

Watermaster Review Form: Water Right Transfer



Oregon Water Resources Department
725 Summer St NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

Transfer Application: T-14447

Review Due Date: 05/29/2024

Applicant Name: City of John Day

Proposed Changes: ☒ POU ☐ POD ☒ POA ☒ USE ☐ OTHER

Reviewer(s): Eric W. Julsrud

Date of Review: 05/08/2024

1. Do you have evidence that the right has not been used in the last 5 years and that the presumption of forfeiture would not likely be rebuttable? ☒ Yes ☐ No If "Yes", attach evidence (e.g. dated aerial photo showing pavement or building on the land for >5 yrs.)
2. Is there a history of regulation on the source that serves this (or these) right(s) that has involved the transferred right(s) and downstream water rights? ☒ Yes ☐ No Generally characterize the frequency of any regulation or explain why regulation has not occurred:
The John Day River is regulated annually for deficiency in supply. The source for the right involved in this transfer is a "sump" which is most likely hydraulically connected to the John Day River.
3. Have headgate notices been issued for the source that serves the transferred right(s)?
☐ Yes ☒ No ☐ Records not available.
4. In your estimation, after the proposed change, would distribution of water for the right(s) result in regulation of other water rights that would not have occurred if use under the original right(s) was/were maximized? ☒ Yes ☐ No If "Yes", explain:
Increasing demand on the John Day River will only result in increased regulation beyond what is already occurring. Moving the POA upstream to the proposed location as well as moving the POU away from the river will likely result in less water available in the form of return flows for other appropriators.
5. In your estimation, if the proposed change is approved, are there upstream water rights that would be affected? ☒ Yes ☐ No If "Yes", describe how the rights would be affected and list the rights most affected:
Increased demand on the river (through shallow sumps) as is the case with this water right will deplete available water therefore regulation due to deficiency in supply will occur sooner in my opinion on the John Day River. The list of affected water rights would include all junior water rights upstream of the City of John Day to the headwaters of the John Day River (C-82326, 65546, 91713, 80045, 56662 and many others)

6. Check here ☒ if it appears that downstream water rights benefit from return flows resulting from the current use of the transferred right(s)? If you check the box, generally characterize the locations where the return flows likely occur and list the water rights that benefit most:

This water right has not been exercised since September of 2002. If it were being used the water rights on the Luce Long Ditch could receive some of the return flows from the log deck sprinkling. This could include C-91793, 91795, 91796 and many others.

☐ N/A

7. For POD changes and instream transfers, check here if there are channel losses between the old and new PODs or within the proposed instream reach? If you check the box, describe and, if possible, estimate the losses:

☒ N/A

8. For instream transfers that propose protection of a reach beyond the mouth of the source stream:

☒ N/A Would the quantity be measureable into the receiving stream consistent with OAR 690-077-0015(8)? ☐ Yes ☐ No

9. For POU changes: ☐ N/A Is it likely the original place of use would continue to receive water from the same source? ☒ Yes ☐ No If "Yes", explain:

The applicant may at some point in the future make a "green space" where the original footprint of the "Log Deck Sprinkling" used to be. Otherwise, the answer to this question is "No".

10. For POU or USE changes: ☐ N/A In your best judgment, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste?

☐ Yes ☒ No If "Yes", explain:

11. For POU changes that involve micro-irrigation: ☒ N/A

- a. Has the applicant made changes (absent a transfer) to convert to micro-irrigation within the current place of use boundary of the water right proposed for transfer, and previously demonstrated to the Department through monitoring and site inspections by the Watermaster that the proposed transfer will not result in injury or enlargement?

☐ Yes ☐ No If "Yes", explain:

- b. Has a temporary transfer of this nature been previously filed and approved on the same lands (or portions thereof) as those lands involved in this transfer?

☐ Yes ☒ No If "Yes", answer the following:

- i. Were there any problems with more acres being irrigated (or wetted) than were authorized under the temporary transfer? ☐ Yes ☐ No If "Yes", explain:
- ii. Did the designated areas that were to remain dry (or not wetted) under the temporary transfer actually remain dry? ☐ Yes ☐ No If "No", explain:
- iii. Did the applicant comply with and meet all of the conditions of the temporary transfer? ☐ Yes ☐ No If "No", explain:
- iv. Do you have any other observations regarding the temporary transfer? ☐ Yes ☐ No If "Yes", describe:
- v. Did the applicant demonstrate to the Department through monitoring and site inspections by the Watermaster that neither injury nor enlargement occurred as a result of the temporary transfer? ☐ Yes ☐ No If "No", explain:

- c. To the best of your knowledge, if this transfer is approved, does it appear that:

- i. "Injury" will occur to other water rights that share the same source?

☒ Yes ☐ No If "Yes", explain:

See question# 1,4 and 5. Resurrecting a defunct water right from a likely hydraulically connected sump and allowing the original foot print to be spread over the entire city of John Day property will make a mess of potential return flow patterns and increase the demand on the available resource thus creating increased regulation activities.

- ii. "Enlargement" of the water right being transferred will occur?

☒ Yes ☐ No If "Yes", explain:

The applicant proposes to take an area originally identified as Log Deck Sprinkling (approximately 3.5 acres in size) and transfer this "area" to potentially every "green space" within the city limits. This is enlargement of the original water right.

12. Are there other issues not identified through the above questions that should be considered in determining whether the change "can be effected without injury to other rights"?

☐ Yes ☒ No If "Yes", explain:

13. What alternatives may be available for addressing any issues identified above:

In my opinion this transfer should be withdrawn. I don't see a way to accomplish what the applicant is trying to achieve.

14. Do conditions need to be included in the transfer order to avoid enlargement of the right or injury to other rights? ☐ No ☒ Yes, as checked and provided below:

☐ For POU changes that involve micro-irrigation, provide the monitoring and reporting conditions necessary to prevent injury/enlargement:

☐ A Headgate should be required prior to diverting water.

☒ Measurement Devices for POD or POA: (if this condition is selected, also fill in the top sections of Page 4)

*a. Before water use may begin under this order, the water user shall install a **totalizing flow meter***, or, with prior approval of the Director, another suitable measuring device, ☒ at each point of diversion/appropriation (new and existing) **OR** at each new point of diversion/appropriation ☐ with the exception that water rights issued to the Bureau of Reclamation or an irrigation district (or similar entity) are not subject to this condition.*

b. The water user shall maintain the meters or measuring devices in good working order.

c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

☐ Reservoir water use measurement: (if this condition is selected, also fill in the top sections of Page 4)

*a. Before water use may begin under this order, the water user shall install **staff gages***, or, with prior approval of the Director, other suitable measuring devices, that measure the entire range and stage between empty and full in each reservoir. Staff gages shall be United States Geological Survey style.*

b. Before water use may begin under this order, if the reservoir is located in channel, weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, an adjustable outlet valve must be installed. The water user shall maintain such devices in good working order. A written waiver may be obtained, if in the judgment of the Director, the installation of weirs or other suitable measuring devices, or the adjustable outlet valve, will provide no public benefit.

* The following alternative device(s) should be substituted for the bold, underlined device in the above selected condition:

☐

Weir

☐

Submerged Orifice

☐

Parshall Flume

☐

Flow Restrictor

☐

Other: —

Oregon Water Resources Department

Measurement Condition Information for the Applicant

(To be sent with the Draft Preliminary Determination or Final Order)

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In order to avoid enlargement of the right or injury to other rights, a totalizing flowmeter will be required to be installed **prior to diversion of water**, as a condition of this transfer:



at each point of diversion/appropriation (new and existing) OR



at each new point of diversion/appropriation.

For additional information, or to obtain approval of a different type of measurement device, the applicant should contact the area Watermaster:

Watermaster name: Eric W. Julsrud

District: 4

Address: 201 South Humbolt Street, Suite 180

City/State/Zip: Canyon City, OR 97820

Phone: 541-575-0119

Email: Eric.W.Julsrud@water.oregon.gov

Note: *If a device other than the one specified in the Preliminary Determination or Final Order is approved by the Watermaster, fill out and mail the form below to the Salem office.*

Approval of an Alternate Measurement Device

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(to be filled out after consultation with the applicant, or after a site visit)

On behalf of the Director, I authorize use of the following suitable **alternate measurement device**:

Watermaster signature

District

Date

If this form is used for approval of an alternative measurement device, it must be mailed to:

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266

T-14447 Supporting Information

Question #1:

C-48135 is a sump right for the purpose of Log Deck Sprinkling. The original POU for this right is just north of a large ditch I routinely visit throughout the summer months for regulation purposes. The mill who used to own the property was called Grant Western Lumber Company. I have routinely regulated the John Day River annually since July of 2000. The last time this right was exercised was September of 2002 based upon personal knowledge and aerial photographs available via Google Earth. (see attached aerial photos)

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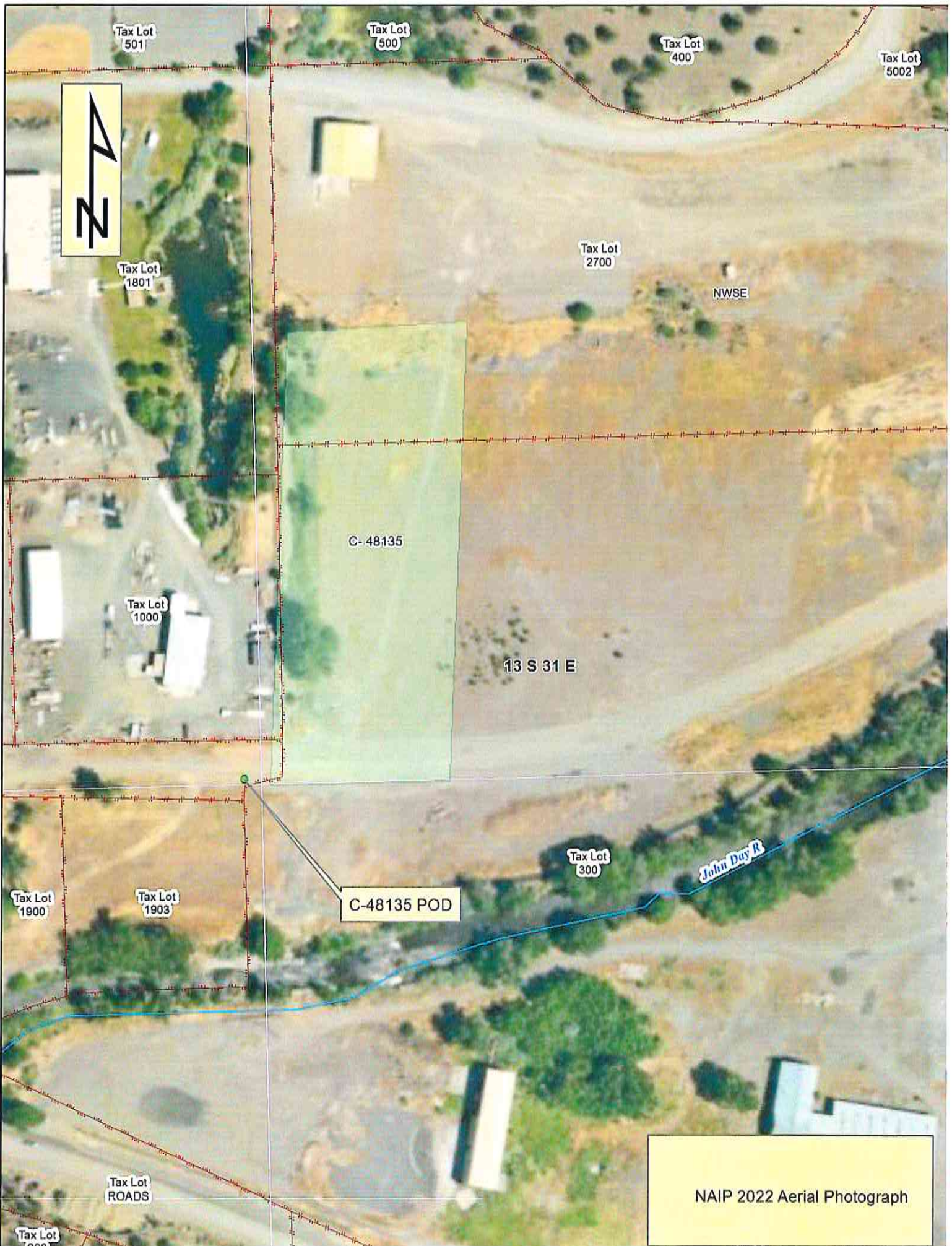
2024 aerial photo from Google Earth Pro

Legend



John Day River

Google Earth



Tax Lot
501

Tax Lot
500

Tax Lot
400

Tax Lot
5002

Tax Lot
1801

Tax Lot
2700

NWSE

C-48135

13 S 31 E

Tax Lot
1000

C-48135 POD

Tax Lot
300

John Day R

Tax Lot
1900

Tax Lot
1903

Tax Lot
ROADS

Tax Lot
1008

NAIP 2022 Aerial Photograph

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2020 aerial photo from Google Earth Pro

Legend



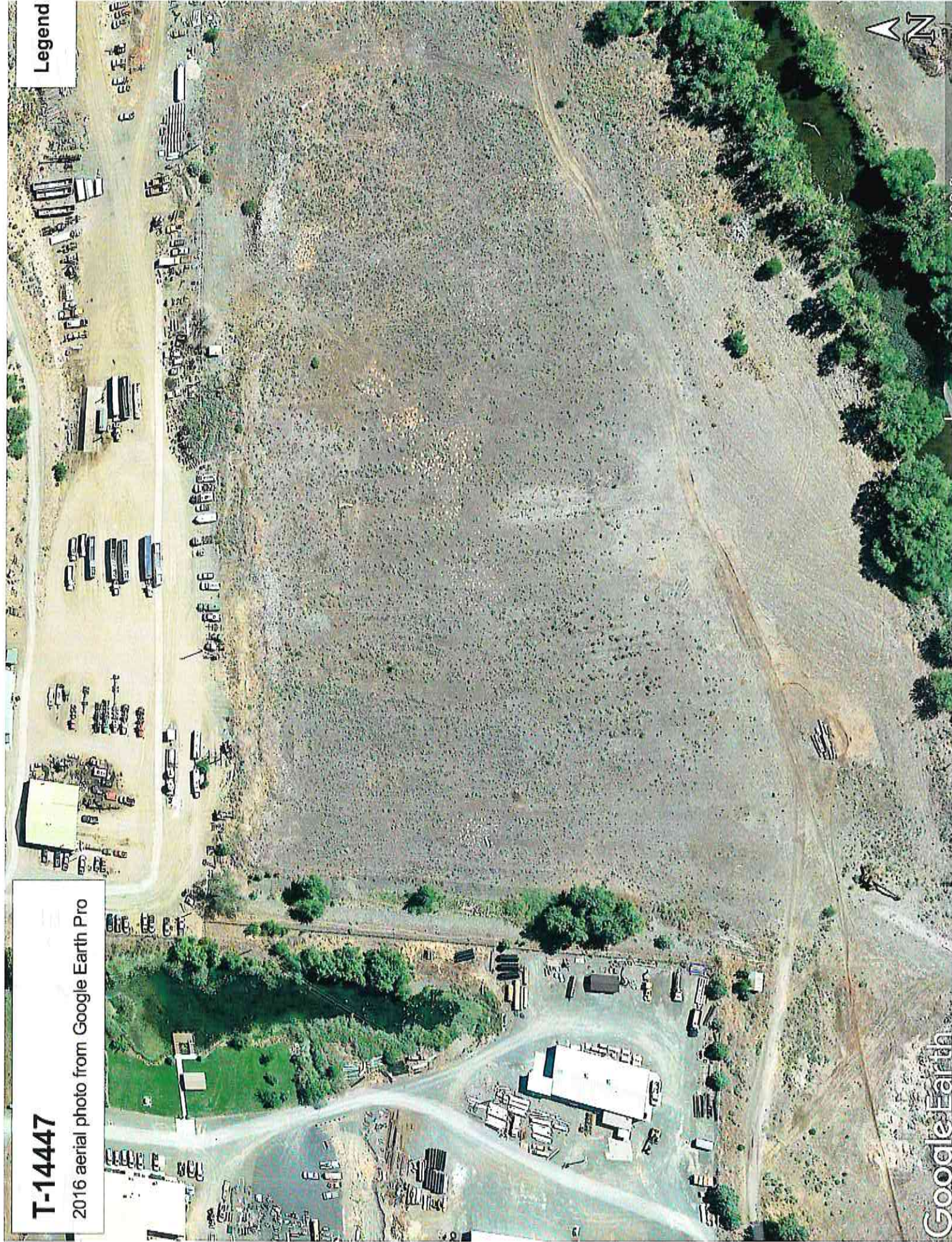
Google Earth



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2016 aerial photo from Google Earth Pro

Legend



Google Earth

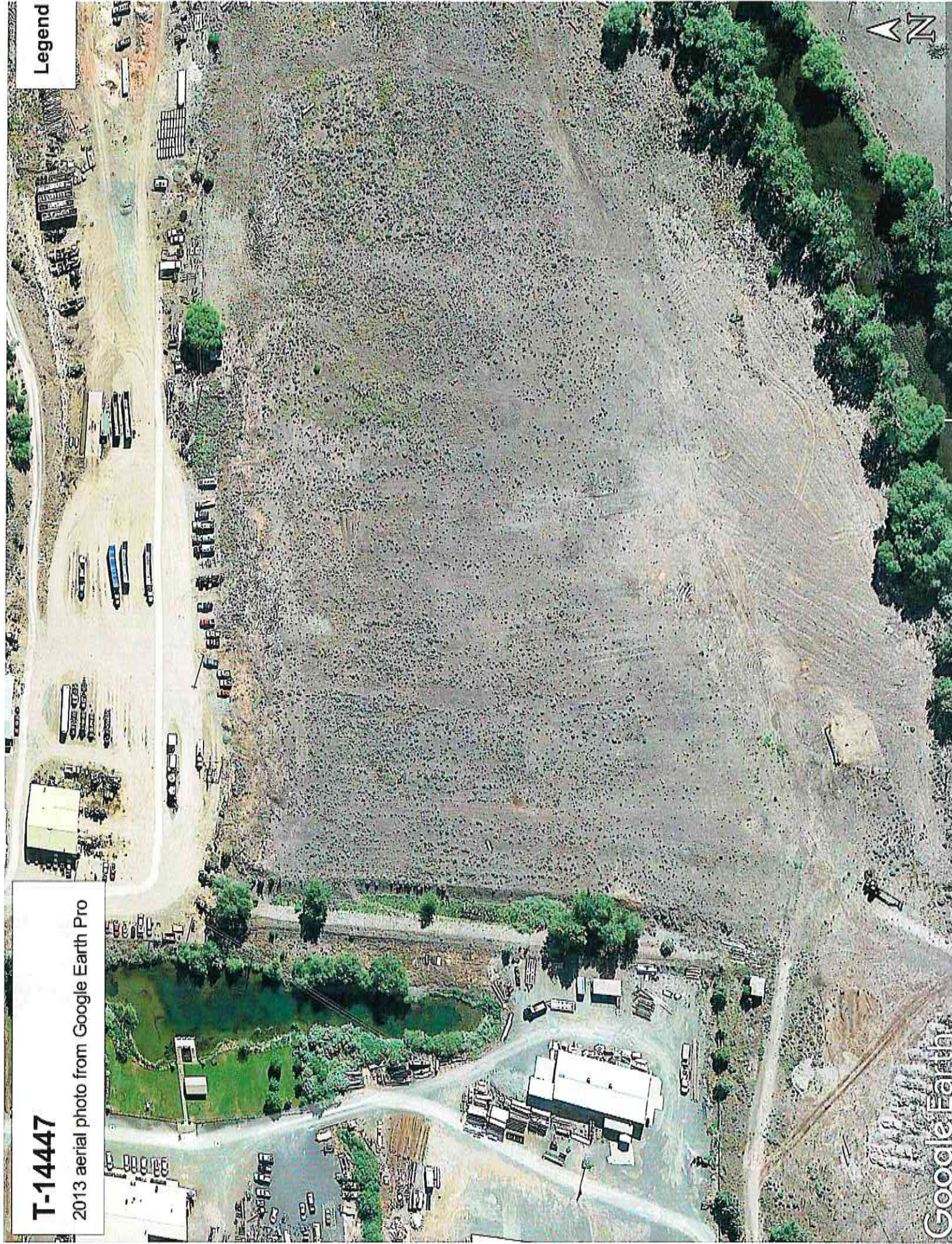
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2013 aerial photo from Google Earth Pro

Legend



Google Earth



T-14447

2012 aerial photo from Google Earth Pro

Legend



Google Earth



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2011 aerial photo from Google Earth Pro

US Forest Service, Malheur National Forest

of Forestry - John Day...

John Day River

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Google Earth

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2006 aerial photo from Google Earth Pro

US Forest Service, Malheur National Forest

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2005 aerial photo from Google Earth Pro

US Forest Service, Malheur National Forest

of Forestry - John Day...

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2002 aerial photo from Google Earth Pro

US Forest Service, Malheur National Forest

of Forestry - John Day

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John Day River

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Google Earth

