (T 12662 05/24/1967 RR) *				Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:94695 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1219		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75130 CF *	12/18/1967			Water Right Total:			250.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
FARMLAND RESERVE INC	Cert:96964 (T 13525 09/03/1968 RR) *				Water Right Total:				0.00
Echo Junction Subarea Total:					1,098.30	1,057.92	1,005.46	2,146.93	1,260.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
Echo Junction Subarea,	)	
Under Water Right	)	
Certificate 75131,	)	
Umatilla County, Oregon	)	

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical

Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. WINDY RIVER LLC is a water user in the Echo Junction Subarea of the Butter Creek CGWA.
2. Certificate 75131 is a valid water right in the Echo Junction Subarea with a priority date of March 21, 1967.
3. For 2024, the sustainable annual yield in the Echo Junction Subarea is 1260.00 acre-feet.
4. In 2022, 1260.00 acre-feet of water was allocated for the Echo Junction Subarea.
5. In 2022, 1005.46 acre-feet of water was pumped in the Echo Junction Subarea.
6. For 2024, 1260.00 acre-feet is allocated for the Echo Junction Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. On May 8, 2007, Hale Brothers, Inc., Michael and Jane McCarty, and the Oregon Water Resources Department entered into a Water Allocation Agreement wherein the parties stipulated and agreed to specific allocation requests for Hale Brothers, Inc. and Michael and Jane McCarty.
8. A Water User Agreement between all of the water users in the Echo Junction Subarea became effective on May 4, 2007. Hale Brothers Inc. and Michael and Jane McCarty, being the two most senior water rights holders in the subarea, have agreed that their water use will not exceed the allocations ordered by the Department and have agreed that regardless of the seniority of their respective water rights, exceeding the allocation is subject to regulation pursuant to the Water User Agreement for the Echo Junction Subarea, dated May 4, 2007.
9. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
10. For 2024, the Department received allocation requests totaling 2146.93 acre-feet for the Echo Junction Subarea subarea.
11. The 2024 annual allocation request under Water Right Certificate 75131 is 250 acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the Echo Junction Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the Echo Junction Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507. The Water User Agreement for the Echo Junction Subarea, unless terminated, shall control distribution of water in lieu of any order the Department may issue pursuant to ORS 540.045(1)(a).

ORDER

Now, THEREFORE, it is ORDERED that 0 acre-feet of water is allocated under Certificate 75131 for the year 2024 from the Echo Junction Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 75131.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

BOB LEVY
WINDY RIVER LLC
1000 HWY 395 SOUTH #423
HERMISTON OR 97838

A handwritten signature in dark ink, reading "Kristi Seyfried". The signature is written in a cursive, flowing style.

Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, Echo Junction Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 1260.00 acre-feet
Total Allocation: 1260.00 acre-feet

Owner Name	Water Right	Priority Date	Logid		Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 456		378.00	378.00	378.00		272.00
MICHAEL MCCARTY	Cert:68349 (RR) CR *	03/04/1952			Water Right Total:				272.00
			UMAT 456		378.00	378.00	378.00		106.00
MICHAEL MCCARTY	Cert:67876 (RR) *	04/09/1953			Water Right Total:				106.00
			UMAT 440		0.00	0.00	0.00		0.00
			UMAT 441		508.09	504.28	538.76	290.25	290.25
			UMAT 450		212.21	175.63	88.70	645.18	591.75
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81408 CF *	01/21/1957			Water Right Total:			935.43	882.00
			UMAT 441		508.09	504.28	538.76	163.50	0.00
			UMAT 450		212.21	175.63	88.70	548.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
Dan McCarty	Cert:81409 CF *	01/21/1959			Water Right Total:			711.50	0.00
			UMAT 1204		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:32696 OR *	09/02/1960			Water Right Total:				0.00
			UMAT 1166		0.00	0.00	0.00		0.00
KENT MADISON	Cert:32592 OR *	09/21/1960			Water Right Total:				0.00
			UMAT 461		0.00	0.00	0.00		0.00
MICHAEL MCCARTY	Cert:38847 OR *	01/13/1967			Water Right Total:				0.00
			UMAT 1220		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75131 CF *	03/21/1967			Water Right Total:			250.00	0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:76726 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
			UMAT 1203		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:93580 (T 12662 05/24/1967 RR) *				Water Right Total:				0.00
			UMAT 1183		0.00	0.00	0.00		0.00
J R SIMPLOT	Cert:94695 CF *	05/24/1967			Water Right Total:				0.00
			UMAT 1219		0.00	0.00	0.00	250.00	0.00
WINDY RIVER LLC	Cert:75130 CF *	12/18/1967			Water Right Total:			250.00	0.00
			UMAT 472		0.00	0.00	0.00		0.00
FARMLAND RESERVE INC	Cert:96964 (T 13525 09/03/1968 RR) *				Water Right Total:				0.00
Echo Junction Subarea Total:					1,098.30	1,057.92	1,005.46	2,146.93	1,260.00

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

In the Matter of the 2024 Annual	)	PROPOSED ORDER
Allocation of Groundwater in the	)	NOT ALLOCATING GROUNDWATER
Butter Creek Critical Groundwater Area,	)	AND OPPORTUNITY FOR HEARING
North Subarea,	)	
Under Water Right	)	
Certificate 76770,	)	
Umatilla County, Oregon	)	

DANIEL WOOD
33256 E WALLS RD
HERMISTON OR 97838

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 (CGWA). Oregon Administrative Rule (OAR) Chapter 690, Division 507 implements the statutes in the Umatilla Basin and provides the Department procedures and criteria for the purpose of managing the groundwater resource and evaluating requests for allocation of groundwater.

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 Groundwater Area. The order describes the exterior boundaries and divides the area into six subareas for the purpose of managing the groundwater resource. Two additional subareas were created through rule adoption (OAR 690-507-0647). The response of groundwater 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 groundwater reservoir within the Butter Creek Critical Groundwater Area shall be limited to the sustainable annual yield, except as specified in OAR 690-507-0650(3) and 690-507-0670(7). Water from the basalt groundwater reservoir in the Butter Creek Critical Groundwater 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 groundwater reservoir within the Butter Creek Critical Area shall be accepted.
- 3) OAR 690-507-0640 states in pertinent part that appropriation of groundwater from the Butter Creek Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0670 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - a) 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 (OAR 690-507-0640(2)(a)).

- b) A water user may install a functioning airline with a pressure gauge in addition to the access port. The airline shall be calibrated and yield accurate data. The airline shall not enter the well through the access port. The airline shall be adequate to determine the water level at any time (OAR 690-507-0640(2)(b)).
 - c) 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 (OAR 690-507-0640(2)(c)).
 - d) 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 (OAR 690-507-0640(3)).
 - e) A water user shall report broken flow meters to the watermaster in Pendleton within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 30 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter (OAR 690-507-0640(4)).
 - f) A water user shall notify the Department prior to commencing any repair or modification work on a pump or well. A water user shall mail a description of the repair or modification work to the Department within ten days of the completion of the repair or modification (OAR 690-507-0640(5)).
- 4) OAR 690-507-0650 states in pertinent part that each of the eight subareas in the Butter Creek Critical Groundwater 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 groundwater 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 groundwater reservoir within each subarea in the Butter Creek Critical Groundwater Area is as follows:

- a) 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 (OAR 690-507-0670(1)(a)).
- b) The distribution of groundwater shall be based on the priority dates of the water rights within the individual subarea (OAR 690-507-0670(1)(b)).
- c) 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:
 - i. Request for allocations received;
 - ii. The sustainable annual yield;
 - iii. The limits of the groundwater rights;
 - iv. The relative dates of priority;
 - v. Historical usage;
 - vi. Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - vii. Any other factors deemed appropriate by the Department (OAR 690-507-0670(1)(c)).
- d) 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 (OAR 690-507-0670(2)).
- e) 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 (OAR 690-507-0670(3)).
- f) 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 (OAR 690-507-0670(4)).
- g) The method of requesting and distributing water may not apply if a voluntary agreement among groundwater users in any subarea is reached. The Director may approve the agreement if it is consistent with ORS 537.730 to 537.740 and the requirements of these rules (Division 507). The Department shall be a party to any agreement reached (OAR 690-507-0670(5)).
- h) Any agreement approved by the Director may be terminated by the lapse of time as provided in the agreement, by consent of the parties to the agreement or by the Director, if the Director finds, after investigation and a public hearing upon adequate notice, that:
 - i. The agreement is not being substantially complied with by the parties thereto;
 - ii. Changed conditions have made the continuance of the agreement a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 or OAR Division 690, Chapter 507; or
 - iii. That the agreement is ineffective in achieving reasonably stable water levels (OAR 690-507-0670(6)).

FINDINGS OF FACTS

1. DANIEL WOOD is a water user in the North Subarea of the Butter Creek CGWA.
2. Certificate 76770 is a valid water right in the North Subarea with a priority date of February 15, 1968.
3. For 2024, the sustainable annual yield in the North Subarea is 250.00 acre-feet.
4. In 2022, 250.00 acre-feet of water was allocated for the North Subarea.
5. In 2022, 114.46 acre-feet of water was pumped in the North Subarea.
6. For 2024, 250.00 acre-feet is allocated for the North Subarea. This is a reduction of 0 acre-feet from the sustainable annual yield based on the pumpage that exceeded the sustainable annual yield in 2022.
7. In June, 2023, the Department sent letters asking water users to request the amount of water they would need for the 2024 irrigation season, per OAR 690-507-670(1)(a).
8. For 2024, the Department received allocation requests totaling 40 acre-feet for the North Subarea subarea.
9. The 2024 annual allocation request under Water Right Certificate 76770 is acre-feet.

DISCUSSION

The Department considered all of the factors described in OAR 690-507-0670 (Distribution of Sustainable Annual Yield) to distribute the total allowable allocation of water for the North Subarea in 2024. The attached table describes the past water use and the 2024 allocation of water for the North Subarea.

CONCLUSIONS OF LAW

The allocation of groundwater for the Butter Creek Critical Groundwater Area for the year 2024 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 0 acre-feet of water is allocated under Certificate 76770 for the year 2024 from the North Subarea of the Butter Creek Critical Groundwater Area to be used under the terms of Certificate 76770.

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 Mr. Kristopher Byrd, 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 the proposed action and must be received by the Department by 5:00 P.M. on August 26, 2023 (within 30 days of the date of service of this notice). Failure to request a hearing by August 26, 2023 shall waive the right to hearing under ORS Chapter 183. If you request a hearing, you will be notified of the date set for hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, as required by ORS 183.635. You have a right to be represented by an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

This Proposed Order will become a Final Order on Default on August 26, 2023 (30 days after the date of service of this notice) if:

1. You do not request a hearing by the date and time set out above; or
2. You request a hearing and then withdraw your request for hearing; or
3. You notify the agency or the administrative law judge that you will not appear at a scheduled hearing; or
4. You fail to appear at a hearing at the date and time scheduled for a hearing.

In the event of a Final Order on Default, the existing agency file, including materials you submit, will be designated as the record for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

Dated at Salem, Oregon this July 27, 2023



Justin Iverson
Groundwater Section Manager
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. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF SERVICE

I certify that on July 27, 2023, I mailed the attached PROPOSED ORDER NOT ALLOCATING GROUNDWATER by certified mail to:

DANIEL WOOD
33256 E WALLS RD
HERMISTON OR 97838



Kristi Seyfried
Oregon Water Resources Department

Butter Creek Critical Groundwater Area, North Subarea
Proposed Allocations by Well and Water Right for 2024
Sustainable Annual Yield: 250.00 acre-feet
Total Allocation: 250.00 acre-feet

Owner Name	Water Right	Priority Date	Logid	Water Use (af) 2020	Water Use (af) 2021	Water Use (af) 2022	Requested Allocation (af)	Proposed Allocation (af)
			UMAT 2286	0.00	0.00	0.00		0.00
MIKAMI BROTHERS	Cert:55007 CF *	04/13/1950		Water Right Total:				0.00
			UMAT 50632	117.31	103.54	96.34		190.00
CITY OF UMATILLA	Cert:76316 (T 8264 RR) *	12/24/1963		Water Right Total:				190.00
			UMAT 2041	0.00	0.00	0.00		0.00
	Cert:52573 (RR) *	08/19/1966		Water Right Total:				0.00
			UMAT 2603	0.00	0.00	0.00		0.00
BUD RICH POTATO	Cert:76741 CF *	09/29/1966		Water Right Total:				0.00
			UMAT 2614	0.00	0.00	0.00		20.00
JORDAN BENNETT	Cert:38388 OR *	12/08/1966		Water Right Total:				20.00
			UMAT 2603	0.00	0.00	0.00		0.00
G-2 FARMING LLC	Cert:80812 (T 9717 RR) *	11/13/1967		Water Right Total:				0.00
			UMAT 2569	0.00	0.00	0.00		0.00
			UMAT 2594	12.00	12.63	18.13	40.00	40.00
BUD RICH POTATO	Cert:89382 CF *	11/13/1967		Water Right Total:			40.00	40.00
			UMAT 2609	0.00	0.00	0.00		0.00
DANIEL WOOD	Cert:76770 (RR) *	02/15/1968		Water Right Total:				0.00
			UMAT 1959	0.00	0.00	0.00		0.00
TIM MARTIN	Cert:38739 OR *	01/21/1969		Water Right Total:				0.00
			UMAT 1958	0.00	0.00	0.00		0.00
HERMAN BUSH	Cert:76762 CF *	02/28/1969		Water Right Total:				0.00
			UMAT 2335	0.00	0.00	0.00		0.00
JOSEPH JUDD	Cert:85522 (RR) CR *	05/01/1973		Water Right Total:				0.00
North Subarea Total:				117.31	116.17	114.46	40.00	250.00