

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE PROPOSED CANCELLATION OF A	)	NOTICE OF PROPOSED
PORTION OF WATER RIGHT CERTIFICATE 49759, IN THE	)	CANCELLATION OF WATER
NAME OF GEO. M. BUCHANAN, FOR USE OF WATER	)	RIGHT
FROM FISH AND DRY CREEKS, BAKER COUNTY, OREGON	)	
	)	
	)	
	)	
	)	
	)	

TO: **Legal Owner, Baker County, Oregon tax lot 100, map 08S4612:** 3 Sons Ranch, LLC, PO
Box 895, Halfway, OR 97834

Occupant, Baker County, Oregon tax lot 100, map 08S4612: Current Occupant, 48587
Hwy 86, Halfway, OR 97834

Summary: Pursuant to the provisions of Oregon Revised Statutes (ORS) 183.415 and ORS 540.631, you are hereby notified as the legal owner and/or occupant of certain real property in Section 12, Township 8 South, Range 46 East, Willamette Meridian, Baker County, Oregon, of the proposed cancellation of a portion of the irrigation, domestic, and stock water right evidenced by Certificate 49759, in the name of Geo. M. Buchanan, and of your right to file a protest and receive a contested case hearing on the proposed cancellations.

A. Jurisdiction and Authority

ORS 540.631 and 540.641 grant the Oregon Water Resources Commission (Commission) jurisdiction and authority to issue notices of proposed cancelation of perfected water rights, hold hearings on protests of such notices, and issue orders canceling perfected water rights that have been forfeited by nonuse. The Commission has delegated its authority with respect to cancellation of perfected water rights to the Oregon Water Resources Department (Department). OAR chapter 690, division 17.

B. Applicable Law

Oregon water law provides that if any portion of a water right undergoes five or more successive years of nonuse, that nonuse creates a rebuttable presumption of forfeiture. ORS 540.610; ORS 540.631.

A presumption of forfeiture may be rebutted by evidence submitted in a protest and by evidence you may submit in a contested case hearing. ORS 540.610(2); OAR 690-017-0600 and -0800. Water rights are also exempt from forfeiture under certain circumstances outlined in ORS 540.610(3), 540.610(4), and 540.612.

Other applicable law includes ORS 540.610 through ORS 540.670, OAR chapter 690 division 17 (governing water right cancellation), OAR 690-320-0070(1) (requiring proposed cancellation of supplemental irrigation water rights where the Department proposes cancellation of primary irrigation water rights for the same lands), ORS Chapter 183 and OAR 137-003-0501 through -0700 (governing contested case hearings) and OAR 690-002-0000 through -0235 (governing protests, hearings, and exceptions).

C. Proposed Cancellation

Findings of Fact

Water Right Proposed to Be Canceled for Nonuse

1. The water right for which cancellation is proposed is a portion of Water Right **Certificate 49759**, in the name of Geo. M. Buchanan. The entirety of Certificate 49759 authorizes use of up to 1/40th cubic feet per second per acre from Fish Creek and Dry Creek, tributaries of Pine Creek, for irrigation, domestic and stock use at the following place of use:

Tract No. 1

11.0 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$

20.0 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$

38.1 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 12, Township 8 South, Range 46 East, Willamette Meridian (W.M.).

Tract No. 2

9.0 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 12, Township 8 South, Range 46 East, W.M.

The priority date is 1882 for Tract No. 1 and 1892 for Tract No. 2.

A copy of Water Right Certificate 49759 is attached.

The portion of Certificate 49759 proposed to be canceled is:

21 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$,
Section 12, Township 8 South, Range 46 East, W.M.

The location of the portion of Certificate 49759 proposed to be cancelled is further defined on the Baker County tax plat map and Department online map-viewer map attached to this notice that were submitted to the Department with the affidavits asserting nonuse described below.

The Affidavits

2. It is asserted in an affidavit filed with the Department by Darryl R Peer on March 20, 2026, that the portion of Certificate 49759 proposed to be cancelled has been forfeited due to nonuse for irrigation, domestic, and stock use from 1984 through 2024.
3. It is asserted in an affidavit filed with the Department by Darrell B Martin on March 20, 2026, that the portion of Certificate 49759 proposed to be cancelled has been forfeited due to nonuse for irrigation, domestic, and stock use from 1983 through 2024.
4. It is asserted in an affidavit filed with the Department by George L Gover on March 20, 2026, that the portion of Certificate 49759 proposed to be cancelled has been forfeited due to nonuse for irrigation, domestic, and stock use from March 2006 through 2024.
5. It is asserted in an affidavit filed with the Department by Richard Dean Tucker Jr on March 20, 2026, that the portion of Certificate 49759 proposed to be cancelled has been forfeited due to nonuse for irrigation, domestic, and stock use from September 2012 through 2024.
6. It is asserted in an affidavit filed with the Department by Derral J Thomas on March 20, 2026, that the portion of Certificate 49759 proposed to be cancelled has been forfeited due to nonuse for irrigation, domestic, and stock use from 2012 through 2023.
7. It is asserted in an affidavit filed with the Department by Ronald R Still Jr on March 20, 2026, that the portion of Certificate 49759 proposed to be cancelled has been forfeited due to nonuse for irrigation, domestic, and stock use from 2003 through 2024.
8. It is asserted in an affidavit filed with the Department by Barbara J Dion on March 20, 2026, that the portion of Certificate 49759 proposed to be cancelled has been forfeited due to nonuse for irrigation, domestic, and stock use from May 2010 through December 2024.
9. Copies of the affidavits asserting nonuse are available from the Department upon request.

Location of Portions of Certificate 49759 Proposed to be Cancelled

10. The portion of Certificate 49759 proposed to be cancelled is located within Baker County, Oregon tax lot 100, map 08S4612.
11. Records of the Baker County Assessor indicate that 3 Sons Ranch, LLC, is the owner of Baker County, Oregon tax lot 100, map 08S4612. 3 Sons Ranch, LLC's, last address of record with the Baker County Assessor is PO Box 895, Halfway, OR 97834. Records of the Douglas County Assessor indicate that the physical address of Baker County, Oregon tax lot 100, map 08S4612 is 48587 Hwy 86, Halfway, OR 97834.

Conclusion of Law

1. The information before the Department creates a rebuttable presumption that the portion of Certificate 49759 proposed to be cancelled has been forfeited by nonuse. ORS 540.631; OAR 690-017-0400.
2. Based on the information currently before the Department, it does not appear that the presumption of forfeiture would be rebutted under ORS 540.610(2) or that the water right proposed to be cancelled is exempt from forfeiture under ORS 540.610(3), 540.610(4), or 540.612.

Proposed Cancellation

The Department proposes to issue an order cancelling the portion of Certificate 49759 described above.

Pursuant to ORS 536.077(4) and (5), ORS 540.641(2), OAR 690-017-0600(1) and OAR 690-002-0235(4), if no protest of this Notice of Proposed Cancellation is received by November 18, 2026, and the Department does not withdraw this Notice of Proposed Cancellation on or before December 21, 2026, this Notice of Proposed Cancellation is a final order without any further action by the Department on December 21, 2026.

D. Notice of Right to Request a Contested Case Hearing by Protesting the Proposed Cancellation and Right to File a Request for Party Status

The following sections explain how to: (1) file a protest in opposition to this Notice of Proposed Cancellation to request a contested case hearing on this Notice of Proposed Cancellation; and (2) file a request for party status to request to participate in any contested case proceeding in support of this Notice of Proposed Cancellation.

Protests

Under the provisions of ORS 540.641(2), ORS 536.077(1) and OAR 690-017-0600, as the owner or occupant of land to which the water rights proposed to be cancelled are appurtenant, you have the right to a contested case hearing on the matters asserted in this Notice of Proposed Cancellation. To request a contested case hearing, you must file a written protest setting forth the reasons why the water right specified in this Notice should not be cancelled.

The information before the Department, if not countered by other evidence, establishes at least five successive years of nonuse of the water rights proposed to be cancelled. In your protest and at a hearing you may attempt to show either that water use has occurred during the asserted period of nonuse or that one or more statutorily established reasons excusing nonuse stated in ORS 540.610(2) and further defined in OAR 690-017-0800 or an exemption from forfeiture stated in ORS 540.610(3), 540.610(4), or 540.612 apply.

Protests and protest fees may be mailed or hand delivered to the Oregon Water Resources Department at 725 Summer Street NE, Suite A, Salem, OR 97301. If you submit a protest by U.S. mail, please consider mailing early to ensure the Department receives the protest by the deadline. Protests may be emailed to will.d.davidson@water.oregon.gov, but payment of Protest fees cannot be accepted electronically and must be received by the Department by mail or hand delivery prior to the deadline. Protests and protest fees must be received by the Water Resources Department no later than November 18, 2026.

Protests must meet the following requirements:

- Be in writing;
- Include the protestant's name, address, telephone number, and email address, if the protestant has an email address;
- Include the name, address, telephone number, and email address of the protestant's attorney, if the protestant is represented by an attorney;
- Include a description of the protestant's interest in the Notice of Proposed Cancellation, and, if the protestant claims to represent the public interest, a precise statement of the public interest represented;
- Include a detailed description of how the action proposed in the Notice of Proposed Cancellation would impair or be detrimental to the protestant's interest and/or the claimed public interest;
- Identify which of the Notice of Proposed Cancellation's recommended findings of fact and/or conclusions of law the protestant objects to;
- Include a written statement citing the reasons the protestant believes the water right has not been forfeited by nonuse;

- Where the protestant intends to rebut the presumption of forfeiture by claiming one or more of the grounds for rebuttal established in ORS 540.610(2) and further defined in OAR 690-017-0800, or an exemption from forfeiture established by ORS 540.610(3), 540.610(4) or 540.612, include a statement of the grounds claimed for rebuttal or exemption and appropriate supporting documentation;
- Where applicable, include documentary evidence in support of the rebuttal as described in OAR 690-017-0800(3);
- Raise all reasonably ascertainable issues and include all reasonable available arguments that support the protestant's position;
- Include any citation of legal authority to support the protest, if known;
- Explain how the issues raised in the protest are within the Department's jurisdiction; and
- Include a protest fee of \$1,425 required by ORS 536.077(1)(c)(G) and 536.050.

If you file a protest and the Department determines the presumption of forfeiture has not been rebutted or an exemption from forfeiture has not been established, the Department will provide a contested case hearing on the proposed cancellation at an appropriate time. You will be notified of the time and place of the hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing.

Requests for Party Status

Under the provisions of ORS 540.641(2), ORS 536.077(2) and OAR 690-017-0600, if this Notice of Proposed Cancellation is protested, any person who supports this Notice of Proposed Cancellation may file a request for party status to request to participate in any contested case proceeding on this Notice of Proposed Cancellation or for judicial review of a final order resulting from this Notice of Proposed Cancellation. The individuals who filed the affidavits asserting nonuse upon which this Notice of Proposed Cancellation is based will be parties to any contested case proceeding on this Notice of Proposed Cancellation without the need to file requests for party status. Requests for party status and request for party status fees may be mailed or hand delivered to the Oregon Water Resources Department at 725 Summer Street NE, Suite A, Salem, OR 97301. If you submit a request for party status by U.S. mail, please consider mailing early to ensure the Department receives the request by the deadline. Requests for party status may be emailed to will.d.davidson@water.oregon.gov, but payment of request for party status fees cannot be accepted electronically and must be received by the Department by mail or hand delivery prior to the deadline. Requests for party status and request for party status fees must be received by the Water Resources Department no later than December 18, 2026.

Requests for party status must be in writing and include the following:

- Names, addresses, and email addresses (if any) of the requestor and any organization the requestor represents;
- Name, address, and email address of the requestor's attorney, if any;
- A statement of whether the request is for participation as a party or a limited party, and, if as a limited party, the precise area or areas in which participation is sought;
- If the requester seeks to protect a personal interest in the outcome of any contested case hearing on the Notice of Proposed Cancellation, a detailed statement of the requester's interest, economic or otherwise, and how such interest may be affected by the results of the hearing;
- If the requester seeks to represent a public interest in the results of any contested case hearing on the Notice of Proposed Cancellation, a detailed statement of such public interest, the manner in which such public interest will be affected by the results of the hearing, and the requester's qualifications to represent such public interest;
- A statement of the reasons why existing parties to the proceeding cannot adequately represent the private and/or public interest(s) the requester seeks to represent; and
- The request for party status fee of \$1,425 required by ORS 536.077(2)(b)(C) and ORS 536.050.

After the deadline for requests for party status, the Department will provide copies of any timely requests for party status, accept responses to requests for party status, and consider and rule on timely requests for party status as provided in OAR 690-002-0225.

E. Additional Notices

Notice of Right to Request Voluntary Cancellation: Holders of a water right may voluntarily relinquish their water right by filing a notarized authorization to cancel with the Water Resources Department. ORS 540.621. If you decide to authorize voluntary cancellation of the water right or portion thereof appurtenant to your land, you do not need to file a protest. You should contact the Department or your local watermaster for the proper Affidavit of Voluntary Cancellation or Diminution of a Water Right Certificate form.

Notice of the Circumstances under which this Notice of Proposed Cancellation Will Become a Final Order: If no protest of this Notice of Proposed Cancellation is timely received and the Department does not withdraw this Notice of Proposed Cancellation for reconsideration within 33 days after the close of the period for submitting a protest, this Notice of Proposed Cancellation will become a final order on the date that is 33 days after the close of the period for submitting a protest, with no further action required by the Department. If a protest or

protests are timely received, but later: (1) all timely-filed protests are withdrawn and the withdrawals are not based on a settlement agreement requiring changes to this Notice of Proposed Cancellation; (2) all protestants fail to appear at a scheduled hearing; or (3) all protestants notify the Department or the administrative law judge that the protestants will not appear at a scheduled hearing, the protestants will have waived any right to a hearing, and the Department or the administrative law judge will issue an order dismissing the protests and notifying the parties that this Notice of Proposed Cancellation has become a final order. OAR 690-002-0235; OAR 137-003-0672. The Department designates the relevant portions of its file on this matter, including all materials that you have submitted relating to this matter, as the record for the purpose of proving a prima facie case upon default. OAR 137-003-0672.

Notice of Right to be Represented by an Attorney: You may be represented by an attorney at any contested case hearing on this Notice of Proposed Cancellation. Parties are sometimes, but not always, represented by attorneys in cancellation hearings, and the Department may be represented by an attorney. Generally, partnerships, corporations, associations, governmental subdivisions, or public or private organizations must be represented by an attorney. OAR 137-003-0550. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an “authorized representative” as defined at OAR 137-003-0555(1)(b) may represent a partnership, corporation, association, governmental subdivision or public or private organization if the Department determines that the appearance of a person by an authorized representative will not hinder the orderly and timely development of the record.

Notice to Active Duty Servicemembers: Active duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information, contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll-free telephone number.

DATED September 16, 2026



Katherine Ratcliffe, Administrator
Water Right Services Division
for Ivan Gall, Director
Oregon Water Resources Department

If you have questions about this Notice of Proposed Cancellation or how to file a protest or a request for party status, or if you have previously filed a protest or a request for party status

and you would like to know the status, please contact Will Davidson at 503-507-2749 or will.d.davidson@water.oregon.gov.

If you have questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.

STATE OF OREGON

COUNTY OF

BAKER

CERTIFICATE OF WATER RIGHT

This Is to Certify, That

GEO. M. BUCHANAN

of Halfway
a right to the use of the waters of Fish and Dry Creeks, State of Oregon, has

a tributary of Pine Creek
irrigation of 78.1 acres, domestic and stock use for the purpose of

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Baker County, and the said decree entered of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 11, at page 235; that the priority of the right thereby confirmed dates from 1882 for Tract No. 1, and 1892 for Tract No. 2

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed one fortieth of a cubic foot per second per acre, measured at the point of diversion, and a total limitation of one acre-foot per acre during July, one acre-foot per acre during August, and one-half acre-foot per acre during September of each year

The point of diversion is located in the

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

Tract No. 1

11.0 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$
20.0 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$
38.1 acres NE $\frac{1}{4}$ SE $\frac{1}{4}$
Section 12

Tract No. 2

9.0 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$
Section 12
T. 8 S. R. 46 E., W. M.

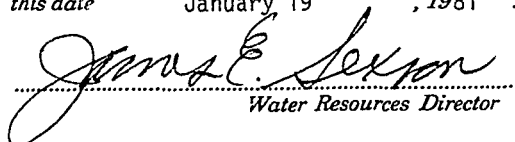
This certificate describes that portion of the water right confirmed by the prior certificate recorded at page 10232, Volume 9, State Record of Water Right Certificates, NOT canceled by the provisions of an order of the Water Resources Director entered on June 24, 1980.

The issuance of this superseding certificate does not confirm the status of the water right in reference to ORS 540.610.

And said right shall be subject to all other conditions and limitations contained in said decree. The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the Water Resources Director, affixed

this date January 19, 1981


Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 43, page 49759

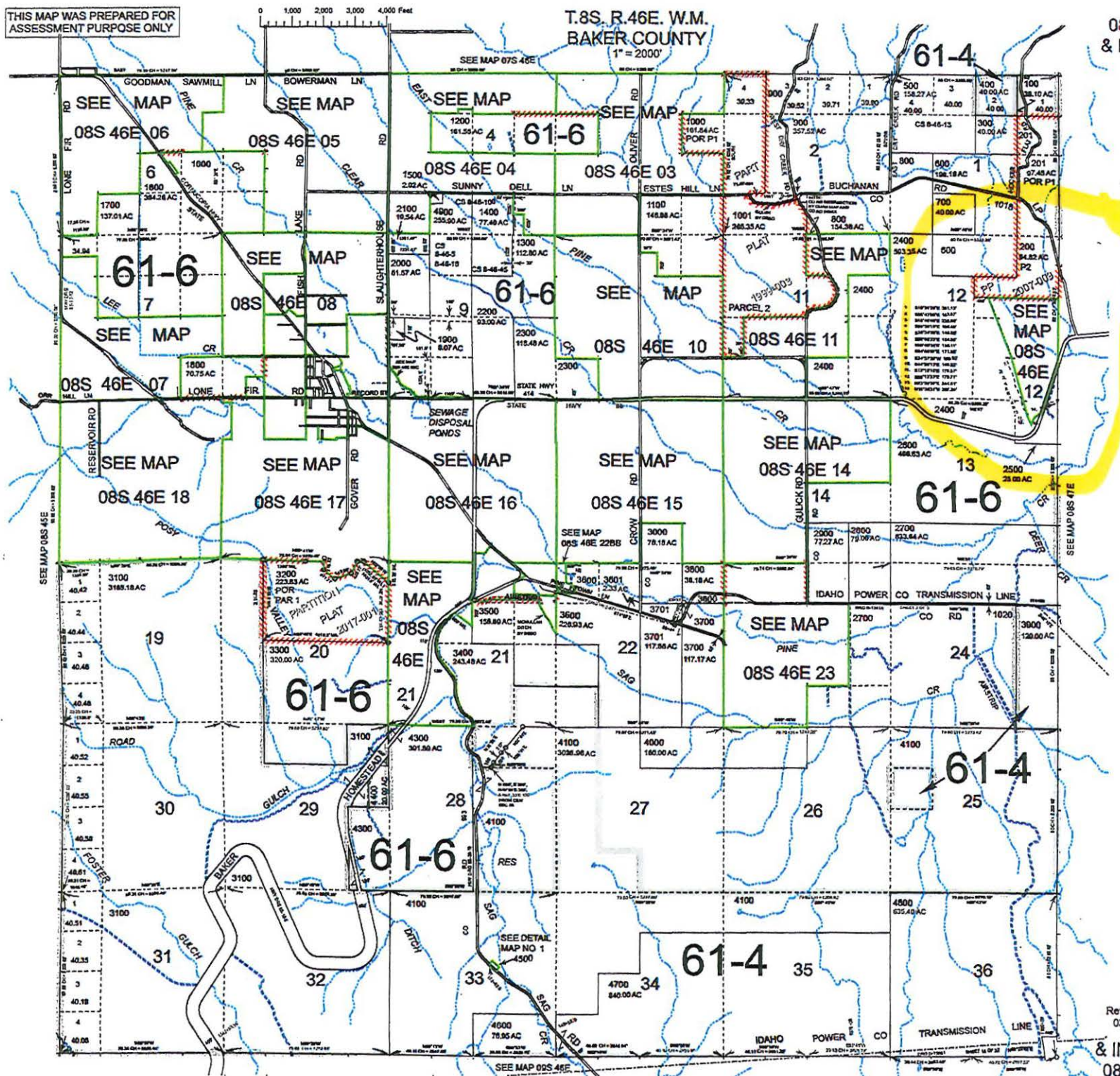
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

T.8S. R.46E. W.M.
BAKER COUNTY

08S46E
& INDEX

Cancelled
800A1
4200

Received
MAR 20 2028
OWEN



Revised: MA
03/15/2023

& INDEX
08S46E

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

0 200 400 600 800 Feet
1" = 400'

SECTION 12 T.8S. R.46E. W.M.
BAKER COUNTY

08S46E12

2 1
11 12

1 6
12 7

Tax Lot

SEE MAP 08S 46E



Non-use

Portion 21 Acres

8S-46E12 SW1/4 NE1/4 1882 6 Acres

8S-46E12 NW1/4 SE1/4 1892 9 Acres

8S-46E12 NE1/4 SE1/4 1882 6 Acres

SEE MAP 08S 46E

100
08.79

3 Sons Ranch

C 49759

61-6

200
38.20 AC

SEE MAP 08S 47E

11 12
14 13

12 7
13 10

PIKE CREEK HWY

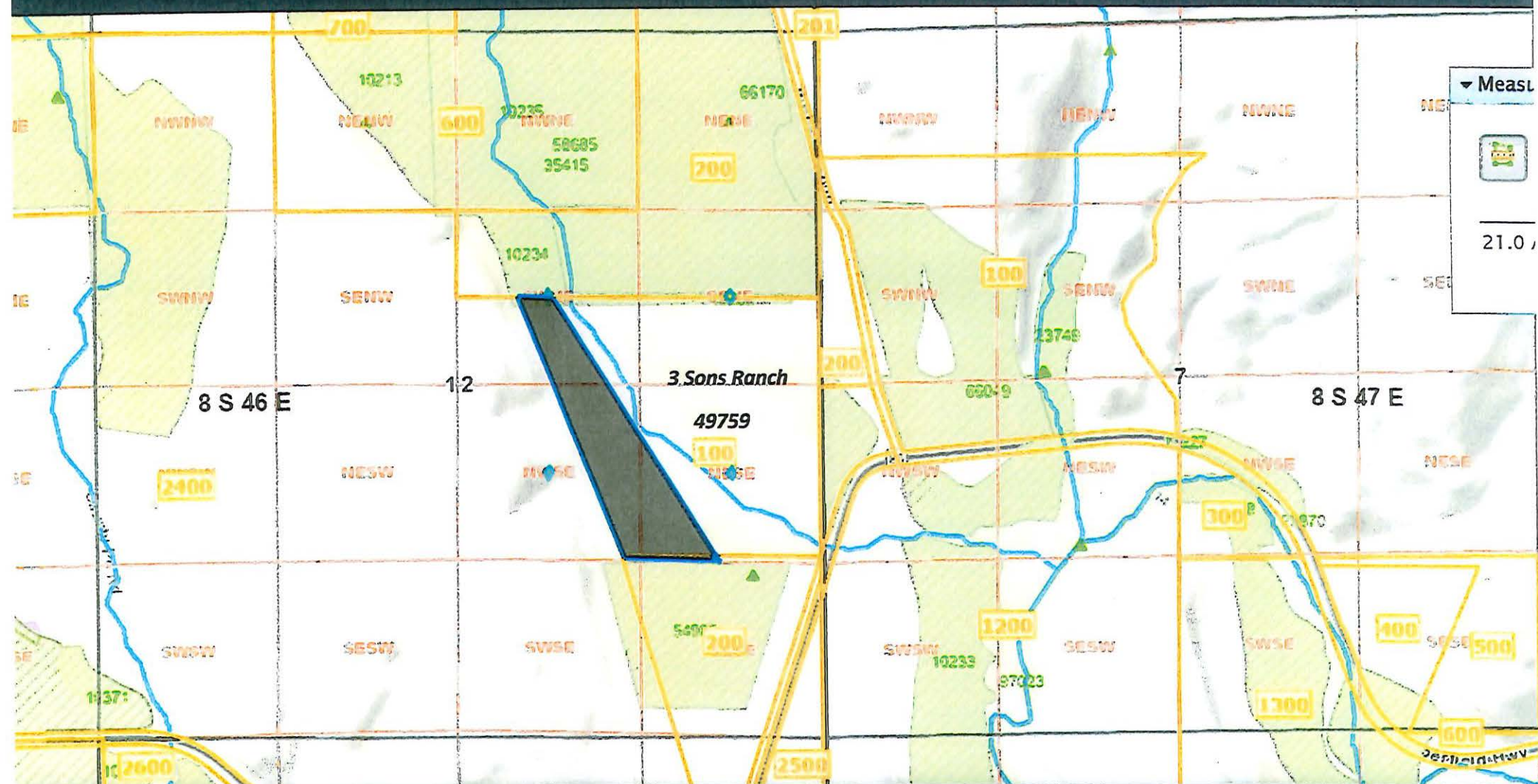
STATE HWY

SEE MAP 08S 46E

Revised: BPH
02/17/1999

08S46E12

Received
MAR 20 2026
OWRD



▼ Measure



21.0

Search...

Water Right	Water Type	First Name	Last Name	Company	Use Desc.	Priority Date	Supp.	Application	Permit
Cert:49759 (RR) * I*	SW	GEO M	BUCHANAN		IRRIGATION, LIVESTOCK AND D...	12/31/1882	-	Received	
Cert:49759 (RR) * I*	SW	GEO M	BUCHANAN		IRRIGATION, LIVESTOCK AND D...	12/31/1892	-	MAR 20 2026	

OWRD

CERTIFICATE OF MAILING/SERVICE

I certify that on September 17, 2026, I served this Notice of Proposed Cancellation of Water Right, including the attached water right certificate and maps, by certified mail, return receipt requested, regular mail, postage prepaid, and email upon the persons listed below:

Certified mail, article #: 9589 0710 5270 3706 8582 93

3 Sons Ranch, LLC
PO Box 895
Halfway, OR 97834

Certified mail, article #: 9589 0710 5270 3706 8583 16

Current Occupant
48587 Hwy 86
Halfway, OR 97834

Regular mail:

Darrell B Martin
39208 Pine Town Lane
Halfway, OR 97834

Richard Dean Tucker Jr
40946 Hwy 86
Richland, OR 97870

Email:

Barbara J Dion
bjdion@outlook.com

Ronald R Still Jr
still@pinetel.com

Derral J Thomas
still@pinetel.com

George L Gover
george.gover@yahoo.com

Darryl R Peer
darrylpeer@gmail.com

*/s/ Will Davidson*_____

Will Davidson

Oregon Water Resources Department