

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

In the Matter of Stage Gulch)	PROPOSED ORDER NOT
2008 Annual Allocation of Ground Water,)	ALLOCATING GROUND WATER
Under Water Right Certificate 53394,)	AND OPPORTUNITY FOR HEARING
Umatilla County, Oregon)	

MS. TERRI NICKOLOFF
C/O LOYALTA, INC.
5120 NE ALAMEDA
PORTLAND, OR 97213

ORS 537.730 and 537.735 establish the process by which the Water Resources Commission may designate an area of the state as a critical ground water area. OAR Chapter 690, Division 507 implements the statutes and provides the Department procedures and criteria for the purpose of managing the ground water resource and evaluating requests for allocation of ground water.

OPPORTUNITY FOR HEARING

You are entitled to a hearing on this matter as provided by the Administrative Procedures Act (Chapter 183, Oregon Revised Statutes). If you want a hearing, you must file a written request for hearing directed to Ms. Juno Pandian, Manager, Well Construction and Compliance Section, Water Resources Department, 725 Summer Street NE, Suite A, Salem, Oregon 97301-1271. The request for hearing must state your grounds for disagreement with proposed action and must be received by the Department by 5:00 P.M. on September ___, 2007 (within 30 days of the date of service of this notice). You will be notified of the date set for hearing if a hearing is requested.

Failure to request a hearing by September ___, 2007, shall waive the right to hearing under ORS Chapter 183. You may choose not to request a hearing. If no request for hearing is received within the time set out above, or upon failure to appear at a hearing where one has been set, the existing agency file will be designated as the record in this case and the Department will issue a Final Order.

AUTHORITY

- 1) Oregon Administrative Rules (OAR) 690-507-0750 states in pertinent part that the Director issued an order on May 15, 1991, declaring the Stage Gulch Critical Groundwater Area. The order described the exterior boundaries and divided the area with eight subareas for the purposes of managing the groundwater resource. The response of ground-water levels to pumpage in each subarea is largely independent of pumpage within other subareas.

- 2) OAR 690-507-0770 states in pertinent part that the use of water from the basalt groundwater reservoir within the Stage Gulch Critical Groundwater Area shall be limited to the sustainable annual yield. Water from the basalt groundwater reservoir in the Stage Gulch Critical Groundwater Area shall be used for irrigation only during the irrigation season. The irrigation season shall begin on the 1st of March and end on the 30th of November. The Department shall not accept any new applications for appropriation of water from the basalt groundwater reservoir within the Stage Gulch Critical Groundwater Area.
- 3) OAR 690-507-0780 states in pertinent part that appropriation of groundwater from the Stage Gulch Critical Groundwater Area is prohibited unless the water user meets certain requirements. A water user authorized by OAR 690-507-0810 to pump water from the basalt groundwater reservoir shall satisfy the following conditions:
 - Wells shall have an access port with a minimum diameter of 3/4 inch. The access shall be adequate to determine the water level at any time;
 - A water user may install a functioning airline with a pressure gage in addition to the access port.
 - A water user shall install and maintain a totalizing flow meter on each well authorized by OAR 690-507-0810 except wells authorized for irrigation of ten acres or less. The meter shall meet the requirements of OAR 690-507-0785.
- 4) OAR 690-507-0810 states in pertinent part that the method for distributing the sustainable annual yield from the basalt groundwater reservoir within each managed subarea in the Stage Gulch Critical Groundwater Area is as follows:
 - A water user who intends to pump water for any authorized use except municipal use during any year shall make a request to the Department in Salem by July 1st of the preceding year on forms provided by the Department;
 - The Department shall assume that municipal water users intend to pump a quantity of water equivalent to the average pumped for the previous three (3) years, unless the municipal water user informs the Department otherwise by July 1st;
 - The distribution of groundwater for any authorized use except municipal use shall be based on the priority dates of the water rights within the individual subarea;
 - In determining the amount of groundwater each water user is allocated to pump during the next calendar year or irrigation season, the Department may consider:
 - ◆ Requests for allocations received;
 - ◆ The sustainable annual yield;
 - ◆ The limits of the groundwater rights;
 - ◆ The relative dates of priority, with preference given without regard to priority date for municipal use;

- ◆ Historical usage;
 - ◆ Whether or not a water user is physically capable of pumping and putting to a beneficial use the quantity requested; and
 - ◆ Any other factors deemed appropriate by the Department.
- If pumpage for a particular year exceeds the sustainable annual yield for a subarea, the total subarea allocation for the second year after that occurrence shall be reduced by that volume.
 - If any water user requests more water than has been historically used, the Department may allocate less water than requested if, upon investigation, it appears unlikely the user will pump the volume requested.
 - If any water user requests less water than has been historically used, the Department may allocate more water than requested if, upon investigation, it appears likely that the user will pump more than the volume requested.

FINDINGS OF FACT

- 1) Loyalta, Inc. is a senior water right holder in Subarea A.
- 2) Certificate 53394 was perfected under Permit G-8802, having a priority date of September 19, 1979, and authorizes irrigation of 156.1 acres.
- 3) The sustainable annual yield for Subarea A is 11,450 acre-feet.
- 4) In 2006, 11,450 acre-feet of water was allocated in Subarea A.
- 5) Flow meter and power meter data collected by Department staff indicate that 9,433 acre-feet of water was pumped from permitted wells in Subarea A in 2006.
- 6) The Subarea A allocation for 2008 is 11,450 acre-feet, the sustainable annual yield.
- 7) Flow meter and power meter records indicate that the permitted well has not been pumped in several years. No water was pumped in 2006. Therefore, the 2008 allocation is for 0 acre-feet.
- 8) The use of water is limited to the place of use described in attached Certificate 53394.

DISCUSSION

Loyalta, Inc. is a senior water right holder in Subarea A. The sustainable annual yield for Subarea A is 11,450 acre-feet. Allocations are made to the municipal water users in Subarea A first. Then allocations are made to the senior water rights. Flow meter and power meter records indicate that the permitted wells pumped 9,433 acre-feet of water in 2006. The allocation for Loyalta, Inc.

does not exceed the limits of the water right or the sustainable annual yield for Subarea A. Therefore, the 2008 allocation is for 0 acre-feet. This is consistent with OAR 690-507-0810.

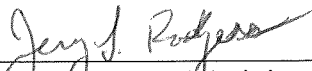
CONCLUSIONS OF LAW

The allocation of ground water for the State Gulch Critical Ground Water Area for the year 2008 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and Oregon Administrative Rules Chapter 690, Division 507.

ORDER

Now, THEREFORE, it is ORDERED that 0 acre-feet of water is allocated to Loyalta, Inc. for the year 2008 under Certificate 53394 for Subarea A of the Stage Gulch Critical Ground Water Area.

Dated at Salem, Oregon this 10TH day of August, 2007.



Jerry S. Rodgers, Administrator
Technical Services Division

STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

This is to certify, That LOYALTA, INC., LOY M. GOSSLER, PRESIDENT

of Route 3, Box 3268, Hermiston, State of Oregon 97838, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of one well

a tributary of Umatilla River for the purpose of supplemental irrigation of 156.1 acres

under Permit No. G-8802 and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from September 19, 1979 that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1.67 cubic feet per second

or its equivalent in case of rotation, measured at the point of diversion from the well. The well is located in the SW 1/4 NW 1/4, Section 19, T4N, R29E, WM; 250 feet North and 450 feet East from W 1/4 Corner, Section 19.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3 acre-feet per acre for each acre irrigated during the irrigation season of each year

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

- 36.3 acres NW 1/4 NW 1/4
35.6 acres SW 1/4 NW 1/4
53.0 acres NW 1/4 SW 1/4
31.2 acres SW 1/4 SW 1/4
Section 19
Township 4 North, Range 29 East, WM

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the Water Resources Director, affixed

this date. August 27, 1985

.../s/...William.H....Young.....
Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 48, page 53394