

- 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) HWC, Inc. is a senior water right holder in Subarea A.
- 2) Water Right Certificate 74445 and Order Approving Transfer T-9857 are perfected under Permit G-4027, having a priority date of March 14, 1968, and authorize irrigation of 40.4 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) On May 31, 2007, the Department sent letters requesting water users within the Stage Gulch Critical Ground Water Area to submit their 2008 requests for the volume of water needed.
- 8) HWC, Inc. filed a request for water use in 2008, Stage Gulch Critical Ground Water Area, Subarea A, authorized under Water Right Certificate 74445 and Order Approving Transfer T-9857.
- 9) HWC, Inc. requested 121.2 acre-feet for 2008, under Water Right Certificate 74445 and Order Approving Transfer T-9857.

- 10) Flow meter and power meter records indicate that annual pumpage from the permitted wells has varied. Less water was pumped in 2006 than in prior years. Therefore, the 2008 allocation is for 121.2 acre-feet.
- 11) The use of water is limited to the place of use described in attached Water Right Certificate 74445 and Order Approving Transfer T-9857.

DISCUSSION

HWC, Inc. is a senior water right holder in Subarea A. The sustainable annual yield for Subarea A is 11,450 acre-feet. Flow meter and power meter records indicate that the permitted wells pumped 9,433 acre-feet of water in 2006. The allocation for HWC, Inc. does not exceed the limits of the water right or the sustainable annual yield for Subarea A. Therefore, the 2008 allocation is for 121.2 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 121.2 acre-feet of water is allocated to HWC, Inc. for the year 2008 under Water Right Certificate 74445 and Order Approving Transfer T-9857 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

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Acres
4	N	28	E	W.M.	22	NE SW	38.2

3. Application T-9857 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Acres
4	N	28	E	W.M.	22	NW NE	34.8
4	N	28	E	W.M.	22	SE NW	3.4

4. As is necessary to convey the water to the proposed temporary place of use, Application T-9857 also proposes to add a point of appropriation to:

Township		Range		Meridian	Sec	¼ ¼	Location
4	N	28	E	W.M.	22	NW SE	2360 Feet North and 2680 Feet East from the SW Corner, Section 22

5. Notice of the application for temporary transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
6. Water has been used within the last five years according to the terms and conditions of the right and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(6) if the Department later finds that the transfer is causing injury to any existing water right.

Conclusions of Law

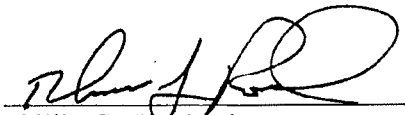
The temporary changes in place of use and additional point of appropriation proposed in application T-9857 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and additional point of appropriation proposed in application T-9857 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2005, 2006, 2007, 2008 and 2009 irrigation seasons.

3. The use shall revert to the authorized place of use at the end of the 2009 irrigation season.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
5. A subsequent application for permanent transfer of Certificate 74445 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
6. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 74445.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
8. Prior to diverting of water at the new point of diversion, the water user **shall** install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
9. The use of the remaining water right described by Certificate 74445 shall continue to be in accordance with the terms and conditions of Certificate 74445.

Dated at Salem, Oregon this 7th day of April, 2005.


For Phillip C. Ward, Director

Mailing date: APR 14 2005

STATE OF OREGON
COUNTY OF UMATILLA
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

C & B LIVESTOCK, INC.
P.O. BOX 109
HERMISTON, OREGON 97833

confirms the right to use the waters of WELL 3 in the UMATILLA RIVER BASIN for IRRIGATION OF 40.4 ACRES.

This right was perfected under Permit G-4027. The date of priority is MARCH 14, 1968. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.51 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the well.

The well is located as follows:

NW¼ SE¼, SECTION 22, T 4 N, R 28 E, WM; 2480 FEET NORTH AND 2680 FEET EAST FROM THE SW CORNER, SECTION 22.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, 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.

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

A description of the place of use to which this right is appurtenant is as follows:

SW¼ NW¼ 2.2 ACRES
NE¼ SW¼ 38.2 ACRES
SECTION 22
TOWNSHIP 4 NORTH, RANGE 28 EAST, W.M.

The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

This certificate describes that portion of the water right confirmed by Certificate 38288, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered MAY 22 1997, approving Transfer Application 7531

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

WITNESS the signature of the Water Resources Director,
affixed MAY 22 1997.

M. MARTHA O. PAGEL

Martha O. Pagel, Director

Recorded in State Record of Water Right Certificates numbered 74445.

T-7531.LHN