

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

In The Matter of the Proposed)	FINAL ORDER IN CONTESTED
Cancellation of the Water Rights)	CASE
Evidenced by Certificate 7692, Partial)	
Cancellation of the Water Rights)	
Evidenced by Certificate 17372, and)	OAH Ref No. 2019-OWRD-00025
Partial Cancellation of the Water)	Agency Case No. PC 05-18
Rights Evidence by Certificate 25341)	
)	

HISTORY OF THE CASE

On December 4, 2018, the Oregon Water Resources Department (OWRD or the Department) issued a Notice of Proposed Cancellation of Water Rights (Notice) alleging non-use of all or a portion of three water rights from approximately mid or June 2011 until May 2018. On January 24, 2019, Gordon J. and Julie M. Larson (Protestant[s]) filed a protest to the Notice. On April 29, 2019, OWRD issued an Amended Notice of Proposed Cancellation of Water Rights (Amended Notice). Also on April 29, 2019, OWRD referred this matter to the Office of Administrative Hearings (OAH) for further proceedings. The OAH assigned Administrative Law Judge (ALJ) D. McGorin to preside at hearing.

Following a hearing, the Administrative Law Judge issued a Proposed Order in this matter on March 16, 2020. The Proposed Order concludes that no part of the water rights evidenced by Certificates 7692, 17372 and 25341 have been forfeited due to non-use during the period in issue. No exceptions were filed within the time allowed.

OWRD adopts and incorporates the entirety of the Proposed Order. The Proposed Order is attached.

Appeal Rights: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service of this order. If this order was personally delivered to you, the date of service is the day you received the order. If this order was mailed to you, the date of service is the day it was mailed. Judicial review pursuant to the provisions of ORS 536.075 and ORS 183.482 is to the Oregon Court of Appeals. If you do not file a petition for judicial review within the 60 day time period, you will lose your right to appeal.

ORDER

Now therefore, it is ordered:

1. Gordon J. and Julie M. Larson, (Protestants/certificate owners), have not failed to beneficially use the water rights at issue for a period of five or more years during the period in issue.
2. No portion of the water rights evidenced by Certificates 7692, 17372 and 25341 shall be cancelled due to non-use during the period in issue.

Dated at Salem, Oregon April 22, 2020.



Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
FOR THE
OREGON WATER RESOURCES DEPARTMENT**

In The Matter of the Proposed)	PROPOSED ORDER
Cancellation of the Water Rights)	
Evidenced by Certificate 7692, Partial)	
Cancellation of the Water Rights)	OAH Reference No. 2019-OWRD-00025
Evidenced by Certificate 17372, and)	Agency Case No. PC 05-18
Partial Cancellation of the Water)	
Rights Evidence by Certificate 25341)	
)	

HISTORY OF THE CASE

On December 4, 2018, the Oregon Water Resources Department (OWRD or the Department) issued a Notice of Proposed Cancellation of Water Rights (Notice) alleging non-use of all or a portion of three water rights from approximately mid or June 2011 until May 2018. On January 24, 2019, Gordon J. and Julie M. Larson (Protestant[s]) filed a protest to the Notice. On April 29, 2019, OWRD issued an Amended Notice of Proposed Cancellation of Water Rights (Amended Notice). Also on April 29, 2019, OWRD referred this matter to the Office of Administrative Hearings (OAH) for further proceedings. The OAH assigned Administrative Law Judge (ALJ) D. McGorin to preside at hearing.

On July 3, 2019, the OAH issued a Notice of Prehearing Conference. On July 8, 2019, Senior ALJ Joe L. Allen (Senior ALJ Allen) held a prehearing conference.¹ Mariel J. Combs, Senior Assistant Attorney General (Senior AAG) and Patricia McCarty, representing OWRD, appeared and participated in the conference. Protestants appeared with counsel, Shawn E. Logan. James Sproul and Dave Traylor (jointly, Proponent[s]) appeared at the conference *pro se*.

At the July 3, 2019, prehearing conference, Senior ALJ Allen ordered that a site visit to Protestants' ranch be conducted on August 13, 2019, at Protestants' ranch in Canyon City. Senior ALJ Allen scheduled an administrative hearing for September 30, 2019 to October 2, 2019. He ordered the parties to exchange exhibit lists, copies of all proposed exhibits, and witness lists no later than September 12, 2019.

Additional prehearing conferences were held in this case on August 5, 2019, August 28, and September 27, 2019. During the conference on August 5, 2019, Protestants requested leave to file a motion for summary determination (MSD). ALJ McGorin granted that request. ALJ McGorin ruled that Proponents must submit the MSD to the OAH and serve it on all parties by

¹ ALJ McGorin was unavailable for the PHC. The parties were informed that ALJ McGorin would retain control of the case through hearing.

September 12, 2019. ALJ McGorin ruled that Proponents and OWRD must submit and serve responsive pleadings by September 26, 2019.

During the pre-hearing conferences, Mr. Logan raised security concerns regarding the August 13, 2019, pre-hearing site visit to Protestants' ranch. In response to those concerns, and at the request of OWRD, ALJ McGorin ruled that no site visit would be conducted. As an additional safety measure, the Department determined that the hearing would be closed to non-participants.

On August 13, 2019, Protestants filed a motion to compel discovery responses from Proponents. At the August 28, 2019, prehearing conference, ALJ McGorin granted the motion in part, and issued a discovery order on August 30, 2019. ALJ McGorin extended the date for Protestants to submit and serve their MSD to September 12, 2019. ALJ McGorin ordered Proponents and OWRD to submit responsive pleadings by September 26, 2019. ALJ McGorin agreed to postpone the administrative hearing, as well as the deadline for the parties to exchange exhibit lists, proposed exhibits, and witness lists, pending the resolution of Protestants' MSD.

On August 28, 2019, ALJ McGorin scheduled the hearing for October 21-23, 2019 at the Lane County Circuit Courthouse, located at 125 East 8th Avenue in Eugene, Oregon. ALJ McGorin ordered the parties to file and exchange exhibit lists, copies of all proposed exhibits, and witness lists by October 11, 2019.

Protestants timely submitted and served their MSD on September 12, 2019. On September 20, 2019, OWRD submitted and served its response to the MSD. In its response, OWRD did not support or oppose the MSD. Instead, OWRD summarized its water rights cancellation process, and indicated that it followed that process with regard to the Amended Notice at issue here. Proponents submitted no opposition to Protestants' MSD.

ALJ McGorin held a further pre-hearing conference on September 27, 2019. At that conference, Mr. Sproul advised that he was unavailable for the hearing on October 21-22, 2019, because of medical treatment. He requested that the hearing be rescheduled. ALJ McGorin granted Mr. Sproul's request.

On October 24, 2019, ALJ McGorin denied the MSD because Proponents' affidavits and Protestants' evidence demonstrated that genuine issues of material fact exist that are relevant to resolution of the legal issues in this case.

On November 8, 2019, ALJ McGorin rescheduled the hearing to January 29-31, 2020. She ruled that the parties must file and exchange exhibit lists, copies of all proposed exhibits, and witness lists by January 19, 2020. OWRD and Protestants timely filed and exchanged those documents. Proponents submitted no exhibit lists, proposed exhibits or witness lists.

On January 9, 2020, Mr. Sproul requested that he be allowed to attend the hearing by telephone. ALJ McGorin granted that request on January 17, 2010.

In January 2020, Emily Cureton of Oregon Public Radio (OPB) petitioned the

Department to attend the hearing and make an audio recording of the proceedings. No party objected to that request. The Department referred OPB's request to the OAH's Chief Administrative Law Judge John Mann (Chief ALJ Mann). On January 28, 2020, Chief ALJ Mann granted OPB's request.

A hearing was held on January 29-30, 2020, in Eugene, Oregon at the Lane County Courthouse. Ms. Cureton appeared and made an audio recording of the hearing. Mr. Traylor appeared. Mr. Sproul appeared by telephone. Proponents did not testify, call any witnesses or offer any evidence other than the submissions of non-use they had previously submitted to the Department, which were admitted as R1 and R2.

Protestants appeared with counsel, Mr. Logan, and testified on their own behalf. Protestants called as witnesses: Kyle Sullivan, Michael Jensen, Todd Gray and Mike Wells.

Senior AAG Combs represented OWRD with Ms. McCarty appearing as the authorized representative.² OWRD called as witnesses: Eric Julsrud and Lisa Jaramillo. ALJ McGorin granted Mr. Logan's request that witnesses be excluded from the hearing when they were not testifying.

ISSUES

1. Whether the water right evidenced by Certificate 7692 has been forfeited in its entirety by a failure to make beneficial use of the water for supplemental irrigation for a period of five or more consecutive years during the period of June 2011 through May 2018. ORS 540.610; OAR 690-017-0400 to 690-017-0900.

2. Whether the water right evidenced by Certificate 17372 has been partially forfeited by a failure to make beneficial use of the water for irrigation from Canyon Creek for a period of five or more consecutive years on 0.8 acres located in Tax Lot 5306 during the period of June 2011 through May 2018. ORS 540.610; OAR 690-017-0400 to 690-017-0900.

3. Whether the water right evidence by Certificate 25341 has been partially forfeited by a failure to make beneficial use of the water for irrigation from Canyon Creek for a period of five or more consecutive years on 5.7 acres located in Tax Lot 5306 during the period of June 2011 to May 2018. ORS 540.610; OAR 690-017-0400 to 690-017-0900.

EVIDENTIARY RULINGS

Exhibits A1 through A24 and Pleadings P1-P22, offered by OWRD, were admitted into the record without objection. Exhibits R1 through R50, offered by Protestants, were admitted into the record without objection.

² Senior AAAG Renee Moulun appeared on behalf of OWRD at the hearing on January 29, 2020.

FINDINGS OF FACT

1. In 1998, Protestants purchased a ranch in Canyon City, Oregon, located in Grant County. (Test. of G. Larson.)
2. Protestants raise cattle, and grow hay and grass on the ranch. (Test. of G. Larson.)
3. Protestants hold three surface water rights on the ranch, authorizing the diversion of water from two creeks, Canyon Creek, a tributary of the John Day River, and Berry Creek, a tributary of Canyon Creek. Protestants use water from these rights to irrigate their fields and water their cattle. Protestants also use water from the rights for domestic purposes. (Exs. A1-A3; Test. of G. Larson.)
4. Water right certificate 7692, with a priority date of June 24, 1927, authorizes Protestants to divert 0.08 cubic feet per second (cfs) of water from Canyon Creek for supplemental irrigation of 5.7 acres of land in Section 36 (S36), Township 14 South (T14S), and Range 31 East (R31E) of the Willamette Meridian in Grant County (W.M.). Water right certificate 7692 has no stated season of use for the identified water right. (Ex. A1.)
5. Water right certificate 17372, with a priority date of March 8, 1948, allows Protestants to divert 0.045 cfs of water from Canyon Creek for irrigation of 1.8 acres of land in S36, T14S, R31E, W.M. Water diverted from this creek under this water right may not exceed one-fortieth of one cfs for each acre irrigated prior to June 1st and thereafter one eightieth of one cfs or its equivalent for each acre irrigated. Water diverted from the creek must be limited to a diversion of not to exceed 1 acre foot per acre for each acre irrigated during any month prior to June 1st. Water diverted from the creek will be further limited to a total diversion of not exceed 4 acre feet per acre for each acre irrigated during the irrigation season from April 1st to September 20th of each year. (Ex. A2.)
6. Water right certificate 25341, with a priority date of July 3, 1883, permits Protestants to divert water from Canyon Creek and Berry Creek for irrigation, for watering stock, and for domestic purposes. Water diverted from those creeks under this water right may not exceed .04 cfs per acre irrigated to June 1st each year and .08 cfs per acre thereafter each year. Diverted water is further limited to one acre-foot per calendar months to June 1st each year and four acre-feet per acre from April 1st to September 30. The land to be irrigated includes 11.6 acres in NW1/4 NW1/4, 23.3 acres in SW1/4 NW1/4, 18.8 acres in NW1/4 SW1/4, and 5.7 acres in SW1/4 NW1/4, in S36, T14S, R31E, W.M. (Ex. A3; Test. of G. Larson.)
7. On August 14, 2015, the Canyon Creek fire swept through Protestants' ranch. Protestants were evacuated from the property. When they returned, Protestants learned that the fire had damaged three residential structures, killed animals, burned most of their barns, and burned all of their timber. Fallen timber and other fire debris clogged Canyon Creek as well as irrigation canals and ditches. (Test. of G. Larson.) The fire caused extensive damage to Protestants' gated piping and main irrigation piping, melting and cracking it. The damage rendered the piping unusable for conveying water. (Test. of G. Larson.) Kyle Sullivan, an

employee with the Grant County Soil and Water Conservation District, a non-taxing public entity of the State of Oregon, observed the damage to Protestants' piping. (Test. of K. Sullivan.)

8. As a result of the fire damage to Protestants' piping system, as well as the clogging of Canyon Creek, and Protestants' irrigation ditches and canals, Protestants were unable to use water from water right certificates 7692, 17372 and 25341 from August 14, 2015 until April 2016. (Test. of G. Larson.)

9. On June 4, 2018, Proponents filed Affidavits of Non-Use of Water Rights (Affidavits) with the Department. They supplemented the affidavits with written statements in August 2018. (Exs. R1 and R2.)

10. After reviewing Proponents' Affidavits and additional written information, and discussing the Affidavits with Proponents, the Department determined that Proponents' contention is that Protestants failed to use all of their water rights under water right certificate 7692, and some of their water rights under water right certificates 17372 and 25341 from mid or June 2011 to May 2018 (the period at issue). On December 4, 2018, the Department issued to Protestants a Notice of Proposed Cancellation of Water Rights. (Ex. P1, pages 13-16.)

11. Proponents contend that Protestants failed to use any portion of their water rights under water right certificate 7692 during the period at issue. (Ex. P1 at 8.)

12. Proponents contend that Protestants failed to use the portion of their water rights under water right certificate 17372 from June 2011 to May 2018 from Canyon Creek on 0.8 acres in the SW1/4 SW1/4 of S36, T14S, R31E, W.M., tax lot 5306. (Ex. P1 at 8.)

13. Proponents contend that Protestants failed to use the portion of their water rights under water right certificate 25341 during the period at issue on Canyon Creek on 5.7 acres in the SW1/4 SW1/4 of S36, T14S, R31 E, W.M., tax lot 5306. (Ex. P1 at 8-9.)

14. Under all three water right certificates, Proponents contend that Protestants failed to use water from Canyon Creek. The Berry Creek diversions are not at issue. (Test. of Julsrud; Ex. P1 at 8-9.)

15. Mr. Traylor stated in his affidavit that Protestants had not used water from an unidentified Canyon Creek POD for over 10 years because an undescribed ditch could not convey water because the ditch was filled with silt. He stated in his supplemental written statement that he had observed the ditch from an unidentified location during an undisclosed period of time. Mr. Traylor contends that this ditch supplies water to all three of Protestants' water right certificates. (Ex. R1.)

16. The irrigation ditch that Mr. Traylor claims was filled with silt and unusable, accumulates silt every year, including during the period at issue. Before each irrigation, Protestants and their two sons clean out the ditch. Protestants can clear the ditch in approximately two hours by using a backhoe. (Test. of Proponents.)

17. Mr. Sproul stated in his affidavit that irrigation water from a POD on Canyon Creek on the southern portion of Protestants' ranch had not been used for at least six years because the POD was inoperable. He claimed that the land to be irrigated was above the POD, and that water from the POD could not reach the land. He stated in his supplemental statement that he had made observations of the POD from an undescribed location on Highway 395 during an unidentified period of time. Mr. Sproul contends that the POD supplies water to all three of Protestants' water right certificates. (Ex. R2.)

18. The POD on Canyon Creek that Mr. Sproul claims is inoperable because of its elevation relative to Protestants' land, was capable of and did convey water during the period at issue. Protestants have a push-up dam of rock and other natural materials. The push-up dam conveys water from the POD up to an irrigation ditch, allowing Protestants to convey water to the relevant places of use. (Test. of G. Larson.)

19. On January 24, 2019, Protestants filed their Protest of Proposed Cancellation of Water Rights Under OAR 690-017-0600. (Ex. P1 at 12.) Proponents claim that during the period at issue, with the exception of August 2015 to April 2016, when their irrigation system was disabled by damage from the Canyon Creek fire, Protestants beneficially used all of the water rights that Proponents claim should be cancelled for non-use. (Test. of Proponents; Exs. R4-R7, R31, R34-R35, R38, A9, A10, A11, A12, and A13.)

20. On April 29, 2019, the Department issued to Protestants an Amended Notice of Proposed Cancellation of Water Rights (Amended Proposed Cancellation). The Amended Notice specified that Protestants were not required to file a new protest of the Amended Notice to preserve their hearing rights. (Ex. A1 at 7-16.)

CONCLUSIONS OF LAW

1. The water right evidenced by Certificate 7692 has not been forfeited by a failure to make beneficial use of the water for supplemental irrigation for a period of five or more consecutive years during the period of June through May 2018.

2. No portion of the water right evidenced by Certificate 17372 has been forfeited by a failure to make beneficial use of the water for irrigation from Canyon Creek on 0.8 acres located in Tax Lot 5306 during the period of June 2011 through May 2018.

3. No portion of the water right evidenced by Certificate 25241 has been forfeited by a failure to make beneficial use of the water for irrigation from Canyon Creek on 5.7 acres located in Tax Lot 5306 during the period of June 2011 through May 2018. ORS 540.610; OAR 690-017-0400 to 690-017-0900.

OPINION

Oregon water right holders must use their water for beneficial uses. Whenever the holder of a perfected water right fails to put all or a portion of a right to beneficial use for a period of five successive years, the water right may be deemed forfeited through cancellation proceedings.

Such proceedings may be initiated by the filing of affidavits of non-use with the Department by a local watermaster or any other person. ORS 540.610(1); OAR 690-017-0200 and 690-017-0400(1). Where, as here, the water right holders protest the cancellation of their water rights, the water right holders are entitled to an administrative hearing. OAR 690-017-0700.

Proponents assert that Protestants failed to make beneficial use of the water rights granted under Certificate 7692, and failed to make beneficial use of portions of the water rights granted under Certificates 17372 and 25341. Consequently, Proponents assert, Protestants forfeited the unused portion of those rights, and the Department should cancel them.³ At hearing, Proponents failed to demonstrate that Protestants did not use their water rights during the period at issue. Accordingly, the administrative record developed at hearing shows no basis for the cancellation of Protestants' water rights.

Burden of Proof

The proponent of a fact or position has the burden of proving that fact or position by a preponderance of the evidence. ORS 183.450(2); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of the fact or position); *Staats v. Newman*, 164 Or App 18 (1999) (in water right forfeiture administrative hearings, the burden of proof is a preponderance of the evidence). Proof by a preponderance of the evidence means that the fact finder is convinced that the facts asserted are more likely true than false. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390 (1987).

Here, Proponents had to prove by a preponderance of the evidence that Protestants did not use their water rights for a period of five consecutive years. Similarly, Protestants had to satisfy the same evidentiary requirements to rebut Proponents' evidence.

The burden of proof encompasses two burdens, the burden of production and the burden of persuasion. *Marvin Wood Products v. Callow*, 171 Or App 175 (2000) (Conceptually, the burden of proof encompasses two distinct burdens: the burden of producing evidence of a particular fact (*i.e.*, the burden of production), and the burden of convincing the trier of fact that the alleged fact is true (*i.e.*, the burden of persuasion)). Accordingly, any party advocating a particular position bears the burdens of production and persuasion as to that position.

The Department determined that Proponents' affidavits of non-use were sufficient to make a *prima facie* showing for the purposes of initiating cancellation proceedings, which includes an administrative hearing. OAR 690-017-0700. Such affidavits are not, however, sufficient, in and of themselves, to establish non-use by a preponderance of the evidence at the hearing.

Proponents Did Not Prove Non-Use at the Hearing

Here, Proponents failed to carry their evidentiary burdens at hearing. Neither Mr. Sproul nor Mr. Traylor testified at the hearing. They offered no evidence other than their July 2018 affidavits and August supplemental submissions to the Department. As a preliminary matter,

³ At the hearing, the Department offered no evidence of, and took no position regarding, non-use.

these documents are conclusory and lack basic detail about their statements that Protestants failed to use their water. Proponents do not identify any continuous five-year period during the period at issue when they observed non-use of the water rights at issue. Also, Proponents do not indicate when they first started making observations of Protestants' water usage or lack of usage. Finally, Proponents did not explain how they were able to make observations of Protestants' water usage on private land or where they were when they made any observations of the drainage ditch or POD at issue.

Mr. Larson, however, testified persuasively that he used water as permitted by all three water right certificates for beneficial use during the period at issue, except during the aftermath of the Canyon Creek fires. Protestants offered evidence corroborating Mr. Larson's testimony, including affidavits of neighbors and photographs. Proponents offered no testimony or exhibits to counter Protestants' evidence.

Mr. Traylor only made one specific allegation of non-use in his affidavit and subsequent submission to the Department. Mr. Traylor stated in his affidavit that a ditch that conveyed water from Canyon Creek to the lands at issue here was damaged during a flood in May 2011. Mr. Traylor said that as a result of the damage, the ditch was filled with silt and could not convey water. Mr. Traylor stated in his supplemental submission that he last saw that the ditch was unusable in 2013.

Mr. Traylor therefore only contends that the ditch was silted in for a two-year period. That is an insufficient basis for the Department to cancel Protestants' water rights. Mr. Taylor does not allege that the purportedly inoperable irrigation ditch prevented Protestants from using the full extent of the water rights at issue for five consecutive years. Moreover, he does not state how he was able to view the ditch or where he was when he viewed it.

Moreover, Protestants effectively countered Mr. Traylor's allegation at the hearing. Protestants offered evidence that the irrigation ditch silted in every year, and that before each irrigation season, Protestants and their two sons cleared out the ditch, enabling it to convey water. Protestants testified that they could clear the ditch in approximately two hours. They therefore established that the pre-irrigation silting of the ditch did not prevent them from conveying water through the ditch and irrigating their lands under their water right certificates. At the hearing, Proponents offered no evidence challenging Protestants' testimony.

Mr. Sproul's submissions to the Department only contained one specific allegation as well. Mr. Sproul stated that a Canyon Creek diversion could not supply water to Protestants' property because the POD is below Protestants' irrigation ditch. Mr. Sproul does not state when he first observed this to be true and when he last saw it. Further, he does not state how he was able to observe the POD or his location when he observed it.

Protestants proved at the hearing that the POD was operable during the time period at issue. Protestants offered evidence that they built a push-up dam of rock and other natural materials. The push-up dam conveyed the water from the POD up to the irrigation ditch, allowing Protestants to irrigate their land. Proponents offered no evidence countering this testimony.

Accordingly, Protestants demonstrated that they used their water for beneficial use under the terms of their water right certificates during the period at issue. Whatever presumption of non-use created by Proponents' affidavits and supplemental submissions was successfully rebutted. No basis exists for cancelling Protestants' water rights under ORS 540.610.

ORDER

I propose the Oregon Water Resources Department issue the following order:

1. No portion of the water right evidenced by water right certificate 7692 is subject to cancellation based on non-use of the water during the period of June 2011 to May 2018.
2. No portion of the water right evidenced by water right certificate 17372 is subject to cancellation based on non-use of the water during the period of June 2011 to May 2018.
3. No portion of the water right evidenced by water right certificate 25341 is subject to cancellation based on non-use of the water during the period of June 2011 to May 2018.

/s/D. McGorin

Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

NOTICE

This Proposed Order is issued by the administrative law judge pursuant to OAR 137-003-0645. As provided in ORS 537.445, OAR 137-003-0650 and OAR 690-002-0175, any party to this proceeding or the Department may file exceptions to this proposed order with the Oregon Water Resources Director. The exceptions must be in writing and received at the Water Resources Department no later than 30 days after the date of service (the date served according to the certificate of service) of this proposed order. You should also send a copy of your exceptions to any other party or parties to the contested case hearing. Send any exceptions to:

Oregon Water Resources Department
725 Summer Street N.E., Suite A
Salem, OR 97301

Exceptions are legal or factual arguments illustrating legal or factual error in the proposed order, as demonstrated by the record. Evidence not in the record may not be offered in exceptions. Exceptions must clearly and concisely identify the portion(s) of the proposed order excepted to,

and cite to appropriate portions of the record or Commission policies to which modifications are sought in the exceptions.

If exceptions are filed, any party or the Department may respond to the exceptions. The Department must receive responses no later than 10 days after the date of service of the exceptions. An opportunity may be provided for making additional written or oral argument to the Director, at the Directors determination and discretion. After reviewing the record, the exceptions and any additional argument, the Director will issue a final order. The Director may issue a final order that differs from the proposed order or may adopt the proposed order as the final order.

If exceptions are not filed within the allowed period, the Director will issue a final order.

CERTIFICATE OF MAILING

On March 16, 2020 I mailed the foregoing PROPOSED ORDER in OAH Case No. 2019-OWRD-00025:

BY FIRST CLASS AND, WHERE AVAILABLE, BY ELECTRONIC MAIL:

Name	Address	Contact
Gordon J. and Julie M. Larson	24335 Highway 395 S Canyon City OR 97820	berrycreekranch@centurytel.net
James Sproul	PO Box 547 Canyon City OR 97820	valleyranch@ortelco.net
Dave Traylor	59653 Highway 26 John Day OR 97845	Ltraylor@beobank.com
Patricia McCarty	725 Summer St NE, Ste A Salem OR 97301	Patricia.E.McCarty@oregon.gov
Mariel J Combs	1162 Court Street NE Salem OR 97301	mariel.j.combs@doj.state.or.us
Shawn E. Logan	153 SW First Street Ontario OR 97914	shawnlogan@loganlaw.us

/s/Joanne M Call
Hearing Coordinator

OAH Customer Satisfaction Survey

Please take a few moments to take our Customer Satisfaction Survey at <http://www.tinyurl.com/OAHSurvey>. Thank you in advance for your participation. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office at 503-947-1918.