

Daniel Fulleton  
Lynn Fulleton  
3550 Fulleton Rd  
Vale, OR 97918  
541-881-7518

Malheur County Planning Department  
251 B Street West  
#12  
Vale, OR 97918

Sept. 23, 2023

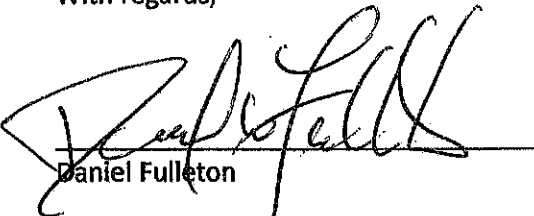
To whom it may concern,

We would like to separate two properties from the parent farming property. Property 1 has a dwelling and a small storage shed. This is not farmed and has no water rights. That parcel is approximately 1.96 acres according to the land survey.

The second property is approximately 3.68 acres that is outside the pivot irrigation system that the rest of the farmed area is under. The location, right off of US Highway 20 and up against Bully Creek makes it a nice lot for a rural dwelling. It is under Warm Springs Irrigation District.

That leaves 85 acres in the parent farmed parcel according to the land survey.

With regards,

  
Daniel Fulleton

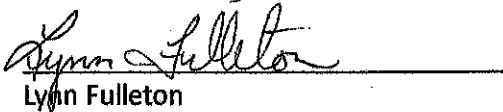
  
Lynn Fulleton

EXHIBIT # 1

Daniel Fulleton  
Lynn Fulleton  
3550 Fulleton Rd  
Vale, OR 97918  
541-881-7518

Malheur County Planning Commission  
251 B St. West  
Box #2  
Vale, OR 97918

September 26, 2023

To whom it may concern,

This letter grants permission to the Planning Commission to enter the property described in the application to conduct inspections on the proposal.

Sincerely,

  
Daniel Fulleton  
Lynn Fulleton

Daniel and Lynn Fulleton

Directions to two parcels in application

From Washington Street in Vale, head west and continue onto US-20 westbound. Travel 2.5 miles southwest on US-20 until you reach 1878 US-20 driveway on the right. (This will be the ~~first~~<sup>second</sup> available right turn after Bench Rd.) It is a gravel driveway. After crossing the railroad, property 2 is on the right between the tracks and Bully Creek. Approximately 400 feet from the Highway on the same gravel driveway you will reach the dwelling in property 1.



# MALHEUR COUNTY

251 B Street West, #12 Vale, Oregon 97918

PLANNING DEPARTMENT

Phone (541)473-5185

File Number: 2023- 09-017

Application Fee: \$350

Date Received: 9-26-23

Date Deemed Complete: 9-26-23

## CONDITIONAL USE APPLICATION

### LANDOWNER INFORMATION

Name: Daniel W. and M. Lynn Fulleton  
Address: 3550 Fulleton Rd  
City/State/Zip: Vale, OR 97918  
Phone: 541-881-7518  
Email: danfulleton@gmail.com

### APPLICANT INFORMATION

☒ Check box if same

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

### PROPERTY INFORMATION

Township: T18S Range: R44E Section: 35 & 36 Tax Lot: 11400 Ref #: 13620 Acres: 89 Zoning: EFU

Address: 1878 US-20 Vale, OR 97918

Current use: Prop. 1 Dwelling, Prop. 2 Farmed

Use of surrounding properties: Farmed

Proposed use: Dwelling for both properties

Permitted subject to section: MCC 6-6-8-1 and 6-6-8-2

Water source: Well

Sewage disposal method: Septic / Drainfield

Are the wetlands/water waterways on your property? ☐ No ☒ Yes (description): Bully Creek borders both properties.

Do you own neighboring property? ☐ No ☒ Yes (description): Tax lot 900, 2402, 3500

Name of road providing access: US-20

### LEGAL PARCEL STATUS

Partition: \_\_\_\_\_ Subdivision: \_\_\_\_\_

or Most Recent Pre- 09/04/1974 Deed #: \_\_\_\_\_ Date Filed: \_\_\_\_\_

Current Deed #: 2008-1011 Date Filed: 2/19/2008

\*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): [Signature] Date: 9/26/23

Property Owner(s): [Signature] Date: 9/26/23

Applicant(s): \_\_\_\_\_ Date: \_\_\_\_\_

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**

<b>Legal Parcel</b>	<input type="checkbox"/> NO <input type="checkbox"/> YES
Deed/Land Use Action: _____	
<b>Previous Map and Tax Lot:</b> _____	
<b>Past Land Use Actions:</b> If yes, list file #(s) _____	<input type="checkbox"/> NO <input type="checkbox"/> YES
_____	
Subject to previous conditions?	<input type="checkbox"/> NO <input type="checkbox"/> YES
<b>Assessor Property Class:</b> _____ <b>Zoning:</b> _____	
<b>Water Resources:</b> Are there bodies of water or wetlands (seasonal or permanent) on property or adjacent properties?	<input type="checkbox"/> NO <input type="checkbox"/> YES
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	
(Note: Check buffers. Different zones have different setback requirements that may require a more extensive permitting process.)	
<b>Access:</b> County or ODOT approach permit on file? <input type="checkbox"/> NO <input type="checkbox"/> YES, # _____	
<b>Address:</b> Address exists and has been verified to be correct?	<input type="checkbox"/> NO <input type="checkbox"/> YES
Address needs to be assigned after approval?	<input type="checkbox"/> NO <input type="checkbox"/> YES
<b>Fire District:</b> _____	



# MALHEUR COUNTY PLANNING DEPARTMENT

251 B Street West, #12 Vale, Oregon 97918

Phone (541)473-5185

## CONDITIONAL USE PERMIT

### DETAILED SPECIFIC WRITTEN REQUEST

We are requesting conditional use approval on two non-farm dwellings on two non-farm partitions. Property one is a house and shed with no water right.

Prop 2 is an odd shape and only partially able to be irrigated (1.8 acres of 3.68 has water rights). No net loss of farm ground would exist as water rights could be reassigned. No current plans exist to stop farming but we don't want to lose the right by not including in this app.

*(Attach additional pages if necessary)*

### DETAILED STRUCTURAL INFORMATION

PROPOSED IMPROVEMENTS				
Structure/Development	Length	Width	Height	Square Footage
Dwelling				Potentially in future
Driveway				
Accessory Structure				
Agricultural Structure				
Other				
EXISTING				
Dwelling	40'	30'	25'	1200 + basement
Accessory Structure	15'	10'	12'	150
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:  
 Property 1: Proposed use is consistent with its past use as a dwelling. It has no water rights.  


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 Property 2: Potential typical single family home  


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 Describe the operational characteristics (hours of operation, equipment used, etc.) of the proposed use:  
 Property 1 & 2. Typical family dwellings.  


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 Describe the number of people/employees/customers associated with the proposed use:  
 Property 1: One family currently and potentially one family in the future for property 2  


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


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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: Currently there is an easement for property 1 off US-20. One would need to be added to the lane upon sale of that property. The lane is now established for property 1 and Farm access.  


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 Fire & Police Protection: Property 1 is already established with fire and police protection. The development of an additional house on property 2 would add one household to Fire and Police protection. Additional easement for lane would be needed upon sale of that property.  


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 Sewer & Water: Property 1 has an established septic and drainfield. If property 2 is developed it will be according to county code also with septic and drainfield.  


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 Electrical & Telephone: Electrical is in place for property 1. Would need to be added for development of property 2. Telephone would likely not be added for landlines but is available at property 1.  


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Solid Waste Disposal: Removal by owners to Malheur County Landfill or removal by Ontario Sanitary Service.

5. What effect will the proposed use have on the stability of the community's social and economic characteristics?  
The two dwellings will be in keeping with the social and economic characteristics of the area. These properties are perfect for dwellings that match with the characteristics of the Vale area. There is adequate room on the lots for potential horses or raising a 4-H animal or a garden. If the water right can be used elsewhere, this is an asset to farming in the area as well.
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.  
There should be no affect on fish and wildlife by either the existing dwelling or the potential dwelling.
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?  
There is no property close enough to be affected in either property 1 or 2. The closest dwelling is 600 feet away from Property 2 and across the highway.
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?  
Property 1 is currently overgrown with kochia weed and pucture vine. The house is in disrepair and in need of paint. That will be cleaned up.  
Property 2 will be landscaped if and when it is developed.
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.  
The lane that has been built for property 1 off US-20 is well graveled. It is adequate to accomodate the two properties. There is an easement for property 1 and one will need to be added to property 2 if sold. This is a private lane, not managed by a road district.



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

If one does not currently exist, one can be added. There is a renter there currently.

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

Downward focused lighting can used if added.

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?

Property 1: Applicant currently uses property 1 as access to his farm ground. This will not be blocked for farm use. The pivot Dan uses borders the dwelling and does not interfere with the residence.

Property 2: Current uses of adjoining ground is hay and row crops. It is physically removed from farm as it juts out between the railroad and Bully Creek. It is not likely developing that property as a dwelling will effect the farming.

**NON-RESOURCE DWELLING and NON RESOURCE PARTITION --**  
**Malheur County Code (MCC) 6-6-8-1 and (MCC) 6-6-8-2**

1. Describe how the proposed dwelling and the creation of the proposed partition(s) is compatible with farm uses and is consistent with ORS 215.243: \_\_\_\_\_

Property 1: The farm and dwelling have co-existed for 70 years. No change.

Property 2: Not part of main irrigated pivot field. Shares access off highway with property 1 and farm without problem.

2. Will the proposed dwelling and creation of the proposed partition(s) interfere seriously with accepted farming practices on adjacent lands and what conditions exist to avoid this problem? \_\_\_\_\_

Since there are no directly adjoining land to the 2 properties there are no interferences with farming other than the shared access with applicant, Dan Fulleton which has been working well. There is no reason for either of the two dwellings to affect farming on the other side of the railroad or the creek.

3. Will the proposed dwelling/partition 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:

☒ No, if yes:

- Is the proposed parcel only as large as necessary to accommodate the use and provide any buffer area needed to ensure compatibility with adjacent agricultural uses? Yes, the size of both properties are determined by the lay of the land, irrigation ditches, the railroad and Bully Creek.

- Is the proposed parcel located on land with predominantly low productivity V-VII soils not suited for agricultural use and is large enough to accommodate the use and provide any buffer area needed to ensure compatibility with adjacent agricultural uses? How so? II. Soil is suited. Water rights either nonexistent as in property 1, or partially irrigated in property 2.

If land is non-irrigated soil type are classified as class IV.

4. In what ways will the proposed partition avoid conflict with and have no significant adverse impact on:

- the quality of farm or range land: Property 1, has been part of the farm long-term.

Property 2: It's long narrow arm off the regular farmground removes it from having adverse effects. It's out of the way.

- the watersheds: No effect

- fish and wildlife habitat: No effect

- soil and slope stability: Flat ground. Bully Creek causes existing erosion when flooding.

- air and water quality: No effect.

- outdoor recreation areas: No effect.

5. Will the proposed partition be created for an existing dwelling or for preserving a historical dwelling? \_\_\_\_\_

Property 1: Existing dwelling

Property 2: No

6. 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? \_\_\_\_\_

Predominant soils class within the study are IV. There are also soils of class II, III & VII.

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

Primary Farm dwellings	<u>14</u>	Non-farm dwellings	<u>22</u>
Farm hand/labor dwellings	<u>0</u>	Hardship dwellings	<u>0</u>

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

Row crops and feed crops such as sugar beets, onions, grains, hay, corn.

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	<u>28</u>
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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? 14

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

Because they had been previously partitioned, are irrigated, or don't meet the minimum parcel size requirements.

G. What dwelling development trends have been identified within the study area since 1993? \_\_\_\_\_

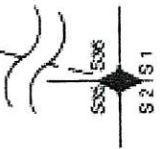
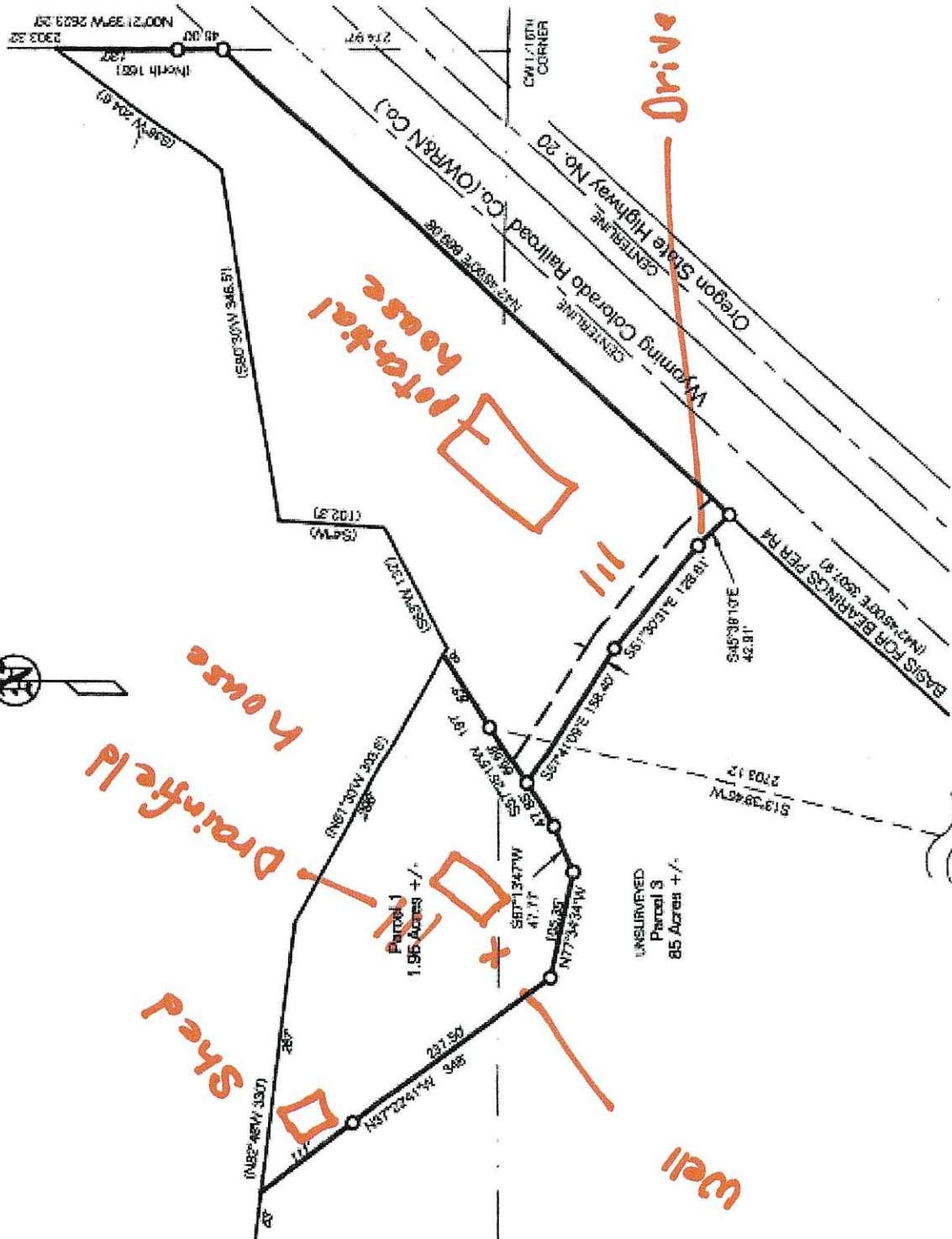
Ag buildings. No significant developement.

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

Little to no development

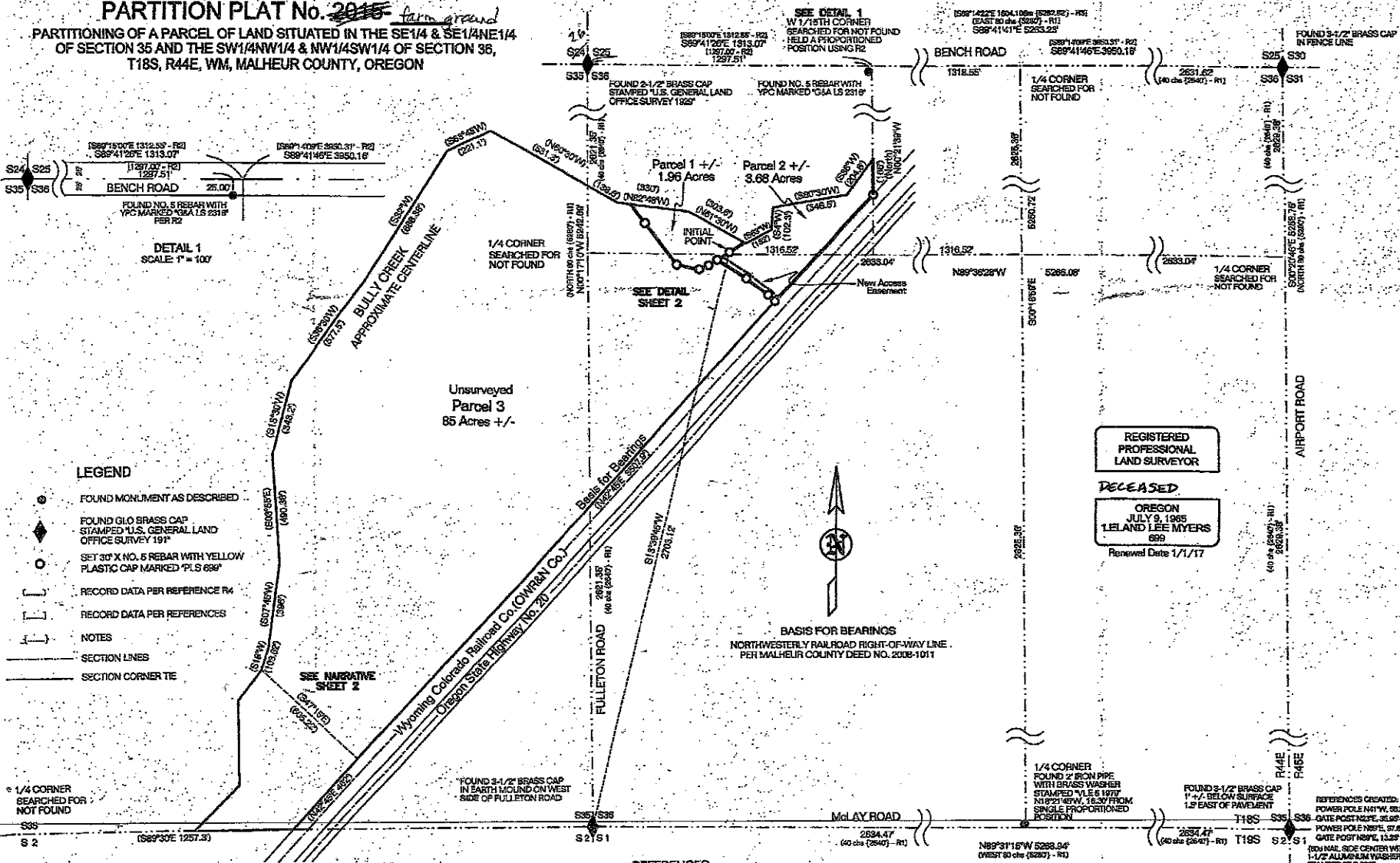

I. What are the findings of fact that describe what the study area would look like if all the potential development occurs? #D


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 would essentially be little to no change in farm operation with these separations.

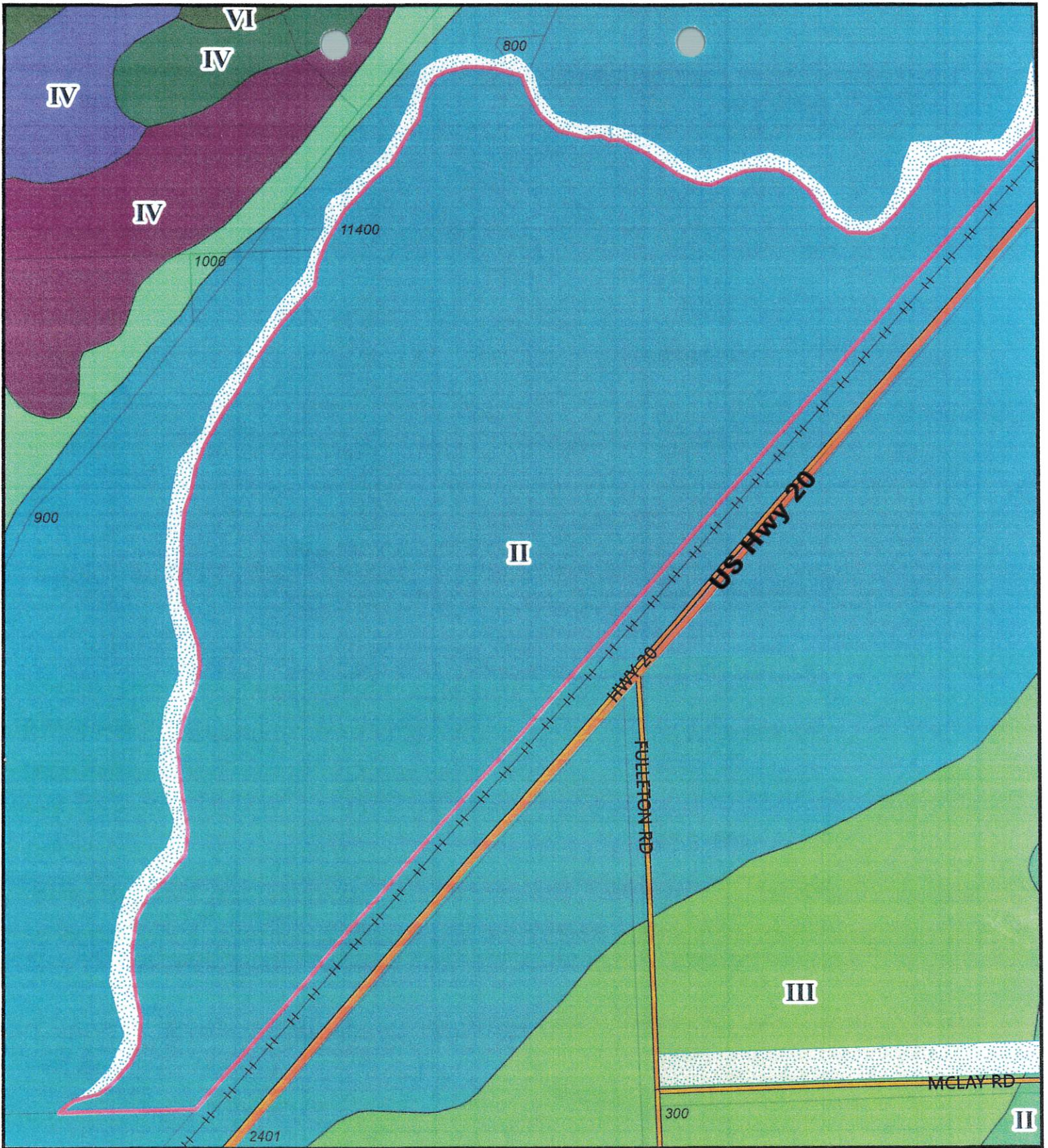



# PARTITION PLAT No. 2015 *farm ground*

PARTITIONING OF A PARCEL OF LAND SITUATED IN THE SE1/4 & SE1/4NE1/4 OF SECTION 35 AND THE SW1/4NW1/4 & NW1/4SW1/4 OF SECTION 36, T18S, R44E, WM, MALHEUR COUNTY, OREGON







### Legend

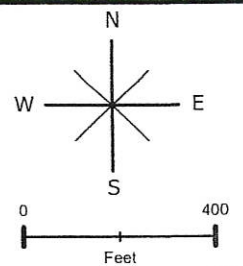
MUSYM	
11A	18
11B	27
11C	34
11E	36F

## Soil Map

FULLETON, DANIEL & LYNN

18S44E, 11400  
Reference #13620

Map is prepared for assessment purposes only



GL 09222023





After recording return to:  
First American Title Co.  
81 South Oregon Street  
Ontario, OR 97914

Until a change is requested all tax statements shall be sent to the following address:

Daniel W. and M. Lynn Fulleton

3550 Fulleton Rd  
Vale, OR 97918

File No.: 25937 E

Date: February 11, 2008

THIS SPACE RESERVED FOR RECORDER'S USE

INSTRUMENT NO. 2008-1011  
Page 1 of 12 Pages

Inst. No. 2008-1011

I certify that the within instrument of writing was received for record on the 19 day of February, 2008 at 2:57 o'clock P.M. FEE \$31.00  
STATE OF OREGON, County of Malheur

DEBORAH R. DeLONG  
County Clerk

By: Sherrin Childs Deputy

### STATUTORY WARRANTY DEED

GARY LEE KAMO also known as GARY KAMO, Grantor, conveys and warrants to DANIEL W. FULLETON and M. LYNN FULLETON, husband and wife, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

SEE EXHIBIT 'A' ATTACHED HERETO AND MADE A PART HEREOF

Map No. 184435	Tax Lot No. 900	Account No. 13616	Code No. 43
Map No. 1844	Tax Lot No. 11400	Account No. 13620	Code No. 43

This property is free from liens and encumbrances, EXCEPT:

SEE EXHIBIT 'A' ATTACHED HERETO AND MADE A PART HEREOF

The true consideration for this conveyance is \$282,732.00 (Here comply with requirements of ORS 93.030)

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER SECTIONS 2, 3 AND 5 TO 22 OF CHAPTER 424, OREGON LAWS 2007 (MEASURE 49 (2007)). THIS INSTRUMENT DOES 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER SECTIONS 2, 3 AND 5 TO 22 OF CHAPTER 424, OREGON LAWS 2007 (MEASURE 49 (2007)).

Dated this 15 day of February, 2008.

Gary Lee Kamo  
Gary Lee Kamo aka Gary Kamo

STATE OF OREGON

County of Malheur)ss

On February 15<sup>th</sup>, 2008, personally appeared before me GARY LEE KAMO also known as GARY KAMO who acknowledged to me that he executed the same as his voluntary act and deed.



Sharon L. Miles  
Notary Public for Oregon

My commission expires: 2-19-2012

EXHIBIT 'A'

Title A - Tax Lot 900

Land in Malheur County, Oregon, as follows:

In Twp. 18 S., R. 44 E., W.M.:

Sec. 35: All that portion of the SE1/4 SW1/4 lying South and East of the Gellerman-Froman Canal right of way.

ALSO all that portion of the SE1/4 lying South and East of Gellerman-Froman Canal right of way and North and West of Bully Creek.

Title B - Tax Lot 11400

Land in Malheur County, Oregon, as follows:

In Twp. 18 S., R. 44 E., W.M.:

Sec. 35: All that portion of the SE1/4 lying South and East of main channel of Bully Creek and North and West of the Oregon-Washington Railroad & Navigation Company right of way.

AND all that portion of the SE1/4 NE1/4 lying South and East of the center of the main channel of Bully Creek.

Sec. 36: All that portion of the SW1/4 NW1/4 lying South and East of main channel of Bully Creek and North and West of the Oregon-Washington Railroad & Navigation Company right of way.

AND all that portion of the NW1/4 SW1/4 lying North and West of the Oregon-Washington Railroad & Navigation Company right of way.

ALL of the above lands being more particularly described as follows, to-wit:

Parcel No. 1:

Commencing at a point on the South boundary of said Sec. 35 being S. 89° 30' E., 1257.3 feet from the Southwest corner of the SW1/4 SE1/4 of said Sec. 35 (said point also being the point of intersection of the Oregon-Washington Railroad & Navigation Co. right of way with the said South boundary);  
thence N. 42° 45' E., along said right of way, 462 feet to the POINT OF BEGINNING;  
thence N. 42° 45' E., along said right of way, 3507.9 feet to a point on the East boundary of the SW1/4 NW1/4 of Sec. 36;  
thence North, along said East boundary 165 feet to the center of the main channel of Bully Creek;  
thence S. 36° W., along the center line, 204.6 feet;  
thence S. 80° 30' W., 346.5 feet;  
thence S. 4° W., 102.3 feet;  
thence S. 63° W., 132 feet;  
thence N. 61° 30' W., 303.6 feet;  
thence N. 82° 48' W., 330 feet;  
thence N. 60° 30' W., 138.6 feet to a point on the Sec. line common to Sec. 35 and 36;  
thence N. 60° 30' W., 531.3 feet;  
thence S. 63° 45' W., 221.1 feet;  
thence S. 32° W., 688.38 feet;  
thence S. 36° 30' W., 577.5 feet;  
thence S. 15° 30' W., 343.2 feet;  
thence S. 3° 55' E., 490.38 feet;  
thence S. 7° 45' W., 396 feet;  
thence S. 18° W., 103.62 feet;  
thence S. 47° 15' E., 605.22 feet to the Point of Beginning

Parcel No. 2

Commencing at a point on the South boundary of said Sec. 35 being S. 89° 30' E., 1257.3 feet from the Southwest corner of the SW1/4 SE1/4 of said Sec. 35 (said point also being the point of intersection of the Oregon-Washington Railroad & Navigation Co. right of way with the said South boundary);  
thence N. 42° 45' E., along said right of way, 462 feet to the POINT OF BEGINNING;  
thence N. 47° 15' W., 605.22 feet to the center of the main channel of Bully Creek;  
thence following the center of said main channel of Bully Creek in a Southwesterly direction to the point of intersection with the South boundary of said Sec. 35;  
thence S. 89° 30' E., along the said South boundary, to the Point of Beginning.

Continued

**Title A:**

The assessment roll and the tax roll disclose that the within described premises were specially assessed as farm land. If the land has become or becomes disqualified for the special assessment under the statute, an additional tax may be levied.

Regulations of the Vale-Oregon Irrigation District, within which the above property lies, including levies, assessments, water and irrigation rights and easements for ditches and canals.  
(Affects a portion of the lands)

Regulations of the Warmsprings Irrigation District, within which the above property lies, including levies, assessments, water and irrigation rights and easements for ditches and canals.  
(Affects a portion of the lands)

Any adverse claim based upon the assertion that some portion of said land have been removed from or brought within the boundaries thereof by an avulsive movement of the Bully Creek or has been formed by the process of accretion or reliction or has been created by artificial means or has accreted to such portion so created.

Governmental rights in connection with flood control and propagation of anadromous fish and public rights of fishing and recreational navigation in and to the water, bed and shoreline of the Bully Creek.

Ownership of the State of Oregon in and to that portion of the premises herein described lying below the high water mark of the Bully Creek as it now exists or at any time has existed.

An easement for power lines created by instrument, including the terms and provisions thereof;  
Recorded: September 1937, in Book 14, Page 177, L&A Records (SE1/4 NE1/4 Sec. 35)  
Recorded: December 1947, in Book 72, Pages 345, 353, 455 & 466 Deed Records  
(SE1/4 NE1/4 Sec. 35)  
Favor of: Idaho Power Company

The rights of the public in and to that portion of the premises herein lying within streets, roads and highways.

Boundary Agreement filed June 7, 1974, Inst. No. 158402, official records affecting lands in Secs. 35 and 36, Twp. 18 S., R. 44 E., W.M.

**Title B:**

The assessment roll and the tax roll disclose that the within described premises were specially assessed as farm land. If the land has become or becomes disqualified for the special assessment under the statute, an additional tax may be levied.

The rights of the public in and to that portion of the premises herein lying within streets, roads and highways

Regulations of the Warmsprings Irrigation District, within which the above property lies, including levies, assessments, water and irrigation rights and easements for ditches and canals.

Any adverse claim based upon the assertion that some portion of said land have been removed from or brought within the boundaries thereof by an avulsive movement of the Bully Creek or has been formed by the process of accretion or reliction or has been created by artificial means or has accreted to such portion so created.

Governmental rights in connection with flood control and propagation of anadromous fish and public rights of fishing and recreational navigation in and to the water, bed and shoreline of the Bully Creek.

Ownership of the State of Oregon in and to that portion of the premises herein described lying below the high water mark of the Bully Creek as it now exists or at any time has existed.

An easement for power lines created by instrument, including the terms and provisions thereof;  
Recorded: December 1937, in Book 14, Page 177, L&A Records of Malheur County, Oregon  
Recorded: May 1946, Book 72, Page 345, Deed Records.  
Favor of: Idaho Power Company

Boundary Agreement between Huff and Tom Kamo filed June 7, 1974, Inst. No. 158402, official records affecting lands in Secs. 35 and 36, Twp. 18 S., R. 44 E., W.M.