



MALHEUR COUNTY

251 B Street West, #12 Vale, Oregon 97918

PLANNING DEPARTMENT

Phone (541)473-5185

File Number: 2022-08-010
Application Fee: \$200
Date Received: 8-18-2022
Date Deemed Complete: 8-22-2022

CONDITIONAL USE APPLICATION

LANDOWNER INFORMATION

Name: Rosalie Johnson *PR: Kimberly Buxton*
Address: 2571 S. Wise Way
City/State/Zip: Boise, ID
Phone: 208-991-7379
Email: KimBuxton929@msn.com

APPLICANT INFORMATION ☐ Check box if same

Name: Janine Freund
Address: 111 Duncan Ave.
City/State/Zip: Middleton, ID 83644
Phone: 775-686-3343
Email: JmFreund@msn.com

PROPERTY INFORMATION

Township: 18S Range: 45 Section: 32B Tax Lot: 300 Ref #: 15246 Acres: 5.15 Zoning: C-A1
Address: 11648A Sand Hollow Rd. Vale, OR 97918
Current use: Farming Use of surrounding properties: Residence/Farming
Proposed use: Residence w/ livestock Permitted subject to section: MCC 4-6-8-1
Water source: proposed well Sewage disposal method: septic tank
Are the wetlands/water waterways on your property? ☐ No ☒ Yes (description): Irrigation canal
Do you own neighboring property? ☒ No ☐ Yes (description):
Name of road providing access: Sand Hollow Rd.

LEGAL PARCEL STATUS

Partition: _____ Subdivision: _____
or Most Recent Pre- 09/04/1974 Deed #: _____ Date Filed: _____
Current Deed #: 98-703 Date Filed: 1-15-1998

*The deed and a map showing the property described in the deed(s) must accompany this application.

*Additional descriptive maps and pictures may be attached.

SIGNATURES:

Property Owner(s): Kimberly S. Buxton / PR Date: 8/18/2022

Property Owner(s): _____ Date: _____

Applicant(s): Janine D. d Date: 8-18-2022

Applicant(s): _____ Date: _____

PLEASE NOTE: Before this application will be processed, you must supply all requested information and forms, and address all listed or referenced criteria. Pursuant to ORS 215.428, this office will review the application for completeness and notify Applicant of any deficiencies within 30 days of submission. By signing this form, the property owner or property owner's agent is granting permission for Planning Staff to conduct site inspections on the property.

SHADED AREA TO BE COMPLETED BY PLANNING DEPARTMENT

Legal Parcel Deed/Land Use Action: _____	<input type="checkbox"/> NO <input type="checkbox"/> YES
Previous Map and Tax Lot: _____	
Past Land Use Actions: If yes, list file #(s) _____ _____	<input type="checkbox"/> NO <input type="checkbox"/> YES
Subject to previous conditions? Assessor Property Class: _____ Zoning: _____	<input type="checkbox"/> NO <input type="checkbox"/> YES
Water Resources: Are there bodies of water or wetlands (seasonal or permanent) on property or adjacent properties? Describe (include setback distances): _____ <input type="checkbox"/> Fish bearing <input type="checkbox"/> Non fish bearing <input type="checkbox"/> Seasonal Creek <input type="checkbox"/> Irrigation ditch <input type="checkbox"/> Wetland <input type="checkbox"/> Pond/Lake <input type="checkbox"/> Not identified <i>(Note: Check buffers. Different zones have different setback requirements that may require a more extensive permitting process.)</i>	<input type="checkbox"/> NO <input type="checkbox"/> YES
Access: County or ODOT approach permit on file? <input type="checkbox"/> NO <input type="checkbox"/> YES, # _____	
Address: Address exists and has been verified to be correct? Address needs to be assigned after approval?	<input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> YES
Fire District: _____	



MALHEUR COUNTY PLANNING DEPARTMENT

251 B Street West, #12 Vale, Oregon 97918

Phone (541)473-5185

CONDITIONAL USE PERMIT

DETAILED SPECIFIC WRITTEN EQUEST

I request to build a dwelling approximately between 1200 to 1800 Square feet on the east part of the property facing Sand Hollow Rd. I would request that I could submit specific plans for a dwelling at a later date.

(Attach additional pages if necessary)

DETAILED STRUCTURAL INFORMATION

PROPOSED IMPROVEMENTS				
Structure/Development	Length	Width	Height	Square Footage
Dwelling	40 ft	40 ft	12 ft	1600
Driveway	100 ft	10 ft		
Accessory Structure				
Agricultural Structure				
Other				
EXISTING				
Dwelling				
Accessory Structure				
Agricultural Structure				
Other				

CONDITIONAL USE CRITERIA – Malheur County Code (MCC) CHAPTER 6-6-7

1. The proposal must be consistent with the goals and objectives of the Comprehensive Plan and MCC.
2. Taking into account location, size, design and operational characteristics of the proposed use, describe how your proposal is compatible with the surrounding area and development of abutting properties by outright permitted uses:

I will build a modest home that does not draw attention. I will paint white with black accents. I would like garage large enough to store tack, using property to grow and maintain livestock.

Describe the operational characteristics (hours of operation, equipment used, etc.) of the proposed use:

Operation will allow ch. 8.26 to maintain 7:00 am to 7:00pm. Equipment should be grader, excavator, bulldozer/compact, and backhoe.

Describe the number of people/employees/customers associated with the proposed use:

Unknown: between 2-10 people

3. What are the existing developments and viewpoints of property owners in the surrounding area?

The surrounding neighbors are open to construction of a new dwelling. The nearest home site is more than 150 ft away from proposed new site.

4. The proposed use cannot exceed or significantly burden public facilities and services available to the area. Please describe the impact the proposed use will have on the following public facilities and services and provide letters from the appropriate entities:

Roads: We have the gravel road the property is on but do not drive much in general.

Fire & Police Protection: There should not be any more impact on first responders other than any unexpected accident. Fire did not see a direct impact to them.

Sewer & Water: The property will have its own septic and well.

Electrical & Telephone: The power is set up to the property line and will require a pole and meter.

Solid Waste Disposal: we are not wasteful. Maybe a slight increase during construction but will not be abused. I will take trash to dump.

5. What effect will the proposed use have on the stability of the community's social and economic characteristics?

I should help increase home values by placing a nice home and well maintained property in the area.

6. Demonstrate that the proposed use will not interfere with traditional fish and wildlife use of habitats determined critical or sensitive in the fish and wildlife habitat protection plan for Malheur County.

The property currently does not have any trees where I would propose the dwelling not misplacing any wildlife. The existing trees will remain in the west part of property.

7. How will the proposed use increase setbacks of structures to reduce possibilities of overshadowing adjoining property, noise, odor or night lighting nuisances during development and operation?

The construction will follow ordinance and I will be courteous to neighbors and communicate if anything might be loud in the development.

8. What are the proposed landscaping improvements for the visual benefit of the subject site and for the improved appearance of the neighborhood and County?

I will place small area of grass in the front with a larger portion in back for the kids. I will plant a variety of tall grasses, ever greens, Perennials, and yearly annuals.

9. The location and size of driveway access points and right of way widening and improvement for present and future traffic circulation consistent with the adopted County road standards or the standards of the appropriate road district and the access management standards of the Malheur County Transportation System Plan.

There shouldn't be traffic issues but can adapt as the future needs change.

10. What is the proposed visual screening of the outdoor waste and storage areas?

I will build a fence box for trash cans to keep them out of sight or place in the garage

11. What efforts will be in place to control and focus the outdoor lighting to avoid glare being directed beyond property limits?

the lighting should be minimal on building and garage.

12. Demonstrate how the proposed use will not significantly increase the cost of, or force a significant change to, accepted farm or forest practices on surrounding lands devoted to or available for farm and forest use.

Describe the agricultural uses (orchards, wheat, grazing, etc.) that are within 0.25 miles of the proposed development. How will the proposed development interact with surrounding agriculture uses?

The land itself has not been farmed in over 50 yrs per seller. There are corn fields to the east of the property but the property is fenced and we will ensure livestock (horses) have their horse coops and chickens will have their coop.

NON-RESOURCE DWELLING – Malheur County Code (MCC) 6-6-8-1

1. Describe how the proposed dwelling is compatible with farm uses and is consistent with ORS 215.243:

the residence will be smaller in size and close to the road
similar to the existing residence to the north. this
will maintain the most usable land to the east.

2. Demonstrate that the dwelling will not interfere seriously with accepted farming practices on adjacent lands:

none of the surrounding properties are currently farmed.
the corn fields to the east are on opposite ends
of the 5 acres.

3. Demonstrate that the dwelling will be situated on generally unsuitable land for the production of farm crops or livestock considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of tract:

the land is more challenging where the proposed
dwelling will go as a pressurized pump is needed
to irrigate for pasture or crops.

4. Demonstrate that the dwelling will not materially alter the stability of the overall land use pattern of the area, by conducting the "Cumulative Impacts Analysis".

A. What are the types of soils that have been identified within the study area? Class 4 soils on 4.15
and Class 5 soil on 1 acre.

- B. What are the types and numbers of existing dwellings that have been identified within the study area?

Primary Farm dwellings _____ Non-farm dwellings _____

Farm hand/labor dwellings _____ Hardship dwellings _____

- C. What are the types of farm use occurring in the study area (row crops, pasture, range land, feed crops)? _____

Row crops, pasture, and range land.

D. What are the number of potential "lot of record" dwellings and non-farm dwellings within the study area?

Lot of Record dwellings _____ Non-farm dwellings _____

E. What are the number of parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings? 9

F. On the parcels where you concluded no potential dwelling(s) will be sited, describe why? _____

The is one parcel to the west that is larger than the minimum parcel size, but the parcel has already been partitioned off for non-farm partitions.

G. What dwelling development trends have been identified within the study area since 1993? there has been little to no development since.

H. What are the findings of fact that describe the existing land use pattern of what the study area looks like now?

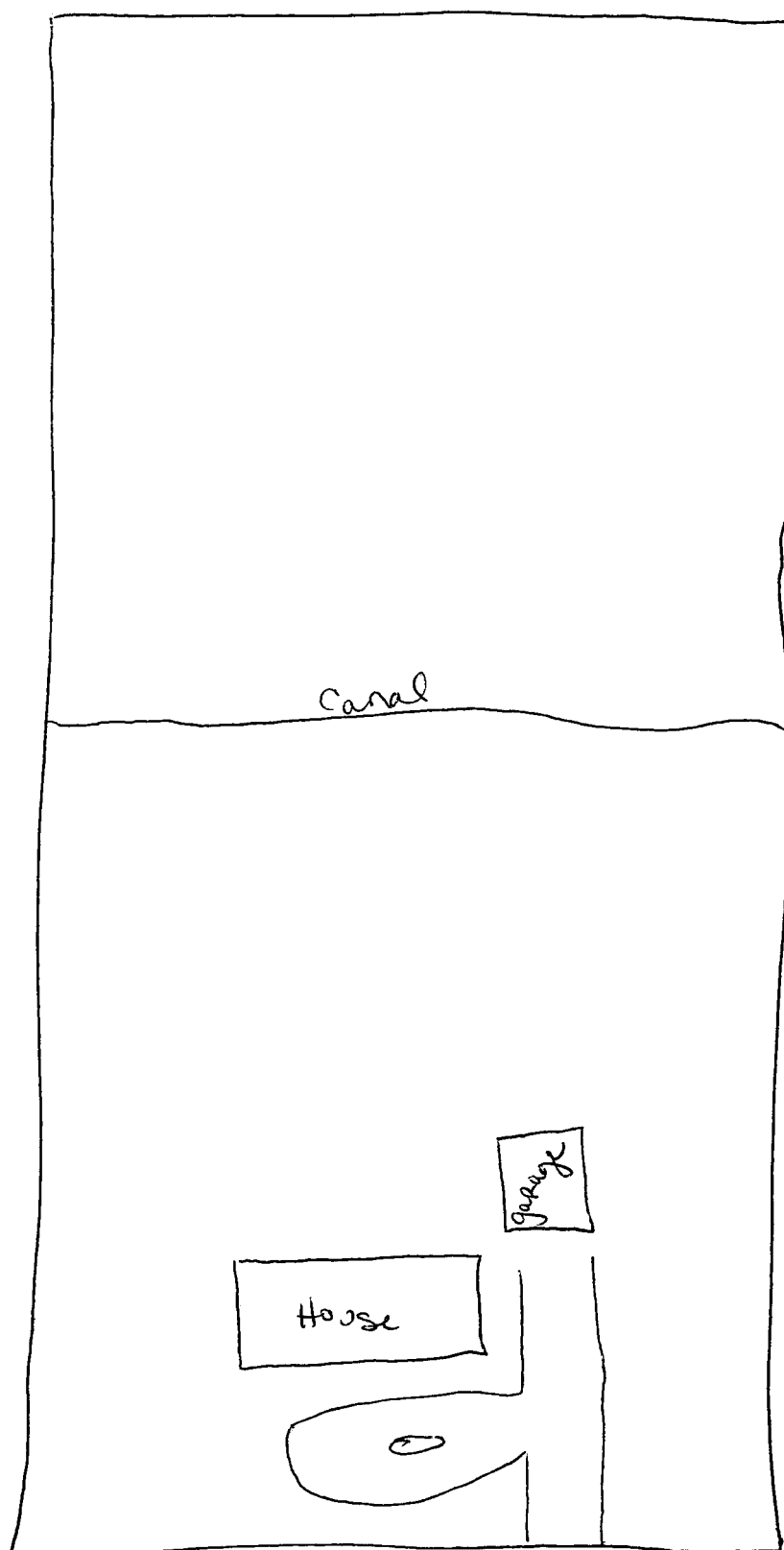
land use is focused on agricultural production with feed crops, row crops, feed yards and grazing in surrounding areas. Current houses are owned and operated off production ground.

I. What are the findings of fact that describe what the study area would look like if all the potential development occurs?

If all the current development ceases, there would be little to no impact on the production ground surrounding the proposed dwelling. The potential homesite would be available and presumably placed on areas that are less productive than others.

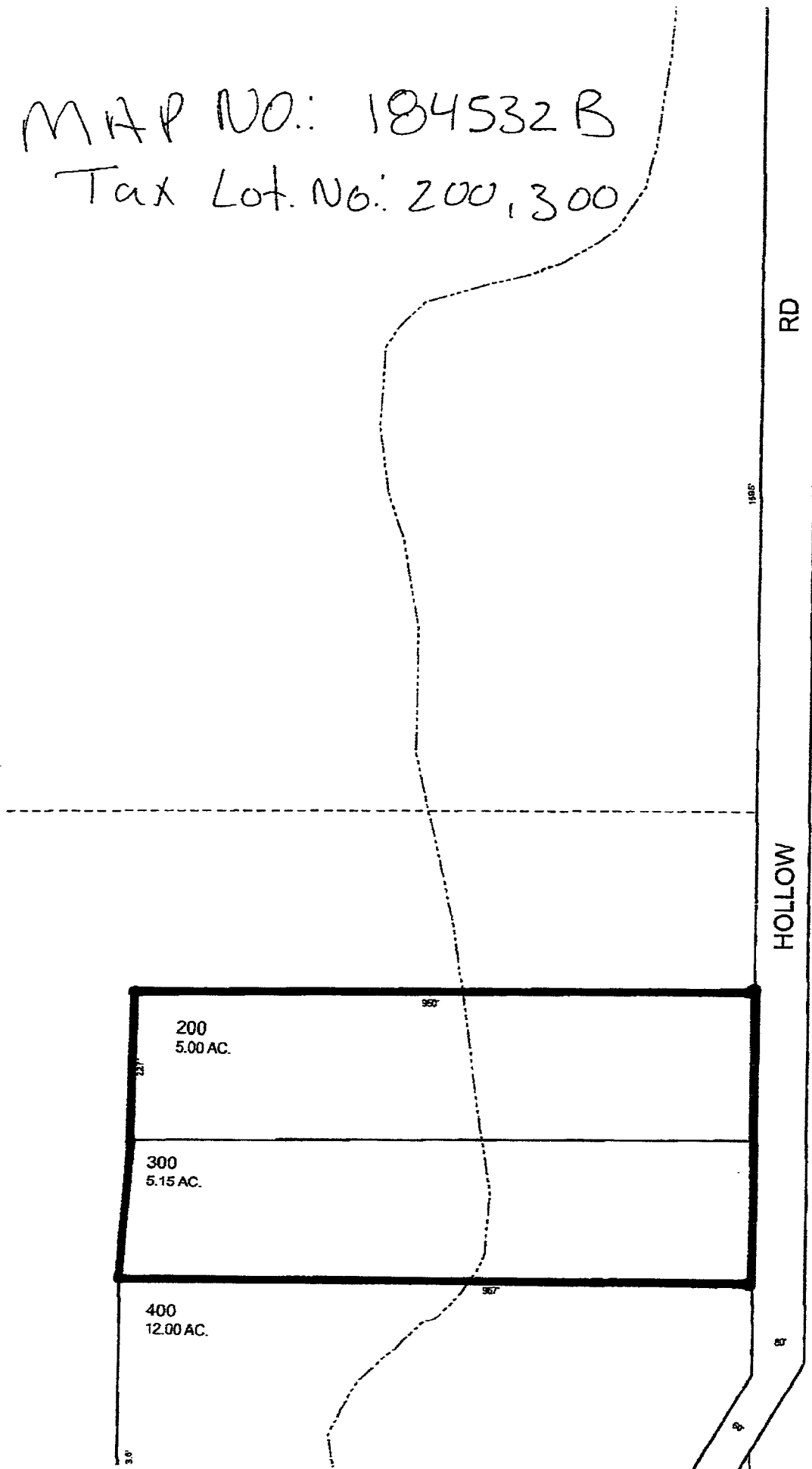
- J. Determine that the proposed dwelling will not materially alter the stability of the overall land use pattern of the study area. Does the cumulative impact of the existing and proposed non-farm dwelling and the potential new non-farm dwellings within the study area make it more difficult for the existing farms in the study area to continue operation due to diminished opportunities to expand, acquire water rights, purchase or lease farmland, such that the area will be destabilized, impeding normal production practices or crop and livestock due to increased population and associated activities?

There is little to no impact to the stability of the agricultural production in the local area due to proposed dwelling site. Activities and increased population will be very minimal and have no impact on surrounding production ground and its activities.



MAP NO.: 184532 B

Tax Lot No.: 200,300



SEE MAP 18S 45E 32A

R. DAVID BUTLER II
BUTLER & LOONEY, P.C.
292 MAIN STREET SOUTH
P O BOX 430
VALE OR 97918
(541)473-3111
FAX (541)473-3731
david@butlerlooney.com
ISB NO. 4089

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF PAYETTE

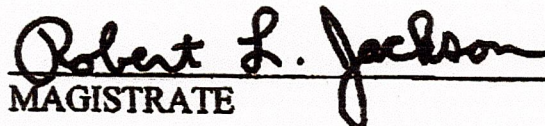
IN THE MATTER OF THE ESTATE OF)
ROosalie K. JOHNSON,) CASE NO. CV38-22-0090
Deceased.)
LETTERS TESTAMENTARY
(I.C. 15-3-602 AND 15-3-702)

KIMBERLY S. BUXTON is hereby appointed Personal Representative of the Estate of ROSALIE K. JOHNSON, deceased, with all authority pertaining thereto. Administration of the estate is unsupervised.

These Letters are issued to evidence the appointment, qualification, and authority of the Personal Representative.

WITNESS: _____, Magistrate of the District Court, County of Payette, State of Idaho, with the seal of the Court affixed this _____ day of February, 2022.

2/3/2022 5:44:50 PM


MAGISTRATE

INSTRUMENT 98-703
PAGE 1 OF 3 PAGES

1845C
7601

STATUTORY WARRANTY DEED

RAMIRO S. MARTINEZ, ERNESTINA MARTINEZ and JONATHAN MARTINEZ, Grantor, conveys and warrants to JAMES R. JOHNSON and ROSALIE K. JOHNSON, husband and wife, Grantee, the following described real property, free of encumbrances except as specifically set forth herein:

See attached Exhibit "A".

This conveyance is subject to the following exceptions:

1. a. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
b. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. a. Easements, liens or encumbrances, or claims, which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
b. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. a. Discrepancies, conflicts in boundary lines, shortage in area, encroachments of any other facts which a correct survey would disclose, and which are not shown by the public records.
4. a. Unpatented mining claims;
b. Reservations or exceptions in patents or in Acts authorizing the issuance thereof;
c. Water rights, claims or title to water;
Whether or not the matters excepted under (a), (b), or (c) are shown by the public records.
5. Any lien or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
6. Additional taxes or penalties and interest, if any, by reason of the disqualification of said lands for farm use purposes.
7. Charges and assessments of the Warmsprings Irrigation District.

8. Rights of the public in and to existing county road rights-of-way.

9. Lease to Maynard J. Davies, dated October 28, 1971, recorded October 28, 1971, Instrument No. 125850, Leases and Agreements.

"THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930."

The true consideration for this conveyance is: \$9,500.00, which is the whole consideration.

Until a change is requested, all tax statements shall be sent to the following address: 1648 South hollow Road, Vale, OR 97148
Return to:

Dated this 15 day of January, 1998.

Ramiro S. Martinez
Ramiro S. Martinez

Ernestina Martinez
Ernestina Martinez

Jonathan Martinez
Jonathan Martinez

STATE OF OREGON)
County of Malheur) :ss

The foregoing instrument was acknowledged by

15th

INSTRUMENT 98-703
PAGE 3 OF 3 PAGES

Kimberly Buxton

6-20-22

True & Accurate Legal

For 5.15 Acre Vacant Land
Adjacent + to South of
1648 Sand Hollow Rd, Vale, OR

EXHIBIT "A"

Land in Malheur County, Oregon, as follows:

In Twp. 18 S., R. 45 E., W.M.:

Sec. 32: A parcel of land in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ more particularly described as follows:

Commencing at the Southeast corner of the NW $\frac{1}{4}$;

thence North 583.6 feet to the POINT OF BEGINNING;

thence West 967 feet;

thence Northeasterly in a straight line to a point which is 1822.2 feet South
and 950 feet West of the Northwest corner of said NW $\frac{1}{4}$;

thence East 950 feet;

thence South, coincident with the East boundary of the NW $\frac{1}{4}$, to the Point
of Beginning.

SUBJECT to County Road right of way.

* * * * *

Map No. 1845C Tax Lot 7601 Code 43 Ref. No. 15246

Inst. No. 98-703

I certify that the within instrument of
writing was received for record on
the 29 day of Dec 1998
at 4:41 O'clock P. M.

STATE OF OREGON)
County of Malheur) SS

DEBORAH R. DeLONG

County Clerk

By: [Signature] Deputy

M27974, 7601-89