

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

In the Matter of Stage Gulch	)	PROPOSED ORDER APPROVING
2008 Annual Allocation of Ground Water,	)	ALLOCATION OF GROUND WATER
Under Order Approving Transfer T-9190,	)	AND OPPORTUNITY FOR HEARING
Umatilla County, Oregon	)	

JB LAND, LLC  
C/O TROY BETZ  
P. O. BOX 130  
HERMISTON, OR 97838

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) G-2 Farming, LLC is a senior water right holder in Subarea A.
- 2) Order Approving Transfer T-9190 is perfected under Permit G-9456, having a priority date of June 26, 1981, and authorizes irrigation of 47.6 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) G-2 Farming, LLC filed a request for water use in 2008, Stage Gulch Critical Ground Water Area, Subarea A, authorized under Order Approving Transfer T-9190.
- 9) G-2 Farming, LLC requested 143 acre-feet for 2008, under Order Approving Transfer T-9190.
- 10) Flow meter and power meter records indicate that annual pumpage from the permitted well has varied. Therefore, the 2008 allocation is for 100 acre-feet.

11) The use of water is limited to the place of use described in attached Order Approving Transfer T-9190.

### DISCUSSION

G-2 Farming, LLC 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 G-2 Farming, LLC does not exceed the limits of the water right or the sustainable annual yield for Subarea A. Therefore, the 2008 allocation is for 100 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 100 acre-feet of water is allocated to G-2 Farming, LLC for the year 2008 under Order Approving Transfer T-9190 for Subarea A of the Stage Gulch Critical Ground Water Area.

Dated at Salem, Oregon this 10<sup>TH</sup> day of August, 2007.

  
\_\_\_\_\_  
Jerry S. Rodgers, Administrator  
Technical Services Division

STATE OF OREGON

COUNTY OF UMATILLA

ORDER APPROVING A CHANGE IN POINT OF APPROPRIATION

Pursuant to ORS 537.705, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 9190 submitted by

G-2 FARMING, LLC.  
c/o GREG JUUL  
P.O. BOX 130  
HERMISTON, OREGON 97838.

The right to be modified, as evidenced by Certificate 55023, was perfected under Permit G-9456 with a date of priority of JUNE 26, 1981. The right allows the use of C & B WELL #3, within the UMATILLA RIVER BASIN, for IRRIGATION OF 47.6 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.6 cubic foot per second, if available at the original well; NW¼ SE¼, SECTION 22, T 4 N, R 28 E, W.M., 2480 FEET NORTH AND 2680 FEET EAST FROM THE SW CORNER, SECTION 22, or its equivalent in case of rotation, measured at the well.

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2).

Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

T-9190.KDD

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The amount of water used for irrigation, together with the amount secured under any other right existing on the same lands, is 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is as follows:

NE $\frac{1}{4}$  NW $\frac{1}{4}$  27.6 ACRES  
SE $\frac{1}{4}$  NW $\frac{1}{4}$  20.0 ACRES

SECTION 27

TOWNSHIP 4 NORTH, RANGE 28 EAST, W.M.

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

The applicant proposes to CHANGE THE POINT OF APPROPRIATION to:

NW $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 27, T 4 N, R 28 E, W.M.; WELL #5 - 730 FEET SOUTH AND 150 FEET EAST FROM THE N $\frac{1}{4}$  CORNER, SECTION 27.

THIS CHANGE TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The proposed change shall be completed on or before October 1, 2005.
2. **Prior** to diverting water from the new point of appropriation (Well #5), the water user **shall** install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted.

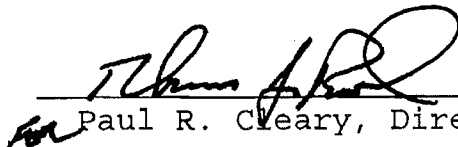
The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

3. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available from the original point of appropriation.
4. Water shall be acquired from the same aquifer as the original point of appropriation.
5. This transfer requests to permanently change a point of appropriation for water right Certificate 55023. The approval of this transfer application will commence for the 2004 irrigation season. At such time, the applicant's temporary transfer T-9270, approved by an order of the Water Resources Department entered February 26, 2003, is rescinded and of no further force or effect.

Certificate 55023 is canceled. When satisfactory proof of the completed change is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources

Director, affixed MAY 31, 2003.

  
Paul R. Cleary, Director