

United States Department of the Interior
National Park Service



MP-1303

National Register of Historic Places Registration Form

This form is for use in nominating or requesting determinations for individual properties and districts. See instructions in National Register Bulletin, *How to Complete the National Register of Historic Places Registration Form*. If any item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, architectural classification, materials, and areas of significance, enter only categories and subcategories from the instructions. **Place additional certification comments, entries, and narrative items on continuation sheets if needed (NPS Form 10-900a).**

1. Name of Property

historic name Pilot Butte Canal: Downtown Redmond Segment Historic District

other names/site number N/A

Name of Multiple Property Listing Carey and Reclamation Acts Irrigation Projects in Oregon, 1901-1978

(Enter "N/A" if property is not part of a multiple property listing)

2. Location

street & number NW Canal Blvd from approximately NW Quince Ave. on the north to NW Dogwood Ave. on the south not for publication

city or town Redmond vicinity

state Oregon code OR county Deschutes code 017 zip code 97756

3. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act, as amended,

I hereby certify that this nomination request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60.

In my opinion, the property meets does not meet the National Register Criteria. I recommend that this property be considered significant at the following level(s) of significance: national statewide local

Applicable National Register Criteria: A B C D


Signature of certifying official/Title: Deputy State Historic Preservation Officer

5/22/2017
Date

Oregon State Historic Preservation Office
State or Federal agency/bureau or Tribal Government

In my opinion, the property meets does not meet the National Register criteria.

Signature of commenting official _____ Date _____

Title _____ State or Federal agency/bureau or Tribal Government

4. National Park Service Certification

I hereby certify that this property is:

entered in the National Register determined eligible for the National Register

determined not eligible for the National Register removed from the National Register

other (explain:)


Signature of the Keeper

7/10/2017
Date of Action

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5. Classification

Ownership of Property
(Check as many boxes as apply.)

Category of Property
(Check only **one** box.)

Number of Resources within Property
(Do not include previously listed resources in the count.)

- private
- public - Local
- public - State
- public - Federal

- building(s)
- district
- site
- structure
- object

<u>Contributing</u>	<u>Noncontributing</u>	
		buildings
		site
3	17	structure
		object
3	17	Total

Number of contributing resources previously listed in the National Register

0

6. Function or Use

Historic Functions
(Enter categories from instructions.)

AGRICULTURE/SUBSISTENCE:
Irrigation Facility

Current Functions
(Enter categories from instructions.)

AGRICULTURE/SUBSISTENCE
Irrigation Facility

7. Description

Architectural Classification
(Enter categories from instructions.)

NO STYLE

Materials
(Enter categories from instructions.)

foundation: N/A
walls: N/A
roof: N/A
other: EARTH; STONE; BASALT

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Narrative Description

(Describe the historic and current physical appearance and condition of the property. Describe contributing and noncontributing resources if applicable. Begin with a **summary paragraph** that briefly describes the general characteristics of the property, such as its location, type, style, method of construction, setting, size, and significant features. Indicate whether the property has historic integrity).

Summary Paragraph

The Pilot Butte Canal: Downtown Redmond Segment Historic District is located on land owned by the Central Oregon Irrigation District in downtown Redmond, Deschutes County, Oregon. It consists of an approximately 6,780-foot long segment of the Pilot Butte Canal located entirely within several Deschutes County parcels. These narrow parcels correspond with the footprint of the canal segment, oriented north-south, extending between NW Canal Boulevard on the west and U.S. Route 97 (The Dalles-California Highway) on the east, and from about NW Quince Avenue on the north and NW Dogwood on the south, in the northeastern portion of downtown Redmond. The nominated area encompasses property owned or managed by the Central Oregon Irrigation District that functionally exists as an open irrigation canal in this vicinity. In addition to the canal segment, it includes two contributing features and seventeen non-contributing features. The two contributing features are a weir that spans the width of the canal and a lateral that parallels the canal for a short distance. The boundary of the nominated property includes the full extent of the last intact, uninterrupted segment of the Pilot Butte Canal that passes through downtown Redmond. The connecting sections of canal to the north and south, outside the boundary, have been replaced with underground pipe and have lost integrity, physically and visually separating the intact open canal segment from the rest of the Pilot Butte Canal.

Narrative Description

Pilot Butte Canal

The Pilot Butte Canal is a 22-mile long irrigation canal that originates from a diversion on the Deschutes River in the City of Bend, Oregon, and flows in a north/northeasterly direction to the Crooked River in northern Deschutes County. Along its course, the canal passes through the communities of Bend, Redmond, and Terrebonne, Oregon. It is one of two main canals that supply irrigation water to the Central Oregon Irrigation District for agricultural and other purposes. The Central Oregon Irrigation District, originally known as the Central Oregon Project, provides water to approximately 45,000 acres within an 180,000-acre area in the Upper Deschutes River basin of Central Oregon. Much of this water is used for agricultural production, although some water is also used by parks and schools in Bend and Redmond, and for industrial and domestic purposes. The overall system consists of over 700 miles of canals and laterals, servicing the communities of Terrebonne, Redmond, Bend, Alfalfa, and Powell Butte, Oregon.

The Pilot Butte Canal consists of earthen construction. Much of its length was excavated through the fields of basalt bedrock that characterize the geology of the Upper Deschutes River basin. Within this area, soils generally composed of sandy pumice volcanic ash overlay the volcanic rock. It is through these materials that the Pilot Butte Canal was constructed, utilizing horse-drawn scrapers, steam-powered scrapers and drills, and sometimes blasting. As a result, the canal's shape in most locations is wide and rectangular with a mostly flat bottom and side walls set at steep grade. The latter are often reinforced with installations of stone riprap and sometimes by carefully placed coursed-stone walls. The canal's width and depth vary, depending on its elevation and the characteristics of the geography through which it passes.

The primary elements of the Pilot Butte Canal include its excavated channel and flanking embankments or berms created by the canal's construction. The excavated channel consists of the channel bed, typically formed from bedrock or a mixture of impervious soils or stone, and the aforementioned sidewalls. The sidewalls were formed by excavating the canal through existing soils or by building a levee

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or berm to establish the canal at a specific grade at a given elevation. Both actions were often involved. The Pilot Butte Canal's flanking embankments consist of compacted soils, most excavated from the canal during its construction. These embankments typically carry ditch roads that flank the canal through most of its length, providing access required for conducting routine maintenance or inspecting the canal's structural integrity.

At its diversion from the Deschutes River, the Pilot Butte Canal's elevation is 3,651 feet. It ends at the Crooked River with an elevation of 2,930 feet, representing an overall drop of 631 feet. As originally designed, this elevation change facilitates the natural, gravity-based flow of water through the canal and the entire irrigation system. The Pilot Butte Canal generally has a consistent size and shape through its length to accommodate high levels of water flow. However, its width and depth are generally greater through its upstream sections, becoming gradually shallower and narrower toward its termination.

The Pilot Butte Canal: Downtown Redmond Segment Historic District contains a representative, intact segment of the Pilot Butte Canal. It is located on land owned or managed by the Central Oregon Irrigation District in Redmond, Deschutes County, Oregon, within Township 15 south, Range 13 East, Section 10 (Figure 1). The canal segment is situated in the northeastern portion of downtown Redmond and measures approximately 6,780' long, 8' to 12' deep, and has a consistent width ranging from approximately 30' to 43' through its entire length (Figures 2, 16 and 17). It has a relatively straight north-south orientation with a slight curve at its northern end. It passes through Deschutes County tax assessor's parcel numbers 151310B000303, 151303CC00200, 151303CC00201, 151303CC00700, 151303CC00800, 151303CC00900, 151303CC01000, 151304DD00100, 151310B000302, 151310B000399, 151310B000304, 151310B000300, and 151304DA00300. The width of the nomination area through these parcels is approximately 50-feet wide, consisting of the canal footprint inclusive of the area of its sidewall embankments. In addition, the nominated property includes the full areas of Deschutes County tax assessor's parcel numbers 151304DACANAL, 151309DACANAL, 151309A0CANAL, 151310CBCANAL, and 151310B0CANAL, plus an approximately 25-feet of the northern portion of parcel number 151309DDCANAL (Figures 4, 5, 6, 7, 8, 9, 10, and 11). These areas correspond with the footprint of the canal segment plus its embankment, extending between NW Canal Boulevard on the west and U.S. Route 97 (The Dalles-California Highway) on the east, and from NW Quince Street on the north and NW Dogwood on the south.

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The Pilot Butte Canal: Downtown Redmond Segment Historic District contains the last intact, open-channel sections of the Pilot Butte Canal to remain within the City of Redmond's downtown area. The sections of the Pilot Butte Canal located north and south of the Downtown Redmond Segment were reconstructed as underground pipes for a length of approximately 0.15 miles and 1.1 miles, respectively, in 2005. This activity was carried out in conjunction with the rerouting of U.S. Route 97 through Redmond in 2005-2009. The bypass route of U.S. Route 97 runs parallel to the Pilot Butte Canal: Downtown Redmond Segment Historic District on the east and crosses over it on the north, characterizing the setting of the resource in these directions. Prior to the bypass' construction, this area was primarily low-density industrial in use, but retained some of its past agricultural use.

A residential neighborhood, the St. Charles Medical Center Redmond, several commercial office and light industrial properties, and a Walmart Superstore and Home Depot occupy the areas west of the canal segment, moving from south to north. The neighborhood of primarily single-family residential homes is characterized by a regular east-west and north-south grid pattern of streets, including NW Canal Boulevard, which parallels the Pilot Butte Canal: Downtown Redmond Segment Historic District on the west. The medical center and other commercial and retail establishments, located farther outside the development of Redmond's downtown historic core, primarily consist of larger, irregular parcels with sizable buildings and expansive paved parking lots on large, irregular parcels.

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Included within the boundaries of the nominated property are three contributing and seventeen non-contributing features. Each of these features is associated with the Pilot Butte Canal, which is considered a principal resource. Of the non-contributing features, each falls outside the period of significance of the Pilot Butte Canal: Downtown Redmond Segment Historic District, is not related to the area of significance (farm access bridge, #18) or has lost integrity:

1. Pilot Butte Canal (1903-1905), contributing

The segment of the Pilot Butte Canal within the nomination area is the historic property's principal resource. It consists of an approximately 6,780' length of canal. Similar to other parts of the canal, the Downtown Redmond Segment was constructed by excavating down into existing soils to create the canal channel. Some of the excavated soils were used to reinforce the embankments flanking the canal. Evidence of this activity is seen in the slight, lateral crowns that characterize the open areas of land flanking the canal segment on either side. The segment's channel has a slightly concave shape, gradually rising to steeper angles at the sidewalls. This shape results from basalt riprap that lines the canal at the sidewalls to support the earthen embankments in these locations. The riprap and lining of the channel floor are characterized by stone and gravel of various sizes.

2. Outlet Structure (March 2005), non-contributing

When the section of the Pilot Butte Canal south of the Downtown Redmond Segment was reconstructed as an underground pipe, an outlet structure was built at the same time to transition the new pipe back to the open canal. This outlet structure is located at the south end of the canal segment (Photos 6 and 7). It consists of a large culvert-type structure, which is constructed of reinforced poured concrete and partially buried. The structure features wide, poured-concrete wing walls and its top is rimmed by a steel railing. The structure is considered non-contributing due to its age, which is outside the period of significance.

3. Bridge over the Pilot Butte Canal at NW Fir Avenue (c. 1990), non-contributing

Ten bridges cross the Pilot Butte Canal in the historic district. The southernmost bridge that crosses the Pilot Butte Canal in the historic district is located at the intersection of the canal with NW Fir Avenue (Photos 10 and 11). This bridge is a simple beam-type bridge with squared poured-concrete abutments with perpendicular wing wall returns at the canal's east and west banks. The bridge deck is constructed of reinforced poured concrete with an asphalt road surface placed on top. Galvanized metal guard rails are bolted to the sides of the bridge deck. The bridge is considered non-contributing due to its age, which is outside the period of significance.

4. Lateral D-2 headgate (c. 1970), non-contributing

A former headgate is located on the west bank of the canal segment, immediately north of the NW Fir Avenue bridge (Photo 12). No longer functional, two poured concrete bulkheads are the only elements remaining of the feature. One bulkhead is mounted against the canal's west bank, presumably to provide erosion control from water passing beneath the adjacent bridge. The second bulkhead angles from the downstream edge of this wall into the canal channel, to shelter the turnout. A steel bracket holds the two bulkheads together. The structure of the former headgate has been removed and the headgate's opening is no longer visible. The headgate is considered non-contributing due to its age, which is outside the period of significance.

5. Bridge over the Pilot Butte Canal at NW Greenwood Avenue (c. 1950/2010), non-contributing

A second bridge crosses the Pilot Butte Canal near the intersection of NW Greenwood Avenue and NW Canal Boulevard (Photos 14 and 15). There has been a bridge in this location since at least the 1950s. However, all of the existing bridge's features are of recent construction, except for possibly its concrete abutments. The existing bridge is a simple beam-type bridge with poured-

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concrete abutments at the canal's east and west banks and a central steel I-beam support in the canal channel. The abutments each have wing walls that angle back into the canal's earthen embankments. They support a series of steel I-beams, upon which a bridge deck of wood planks is placed. The road surface is formed by a second layer of wood planks, installed on top of and perpendicular to the first, with a paved asphalt approach on the west side. Wood railings with angled support brackets are installed at the bridge's sides. The bridge is currently a pedestrian-only bridge and additional wood railings have been installed across the bridge deck to block vehicular access. It is considered non-contributing, due to loss of integrity.

6. Weir (c. 1940), contributing

This feature consists of a board-formed poured-concrete weir that spans the width of the canal segment a short distance north of the NW Greenwood Avenue bridge (Photos 16 and 17). The weir appears to also serve as a check structure for an adjacent headgate. It has a low-profile concrete notch that is supported by straight, concrete bulkheads at the canal's east and west embankments. A wide steel notch plate (or blade) is mounted within the notch. The blade has a trapezoidal-shaped opening, such as those typical of Cipolletti-type weirs. It is mounted on the notch's leading (south) edge and is supported by steel support brackets. A catwalk mounted on top of the weir provides access across the structure to both sides of the canal. It spans the weir's full width. The catwalk features steel construction with a walkway of wood planks and a steel railing. It is mounted to the concrete bulkhead by steel brackets. A vertical measuring gauge has been installed in the weir's upstream water pool, just in front of the weir, near the canal segment's west bank.

7. Headgate (c. 2000), non-contributing

This headgate is located on the east bank of the canal segment, immediately south and adjacent to the aforementioned weir/check structure. It consists of a flat, reinforced, poured-concrete headwall, on which is mounted a rectangular slide gate with a T-shaped handle (Photo 18). Based on the type and materials of construction, the headgate is estimated to have been custom-made and installed by the Central Oregon Irrigation District c. 2000. It serves as the turnout for an unnamed lateral that parallels the east side of the segment. The headgate is considered non-contributing due to its age, which is outside the period of significance.

8. Lateral (c. 1920), contributing

An unnamed lateral parallels the east side of the canal segment, running north from the aforementioned headgate toward NW Hemlock Avenue (Photo 19). It is representative of some of the smaller laterals that extend from turnouts along the Pilot Butte Canal. The lateral consists of a small earthen ditch that measures approximately 2' to 4' wide, 2' to 3' deep, and 530' long. It once supplied water to an adjacent property.

9. Bridge over the Pilot Butte Canal at NW Hemlock Avenue (ID#17C19, 1967), non-contributing

A third bridge over the Pilot Butte Canal corresponds with the alignment of NW Hemlock Avenue. Prior to the reroute construction of U.S. Route 97, this bridge was a primary transportation route across the Pilot Butte Canal from downtown Redmond to areas on its east side. The existing bridge is a simple beam type bridge with poured concrete abutments at the canal's east and west banks and a central concrete-support pier and footing, located in the canal channel (Photos 24 and 25). Records indicate the bridge was constructed in 1967. The abutments and support pier appear to be older than the superstructure, and were likely installed at this time. These elements support pairs of timber beams, which in turn support the bridge deck. The bridge deck consists of wood planks, on which an asphalt road surface has been laid. The beams, bridge deck, and road surface all appear to be of more recent age. In addition, contemporary galvanized-metal guard rails have been bolted to both sides of the bridge deck. The bridge is considered non-contributing, due to its age, which is outside the period of significance.

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10. Bridge over the Pilot Butte Canal at NW Kingwood Avenue (c. 1990), non-contributing

This bridge crosses the Pilot Butte Canal at the intersection of the canal with NW Kingwood Avenue. The bridge serves as a private driveway access from NW Kingwood Avenue and NW Canal Boulevard to a residential property on the canal's east side (Photos 29 and 31). There has been a bridge in this location since at least the 1950s. However, all of the existing bridge's features are of more recent construction. The bridge is a simple beam-type bridge with a poured-concrete deck supported by poured-concrete abutments with angled wing wall returns at the canal's east and west banks. Heavy wood guard railings are bolted to the sides of the bridge deck. The bridge is considered non-contributing due to its age, which is outside the period of significance.

11. Headgate at NW Kingwood Avenue Bridge (c. 1990), non-contributing

The headgate consists of a tall, poured-concrete headwall with a flat face that is an extension of the NW Kingwood Avenue bridge's eastern bridge abutment (Photo 30). It was installed when the existing bridge was constructed over the Pilot Butte Canal. An anodized steel, screw-type lift gate is mounted to the headwall's flat-wall face. The headgate is considered non-contributing due to its age, which is outside the period of significance.

12. Bridge over the Pilot Butte Canal at Medical Center (c. 1990/2016), non-contributing

Similar in design to the bridge at NW Kingwood Avenue, this bridge crosses the Pilot Butte Canal just south of NW Larch Avenue across NW Canal Boulevard from the St. Charles Medical Center-Redmond. It was first constructed sometime between 1980 and 1994 to provide access to land on the east side of the Pilot Butte Canal belonging to the residence accessed by the NW Kingwood Avenue bridge (Photos 32, 33 and 34). The bridge has the same design as the NW Kingwood Avenue bridge and the two bridges were likely installed at the same time. The one difference is the presence of metal W-beam guard rails bolted to the sides of the bridge deck, instead of wood railings. In 2016, the bridge was renovated to provide access to a new, asphalt parking lot on the canal's east side, and a new gable-roof canopy was erected across its length. The bridge is considered non-contributing due to its age, which is outside the period of significance.

13. Bridge over the Pilot Butte Canal at NW Larch Avenue (2006), non-contributing

Built in 2006 as part of the U.S. Route 97 bypass project, this bridge is a single-span, beam-type bridge with direct approaches and poured concrete abutments (Photos 35, 36, and 39). The headwalls of each abutment also extend northward to incorporate the Lateral D Headgate (#13) and Check Structure (#14) described below. The roadway deck is finished with asphalt, featuring poured-concrete, paneled parapet walls across the entire span. Metal railings and safety fencing are mounted on the parapets, which feature decorative, inset, arched panels on their outer sides. Metal W-beam guard rails mark the roadway approaches. The bridge is considered non-contributing due to its age, which is outside the period of significance.

14. Lateral D Headgate (2006), non-contributing

The headgate consists of a tall, poured-concrete headwall with a flat face that is an extension of the adjacent bridge abutment (Photos 36 and 37). An original location, the existing headgate was installed in 2006 when the new bridge was constructed over the Pilot Butte Canal at NW Larch Avenue. An anodized steel, screw-type lift gate is mounted to the headwall's flat-wall face. The Lateral D Headgate is considered non-contributing due to its age, which is outside the period of significance.

15. Check Structure (2006), non-contributing

This feature consists of a board-formed poured-concrete check structure that spans the width of the canal segment immediately north of the NW Larch Avenue bridge (Photos 36 and 39). The

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check structure was installed in 2006, when the new bridge was constructed. It replaced an older check structure in this location, which served water to the Lateral D Headgate. The feature has a low-profile concrete notch that is affixed directly to the flat-wall concrete bulkheads at the canal's east and west embankments. The latter are extensions of the adjacent bridge abutments. Wood slats are mounted in the notch. A metal catwalk mounted on top of the check structure, spanning its full width, provides access across the structure to both sides of the canal. The catwalk features steel construction with steel structural supports, grated deck, and a steel railing. The check structure is considered non-contributing due to its age, which is outside the period of significance.

16. Bridge over the Pilot Butte Canal at NE Negus Way (2006), non-contributing

This bridge is a modern highway overpass that functions as a viaduct conveying traffic over NW Canal Boulevard, the Pilot Butte Canal, U.S. Route 97, and the BNSF railroad line (Photos 38 and 40). It was constructed in 2006 as part of the U.S. Route 97 bypass project and is a primary transportation corridor from downtown Redmond to the city's east side. It consists of a multiple-span, poured-concrete, beam-type bridge with elevated approach embankments reinforced by boxed cultured-stone abutments, and columned support piles separating each span. The roadway deck is finished with asphalt, flanked by poured concrete sidewalks and paneled parapet walls across the entire span. Metal railings and safety fencing are mounted on the parapets, which feature decorative, inset, arched panels on their outer sides. The bridge is considered non-contributing due to its age, which is outside the period of significance.

17. Bridge over the Pilot Butte Canal at NE 2nd Street (2006), non-contributing

This bridge was built in 2006 as part of the U.S. Route 97 bypass project, although there has been a bridge in this location since at least the 1950s. It is a poured-concrete, single-span, beam type bridge with poured-concrete abutments that have angled wing wall returns at the canal's east and west banks (Photos 41 and 43). The road surface of the bridge deck is paved with asphalt, flanked by poured-concrete sidewalks and paneled parapet walls across the entire span. Metal railings are mounted on the parapets, which feature decorative, inset, arched panels on their outer sides. The bridge is considered non-contributing due to its age, which is outside the period of significance.

18. Bridge over the Pilot Butte Canal at 2036 NW Canal Blvd (c. 1920), non-contributing

This bridge was constructed c. 1920 to provide access to the farm on the east side of the Pilot Butte Canal. It consists of a simple beam-type bridge constructed with a combination of wood and poured concrete (Photos 45 and 46). The bridge has poured-concrete abutments with angle wing walls on the canal's east and west sides. These structures, along with a central line of squared timber support piers located in the canal channel, support the bridge deck. The deck features wood beam construction with a roadway surface of wood planks, over which are perpendicular runners. A simply designed wood balustrade flanks the deck on the north and south. The replacement of deteriorated wood elements has likely occurred. Because the bridge is not functionally a part of the nominated structure and related appurtenances comprising the historic district, it is not considered to be contributing.

19. Bridge over the Pilot Butte Canal at 2190 NW Canal Blvd (c. 1929/1960), non-contributing

The northernmost bridge in the historic district, this bridge was constructed c. 1929 to provide access to the adjacent farm on the east side of the Pilot Butte Canal, similar to the previous bridge. All of the existing bridge's features appear to be of more recent construction, except for possibly its abutments and central support pier (Photos 47 and 48). These elements are constructed of poured concrete, supporting a bridge span formed by steel I-beams. A roadway deck of wood planks with perpendicular wood runs was installed over the I-beams. The bridge has no railings or parapet. The bridge is considered non-contributing because of its apparent alterations, which have caused a loss of integrity.

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20. Intake Structure (March 2005), non-contributing

Similar to the aforementioned outlet structure, an intake structure was built when the section of the Pilot Butte Canal north of the Downtown Redmond Segment was reconstructed as an underground pipe, to transition the open canal to the new pipe. The intake structure is located at the north end of the canal segment (Photo 49). It consists of a large culvert-type structure, which is constructed of reinforced poured concrete and partially buried. The structure features wide, poured-concrete wing walls and its top is rimmed by a steel railing. The structure is considered non-contributing due to its age, which is outside the period of significance.

The Pilot Butte Canal: Downtown Redmond Segment Historic District has good integrity and retains the majority of its original features and characteristics. Apparent alterations are limited to those non-contributing features described above. The non-contributing properties are located within the historic district and are physically attached to contributing features; therefore, they cannot be excluded from the nominated area.

The canal segment retains its original unaltered alignment, and the design, materials, and workmanship of its character-defining elements remain intact. These elements include the canal's channel and sidewalls, its basalt stone lining, and its earthen embankments. The contributing weir and lateral compliment this integrity through their association with the canal as a principal resource and by helping represent the canal's engineering and function. In addition, the canal's location, setting, and association within an operating irrigation system remain unchanged.

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8. Statement of Significance

Applicable National Register Criteria

(Mark "x" in one or more boxes for the criteria qualifying the property for National Register listing.)

- A Property is associated with events that have made a significant contribution to the broad patterns of our history.
- B Property is associated with the lives of persons significant in our past.
- C Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
- D Property has yielded, or is likely to yield, information important in prehistory or history.

Criteria Considerations

(Mark "x" in all the boxes that apply.)

Property is:

- A Owned by a religious institution or used for religious purposes.
- B removed from its original location.
- C a birthplace or grave.
- D a cemetery.
- E a reconstructed building, object, or structure.
- F a commemorative property.
- G less than 50 years old or achieving significance within the past 50 years.

Areas of Significance

(Enter categories from instructions.)

EXPLORATION AND SETTLEMENT

AGRICULTURE

Period of Significance

1903–1950

Significant Dates

1903 – Construction Begins

1905 – Construction Complete

1910 – City of Redmond Incorporated

1950 – State of Oregon Ends Carey Act

Significant Person

(Complete only if Criterion B is marked above.)

N/A

Cultural Affiliation (if applicable)

N/A

Architect/Builder

Wiest, Levi D., Irrigation Engineer

Period of Significance (justification)

The period of significance for the Pilot Butte Canal: Downtown Redmond Segment Historic District extends from the Pilot Butte Canal's initial construction in 1903 and ends in 1950, when the State of Oregon decreed an end to the Carey Act's provisions. This timeframe represents the Pilot Butte Canal's initial construction, as well as subsequent ongoing improvements to the property, until the termination of the Carey Act's authorization. It further encompasses the initial settlement and incorporation of the City of Redmond. The Pilot Butte Canal remained an important influence on the development and growth of the surrounding communities and region throughout this period.

Criteria Considerations (explanation, if necessary) N/A

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Statement of Significance Summary Paragraph (Provide a summary paragraph that includes level of significance, applicable criteria, justification for the period of significance, and any applicable criteria considerations).

The Pilot Butte Canal: Downtown Redmond Segment Historic District is historically significant under Criteria A of the National Register of Historic Places, at the local level of significance, in the areas of exploration/settlement and agriculture. It is considered historically significant for its association with the founding and settling of Redmond, Oregon, the development of agricultural irrigation in central Oregon, and as a principal resource of the Central Oregon Project, an early Carey Act project in Oregon. The segment meets the general and property-specific registration requirements for historic properties associated with the development of irrigation projects in Oregon described in the Multiple Property Document: "Carey and Reclamation Acts Irrigation Projects in Oregon, 1901-1978," specifically under the historic context of "Carey Desert Land Act Projects in Oregon, 1901-1950."

As a principal resource of the Central Oregon Project, the Pilot Butte Canal is closely associated with early homesteading and settlement efforts in the Upper Deschutes River basin in the vicinity of Bend and Redmond, Oregon, and the use of irrigation as a means to improve agricultural production, overcome harsh environmental conditions, and provide a sustainable livelihood with limited resources in the region. Its construction was authorized under the Carey Act, which was adopted by the State of Oregon in 1901 to promote development of irrigated agriculture in the State's arid regions, and led to the organization and actions of local irrigation companies to carry out these efforts. As part of the Central Oregon Project, the Pilot Butte Canal provided water for agricultural use in Deschutes County, and specifically the towns of Bend and Redmond, throughout its period of significance. These events led to the founding, initial development, and continued growth of these and other communities. The Pilot Butte Canal: Downtown Redmond Segment Historic District represents this historical significance.

Narrative Statement of Significance (Provide at least **one** paragraph for each area of significance.)

The Pilot Butte Canal is the backbone of one of the two irrigation systems that form what is known as the Central Oregon Project in the Upper Deschutes River basin. The Central Oregon Project stands out as a prominent example of an irrigation project resulting from the provisions of the Carey Desert Land Act (Carey Act), and one that had a tremendous impact on the formation and development of central Oregon. It has the distinction of being Oregon's largest Carey Act project and was one of the most successful Carey Act projects in the nation. It also was the primary impetus for agricultural development in the Upper Deschutes River basin during the early twentieth century and the growth and development of many of its population centers.

Calculated at 140,714 acres in 1909, the Central Oregon Project was one of several large-scale irrigation developments in central Oregon, beginning in the late 1890s and early 1900s. These developments centered on Oregon's adoption of the provisions of the Carey Act, which occurred in 1901. During this period, a large number of speculative corporations and cooperative ventures were organized for the express purpose of claiming and developing lands under the Carey Act. These projects differed somewhat from prior irrigation developments because they were primarily speculative commercial enterprises, rather than cooperative developments organized solely for the purposes of improved agricultural production.

Between 1901 and 1906, seven projects in the Upper Deschutes River Basin were approved under the Carey Act. Work was carried out by development companies on at least five of these irrigation projects prior to the Act's adoption by the Oregon State Legislature. These projects included the Deschutes Reclamation and Irrigation Company (Swalley) and Three Sisters Irrigation Company projects, and irrigation projects promoted by the Oregon Irrigation Company, the Pilot Butte Development Company, and the Deschutes Irrigation and Power Company. Companies with previously established irrigation projects, such as the Swalley and Three Sisters Irrigation Company projects, transitioned their existing infrastructure to form Carey Act projects. Meanwhile, the newly established companies generally conducted preliminary work to claim and hold their water rights, until approval for an irrigation project under the Carey Act could be secured.

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Carey Desert Land Act

Introduced by Wyoming Senator Joseph M. Carey, Congress passed the Carey Desert Land Act on August 18, 1894, and subsequently amended the law with revisions on June 11, 1896, and March 3, 1901. The Carey Act authorized the United States government to grant up to one million acres of public lands to each western state that agreed to its provisions, and enabled these states to issue irrigation contracts to private developers. These developers were then expected to design and build irrigation works to serve lands "segregated" by the state from their federal allocation of one million acres. A state then issued a water right to the private developer for their particular project.

The State of Oregon adopted the provisions of the Carey Act on February 28, 1901.¹ The legislation established a State Land Board to administer the act in Oregon and declared a state policy that Oregon's arid lands were to be reclaimed and settled. Under the act, the State of Oregon relied on private companies to bring about reclamation and settlement, but without becoming liable for any costs. The state was not directly responsible for the financing or construction of any Carey Act projects. If an irrigation project failed, the State simply reassigned the contract to another development firm.²

By 1904, the State Land Board had established contracts for twenty-three segregations under the Carey Act. Four of these were approved by the U.S. Secretary of the Interior, including three in the Upper Deschutes River basin and one in the Harney Valley.³ The segregations in the Upper Deschutes River basin, in what was then Crook County, were the most prominent of Oregon's Carey Act projects. They were often the primary focus of discussions and publications on western irrigation and the Carey Act's implementation in Oregon at that time.

Central Oregon Project

The Central Oregon Project was actually the combination of two segregations initiated by two separate development companies: the Pilot Butte Development Company and the Oregon Irrigation Company. The Pilot Butte Development Company's planned reclamation of Segregation List No. 6, consisting of 84,707.74 acres and executed on May 31, 1902, was the State of Oregon's second Carey Act contract. At 56,006.89 acres, Segregation List No. 19 by the Oregon Irrigation Company was the fourth.⁴

Both companies were subsumed by the Deschutes Irrigation and Power Company in 1907 and subsequently by the Central Oregon Irrigation Company in 1910.⁵ The Central Oregon Irrigation District assumed full control of both segregations in 1921.⁶ The Deschutes Irrigation and Power Company also long held a contract for another large development, Segregation List No. 20, known as the Benham Falls project. This project contemplated the irrigation of 74,198.02 acres from a diversion at Benham Falls. The project was never realized, however, and the state released the segregation from contract on October 17, 1915.⁷

The activities of the Oregon Irrigation Company, the Pilot Butte Development Company, and the Deschutes Irrigation and Power Company are good examples of the progression of speculative irrigation companies in

¹ George B. Archibald, "Central Oregon Project" (The Dalles, OR: U.S. General Land Office, 22 December 1916), 138; Kelsey Doncaster, Chris Horting-Jones, and Renewal Technologies, Inc., "Sagebrush to Clover: The U. S. Bureau of Reclamation's North Unit of the Deschutes Project, Volume 1: History" (U.S. Department of the Interior, Bureau of Reclamation, Pacific Northwest Region, November 2013), 8; Michael S. Hall, "Irrigation Development in Oregon's Upper Deschutes River Basin, 1871-1957: A Historic Context Statement" (Bend, OR: Deschutes County Community Development Department, 31 August 1994), 12.

² Hall, 12.

³ Phil F. Brogan, "The Watering of the Wilderness," *The Bend Bulletin* (4 February 1931), 1; Hall, 12.

⁴ Archibald, 59-60; Hall, 12-13 and 25; John H. Lewis and Percy A. Cupper. *Irrigation in Oregon*, U.S. Department of Agriculture, Office of Experiment Stations, Bulletin 209 (Washington, DC: Government Printing Office, 1909), 34.

⁵ Archibald, 177-179; Oregon Department of Transportation, "Deschutes Irrigation and Power Company," 8.

⁶ Oregon Department of Transportation, "Pilot Butte Canal," Historic American Engineering Record (HAER OR-62/HAER ORE 9-Bend, 3-)(Seattle, WA: National Park Service, Columbia Cascades Support Office, 26 May 1998), 8-9.

⁷ Archibald, 349-350; Hall, 13.

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central Oregon in the late 1890s and 1910s. They illustrate the development history of the Upper Deschutes River basin and what would become the Central Oregon Project. The histories of these three companies were closely intertwined. The Oregon Irrigation Company and the Pilot Butte Development Company eventually merged to become the Deschutes Irrigation and Power Company, and the irrigation developments pursued by all three entities, including the construction of the Pilot Butte Canal, eventually became a single system.

Charles C. Hutchinson was a pivotal figure in the formation of all three companies. An early promoter of irrigation development, Hutchinson was probably one of the first individuals to recognize the Upper Deschutes River basin's potential for extensive irrigation development. He was the founder of the Oregon Irrigation Company, initiated events that led to the creation of the Pilot Butte Development Company, and was at one time a president or stockholder of both companies.

Hutchinson initially had little or no financial backing for irrigation developments, but was prolific in realizing their potential and filing numerous water rights for proposed projects at propitious diversion points along the Deschutes River. He would then commission surveys of these areas, promote their irrigation, and attempt to attract capital investment for the corporate business ventures.⁸ In the late 1890s, Hutchinson contemplated the following irrigation projects: an irrigation system on the Deschutes River in the vicinity of Benham Falls in what would eventually become Segregation List No. 20 of the Central Oregon Project, under the Carey Act; the irrigation of lands in Segregation List No. 6, similar to those serviced by the present Central Oregon Canal, but involving a diversion on the Deschutes River at Lava Island; the reclamation of land that would eventually be developed under the Carey Act's Segregation List No. 19 and presently serviced by the North Canal as part of the Central Oregon Project; and in Segregation List No. 6 presently serviced by the Pilot Butte Canal.

To achieve these goals, Hutchinson organized the Oregon Development Company in the spring of 1898 and filed his first water rights the same year. The company was capitalized for \$10,000 with a total of 10,000 shares of stock, valued at \$1.00 per share. There were two partners in the company: D. D. Warner and H. Ross, both of Portland.⁹ In May and June of 1899, Hutchinson hired an engineer to survey potentially irrigable lands along the Deschutes River and filed even more claims. Totalling nearly 35,000 acres, these filings were the largest single quantity of water rights filed in Oregon up to that time. On November 14, 1899, he then organized the Oregon Irrigation Company, his second speculative development company, and transferred all the rights and surveys of the Oregon Development Company to this new company.¹⁰

Hutchinson needed capital to carry out his schemes, so he wrote to Alexander McClurg Drake, a wealthy Minneapolis capitalist, in 1899. Hutchinson appealed to Drake by enticing him with the potential profits that could be made by developing irrigation in the Upper Deschutes River basin. In 1900, Drake agreed to a partnership and provided the needed capital in return for half of the Oregon Irrigation Company's stock and a role as president and manager. Soon after, however, Drake and Hutchinson became embroiled in a dispute, which resulted in both parties pursuing determined yet separate efforts to initiate development projects. Drake informed Hutchinson he saw no reason to continue their partnership and formed the Pilot Butte Development Company to compete for irrigation interests in the Upper Deschutes River basin.¹¹

Drake incorporated the Pilot Butte Development Company on October 29, 1900, while Hutchinson continued to operate the Oregon Irrigation Company. The Pilot Butte Development Company was incorporated with a total capitalization of \$50,000. Its principal investors were Alexander M. Drake, Florence W. Drake, and Charles J. Cotter. Drake hired engineer Levi D. Wiest as the company's chief engineer and to survey its holdings. Wiest reportedly conducted all the surveys and land examinations for the irrigation systems and designed the company's buildings and structures, including the Pilot Butte Canal.¹²

⁸ Archibald, 381-382.

⁹ Archibald, 26.

¹⁰ Hall, 19-20.

¹¹ Archibald, 381-382; Hall, 20.

¹² Oregon Department of Transportation, "Pilot Butte Canal."

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Conflicting water rights were filed by both companies at nearly all the same diversion points along the Deschutes River, and the two companies generally made every effort to discredit the other.¹³ On November 5, 1900, for example, Drake made four water filings on the Deschutes, two of which were posted next to Hutchinson's notices. Hutchinson submitted complaints to the Oregon State Land Board, the U.S. General Land Office, and Oregon's Congressman, Malcolm Moody. He argued that his prior filings took preference over Drake's filings, and his actions were an attempt to effectively prevent Drake from complying with his Carey Act obligations. In 1903, the U.S. Secretary of the Interior affirmed a General Land Office dismissal of Hutchinson's protest and recognized the legitimacy of the Pilot Butte Development Company.¹⁴

Drake first arrived in central Oregon in 1900. Upon his arrival, he purchased land in the vicinity of Bend, built a summer lodge on the Deschutes River's east bank and initiated the development of what would become the City of Bend. The Pilot Butte Development Company filed the initial plat for the City of Bend on June 7, 1904. Drake was named the chief petitioner for the incorporation and was one of 49 residents who signed the documents supporting the action. After completing his summer lodge, Drake also constructed three pumping plants to supply water to the new town, and for irrigation purposes. One was located at the Staat's property, one was placed just below the present Tumalo Avenue Bridge, and one was located a little farther downstream. The third plant supplied water directly to Drake's residence. Water pumped from the Deschutes River provided irrigation for what would become "Garden Row," the residential section of Bend that was home to many of its most influential citizens. These properties, with their fine gardens and lawns, were located between the present Tumalo Avenue and Drake Park bridges on the river's east side.¹⁵

Whether through agreement or another mechanism, the two companies eventually confined their activities to separate territories. The Pilot Butte Development Company developed a system to irrigate lands in what would become Segregation List No. 6 under the Carey Act, and the Oregon Irrigation Company attempted to finance a project that would reclaim land in Segregation List No. 19. The irrigation of land in Segregation List No. 20 was pursued by both companies, with perhaps the Oregon Irrigation Company being the most actively interested.¹⁶

The Oregon Irrigation Company initiated the construction of irrigation works at Benham Falls in 1901-1902. Relatively minor in scope, this work consisted of excavations for a flume to divert water on the river's east bank at the head of the falls, and to validate the company's claims in the area. The company reportedly had two workers employed "in the timber," some distance back from the falls, from the spring of 1901 to the spring of 1903. As was typical, these men performed a minimum of work on the proposed diversion and along the river or in the lava beds just east thereof, or just enough to validate the company's claim to the water rights. Contemporary reports indicated the effort to be merely "pick and shovel work," which did not amount to much improvement.¹⁷

The Oregon Irrigation Company's plan for the reclamation of the land in Segregation List No. 19 involved the construction of a diversion dam on the Deschutes River's west bank at a point commonly referred to as "The Narrows," from which point a canal was to follow along the river's west bank downstream to about where the North Canal Dam is now located. Here a crossing was to be made to the river's east bank and the canal extended easterly to the Powell Butte district. Some work was done by the company at the location of this original diversion in 1901, presumably to validate the water right. However, no further work was done at The Narrows.¹⁸ Similarly, the Oregon Irrigation Company's plans for the lands of Segregation List No. 6 involved the construction of the Lava Island Canal, which was to divert from the upper Lava Island on the Deschutes

¹³ Archibald lists the Pilot Butte Development Company's incorporation under the laws of Oregon as occurring on May 18, 1900. The Oregon Secretary of State recorded the filing of the incorporation on October 29, 1900. Crook County, Oregon, "The Pilot Butte Company, Articles of Incorporation," *Articles of Incorporation*, Vol. 1 (Prineville, OR: Crook County Clerk, 29 October 1900), 78; Archibald, 25 and 381-382.

¹⁴ Archibald, 56; Hall, 20.

¹⁵ *The Bend Bulletin* (18 October 1933); Hall, 49.

¹⁶ Archibald, 381-382.

¹⁷ Archibald, 349-350.

¹⁸ Archibald, 353.

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River. To support rights filed at this location, the company likewise employed a few laborers who, from the Spring of 1901 to Spring 1903, excavated or partially excavated a canal about ten feet wide, a half mile long, and about three feet deep.¹⁹

The Pilot Butte Development Company, meanwhile, contemplated the reclamation of approximately the same area by the means of two possible canals. The first (referred to as the Central Oregon Canal but different from today's canal of that name) was to divert from the Deschutes River's west bank at the so-called Midway Diversion, cross to the river's east bank at Lava Island, and then run easterly to the Powell Butte district. From a point near what is now the Brasada Ranch, it would have then had almost the same alignment as the present Central Oregon Canal. The second canal (referred to as the Pilot Butte Canal) was to divert from the location of the existing Central Oregon Canal diversion (then known as the Pilot Butte Diversion or Deschutes Canal Diversion) and run northerly to the Crooked River on approximately the same alignment as the present Pilot Butte Canal. Feeder canals were also considered, to allow water to be interchanged from one canal system to the other. A feeder canal proposed from the Pilot Butte Diversion was to have practically the same alignment as the upper (southern) part of the present Central Oregon Canal, but was not intended to serve as a permanent water supply. Instead, it was to irrigate those areas west/southwest of Alfalfa, Oregon, and supply water to the Powell Butte district, located farther north, until construction of the new canal from the Midway Diversion could be completed. The only aspect of these plans achieved by the Pilot Butte Development Company at this time was the construction of the Pilot Butte Canal.²⁰

The Pilot Butte Development Company subsequently initiated construction of a diversion dam, originally known as the Pilot Butte Diversion, in the spring of 1901. This diversion was at the location of what is now the Central Oregon Canal diversion, and was intended to supply water to both the Central Oregon Canal and the Pilot Butte Canal. The work included erection of the diversion structure, the construction of what was then known as the Pilot Butte flume, and excavation of the Pilot Butte Canal as far as the town of Bend (today this canal is known as the Old Pilot Butte Canal). Construction of headworks, the flume, and about ten miles of earthen canal below the flume were completed by 1903. The flume was reported as originally measuring approximately 3' x 5' in section, was about 1 ½ miles long, and had a carrying capacity of 169 second feet of flow.²¹ This capacity would be increased with later improvements to the structure.

Deschutes Irrigation and Power Company

The Deschutes Irrigation and Power Company succeeded both the Pilot Butte Development Company and the Oregon Irrigation Company, and acquired control of all the property, contracts, rights, franchises, and other assets owned by each of the two companies. The Deschutes Irrigation and Power Company was incorporated on February 10, 1904, with a total capitalization of \$2,500,000 and 25,000 shares of stock, valued at \$1.00 per share. The company was incorporated by William Mundy, George Hill, and E. B. Holmes. Supplemental articles of incorporation were filed on June 30, 1904.²²

The Deschutes Irrigation and Power Company's creation resulted from the conflicting claims of the Oregon Irrigation Company and the Pilot Butte Development Company. Both companies had submitted applications for the segregation of the same lands in the Upper Deschutes River basin and alleged the same prior water rights and privileges. The establishment of the new company was a compromise evidently reached by the various parties involved. Drake sold his interests in the Pilot Butte Development Company to the Deschutes Irrigation and Power Company for \$70,000 in 1904. He subsequently sold all his holdings in Bend and moved with his family to Pasadena, California, in 1911, where he retired. Hutchinson likewise sold his contracts and rights to the Deschutes Irrigation and Power Company, receiving about \$35,000 for 56,006.89 acres identified as the

¹⁹ Archibald, 383.

²⁰ Archibald, 57, 236-237, and 383-384.

²¹ Archibald, 238, 350, and 383.

²² Archibald, 27, 59 and 142; Hall, 20; Oregon Department of Transportation, "Deschutes Irrigation and Power Company," 6.

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lands of Segregation List No. 19. With its incorporation, the Deschutes Irrigation and Power Company took over the irrigation developments of both older companies and was thereafter jointly managed and operated.²³

As part of this process, the deed of transfer included a provision that some 25 second feet of water from the system be reserved for use by the City of Bend, and not diverted from the Deschutes River. This water was to be used for municipal purposes, such as power development, and would play a role in later improvements affecting the Pilot Butte Canal and Central Oregon Canal. A contract between the State of Oregon and the Deschutes Irrigation and Power Company executed on June 17, 1907 recognized and reaffirmed this reservation of water.²⁴ The Pilot Butte Development Company later constructed the Bend Power Plant in 1909, which provided electricity to the City of Bend, relying on hydro-electric power generated by the power plant and a small rock-filled dam across the Deschutes River.²⁵

The Deschutes Irrigation and Power Company continued the work begun by its predecessors and completed the construction of the Central Oregon Canal and the Pilot Butte Canal systems between 1904 and 1912. Upon completion, the size of the irrigation project extended across sections of three counties: Deschutes, Crook, and Jefferson; and provided irrigation water throughout this area. The company also worked to improve the area's communication and transportation infrastructure. The area's first telephone line was installed between the company offices and Prineville to improve communications between Bend and the outside world, including the company's offices in Portland and Columbus, Ohio. The company also organized the Central Oregon Transportation Company as a subsidiary to provide transportation for passengers and express mail between Bend and Shaniko, Oregon, which was the end of the railroad at that time.²⁶

Work was started on the enlargement of the Pilot Butte flume on September 12, 1904, and its size increased to about 5' x 16' in section by August 19, 1905. This enlargement was called for by the system's original plans and necessary to supply sufficient water to both the Pilot Butte Canal and Central Oregon Canal. At the same time, work was commenced on an extension of the Pilot Butte Canal from its prior terminus near Bend.²⁷ The canal systems were initially designed to divert water from the east bank of the Deschutes River approximately four miles upstream from what would become Bend at the Pilot Butte Diversion. The water then travelled approximately a mile through the Pilot Butte flume to a structure referred to as the "bifurcation." This structure was the original starting point of the Pilot Butte Canal, which essentially functioned as a lateral of the Central Oregon Canal, until the construction of the North Canal Dam in 1909-1912.²⁸

Enlargement of the Pilot Butte flume was responsible for initiating Bend's first water fight and resulted in the construction of the North Canal Dam, and the current configuration of the Pilot Butte Canal. Due to the flume's greater capacity, Deschutes Irrigation and Power Company engineers devised plans to divert more water from the Deschutes River above Bend for the purposes of supplying water to the two irrigation systems, neither of which had yet reclaimed their full segregations. These plans had the potential to leave the river dry at Bend during the irrigation season and to adversely affect the construction and operation of the Bend Power Plant; and were in lieu of a prior agreement with the State of Oregon to divert additional water from new headworks at the Bend townsite.²⁹

On December 5, 1905, the City of Bend adopted a resolution addressed to the State Land Board protesting the Deschutes Irrigation and Power Company's plans. The company responded that the change in plans was necessary to provide irrigation water at a minimal expense to settlers and that diversion of water below Bend was possible, but would require the construction of a new dam. The solution was the construction of what is now the North Canal Dam, an action the Deschutes Irrigation and Power Company agreed to on January 19,

²³ Archibald, 58-59; Hall, 20.

²⁴ Archibald, 38.

²⁵ Archibald, 39-40.

²⁶ Hall, 20.

²⁷ Archibald, 239; "To Enlarge Flume," *The Bend Bulletin* (12 August 1904), 1; "Digs Ditch Bigger," *The Bend Bulletin* (21 October 1904), 1.

²⁸ Archibald, 258.

²⁹ Hall, 25.

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1906.³⁰ Preliminary work was begun on construction of the North Canal Dam on May 31, 1909, by the Deschutes Irrigation and Power Company.³¹ Preliminary work consisted of preparing the dam site and canal right of way, and was continued by the company until it went into receivership in 1910.³² Thereafter, the preliminary and preparatory work was again taken up by the Central Oregon Irrigation Company and continued until 1912, when actual construction started.³³

Built at a cost of \$220,000, the project initially included the construction of the dam, headgates, and the first 1.41 miles of what was called the North Canal from the diversion to its junction with the Pilot Butte Canal. The diversion dam consisted of a single concrete arch, gravity sectioned, overflow-type structure with a radius of 180 feet. Much of this structure still exists today. In 1910-1911 the North Canal was enlarged for a distance of 5.5 miles below the flume to a width of 21 feet and a depth of about four feet, and from 1912-1915 the lower end of the ditch was enlarged. In 1931, the canal was about 13 miles long, with a 3.5-mile lateral extension.³⁴

The North Canal Dam was completed in 1913, and the canal was partially completed from the headgate to its intersection with the Pilot Butte Canal, a total distance of 7,460 feet. The canal did not irrigate lands beyond the intersection with the Pilot Butte Canal at this time.³⁵ Following its completion, the old portion of the Pilot Butte Canal that extended from the bifurcation and traversed through Bend was terminated about 1.5 miles north of the city and renamed the Old Pilot Butte Canal. This reconfiguration of the Pilot Butte Canal reduced the amount of water taken from the river above Bend and provided a greater flow of river water for municipal and industrial use in the town, while still supplying water for agricultural irrigation in the surrounding area. After flowing through Bend, water from the Deschutes River was diverted at the North Canal dam, passed through a short segment of the North Canal, and led into the Pilot Butte Canal.³⁶

Pilot Butte Canal

Construction of the Pilot Butte Canal was completed as far as the Crooked River, a total distance of 39.37 miles, on February 9, 1905. Construction camps were set up along the course of the canal and moved as work progressed. An estimated 300 men and around 200 horse teams, organized in over 40 work crews, were employed in the canal's construction, with labor levels varying by the season and schedule. This work included the construction of the Pilot Butte Canal: Downtown Redmond Segment Historic District.

Water was first run in the canal in 1904, primarily for construction purposes, and in 1905 and 1906 for the first regular irrigation seasons.³⁷ At the time, much of the Pilot Butte Canal was characterized as consisting of a series of improved coulees, excavated by hand using horse-drawn scrapers or steam-powered drills, with no structures of consequence beyond the lateral headgates. Construction through the region's fields of lava rock was particularly challenging. Natural drops were utilized throughout the system and all the laterals featured wooden headgates. Both the Pilot Butte canal and various laterals were protected by stacked-stone riprap at points where erosion was liable to occur. Wooden weirs were also said to have been placed at the heads of most laterals and at the head of nearly all the farmers' ditches. However, reports indicate there were no structures of importance on any of the laterals beyond an occasional small flume or inverted siphon. All of these were built of wood prior to 1916.³⁸

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³⁰ Hall, 25.

³¹ Archibald, 242, 263, 364, 385 and 391; Doncaster, 9; Hall, 26.

³² Archibald, 364.

³³ Archibald, 34, 42, 364, 385 and 391.

³⁴ Hall, 15.

³⁵ Archibald, 265, 276 and 385.

³⁶ Hall, 26.

³⁷ Archibald, 239.

³⁸ Archibald, 258 and 260.

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In conjunction with the Pilot Butte Canal's completion, the Deschutes Irrigation and Power Company conceived plans to establish a new speculative town in the desert north of Bend. Organized as the Redmond Townsite Company, engineers platted a total of 320 acres and began staking out the townsite of Redmond in May 1905 on a vacant section of school land. The townsite was located just west of the Pilot Butte Canal: Downtown Redmond Segment Historic District.

The City of Redmond was named for Frank T. and Josephine Redmond, a husband and wife, who had left school-teaching jobs in North Dakota, and homesteaded on land to be served by the irrigation project. The Redmonds arrived in central Oregon in 1905, attracted to the area by promotional literature that huckstered the advantages of cheap, irrigated land in a desirable region.³⁹ The family was said to have exemplified the vision held by settlers of the Progressive Era, who maintained traditional American values and sought a place to realize these ideals.⁴⁰ They chose to settle land suggested by the Deschutes Irrigation and Power Company next to the Pilot Butte Canal's right of way, and equally close to a projected rail line.⁴¹ A historical marker commemorating the original location of the Redmond homestead, which was adjacent to the Pilot Butte Canal, is located immediately east of the Pilot Butte Canal: Downtown Redmond Segment Historic District within what is now an unnamed, informal public park.

Other early settlers soon followed. Arriving in 1905, many migrated from the same region of North Dakota as had the Redmond family. By 1910, there were 216 people living in the community and the City of Redmond was incorporated. In January 1911, the *Redmond Spokesman* reflected on the previous year and enumerated on Redmond's growth and development. At the time, the newspaper reported Redmond as containing: one garage, two banks, two doctors, one bakery, a brickyard, four lawyers, three saloons, two dentists, a tailor shop, a skating rink, a novelty works, two feed stores, a public library, a reading circle, two newspapers, two drug stores, a harness shop, two barber shops, three restaurants, two transfer lines, a hand laundry, a city water plant, two lumber yards, a jewelry store, a fire department, a basketball team, two photographers, a millinery store, two meat markets, two bowling alleys, a furniture store, three blacksmith shops, an electric light system, two large general stores, five real estate agencies, four confectionary stores, a central telephone office, five church organizations, two billiard-pool halls, a brass band and orchestra, a passenger and express line, two large sale and feed stables, four fraternal organizations, a cleaning-pressing establishment, a ladies auxiliary, a public school to tenth grade, the largest department store in central Oregon, a commercial club, and two hotels.⁴² The point of listing all these elements – the entire enterprise began with establishment of the Pilot Butte Canal and the townsite's proximity to what is now the Pilot Butte Canal: Downtown Redmond Segment Historic District.

Despite its apparent successes, the Deschutes Irrigation and Power Company struggled financially. By May 1907, it presented to the State Land Board that it had completed 184 miles of canal and entered into contracts with landowners for about 27,000 acres of irrigable land.⁴³ However, the company also reported that all funds from its original lien had been expended and that an increase of lien would be necessary. The amount the company had received for constructing the irrigation system and colonizing the lands at \$10 per acre had been insufficient to pay its construction costs, plus expenses such as advertising and colonization campaigns. Because of these circumstances the company incurred a large amount of bonded indebtedness.⁴⁴ As a result, the company renegotiated with the state and entered into a new contract under the Carey Act for about 56,000 acres of unclaimed land in Segregation List No. 6 and additional acreage in Segregation List No. 19.⁴⁵ The contract also called for increasing the capacity of the Central Oregon Project's existing canals and laterals to

³⁹ Keith Clark, *Redmond: Where the Desert Blooms* (Portland, OR: The Oregon Historical Society, 1985), 4.

⁴⁰ "Townsite of Redmond," *The Bend Bulletin* (5 May 1905), 1; Hall, 51.

⁴¹ Clark, 4.

⁴² Clark, 12.

⁴³ Oregon Department of Transportation, "Deschutes Irrigation and Power Company," 8.

⁴⁴ Archibald, 63

⁴⁵ ODOT, "Deschutes Irrigation and Power Company Canal," 8.

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meet higher allocations to water users.⁴⁶ In addition, the company applied for contracts and reclamation rights for about 74,198 acres in Segregation List No. 20, known as the Benham Falls segregation.⁴⁷

Central Oregon Irrigation Company

The Deschutes Irrigation and Power Company's financial circumstances and slow progress caused its bond holders to take legal action against the company in 1907. Lawsuits were filed, which resulted in foreclosure proceedings, and the U.S. Circuit Court for the District of Oregon reviewed the case and ordered the company's reorganization. Under the approved reorganization plan, the company's liabilities were reduced and its rights and assets were transferred to a new corporation named the Central Oregon Irrigation Company. The Central Oregon Irrigation Company was incorporated on October 25, 1910, with offices in both Portland and Deschutes, Oregon. It was capitalized at \$1,500,000 with a total of 15,000 shares, valued at \$100.00 per share. Stock in the new company was issued to the former bondholders of the Deschutes Irrigation and Power Company in satisfaction of their claims against the former company. Officers of the company included: Frederick S. Stanley of Portland as president, Robert Smith of Portland as vice president, Jesse Stearns of Portland as secretary and treasurer, Roscoe Howard of Deschutes as general manager, and C. M. Redfield of Deschutes as chief engineer.⁴⁸

The Central Oregon Irrigation Company moved the company office first from Bend to Redmond and then to the new town of Deschutes, located nine miles north of Bend. The Deschutes Townsite Company, a subsidiary of the Central Oregon Irrigation Company, filed a formal plat of the town of Deschutes on July 18, 1911. Located along the right-of-way of the branch railway, which arrived the same year, the townsite consisted of five avenues oriented parallel to the tracks. Deschutes was intended to link the railroad to the company's irrigation development. In addition to having their headquarters and maintenance facilities in Deschutes, the Central Oregon Irrigation Company also operated the town's hotel and grocery store. By 1917, the growing company town provided numerous other businesses as well.⁴⁹ The Central Oregon Irrigation Company, meanwhile, continued expansion of the Pilot Butte Canal and Central Oregon Canal irrigation systems.

Under the Central Oregon Irrigation Company, improvement of the Central Oregon Project progressed rapidly and effectively reached completion in the mid-1910s. By 1913, the company had irrigated over 25,006 acres of land with 16,804 acres actually under cultivation. The following year it reported that the Central Oregon Canal system had 44.15 miles of main canal and 187.5 miles of laterals, and the North Canal/Pilot Butte Canal had 30.1 miles of main canal and 175.08 miles of laterals. By 1921, the two systems combined had reached approximately 600 miles of canals and laterals built.⁵⁰

One of the requirements of the Central Oregon Project under the Carey Act was to convey the developed irrigation system to a water users' association within five years of its completion, as provided for in the company's contract with the State Land Board, dated June 17, 1907. For the Central Oregon Project, this

⁴⁶ Archibald, 243.

⁴⁷ Hall, 25.

⁴⁸ During the reorganization, the stock of the Central Oregon Irrigation Company was held in trust and voted on by a committee consisting of Jesse Stearns, L. G. Addison of Columbus, Ohio, and L. L. Seldon of New York, per the court-approved plan. Under the plan, Jesse Stearns and Louis G. Addison purchased the personal property of the Deschutes Irrigation and Power Company on October 4, 1910, and conveyed it to the Central Oregon Irrigation Company on October 27, 1910. The deed covered all contracts with the State of Oregon, water appropriations, right of way agreements, equipment, settlers' notes, land liens, etc., but was never recorded. Stearns and Addison also facilitated the transfer of the Deschutes Irrigation and Power Company's real property, which primarily consisted of town lots and real estate in Bend, Deschutes, and the surrounding area. This property was considered of little consequence in the affairs of the project, except as financial assets. Stearns and Addison purchased the property on October 7, 1910, and reassigned the certificate of sale to the Central Oregon Irrigation Company on August 28, 1911. A Special Commissioner then deeded the real property directly to the company on November 3, 1911. Archibald, 30-31, 69, and 350; Oregon Department of Transportation, "Deschutes Irrigation and Power Company," 8-9.

⁴⁹ Hall, 52-53.

⁵⁰ Paul G. Claeysens and Jan Tomlinson, "Determination of National Register of Historic Places Eligibility for Historic Agricultural Resources in Central Oregon: Central Oregon Irrigation District" (Bend, OR: Heritage NW c/o Deschutes and Ochoco NFs, 1 June 2006), E-15.

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transition occurred in the early 1920s, due to legal delays caused by competition between two separate water user organizations expecting to fulfill this role: the Central Oregon Water Users Association and the Central Oregon Irrigation District.

The Central Oregon Water Users' Association was established following the Central Oregon Irrigation Company's reorganization in 1907. The association consisted of a group of settlers opposed to the company's efforts and who attempted to secure more advantageous conditions for their operations. In October 1915, for example, the association attempted to have the affairs of the Central Oregon Project brought under the supervision of the State Public Utilities Commission. They also filed complaints with the Public Service Commission of Oregon concerning its practices.⁵¹ The Central Oregon Water Users' Association, however, did not represent all of the settlers that subscribed to the irrigation project.

Central Oregon Irrigation District

A separate group established the Central Oregon Irrigation District in December 1918. This organization was formed for the express purpose of assuming the Central Oregon Irrigation Company's operations of the Central Oregon Project, in lieu of a water users' association. As a result, because there were now two water user organizations competing for control of the Central Oregon Project, the matter of succession landed before the U.S. Circuit Court of the State of Oregon in Deschutes County. A contract executed on December 13, 1918, had stipulated that the Central Oregon Irrigation District would take over the company's irrigation system. However, the district's financial weakness and several other issues plagued the transaction. A final decree, known as the Dietrich Decree, was issued by the court on July 9, 1921. The decree ordered that ownership and operation of the Central Oregon Project was to be conveyed to the settlers organized as the Central Oregon Irrigation District. The decree also fixed water appropriations for any additional lands still to be reclaimed by the Central Oregon Irrigation Company or its successors. The company subsequently transferred all water rights, property, and assets to the district, roughly valued at \$3,000,000.⁵²

The Central Oregon Irrigation District continues to operate the facilities of the Central Oregon Project, providing irrigation water to over 4,000 users and covering about 45,000 acres within an 180,000-acre area in Central Oregon. The history of this project is indicative of the private development of agricultural irrigation in central Oregon in the late nineteenth and twentieth centuries under the provisions of the Carey Act, and the effect such projects have had on the growth and development of the region. Developments such as the Central Oregon Project likewise set the stage for the state's next phase of irrigation-dependent growth, which stemmed from the United States government's creation of its federal reclamation program.

Developmental history/additional historic context information (include a chronological or thematic context.)

A broad and comprehensive context for the Pilot Butte Canal is provided in the Multiple Property Documentation "Carey and Reclamation Acts Irrigation Projects in Oregon, 1901-1978," specifically under the historic context of "Carey Desert Land Act Projects in Oregon, 1901-1950." The Pilot Butte Canal, including the Downtown Redmond Segment, was one of Oregon's earliest and most successful Carey Act irrigation projects and it strongly influenced the creation and development of agriculture and communities in the surrounding area.

The Pilot Butte Canal: Downtown Redmond Segment Historic District meets the registration requirements of the Multiple Property Documentation. It consists of a concentration of property types (and subtypes) that existed as part of the Pilot Butte Canal irrigation system and is a significant, distinguishable entity that possesses the ability to convey the historical significance of the Pilot Butte Canal under National Register Criterion A. The historic district includes a segment of the Pilot Butte Canal as a principal resource, in addition

⁵¹ Archibald, 83; Public Service Commission of Oregon, *Ninth Annual Report of the Public Service Commission of Oregon to the Governor, December 15, 1916* (Salem, OR: State Printing Department, 1917).

⁵² Hall, 27-28; Oregon Department of Transportation, "Deschutes Irrigation and Power Company," 9.

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to two other contributing features, from two of the Multiple Property Documentation's identified property types. By property type, the historic district's features include: the canal as representative of the water conduit/conveyance structures property type, specifically the canal subtype; the lateral as representative of the water conduit/conveyance structures property type, specifically the lateral/ditch subtype; and the weir as representative of the flow control and measuring devices property type, specifically the weir subtype.

All of the contributing resources were constructed together within the Pilot Butte Canal: Downtown Redmond Segment Historic District's period of significance, which includes the segment's initial construction and ongoing improvements over time. Together, this collection of contributing features satisfies the Multiple Property Documentation's requirements that a historic district contain resources united historically by plan, function, or physical development; that it relate to one or more of the historic contexts associated with the irrigation project; and that it contain a principal resource associated with contributing elements from one or more defined property types or subtypes. As a group of related features, the historic district also possesses a high degree of integrity and represents the irrigation project's influence on the founding, initial development, and continued growth of the City of Redmond and other communities in the Deschutes River basin, following implementation of the Carey Act's provisions; and its impact on the region's physical landscape.

To date, only one other segment of the Pilot Butte Canal has been listed in the National Register—the Pilot Butte Canal Historic District (Cooley Road to Yeoman Road Segment). In addition to this resource, there are several other segments along the canal that possess characteristics similar to the Pilot Butte Canal: Downtown Redmond Segment Historic District, and retain an equally high level of physical integrity. However, most lack a suitable concentration of contributing elements necessary to convey historical significance, and few equal the Pilot Butte Canal: Downtown Redmond Segment Historic District's public accessibility, its close association with the founding and development of the City of Redmond, and its potential for historical interpretation. The historic district is located in the heart of downtown Redmond, and the canal segment it contains is among the last intact sections of open canal in this vicinity. Because of its proximity to downtown Redmond, it is easily accessed by the general public and provides unique opportunities for public education. The historic district adjoins a public park (i.e., Homestead Park), which is the site of the former Frank T. and Josephine Redmond Homestead, and the founding of Redmond. Current interpretation at the park relates to the Redmond Homestead, but could be expanded to include the history of the Pilot Butte Canal and its influence on Redmond's growth and development, as represented by the adjacent canal segment. No other segment of the Pilot Butte Canal possesses this direct association with Redmond's early history.

In comparison to the Cooley Road to Yeoman Road Segment, the Pilot Butte Canal: Downtown Redmond Segment Historic District further represents a different canal design and offers contributing elements not present in the other segment. As it passes through downtown Redmond, the Pilot Butte Canal's physical form does not possess the wide, shallow channel and irregular embankments that characterize the Cooley Road to Yeoman Road Segment. Instead, the Downtown Redmond Segment possesses a more traditional canal design because it does not necessarily pass through extensive formations of volcanic rock. Construction of the Pilot Butte Canal in the vicinity of downtown Redmond resulted in a more consistent width and depth, and excavated soils were used to create and reinforce the embankments flanking the canal. The Downtown Redmond Segment's channel generally retains the same width and depth through its entire length; has a slightly concave shape, gradually rising to steeper angles at the sidewalls; and has less presence of solid volcanic rock formations at its base.

The Pilot Butte Canal: Downtown Redmond Segment Historic District also contains two contributing elements in addition to the canal, whereas the Cooley Road to Yeoman Road Segment includes the canal only. One of these contributing elements is a 530' lateral and the other is a board-formed poured-concrete weir. Both features date to the historic district's period of significance, and help convey the historical significance of the larger irrigation system, including its plan, function, and physical development, as required for historic districts by the Multiple Property Documentation. Such features are lacking in the previously National Register-listed Cooley Road to Yeoman Road Segment.

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As defined in the Multiple Property Documentation, the Pilot Butte Canal: Downtown Redmond Segment Historic District is eligible under Criterion A for its association with the Central Oregon Project, whose creation was significant in the growth and development of the Upper Deschutes River basin, influenced the founding and development of the City of Redmond and, as an early Carey Act project, was important in the history of irrigation development in the State of Oregon. The nominated grouping of contributing features represents the Central Oregon Project's historic significance and specifically that of the Pilot Butte Canal and its associated irrigation system.

Pilot Butte Canal: Downtown Redmond Segment Historic District
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9. Major Bibliographical References

Bibliography (Cite the books, articles, and other sources used in preparing this form.)

Archibald, George B. "Central Oregon Project." The Dalles, OR: U.S. General Land Office, 22 December 1916. Report by Carey Act Inspector on the water rights of the Central Oregon Project.

Claeyssens, Paul G., and Jan Tomlinson. "Determination of National Register of Historic Places Eligibility for Historic Agricultural Resources in Central Oregon: Central Oregon Irrigation District." Bend, OR: Heritage NW c/o Deschutes and Ochoco NFs, 1 June 2006.

Clark, Keith. *Redmond: Where the Desert Blooms*. Portland, OR: The Oregon Historical Society, 1985.

Crook County, Oregon. "The Pilot Butte Development Company, Articles of Incorporation." *Articles of Incorporation*. Volume 1. Prineville, Oregon: Crook County Clerk, 29 October 1900: 78.

Doncaster, Kelsey, Chris Horting-Jones, and Renewal Technologies, Inc. "Sagebrush to Clover: The U. S. Bureau of Reclamation's North Unit of the Deschutes Project, Volume 1: History." U.S. Department of the Interior, Bureau of Reclamation, Pacific Northwest Region, November 2013.

Hall, Michael S. "Irrigation Development in Oregon's Upper Deschutes River Basin, 1871-1957: A Historic Context Statement." Bend, OR: Deschutes County Community Development Department, 31 August 1994.

Lewis, John H., and Percy A. Cupper. *Irrigation in Oregon*, U.S. Department of Agriculture, Office of Experiment Stations, Bulletin 209. Washington, DC: Government Printing Office, 1909.

Oregon Department of Transportation. "Deschutes Irrigation and Power Company Canal (Central Oregon Irrigation Canal)," Historic American Engineering Record (HAER OR-63/HAER ORE 9-Bend, 1). Seattle, WA: National Park Service, Columbia Cascades Support Office, 26 May 1998.

_____. "Pilot Butte Canal," Historic American Engineering Record (HAER OR-62/HAER ORE 9-Bend, 3-). Seattle, WA: National Park Service, Columbia Cascades Support Office, 26 May 1998.

Public Service Commission of Oregon. *Ninth Annual Report of the Public Service Commission of Oregon to the Governor, December 15, 1916*. Salem, OR: State Printing Department, 1917.

The Bend Bulletin (12 August 1904; 21 October 1904; 5 May 1905; 18 October 1933).

Previous documentation on file (NPS):

preliminary determination of individual listing (36 CFR 67 has been requested)
 previously listed in the National Register
 previously determined eligible by the National Register
 designated a National Historic Landmark
 recorded by Historic American Buildings Survey # _____
 recorded by Historic American Engineering Record #ORE, 9-BEND, 3 and 2D
 recorded by Historic American Landscape Survey # _____

Primary location of additional data:

State Historic Preservation Office
 Other State agency
 Federal agency
 Local government
 University
 Other Central Oregon Irrigation District, Redmond, OR

Name of repository: _____

Historic Resources Survey Number (if assigned): N/A

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10. Geographical Data

Acreage of Property 9.2 acres

(Do not include previously listed resource acreage; enter "Less than one" if the acreage is .99 or less)

Latitude/Longitude Coordinates

Datum if other than WGS84: N/A

(enter coordinates to 6 decimal places)

1	<u>44.286619</u> Latitude	<u>-121.168887</u> Longitude	5	<u>44.287631</u> Latitude	<u>-121.168700</u> Longitude
2	<u>44.279537</u> Latitude	<u>-121.169193</u> Longitude	6	<u>44.290270</u> Latitude	<u>-121.167641</u> Longitude
3	<u>44.286628</u> Latitude	<u>-121.168601</u> Longitude	7	<u>44.295531</u> Latitude	<u>-121.169535</u> Longitude
4	<u>44.279537</u> Latitude	<u>-121.168925</u> Longitude	8	<u>44.297786</u> Latitude	<u>-121.169428</u> Longitude

Verbal Boundary Description (Describe the boundaries of the property.)

The Pilot Butte Canal: Downtown Redmond Segment Historic District is located on land owned by multiple property owners in downtown Redmond, Deschutes County, Oregon, within Township 15 south, Range 13 East, Section 10. The nominated property consists of an approximately 6,780-foot long segment of the Pilot Butte Canal, passing through Deschutes County tax assessor's parcel numbers 151310B000303, 151303CC00200, 151303CC00201, 151303CC00700, 151303CC00800, 151303CC00900, 151303CC01000, 151304DD00100, 151310B000302, 151310B000399, 151310B000304, 151310B000300, and 151304DA00300. The width of the nomination area through these parcels is approximately 50-foot wide, consisting of the canal footprint inclusive of the area of its sidewall embankments. In addition, the nominated property includes the full areas of Deschutes County tax assessor's parcel numbers 151304DACANAL, 151309DACANAL, 151309A0CANAL, 151310CBCANAL, and 151310B0CANAL, plus approximately 25-feet of the northern portion of parcel number 151309DDCANAL. The boundaries of these parcels are considered the boundaries of the nominated property in their respective locations, likewise encompassing the canal footprint and its sidewall embankments.

Boundary Justification (Explain why the boundaries were selected.)

The boundary of the nominated property includes the full extent of the last intact, uninterrupted segment of the Pilot Butte Canal that passes through downtown Redmond. It also encompasses those contributing elements most closely associated with the canal in this location. The connecting sections of canal to the north and south, outside the boundary, have been replaced with underground pipe and have lost integrity, physically and visually separating the intact open canal segment from the rest of the Pilot Butte Canal. Parcels at the southern end of the nominated property, owned by the Central Oregon Irrigation District, are in a publicly-accessible location situated in proximity to other properties associated with Redmond history (i.e., Homestead Park). The Central Oregon Irrigation District's ownership of the property affords future preservation of the historic district on these parcels, which would not otherwise be guaranteed.

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11. Form Prepared By

name/title Christopher Hetzel/Sr. Architectural Historian date 12/1/2016
organization ICF International telephone (213) 840-3143
street & number 710 2nd Avenue, Suite 550 email christopher.hetzel@icfi.com
city or town Seattle state WA zip code 98104

Additional Documentation

Submit the following items with the completed form:

- **Regional Location Map**
- **Local Location Map**
- **Tax Lot Map**
- **Site Plan**
- **Floor Plans (As Applicable)**
- **Photo Location Map** (Include for historic districts and properties having large acreage or numerous resources. Key all photographs to this map and insert immediately after the photo log and before the list of figures).

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Photographs:

Submit clear and descriptive photographs. The size of each image must be 3000x2000 pixels, at 300 ppi (pixels per inch) or larger. Key all photographs to the sketch map. Each photograph must be numbered and that number must correspond to the photograph number on the photo log. For simplicity, the name of the photographer, photo date, etc. may be listed once on the photograph log and doesn't need to be labeled on every photograph.

Photo Log

Name of Property: Pilot Butte Canal: Downtown Redmond Segment Historic District
City or Vicinity: Redmond
County: Deschutes **State:** Oregon
Photographer: Christopher Hetzel and Jenny Hartzel-Hill
Date Photographed: February 27, 2014, November 19, 2015, and November 23, 2016

Description of Photograph(s) and number, include description of view indicating direction of camera:

- Photo 1 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_001
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking south from NW Greenwood Avenue bridge
- Photo 2 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_002
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking southeast from NW Greenwood Avenue bridge
- Photo 3 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_003
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking north from NW Fir Avenue bridge
- Photo 4 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_004
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking south from NW Fir Avenue bridge
- Photo 5 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_005
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking southeast from NW Fir Avenue bridge
- Photo 6 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_006
Pilot Butte Canal: Downtown Redmond Segment Historic District, outlet structure, looking southeast
- Photo 7 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_007
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking north from top of outlet structure
- Photo 8 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_008
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking northwest from east side of outlet structure
- Photo 9 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_009
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking southwest from NW Fir Avenue bridge
- Photo 10 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_010

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Pilot Butte Canal: Downtown Redmond Segment Historic District, NW Fir Avenue bridge, looking southwest

Photo 11 of 49: OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_011
Pilot Butte Canal: Downtown Redmond Segment Historic District, NW Fir Avenue bridge, looking east

Photo 12 of 49: OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_012
Pilot Butte Canal: Downtown Redmond Segment Historic District, Lateral D-2 headgate, looking southwest

Photo 13 of 49: OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_013
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking northwest from NW Fir Avenue bridge

Photo 14 of 49: OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_014
Pilot Butte Canal: Downtown Redmond Segment Historic District, NW Greenwood Avenue bridge, looking northwest

Photo 15 of 49: OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_015
Pilot Butte Canal: Downtown Redmond Segment Historic District, NW Greenwood Avenue bridge, looking east

Photo 16 of 49: OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_016
Pilot Butte Canal: Downtown Redmond Segment Historic District, weir, looking north from NW Greenwood Avenue bridge

Photo 17 of 49: OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_017
Pilot Butte Canal: Downtown Redmond Segment Historic District, weir, looking southeast

Photo 18 of 49: OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_018
Pilot Butte Canal: Downtown Redmond Segment Historic District, headgate, looking east

Photo 19 of 49: OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_019
Pilot Butte Canal: Downtown Redmond Segment Historic District, lateral, looking southeast

Photo 20 of 49: OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_020
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking north across east embankment towards NW Hemlock Avenue

Photo 21 of 49: OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_021
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking northwest from NW Hemlock Avenue bridge

Photo 22 of 49: OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_022
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking north from NW Hemlock Avenue bridge

Photo 23 of 49: OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_023
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking south from NW Hemlock Avenue bridge

Pilot Butte Canal: Downtown Redmond Segment Historic District
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- Photo 24 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_024
Pilot Butte Canal: Downtown Redmond Segment Historic District, NW Hemlock Avenue bridge, looking northwest
- Photo 25 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_025
Pilot Butte Canal: Downtown Redmond Segment Historic District, NW Hemlock Avenue bridge, looking west
- Photo 26 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_026
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking southeast from NW Hemlock Avenue bridge
- Photo 27 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_027
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking southeast to NW Hemlock Avenue bridge
- Photo 28 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_028
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking north to NW Kingwood Avenue bridge
- Photo 29 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_029
Pilot Butte Canal: Downtown Redmond Segment Historic District, NW Kingwood Avenue bridge, looking north
- Photo 30 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_030
Pilot Butte Canal: Downtown Redmond Segment Historic District, headgate next to NW Kingwood Avenue bridge, looking east
- Photo 31 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_031
Pilot Butte Canal: Downtown Redmond Segment Historic District, NW Kingwood Avenue bridge, looking south
- Photo 32 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_032
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking northeast from NW Kingwood Avenue bridge
- Photo 33 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_033
Pilot Butte Canal: Downtown Redmond Segment Historic District, Medical Center bridge, looking northeast
- Photo 34 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_034
Pilot Butte Canal: Downtown Redmond Segment Historic District, Medical Center bridge, looking south
- Photo 35 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_035
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking north to NW Larch Avenue bridge
- Photo 36 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_036
Pilot Butte Canal: Downtown Redmond Segment Historic District, Check Structure, Lateral D Headgate, and NW Larch Avenue bridge, looking southeast

Pilot Butte Canal: Downtown Redmond Segment Historic District
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- Photo 37 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_037
Pilot Butte Canal: Downtown Redmond Segment Historic District, Lateral D Headgate, looking west
- Photo 38 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_038
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking northeast from NW Larch Avenue bridge
- Photo 39 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_039
Pilot Butte Canal: Downtown Redmond Segment Historic District, Check Structure and NW Larch Avenue bridge, looking southwest
- Photo 40 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_040
Pilot Butte Canal: Downtown Redmond Segment Historic District, NE Negus Way bridge, looking northwest
- Photo 41 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_041
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking northwest to NE 2nd Street bridge
- Photo 42 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_042
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking northwest from NE 2nd Street bridge
- Photo 43 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_043
Pilot Butte Canal: Downtown Redmond Segment Historic District, NE 2nd Street bridge, looking southeast
- Photo 44 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_044
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking south from 2036 NW Canal Boulevard bridge
- Photo 45 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_045
Pilot Butte Canal: Downtown Redmond Segment Historic District, 2036 NW Canal Boulevard bridge, looking north
- Photo 46 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_046
Pilot Butte Canal: Downtown Redmond Segment Historic District, 2036 NW Canal Boulevard bridge, looking southeast
- Photo 47 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_047
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking north to 2190 NW Canal Boulevard bridge
- Photo 48 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_048
Pilot Butte Canal: Downtown Redmond Segment Historic District, looking south to 2190 NW Canal Boulevard bridge
- Photo 49 of 49:** OR_DeschutesCounty_PilotButteCanalRedmondSegment_IrrigationMPD_049
Pilot Butte Canal: Downtown Redmond Segment Historic District, intake structure, looking north

Pilot Butte Canal: Downtown Redmond Segment Historic District
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County and State

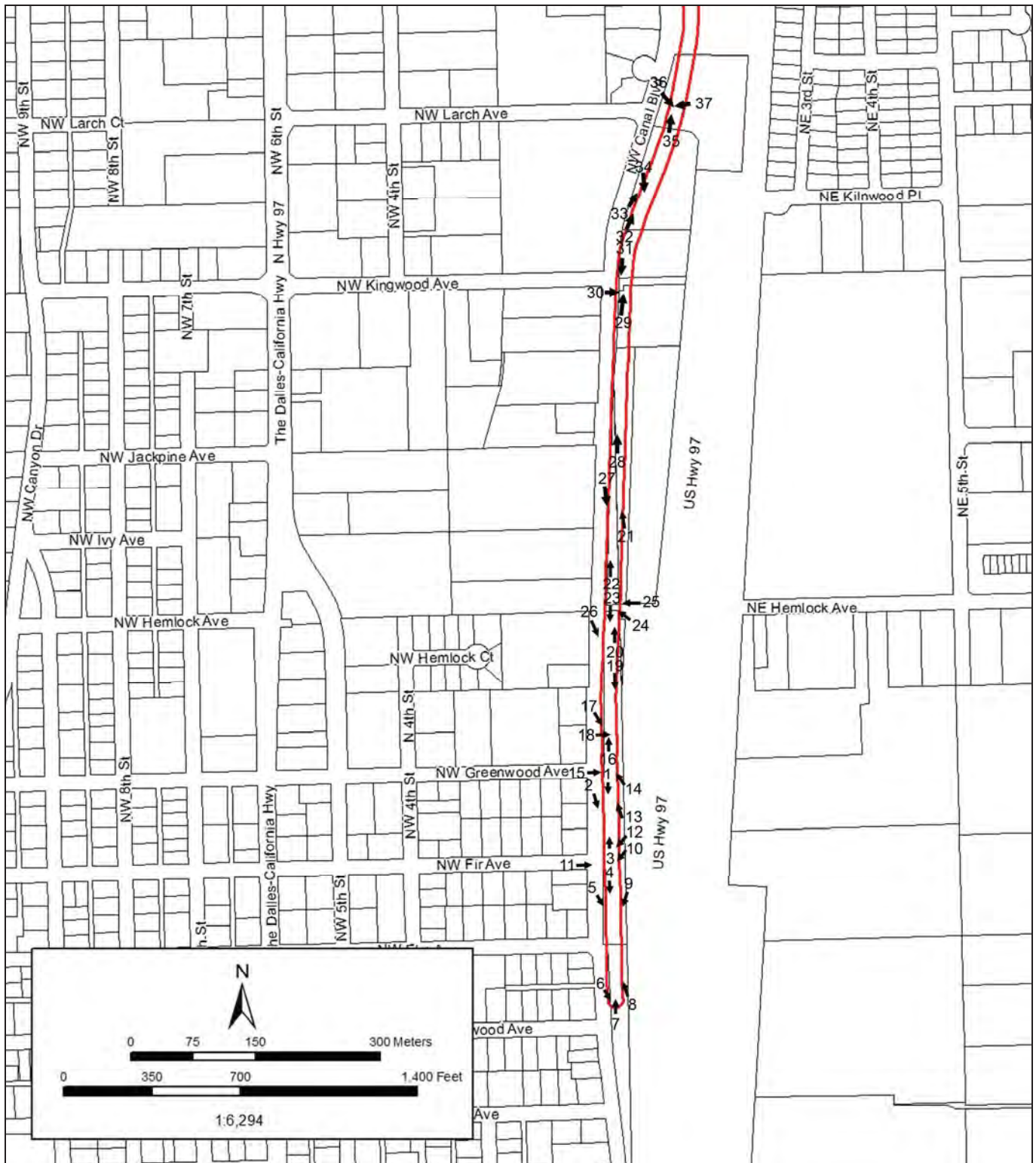
Paperwork Reduction Act Statement: This information is being collected for applications to the National Register of Historic Places to nominate properties for listing or determine eligibility for listing, to list properties, and to amend existing listings. Response to this request is required to obtain a benefit in accordance with the National Historic Preservation Act, as amended (16 U.S.C.460 et seq.).

Estimated Burden Statement: Public reporting burden for this form is estimated to average 100 hours per response including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding this burden estimate or any aspect of this form to the Office of Planning and Performance Management, U.S. Dept. of the Interior, 1849 C. Street, NW, Washington, DC.

Pilot Butte Canal: Downtown Redmond Segment Historic District
Name of Property

Deschutes, Oregon
County and State

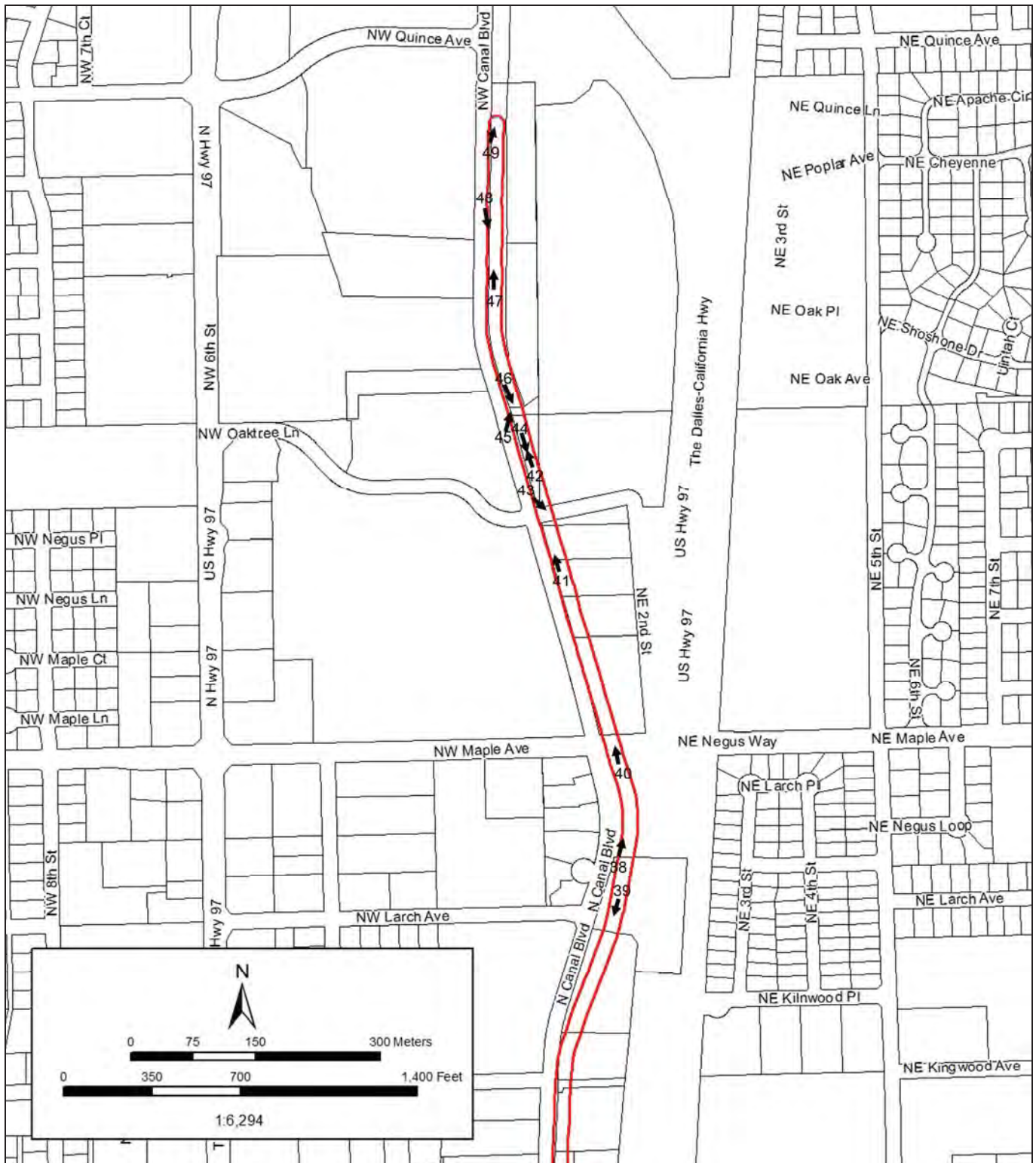
Photo Location Map 1 of 2



Pilot Butte Canal: Downtown Redmond Segment Historic District
Name of Property

Deschutes, Oregon
County and State

Photo Location Map 2 of 2



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Carey and Reclamation Acts Irrigation
Projects in Oregon, 1901-1978

Name of multiple listing (if applicable)

List of Figures

(Resize, compact, and paste images of maps and historic documents in this section. Place captions, with figure numbers above each image. Orient maps so that north is at the top of the page, all document should be inserted with the top toward the top of the page.)

- Figure 1:** Regional Location Map
- Figure 2:** Local Location Map
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- Figure 12:** Central Oregon Project, May 1921
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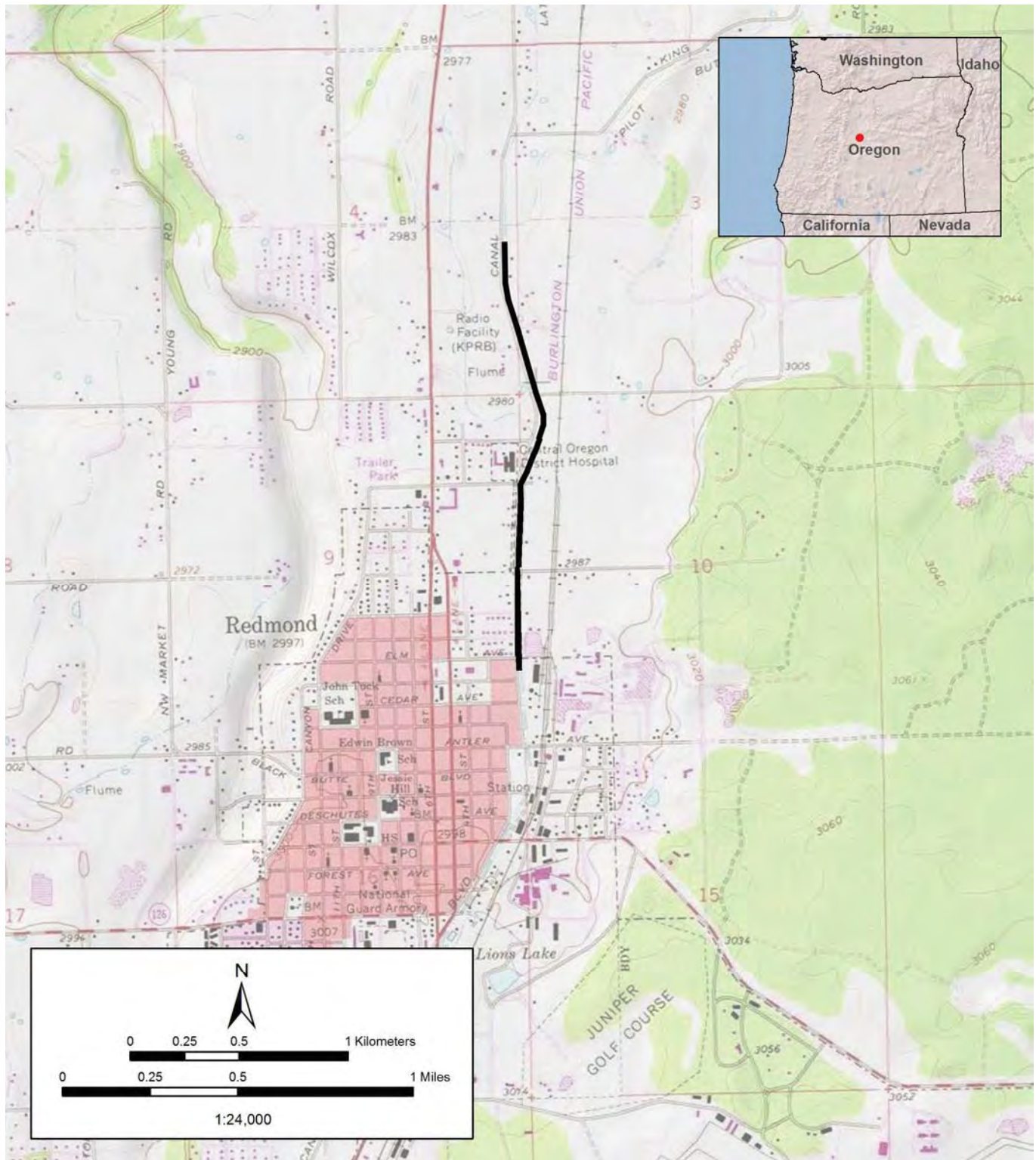
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Figure 1: Regional Location Map



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Pilot Butte Canal: Downtown Redmond
Segment Historic District

Name of Property

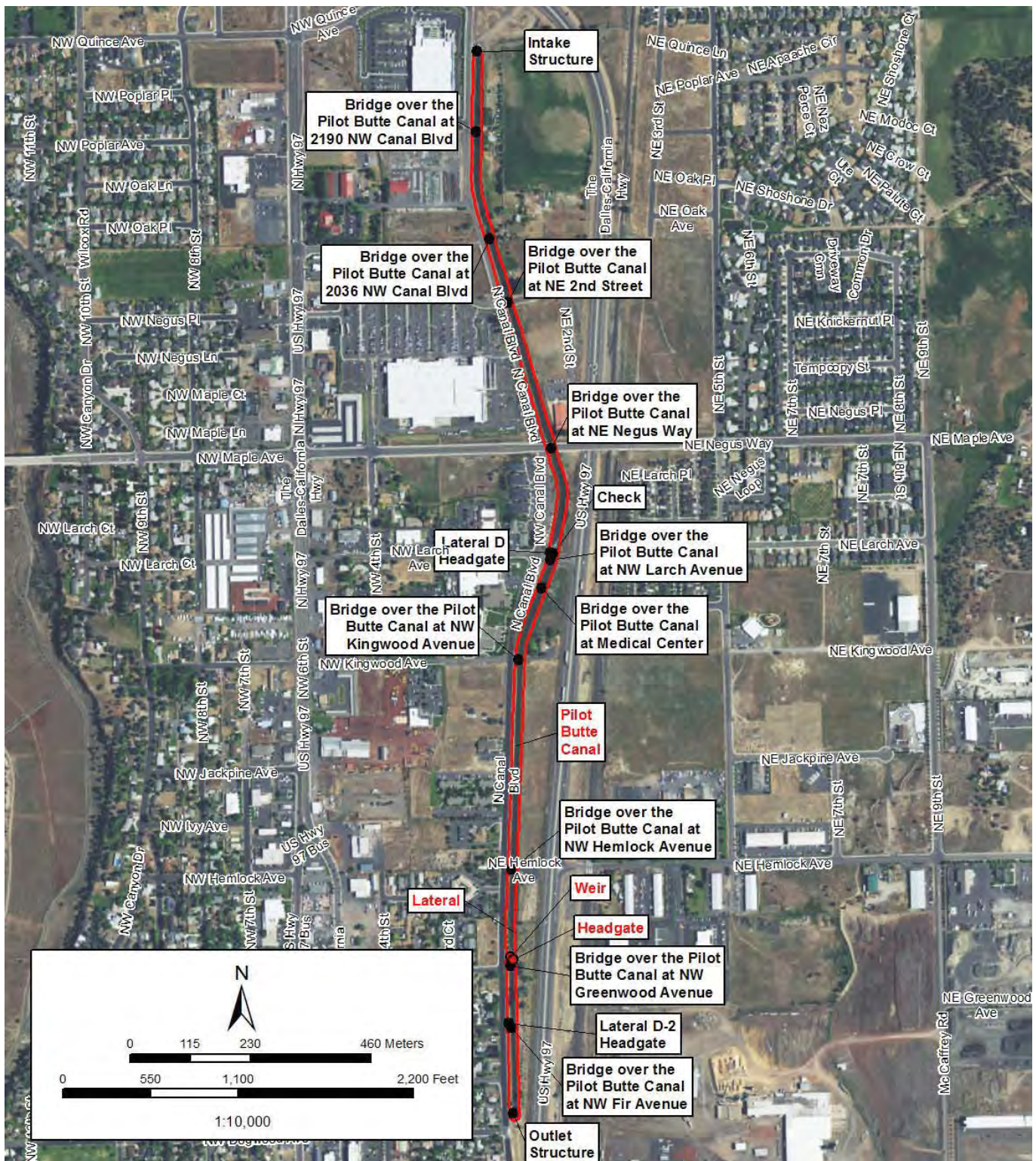
Deschutes, Oregon

County and State

Carey and Reclamation Acts Irrigation
Projects in Oregon, 1901-1978

Name of multiple listing (if applicable)

Figure 2: Local Location Map



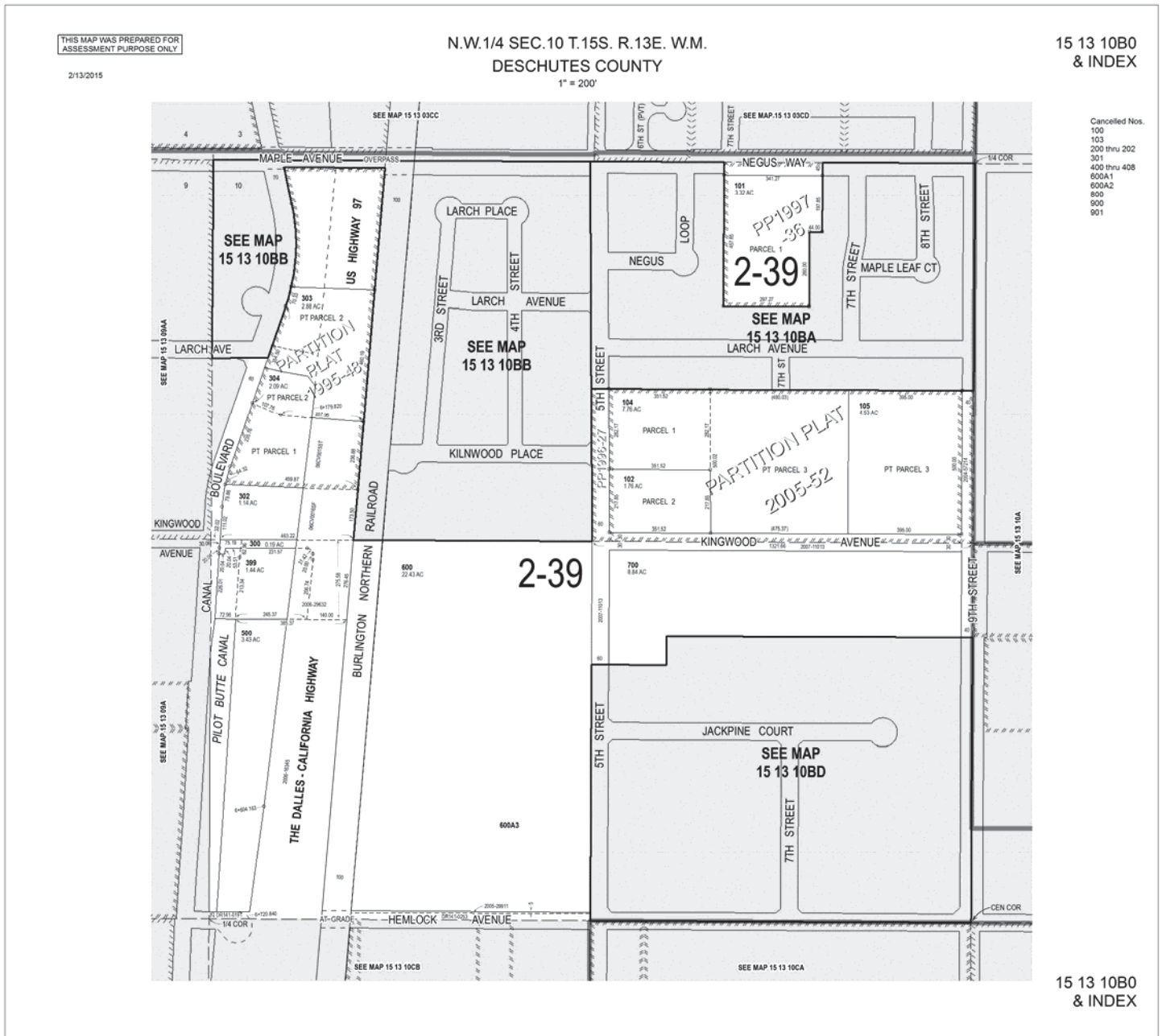
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Figure 4: Tax Lot Map, Deschutes County, 15 13 10B



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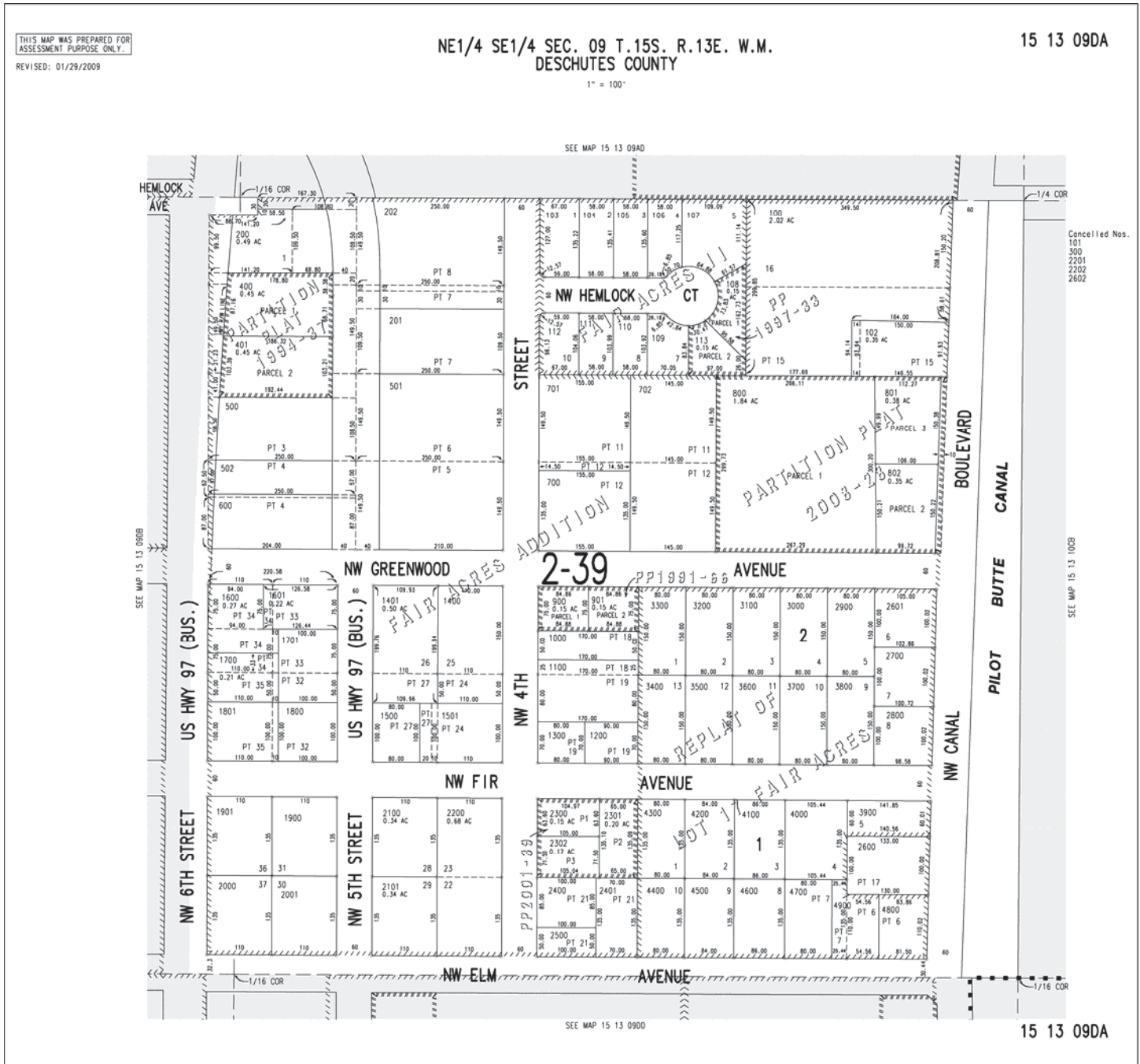
Pilot Butte Canal: Downtown Redmond
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Figure 5: Tax Lot Map, Deschutes County, 15 13 09DA



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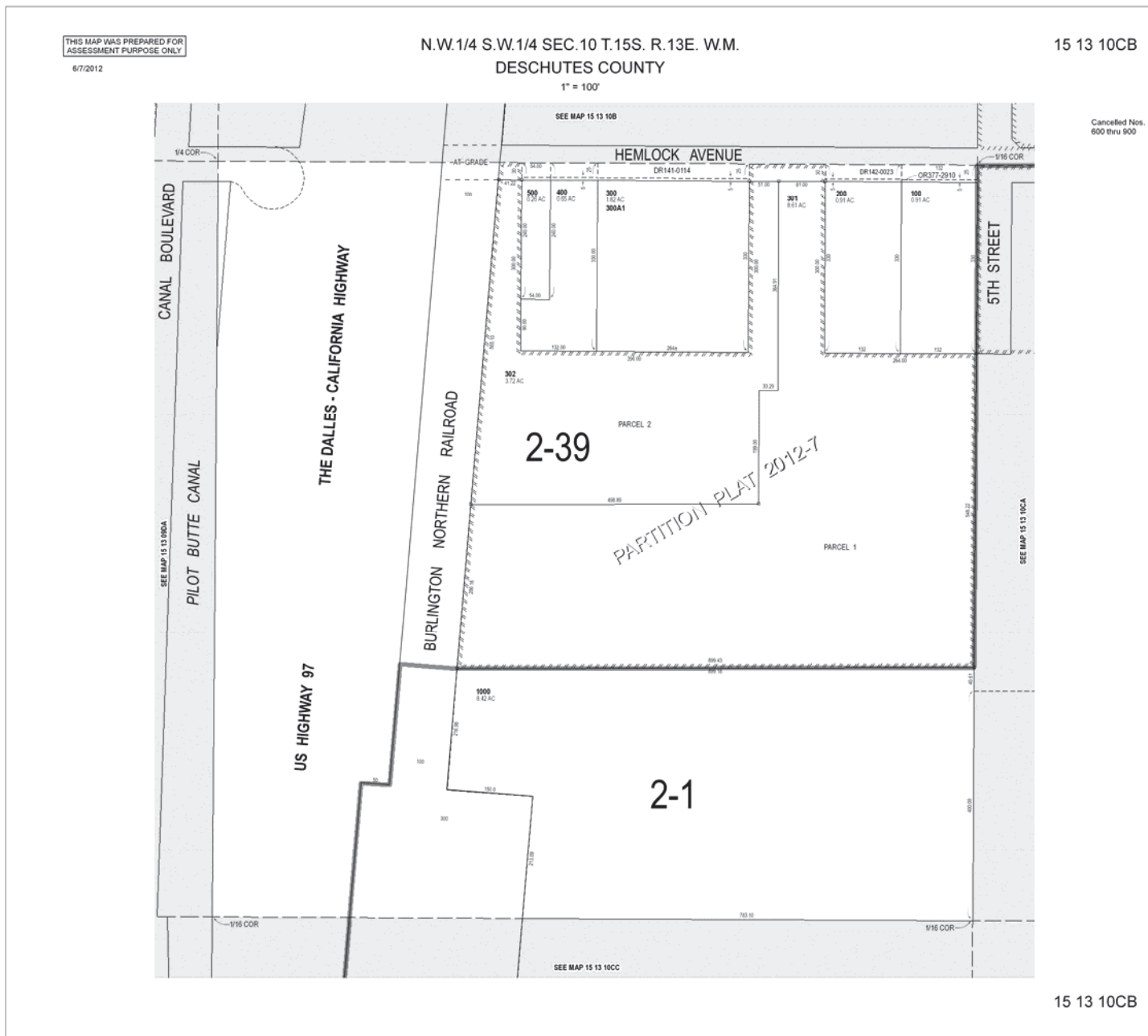
Pilot Butte Canal: Downtown Redmond
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Figure 6: Tax Lot Map, Deschutes County, 15 13 10CB



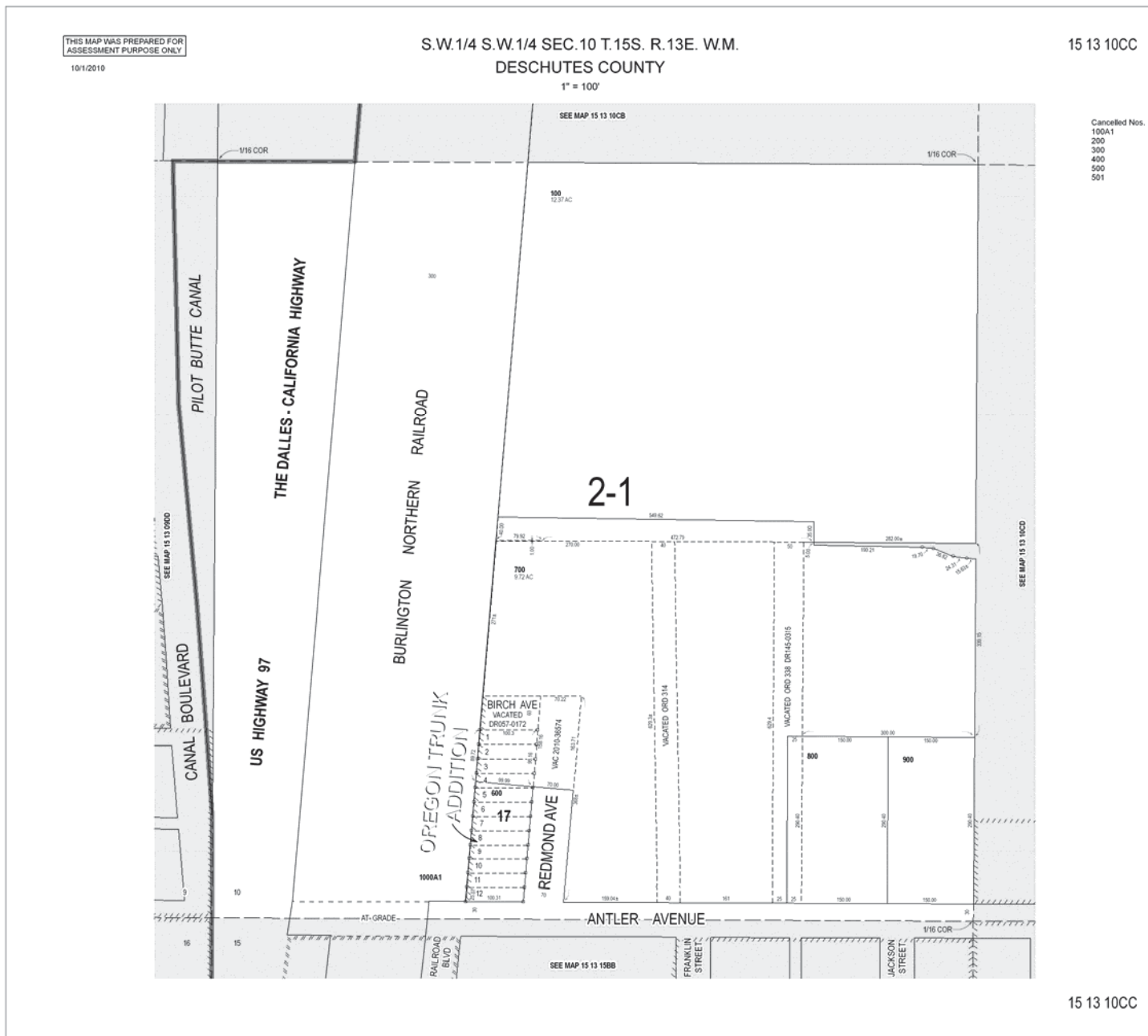
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Figure 8: Tax Lot Map, Deschutes County, 15 13 10CC



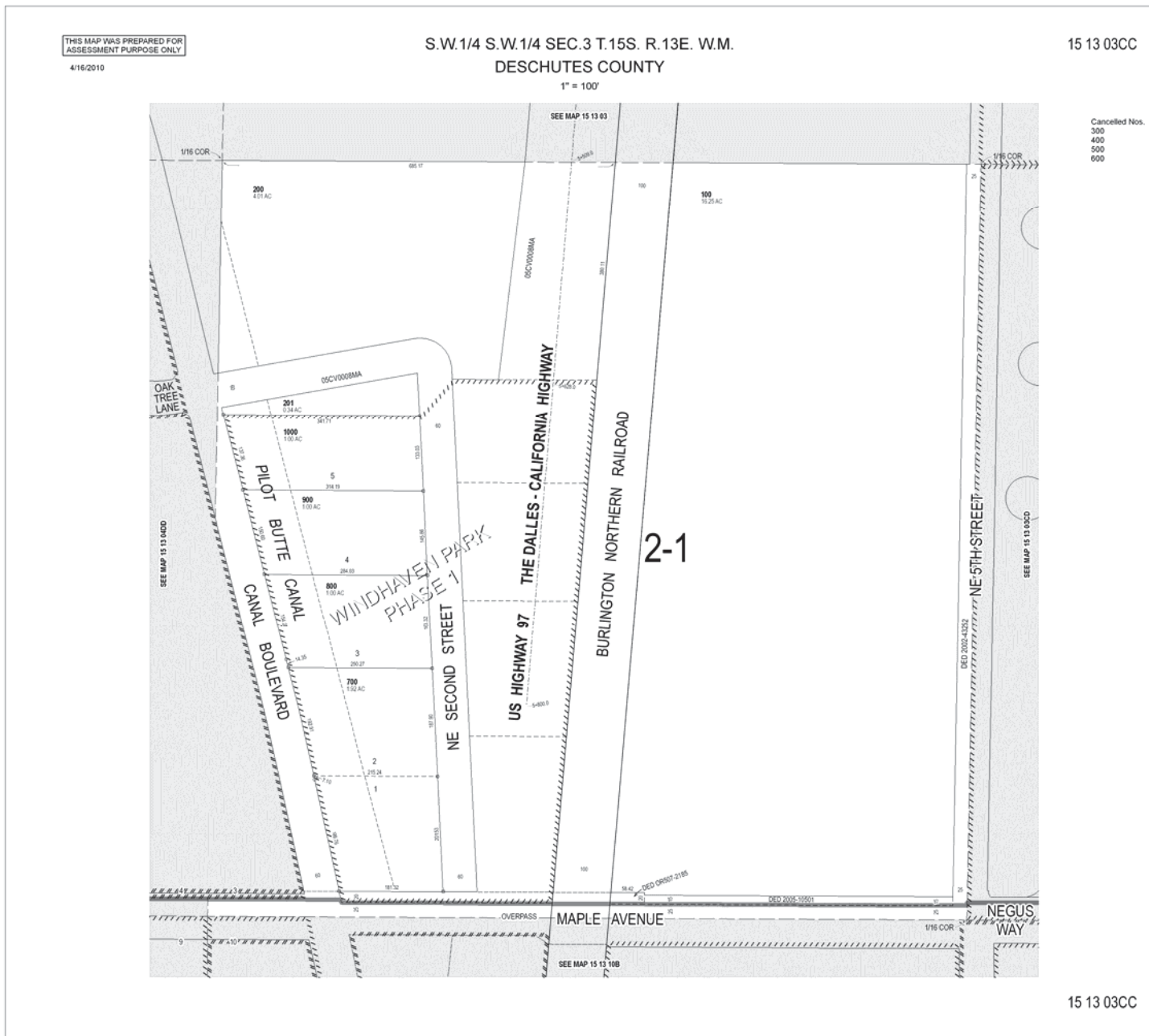
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Figure 11: Tax Lot Map, Deschutes County, 15 13 03CC



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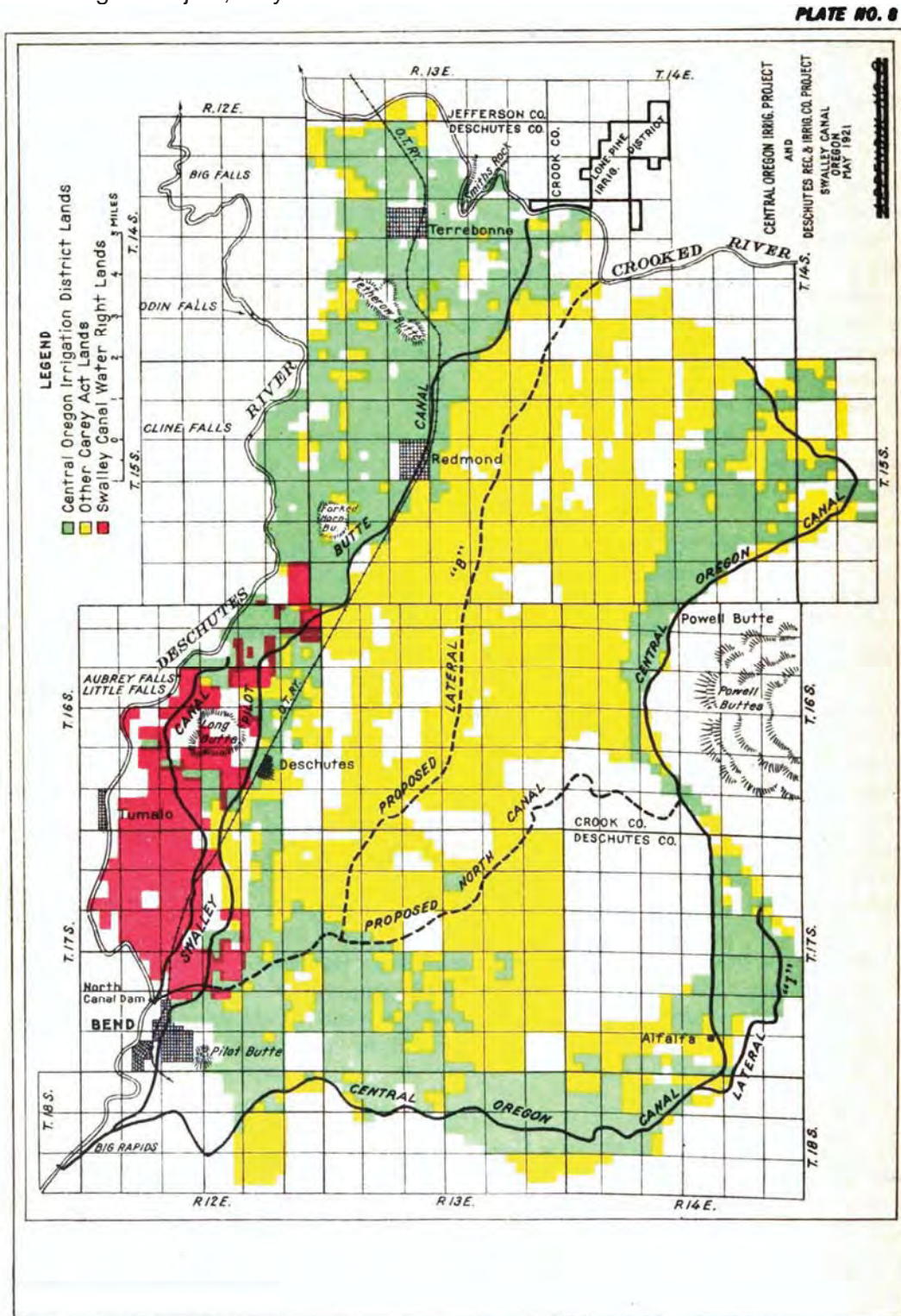
Deschutes, Oregon

County and State

Carey and Reclamation Acts Irrigation
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Name of multiple listing (if applicable)

Figure 12: Central Oregon Project, May 1921



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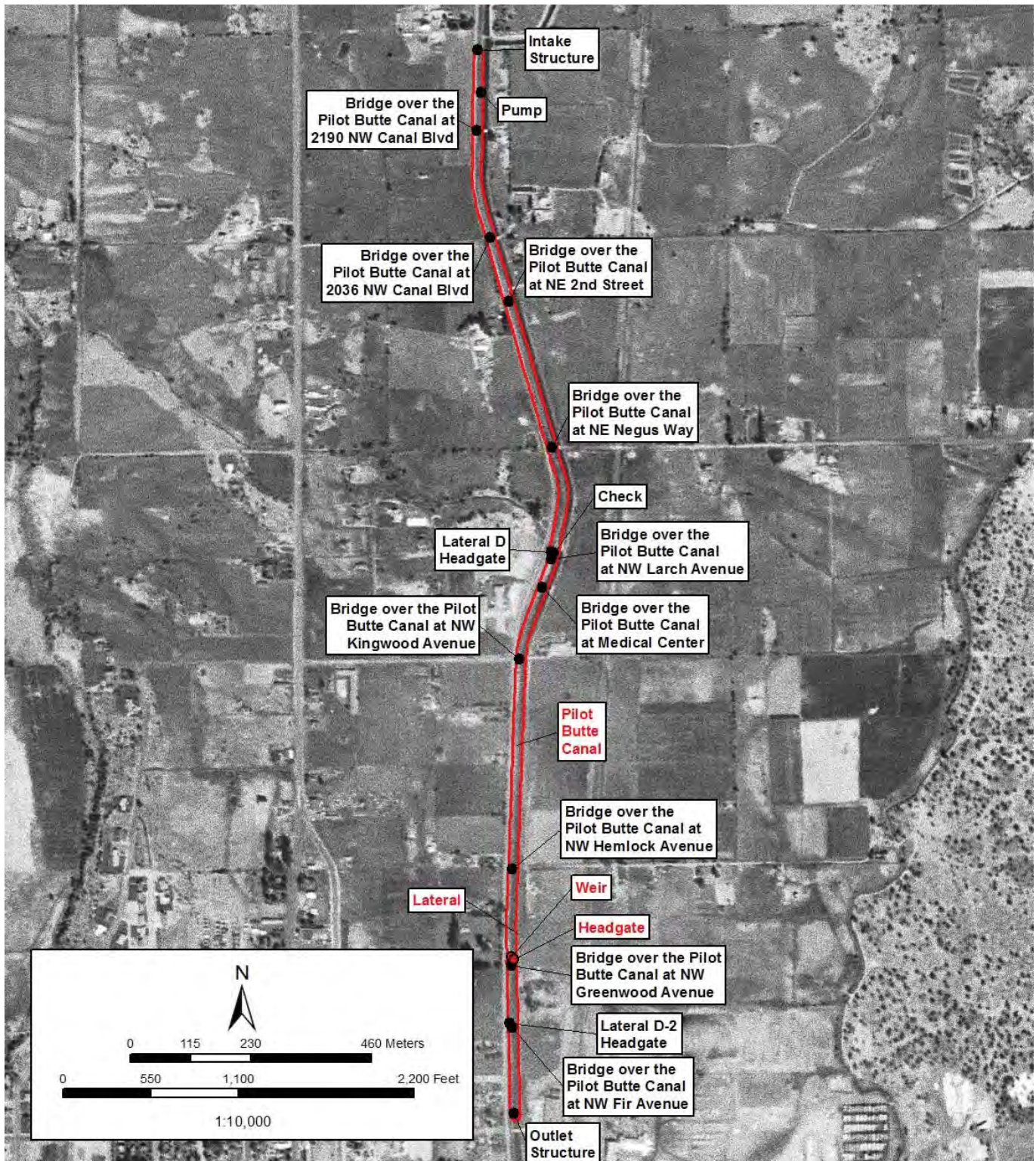
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Figure 13: 1953 USGS Aerial Photo



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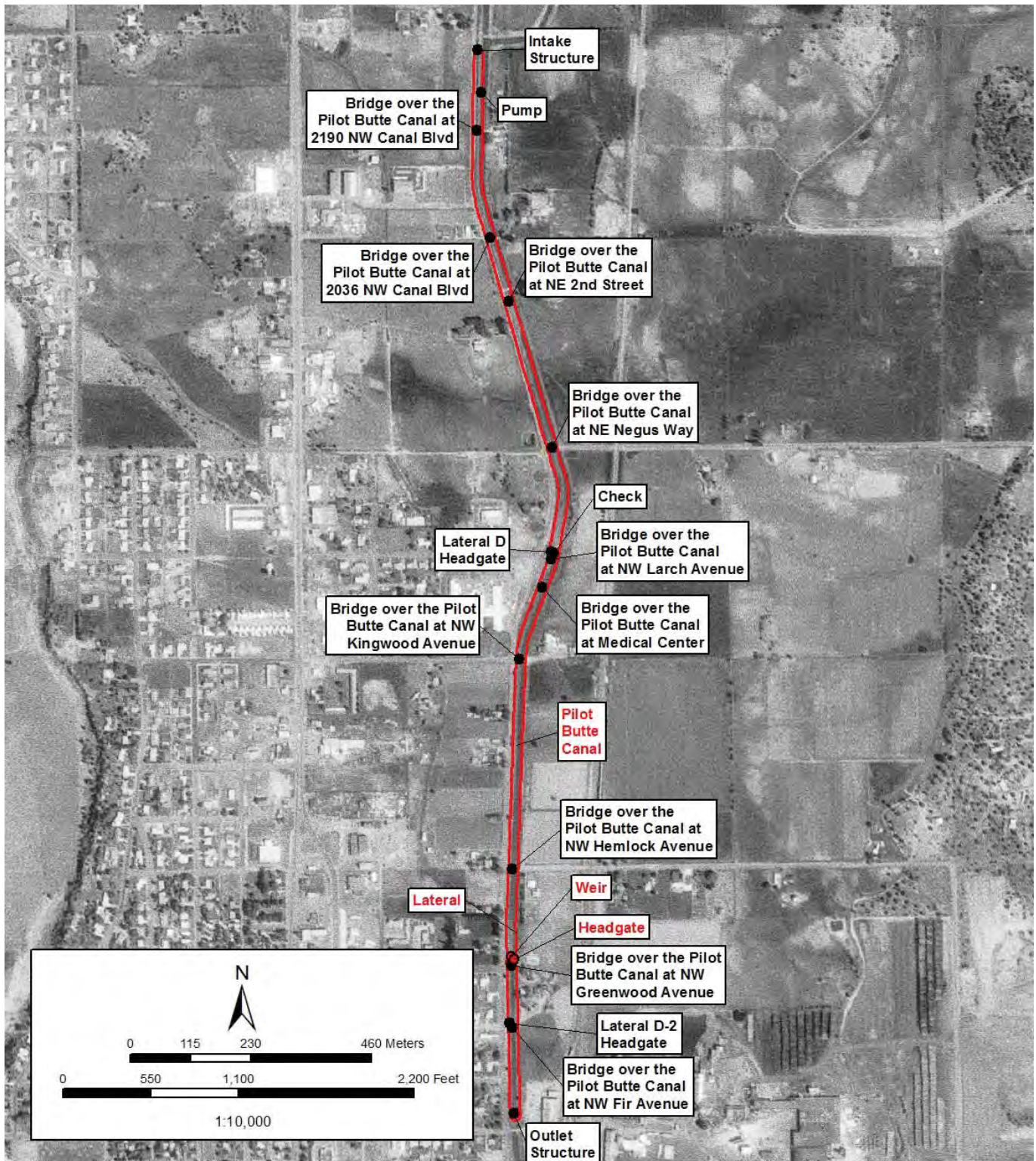
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County and State Carey and Reclamation Acts Irrigation Projects in Oregon, 1901-1978
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Figure 14: 1980 USGS Aerial Photo



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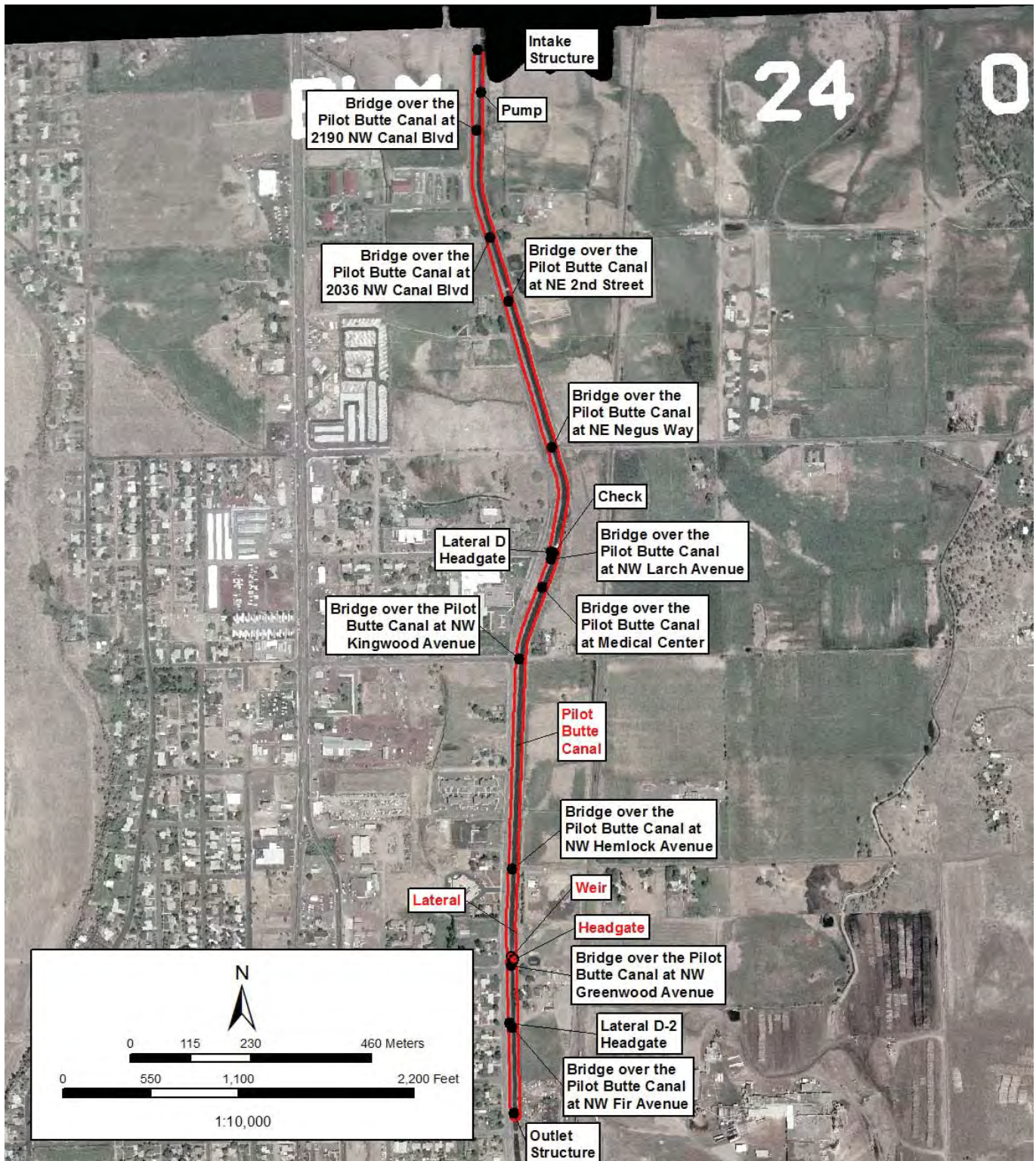
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Figure 15: 1994 USGS Aerial Photo













LITTLE ROCK

































35



SPEED
35







N Canal Road

STOP

35























STOP

LEFT TURN ONLY



























National Register of Historic Places
Memo to File

Correspondence

The Correspondence consists of communications from (and possibly to) the nominating authority, notes from the staff of the National Register of Historic Places, and/or other material the National Register of Historic Places received associated with the property.

Correspondence may also include information from other sources, drafts of the nomination, letters of support or objection, memorandums, and ephemera which document the efforts to recognize the property.

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

NATIONAL REGISTER OF HISTORIC PLACES
EVALUATION/RETURN SHEET

Requested Action: Nomination

Property Name: Pilot Butte Canal: Downtown Redmond Segment Historic District

Multiple Name: Carey and Reclamation Acts Irrigation Projects in Oregon, 1901-1978 MPS

State & County: OREGON, Deschutes

Date Received:
5/26/2017

Date of Pending List:
6/28/2017

Date of 16th Day:
7/13/2017

Date of 45th Day:
7/10/2017

Date of Weekly List:

Reference number: MP100001303

Nominator: State

Reason For Review:

Accept

Return

Reject

7/10/2017 Date

Abstract/Summary
Comments:

Recommendation/ Criteria Accept, National Register Criterion A.

Reviewer Patrick Andrus

Patrick Andrus

Discipline Historian

Telephone (202)354-2218

Date

7/10/2017

DOCUMENTATION: see attached comments : No see attached SLR : No

If a nomination is returned to the nomination authority, the nomination is no longer under consideration by the National Park Service.

6-14-16 Liday letter to SACHP.pdf

Steven G. Liday
steven.liday@millernash.com
503-205-2362 direct line

June 14, 2016

**BY FIRST-CLASS MAIL AND
ELECTRONIC MAIL**

tracy.zeller@oregon.gov

State Advisory Committee on Historic Preservation
c/o Oregon State Historic Preservation Office
Attention: Tracy Zeller
725 Summer Street N.E., Suite C
Salem, Oregon 97301

Subject: Comments on the Background and Effect of the NRHP Nominations by
COID

Dear Members of the State Advisory Committee on Historic Preservation ("SACHP"):

Miller Nash Graham & Dunn LLP represents Aleta Warren. This letter concerns the nominations by the Central Oregon Irrigation District ("COID") of two properties for the National Register of Historic Places (the "NRHP"), which are being evaluated by SACHP during its meeting on June 16 and 17. The primary focus of this letter is not on the details or technical eligibility of the properties, but on the context and effect of these nominations.

Although facially about preservation, the goal of these nominations is the intended destruction of most other segments of historic canals within COID's system—including the Pilot Butte Canal Historic District that was named to the NRHP earlier this year.¹ COID, the State Historic Preservation Office ("SHPO"), and the Bureau of Reclamation ("BOR") have entered into an unlawful agreement whereby COID is required to preserve one segment of each of its main canals in order to destroy the rest. As explained below, this agreement is the result of a faulty and indefensible review process under Section 106 of the National Historic Preservation Act ("NHPA") and the National Environmental Policy Act of 1969 ("NEPA").

¹ Pilot Butte Canal Historic District (Cooley Road—Yeoman Road Segment).
<http://www.oregon.gov/oprd/HCD/NATREG/Pages/Pilot-Butte-Canal-Historic-District.aspx>.

Ms. Warren and many others have worked tirelessly to persuade COID, SHPO, and BOR to fulfill their obligations under federal law—but they have flatly refused. We now ask the members of SACHP—in their role of overseeing SHPO and the NRHP nomination process in Oregon—to prevent the unnecessary destruction of historical resources.

1. Historical Background of COID's NRHP Nominations and the Related Section 106 Agreements.

In or around 2012, COID initiated plans to pipe a portion of the I-lateral canal near Alfalfa, Oregon. COID's irrigation system consists of two main canals, the Pilot Butte Canal and the Central Oregon Canal, with numerous laterals off these mains canals. This particular I-lateral is part of the Central Oregon Canal system and more than 15 miles from the Pilot Butte Canal.

Because the project was to be partially funded with federal money, it was required to be vetted under NHPA and NEPA. Generally speaking, these laws require the parties involved in a federally-funded project to determine the impact of the project on historic properties and avoid or mitigate those effects. 40 CFR § 1508.1 *et al*; 36 CFR § 800.1 *et al*. This process requires a number of formal steps and public involvement throughout. NHPA also requires that SHPO be involved in the process (commonly referred to as Section 106) because SHPO "reflects the interests of the State and its citizens in the preservation of their cultural heritage." 36 CFR § 800.2(c)(1)(i). The results of the NHPA analysis and the chosen mitigation are frequently formalized in a "memorandum of agreement" between SHPO and the agencies involved.

In 2012, pursuant to this law, COID contacted SHPO so that the two public agencies could conduct a Section 106 review of the I-lateral piping project and develop a mitigation plan for this protected historic property. During the summer and fall of 2012, COID, its archeologist contractor, and SHPO engaged in negotiations over the necessary mitigation for the piping project. There is no indication that public notice was provided, or that the public was involved in any way, during this process.

These negotiations resulted in a Memorandum of Agreement that was executed by BOR, COID, and SHPO in the fall of 2012. (Exhibit 1 – "2012 MOA".) The 2012 MOA was limited by its own terms to satisfy the Section 106 responsibilities for the I-lateral piping. (2012 MOA, ¶ II.) As mitigation for that project, COID was required to edit and complete the Multiple Property Document (the "MPD"), *Historic Agricultural*

Resources in Central Oregon (which already existed in draft form)², and enter into a "programmatic agreement." (2012 MOA, ¶ II(A)-(B).) The completed MPD and programmatic agreement were to be used to evaluate other portions of the COID irrigation system, and more efficiently fulfill the parties' Section 106 responsibilities for future piping projects. *Id.*

In January 2013, COID submitted an application for a BOR grant for a new project to pipe a portion of the Pilot Butte Canal (named the Juniper Ridge Phase II project). The Pilot Butte Canal is not connected to the I-lateral, which is part of the Central Oregon Canal system. These canals are more than 15 miles apart.

On January 2, 2013, COID contacted SHPO about the mitigation that would be required for this new piping project. One day later, SHPO stated that the parties could simply use the 2012 MOA, amended to include this new project. (Exhibit 2.) This decision was in contradiction to the 2012 MOA, which required the completion of the MPD and a programmatic agreement before evaluating subsequent projects in a systematic fashion. No public notice was provided about this decision, and the public was not involved in any way. Even the landowners whose property this segment of canal flows over were not notified of this global MOA amendment impacting the historic resource on their property.

In May 2013, COID was selected for the BOR grant for the Juniper Ridge Phase II piping project. (Exhibit 3.) In September 2013, SHPO officially informed BOR that the parties could re-write their 2012 MOA to specifically name this new project and thus "satisfy" their Section 106 obligations for the Pilot Butte Canal piping project. (Exhibit 4.)

In February 2014, COID, BOR, and SHPO re-executed the MOA for the I-lateral canal—except now it purported to apply to future piping projects within COID's system. (Exhibit 5, "2014 MOA", ¶¶ 2, 3(B).) The most significant change to the MOA was the additional mitigation requiring COID to preserve one segment from each of the canals. (2014 MOA, ¶ 3(B)(3).) Despite the MOA's new far-reaching terms, it was still titled "For Piping of a Segment of the I-Lateral, ALFALFA VICINITY, DESCHUTES COUNTY, OREGON." As before, this global MOA amendment that impacts vast swaths of historic canals in central Oregon was done with no public outreach and no notice to the impacted owners in violation of NHPA and NEPA law.

² We have not had adequate time to review the MPD and, therefore, can provide no substantive response in regard to the document. We request that the SACHP postpone its consideration of the document to allow Ms. Warren and other impacted parties an opportunity to review and provide comment.

Unfortunately, the terms of this invalid MOA state that COID is the party that selects the two segments to be preserved. The 2014 MOA also states that upon completion of the MPD and preservation of two canal segments, "all adverse effects resulting from subterranean piping of all canals, laterals, sub-laterals, and ditches will be considered to be fully mitigated, and may proceed without Section 106 or ORS 358.653 (as appropriate) consultation with Reclamation or SHPO." (Again, no public notice or public involvement was provided prior to the execution of this new MOA.)

In other words, the invalid 2014 MOA appears to state in part that approval of the MPD and the two segments of canal proposed by COID—now before the SACHP—will allow COID to destroy all other segments of its canal without any additional historical review (at least at the state and federal level). And the first segment that COID intends to destroy is the Pilot Butte Canal Historic District—which is already listed on the NRHP.

2. The Section 106 Process Related to COID Nominations Violated Both the NEPA and the NHPA.

COID and BOR have systematically excluded the public from being involved in the NEPA and Section 106 review of the I-lateral and Juniper Ridge Phase II piping projects. They have refused to provide public notice, hold public hearings, make documents available for review, or otherwise allow any public involvement. Even the owners of the land under the historic canals were not given notice or allowed to comment before the 2012 MOA and its amendments were made.

These actions are a clear violation of the both NEPA and NHPA. The NEPA and NHPA mandates to involve the public are not suggestive—they are mandatory.³ The failure to do so grounds for a court-ordered injunction to redo the

³ 36 CFR § 800.2(d) provides:

"(1) Nature of involvement. The views of the public are essential to informed Federal decisionmaking in the section 106 process. The agency official shall seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, the likely interest of the public in the effects on historic properties, confidentiality concerns of private individuals and businesses, and the relationship of the Federal involvement to the undertaking.

"(2) Providing notice and information. The agency official must, except where appropriate to protect confidentiality concerns of affected parties, provide the public with information about an undertaking and its effects on historic properties and seek public

Section 106 process. *See Montana Wilderness Ass'n v. Fry*, 310 F Supp 2d 1127, 1151 (D Mont. 2004).

COID, SHPO, and BOR also engaged in an unauthorized process for the 2014 MOA. There is no authority that allows amending a past Section 106 MOA to include a subsequent project. Only a programmatic agreement can somewhat function in this way, and the 2012 MOA did not meet those additional requirements (or even purport to be such a document). 36 CFR § 800.14. Thus, the parties' revision of the 2012 MOA to state that it also covered the Juniper Ridge Phase II project was invalid, and does not constitute a Section 106 review for that project.

Finally, the parties failed to develop and evaluate alternatives or modifications to the piping plans to minimize the adverse effect on historic properties. 36 CFR § 800.6(a); 40 CFR § 1508.20). The focus of the review process was instead on fast-tracking the piping projects and minimizing the interference with COID's development plans. Thus, the terms of the invalid 2014 MOA allows COID to select the segments to be preserved. It is unclear why SHPO (as the representative protecting the state's historic resources) did not insist on preservation of all segments on the NRHP, or

comment and input. Members of the public may also provide views on their own initiative for the agency official to consider in decisionmaking." * * *

40 CFR § 1506.6 provides:

"Agencies *shall*:

"(a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.

"(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

"(1) In all cases the agency shall mail notice to those who have requested it on an individual action."

* * *

"(c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. * * *

"(d) Solicit appropriate information from the public.

"(e) Explain in its procedures where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process." (Emphasis added.)

* * *

at least preservation of the segments with the highest integrity. A review of e-mails produced by SHPO indicate little analysis of the value or comparative integrity of the segments selected by COID. This type of rubber-stamping approval is expressly forbidden by NEPA and NHPA case law. *See Metcalf v. Daley*, 214 F3d 1135, 1142 (9th Cir. 2000) ("the comprehensive 'hard look' mandated by Congress and required by the statute must be timely, and it must be taken objectively and in good faith, not as an exercise in form over substance, and not as a subterfuge designed to rationalize a decision already made").

3. The Segments Selected by COID Are Not for Historical Purposes and Do Not Satisfy the 2014 MOA.

The segments proposed by COID do not even satisfy the terms of the invalid 2014 MOA, which are:

1. The segments will be high-integrity, substantial, contributing segments (minimally, one substantial segment each in the Pilot Butte Canal and the Central Oregon Canal) to the overall eligible District;
2. The segment should include a variety of features, such that it well-represents the function and appearance of the water conveyance system, as it appeared as an intact system;
3. The segment should be of sufficient length that on-site interpretation (see Stipulation 8.3(b), below) can be achieved in an attractive, well-organized fashion, without crowding or overwhelming the resource itself. (2014 MOA, ¶ 3(B)(3)(A).)

As pointed out in comments by Ms. Warren, the segments nominated by COID are not of high historic value. The segments nominated by COID were not selected for their historical value, but for their lack of interference with COID's plans to generate and sell hydroelectric power. It cannot be argued that the segment of the Pilot Butte Canal already on the NRHP does not meet the standards above, or is less worthy of preservation. The only issue with that segment is that it interferes with COID's plan to generate additional power at its nearby hydroelectric plant.

Ms. Warren and other concerned members of the public agree with the overall goals of piping some irrigation canals—if done in a responsible way that protects Oregon's historical resources and allows land owners to be involved in the decision. Conservation of water and preservation of wildlife should be top priorities. But

generation of power and revenue for COID should not take priority over the preservation of historic resources.

4. Request for the SACHP to Reject COID Nominations and Direct the Parties to Fulfill Their NEPA/NHPA Obligations.

The preservation of historic resources is of the utmost importance to the State of Oregon. *See* ORS 358.605, 358.475, 358.653, Goal 5, etc. To that end, SHPO was created and empowered by the Oregon legislature. ORS 358.612, 358.565. Unfortunately, it appears (from our review of documents obtained under public information requests) that SHPO is under political pressure to abdicate its primary responsibility and instead fast-track COID piping projects. Thus, it appears SHPO has been complicit in excluding the public from meaningful involvement in the NEPA/NHPA reviews of the canal piping projects. SHPO has repeatedly declined to provide notice of activity or decisions related to the process—including this very meeting of SACHP. Despite numerous requests for notice of relevant activity, SHPO failed to notify the owners of the Pilot Butte Canal Historic District of the COID nominations.

In stark contrast to its treatment of the public, SHPO immediately forwarded to COID all information relating to the 2014 NRHP nomination for Pilot Butte Canal Historic District. A review of SHPO's relevant emails shows that SHPO continues to provide COID with a summary or copy of almost all substantive communication it has with members of the public opposed to the piping of the Pilot Butte Canal. SHPO is recognized under both federal and state law as the agency representing Oregon's interest in protecting the state's historical resources. At a minimum, SHPO should be neutral between COID and the public opposed to the destruction of historic resources—and certainly not acting as an agent for COID.

Fortunately, the Oregon legislature foresaw these types of pressures and created an independent, non-political committee to advise and oversee SHPO. Under ORS 358.622, the SACHP has the responsibility of not only reviewing nominations for the NRHP, but also is required to "advise the State Historic Preservation Officer on matters of policy, programs and budget[.]"

We respectfully request that the SACHP perform both of these functions now. We ask that the SACHP reject the nominations by COID in order to prevent the destruction of better, already recognized, historic canals. At a minimum, SACHP should postpone a decision on these nominations and the MPD until the interested members of the public have a reasonable opportunity to review and comment.

We also ask that the SACHP advise SHPO to insist that BOR and COID fulfill their Section 106 obligations for all piping projects, including Juniper Ridge Phase II. This should involve SHPO notifying BOR and COID that the invalid 2014 MOA does not cover the Juniper Ridge Phase II project and insisting that the parties conduct a new Section 106 review that complies with federal law. Even if the 2014 MOA was not invalid under federal law, its own terms state that it does not apply to properties that are listed on the NRHP. (2014 MOA, ¶ 2: “This MOA does not apply to projects affecting any feature or element that is or may be individually eligible for listing in the National Register of Historic Places. Federal undertakings that affect these elements of the District will continue to be reviewed under standard Section I 06 review processes (36 CFR 800).”)

If BOR, COID, and SHPO refuse to comply with their obligations under NEPA and NHPA for the Juniper Ridge Phase II project, Ms. Warren may be forced to file a lawsuit to prevent the parties from moving ahead with their plans to unlawfully destroy historic properties.

Please let me know if would like any additional information, or additional supporting documentation, for the matters discussed above.

Very truly yours,



Steven G. Liday

cc: Ms. Aleta Warren

Enclosures:
Exhibits 1-5

MEMORANDUM OF AGREEMENT
No. R12MA13723
AMONG
THE U.S. BUREAU OF RECLAMATION,
THE OREGON STATE HISTORIC PRESERVATION OFFICE
AND
CENTRAL OREGON IRRIGATION DISTRICT

For
Piping of a Segment of the I-Lateral

ALFALFA VICINITY, DESCHUTES COUNTY, OREGON

This Memorandum of Agreement, hereinafter referred to as "MOA", is made and entered into by and between the United States Of America, acting through Columbia-Cascades Area Office, Bureau of Reclamation, Department of the Interior, hereinafter referred to as "Reclamation", the Central Oregon Irrigation District, hereinafter referred to as "District", and the Oregon State Historic Preservation Office, hereinafter referred to as "SHPO", pursuant to the Reclamation Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto and other applicable State laws and regulations, and Section 106 of the National Historic Preservation Act (36 CFR 800).

I. Background

WHEREAS, the Bureau of Reclamation (Reclamation), in consultation with the Oregon State Historic Preservation Office (SHPO), determined that the Central Oregon Irrigation District's I-Lateral (Lateral) is eligible for the National Register of Historic Places as a contributing feature of the Central Oregon Irrigation District, a linear irrigation water conveyance system;

WHEREAS, the District is intending to install within the prism of the Lateral approximately 4,800 ft. of a maximum diameter 63-inch diameter HDPE pipe, located in sections 25, 26 and 36 of T.17S R 14E (for water conservation aimed at improving operation efficiencies and restoring anadromous fish habitat), and has documented the extent of the Lateral within the current undertaking's Area of Potential Effects for historic and archaeological resources to standards acceptable to Reclamation and SHPO;

WHEREAS, the Bureau of Reclamation (Reclamation), in consultation with the Oregon State Historic Preservation Office (SHPO), determined that replacement of the open I-Lateral with the pipe will have an adverse effect upon the historic integrity of the Lateral;

WHEREAS, Reclamation notified the Advisory Council on Historic Preservation (Council) of the adverse effect on the I-Lateral pursuant to 36 CFR Section 800.6(a)(1), and in a letter dated September 17, 2012, the Council indicated that their participation is not needed in the consultation for resolution of adverse effects from this undertaking;

II. Implementing Actions

The Reclamation, SHPO and the District agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties, and adherence to the terms of this agreement satisfy the Section 106 responsibilities for addressing the effects of the undertaking on historic properties.

STIPULATIONS

The Central Oregon Irrigation District will ensure that the following actions will occur:

A. Historic Documentation: Following all applicable guidance provided by the National Park Service and SHPO for the preparation of Multiple Property Documents (MPD), the District will edit the MPD, *Historic Agricultural Resources in Central Oregon*, which is currently in draft form, as prepared by Clacyssens and Tomlinson (2006) under a previous Reclamation water conservation grant.

The MPD will establish standards by which eligibility and integrity can be evaluated across the entire COID irrigation water conveyance system. Section E will include a summary of the history of irrigation in Central Oregon and a complete context for the District. Section F shall include general registration requirements pertaining to all irrigation districts and their associated water systems in Central Oregon, and specific registration criteria for District resources. The selection and definition of property types and eligibility of the identified properties for listing in the National Register of Historic places shall be based primarily on field work documenting the system, and secondarily on Historic American Engineering Record (HAER) and/or Historic American Building Record (HABS) documentation, determinations of eligibility for associated features such as dams, diversion dams, and hydroelectric facilities for components of the COID system, and other secondary sources. The remaining sections of the document shall be edited as needed to reflect the changes made in Section E and F. A GIS-based map of the entire system identifying the extent and features of the COID, and any other necessary appendixes shall be included..

The draft MPD will be submitted to Reclamation and SHPO no later than three years from the date of the last signature on this document for review and comment. The final document must be revised as requested by Reclamation and SHPO and submitted to the National Park Service for listing in the National Register one calendar year from date of submission of the draft document.

B. Development of a Programmatic Agreement (PA) The District shall enter into a Programmatic Agreement (PA) with the SHPO to allow for the more efficient fulfillment of the agency's obligations under Section 106 of the National Historic Preservation Act, as amended and Oregon Revised Statute 358.653 as applicable. All parties shall use the MPD to identify contributing segments of the canal system to be managed under the PA and any subsequent documents created as part of the process. The PA will include, at a minimum:

- A list of routine maintenance and minor construction activities and actions that do not adversely affect the historic resource and that are exempt from regular review by the SHPO
- A provision to address emergency situations where catastrophic breach of the canal or other unforeseen event or eminent threat endangers human life or property. Such a provision shall allow the District to act on the immediate situation without consultation and address compliance with applicable cultural resource laws in consultation with appropriate federal and state agencies and stakeholders at a later time.
- An inadvertent discoveries clause, which will outline procedures to be followed when unknown, unanticipated cultural resources are discovered due to District activities.
- A description of annual reporting requirements and timetable for reporting activities undertaken by the District where the provisions of the PA were applied.
- A defined effective period of 10 years with provisions for the document to be reviewed at 5 years from last date of signature, amended as necessary, and the effective period continued, based on consultation.

The PA may also include a probability model for subsurface archaeological sites, cultural resource treatment plans, and preservation plans, as agreed to by the signing Parties.

The District and the SHPO as well as any other interested, consulting parties will be signatories to the PA.

III. Period of Performance

This Agreement shall become effective on the date of the last signature hereto and extend three years after the date of the last signature. The MOA will also be considered terminated once all stipulations are complete, or five years after the date of the last signature on this document. Any party may terminate this MOA by providing 30 days written notice to the other party(ies). Any party may formally request modification of the agreement by providing a written request to the other party(ies).

IV. Designated Contacts

For Reclamation:

Chris Horting-Jones
 Archeologist
 1375 SE Wilson Ave. #100
 Bend, OR 97701
 Phone (541) 389-6541
 Fax (541)-389-6394
 Email: chortingjones@usbr.gov

For the District:

Laura Wollam
Grant Specialist
Central Oregon Irrigation District
1055 SW Lake Ct.
Redmond, OR 97756
Phone (541) 504-6047
Fax (541) 504-7577
Email: lauraw@coid.org

For SHPO:

Jason Allen
Historic Preservation Specialist
State Historic Preservation Office
Oregon Parks and Recreation Department
725 Summer St. NE, Suite C
Salem, OR 97301-1266
Phone (503) 986-0579
Fax (503) 986-0793
Email: Jason.Allen@state.or.us

V. General Provisions

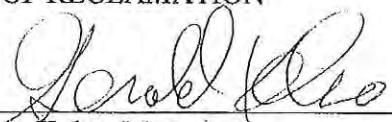
A. Nothing herein shall or shall be construed to obligate any party to expend funds or involve their respective agencies in any contract or other obligation for the future payment of money in excess of appropriations authorized by law and administratively allocated for the purposes and projects contemplated hereunder.

B. No Member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this MOA or to any benefit that may arise out of it.

C. The parties agree to comply with all Federal statutes relating to nondiscrimination, including but not limited to: Title VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, religion, sex, or national origin; Title IX of the Education amendments of 1972, as amended, which prohibits discrimination on the basis of sex; the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, which prohibit discrimination on the basis of disability; the Age Discrimination in Employment Act of 1967, as amended, which prohibits discrimination based on age against those who are at least 40 years of age; and the Equal Pay Act of 1963.


SIGNATORIES

BUREAU OF RECLAMATION

BY: 
Gerry Kelso, Manager
Columbia-Cascades Area Office

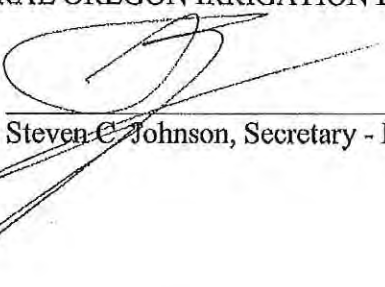
DATE: 9/2/12

OREGON STATE HISTORIC PRESERVATION OFFICE

BY: 
Roger Roper
Deputy State Historic Preservation Officer

DATE: 10-5-12

CENTRAL OREGON IRRIGATION DISTRICT

BY: 
Steven C. Johnson, Secretary - Manager

DATE: 27 Sept. 2012

From: [JOHNSON Ian * OPRD](#)
To: [JOHNSON Ian * OPRD](#)
Cc: [JOHNSON Ian * OPRD](#)
Subject: FW: RE: SHPO Case 12-0948
Date: Monday, May 09, 2016 11:00:23 AM
Attachments: [PBC_PIPED_MAP.pdf](#)
[JR Project Site Map.pdf](#)

-----Original Message-----

From: Laura Wollam [mailto:lauraw@coid.org];
Sent: 1/7/2013 12:33:23 PM
To: JOHNSON Ian * OPRD [mailto:JohnsoI@PRD.STATE.OR.US];
CC: ALLEN Jason * OPRD [mailto:AllenJa@PRD.STATE.OR.US];
Subject: RE: SHPO Case 12-0948

<!--[if mso 9]--> <!--[endif]-->

Hi Ian,

I am attaching a map of the PBC that shows the piped and unpiped sections. The total length of the PBC is 26.2 miles with 4.4 miles currently piped and 21.8 miles currently open canal.

I am also attaching the project map from Ward Tonsfeldt's report that he created when he did the historic/cultural review of this project area.

Please let me know what our next steps are after you have had a chance to review this information.

Thanks!

Laura

Laura Wollam

*Water Use Specialist / Grant Specialist
Central Oregon Irrigation District
1055 SW Lake Ct
Redmond, OR 97756
Phone: 541-504-7577
Email: lauraw@coid.org*

From: Ian Johnson [mailto:ian.johnson@state.or.us]
Sent: Thursday, January 03, 2013 1:14 PM
To: Laura Wollam
Cc: Jason Allen
Subject: RE: SHPO Case 12-0948

Laura,

Thanks for contacting us. Just to make sure we're talking about the same case I am attaching all the paperwork we have for 10-1873, a project proposed for the Pilot Butte Canal.

We can wrap the mitigation for the earlier project into the MOA for 12-0948; however, that will need to be a formal amendment process, and, as part of the deal we want to see segment(s) of Pilot Butte Canal preserved, as is, either watered or not, and interpreted. Since the MOA calls for an Multiple Property Document, preserved sections of the canal could be listed in the Register using this document.

As noted in my earlier letter, it is unclear in our records how much of the canal has already been piped and what the integrity of the remaining sections are. We'll need to know how much is left before we move forward. A good starting point might be a map that shows what is and is not piped and the area of the proposed project, which was missing from the first submission. We can discuss later what more information may be needed to complete and FOE and if/how we may amend the MOA.

Please contact me if you have any other questions.

Ian

Ian P. Johnson, Historian
Oregon SHPO
725 Summer Street NE, Suite C
Salem, Oregon 97301
Ph: (503) 986-0678
Fax: (503) 986-0793

Visit our website:
www.oregonheritage.org

Comments or suggestions:
Heritage.Programs@state.or.us

>>> "Laura Wollam" <lauraw@coid.org> 1/3/2013 7:52 AM >>>
Hi Jason,

I found a case number for this project. It is 10-1873.

Laura Wollam
Water Use Specialist / Grant Specialist
Central Oregon Irrigation District
1055 SW Lake Ct
Redmond, OR 97756
Phone: 541-504-7577
Email: lauraw@coid.org

-----Original Message-----

From: Jason Allen [<mailto:jason.allen@state.or.us>]
Sent: Wednesday, January 02, 2013 10:51 AM
To: Laura Wollam
Cc: Ian Johnson
Subject: Re: SHPO Case 12-0948

Hi Laura,

I'll look into this and let you know what I find. I may have to do some

digging, since I'm not familiar with the project. I'll be in touch, likely tomorrow or Friday, if that works.

Cheers,
-Jason

Jason M. Allen, M.A.
Historic Preservation Specialist
Oregon State Historic Preservation Office
725 Summer St. NE, Ste. C
Salem, OR 97301-1266
503-986-0579
jason.allen@state.or.us

Please Note: An updated version of the SHPO Clearance Form is now available for download at:
http://cms.oregon.gov/oprd/HCD/SHPO/pages/preservation_106.aspx

>>> "Laura Wollam" <lauraw@coid.org> 1/2/2013 10:41 AM >>>
Good morning Ian & Jason,

I have a couple of questions for you regarding our most recent MOA and plans for a PA.

We are going to be submitting an application for WaterSMART funding for a new project, and are working on the NEPA requirements. This project is the 2nd phase of previous piping project in the Bend area, but not on the COC which feeds the I-Lat for our current MOA. The project is being completed on our other main canal that flows through Redmond and Terrebonne.

Since our current MOA for Case #12-0948 includes completing the draft report that Paul Claeysens did, what is going to be required of us to have SHPO sign off for this project? I believe we had already submitted a historical & cultural report, or at least a draft report for this piping project a couple of years ago to you (2010 I believe), but we did not follow-up as the project got shelved for a couple of years until the design process was more complete. I am sorry, but I don't have a case number for our submittal to you.

Will we need to do a new MOA for this project, or will we be able to work off of the existing MOA?

Thanks,

Laura

Laura Wollam

Water Use Specialist / Grant Specialist

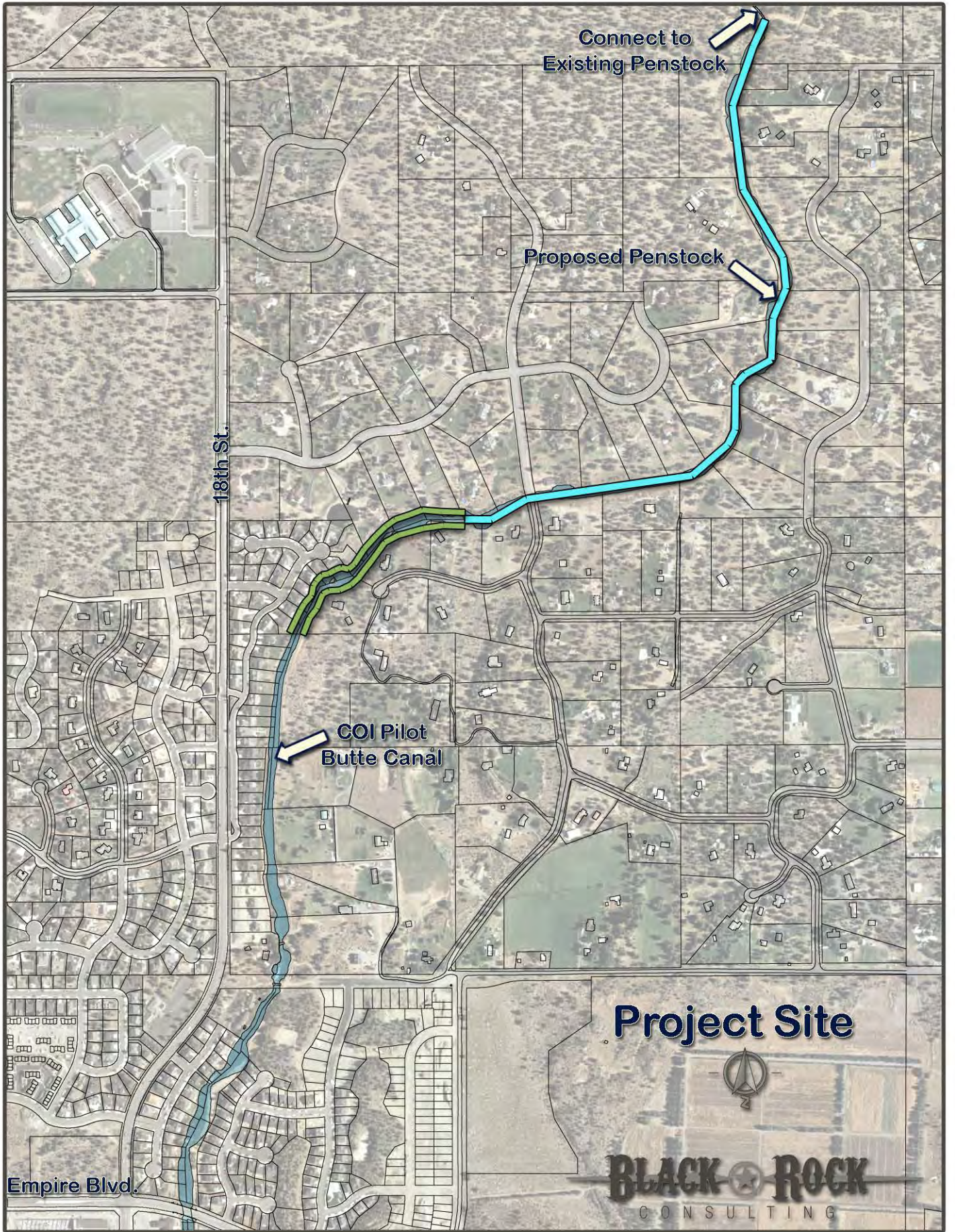
Central Oregon Irrigation District

1055 SW Lake Ct

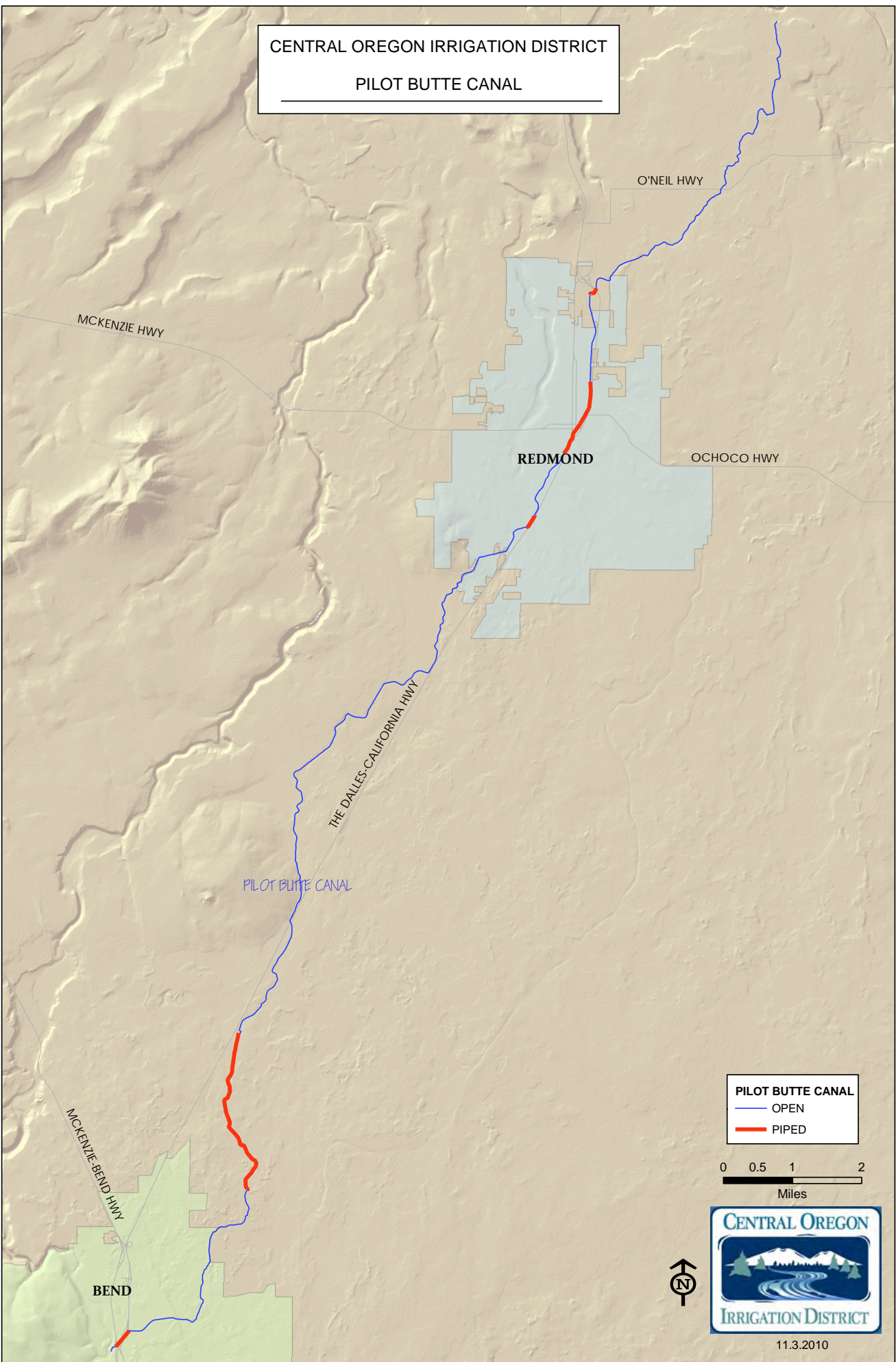
Redmond, OR 97756

Phone: 541-504-7577

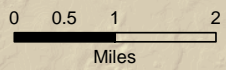
Email: lauraw@coid.org



CENTRAL OREGON IRRIGATION DISTRICT
PILOT BUTTE CANAL



PILOT BUTTE CANAL
— OPEN
— PIPED



11.3.2010

From: [JOHNSON Ian * OPRD](#)
To: [JOHNSON Ian * OPRD](#)
Cc: [JOHNSON Ian * OPRD](#)
Subject: FW: Pilot Butte Canal Project Timeline
Date: Monday, May 09, 2016 10:47:17 AM

-----Original Message-----

From: JOHNSON Ian * OPRD [mailto:ian.johnson@oregon.gov];
Sent: 4/9/2015 9:20:42 AM
To: CURRAN Chrissy * OPRD [mailto:Chrissy.Curran@oregon.gov];
Subject: Pilot Butte Canal Project Timeline

Chrissy,

Here is the project summary. Not every detail, but most of them. Please let me know if you would like more or less information – probably much much less.

Ian

Overview:

In consideration of the desire to conserve water and, where appropriate, produce hydroelectric power, the Central Oregon Irrigation District (COID) is engaged in a multi-year plan to pipe the majority of the Pilot Butte and North Unit Canals in Deschutes County. Much of this work will be paid for with federal pass-through grants. While most work completed thus far progressed without much public interest, there is considerable controversy regarding the piping and development of a hydroelectric facility on the Pilot Butte Canal in Township 17 South, Range 12 East, Section 15, W. M., Bend and unincorporated Deschutes Co. The project area is a relatively urban environment with several residences in close proximity to the Canal. In the last several years, and particularly recently, neighbors have sought to stop the project through various local, state, and federal processes due to concerns regarding property values; safety of the hydroelectric facility; and aesthetics.

The Oregon SHPO reviewed this project under two distinct and administratively separate federal programs, each with its own goals and outcomes. Section 106 of the 1966 National Historic Preservation Act, as amended (NHPA) requires agencies to seek consultation with the State Historic Preservation Office for projects funded with federal monies and under other circumstances. The goal of this program is not to prevent a project nor to prevent destruction of a resource, but rather to walk the agency through a process that considers the impact of an

action on a historic property. The SHPO provides guidance regarding the eligibility of the resource for listing in the National Register of Historic Places; the potential impact of the project on the qualities that make the property eligible for listing; and appropriate mitigation measures should the historic property be negatively impacted. Under this process, the federal agency is responsible for compliance with the law. In early 2014 our office began receiving public inquiries regarding the Juniper Ridge II project concerning our review process and the opportunity for public comment. Our office provided information and project documents, but referred all requests for public comment to Bureau of Reclamation (BOR), the project sponsor. To date, the federal agency has declined to re-examine the project or the MOA in consideration of comments received from the public.

Also established under the NHPA, the National Register of Historic Places seeks to recognize properties important in American History. As stated in federal law, any individual can propose that any property be listed. Owners may prevent the listing of their property by objecting in writing; . Owner is narrowly defined in federal regulations as only those who have fee-simple title to the property. The National Register program is honorific, requiring no federal or state oversight; however, Oregon's administrative rule for Goal 5 requires local governments to "protect" properties of "statewide significance," defined as those listed in the Register. The proponents of the Pilot Butte Canal have on several occasions stated to staff that they are pursuing listing in the National Register to gain local control over the fate of the Canal segment. As described below, efforts to list the Canal in the Register are ongoing. Attempts to list the Canal segment in the Bend and Deschutes County local landmarks registers have been unsuccessful due to the local definition of "owner" under ORS 197.772. The state law provides owners an opportunity to prevent their property from being listed in a local landmark register by objecting to the process before the property is listed. Local interpretation of the law defines COID as an owner.

Below is a more detailed synopsis of the Federal Compliance and National Register processes.

Federal Compliance Process:

In August 2010 our office received a request for concurrence for the Juniper Ridge Phase II project (SHPO Case No. 10-1873), which called for the piping of the Pilot Butte Canal and development of a hydroelectric facility, location described above. Federal law requires agencies to seek consultation with the State Historic Preservation Office under Section 106 of the NHPA for projects funded with federal monies. In this particular case, the Canal is maintained by the Central Oregon Irrigation District (COID), but the project is funded by a U.S. Bureau of Reclamation (BOR) pass-through grant. To our knowledge, no other federal agency is involved with the project. However, local authorities are involved in the local planning process.

In reviewing the documentation, the Oregon SHPO concurred with BOR that the Pilot Butte Canal was eligible for listing in the National Register, but disagreed with the assessment that the proposed project would not adversely affect the qualities that made the canal eligible for listing due to a lack of information regarding the overall condition of the resource. This response went unanswered until February 2013 when COID and BOR proposed surveying the entirety of the Canal, which SHPO agreed to. Subsequently, BOR reaffirmed its prior conclusion that the project would not adversely affect the Canal; however, our office disagreed. In a letter dated 9/9/2013 our office stated our position, but noted that the Memorandum of Agreement (MOA) mitigating adverse effects created by Phase II of the North Unit Irrigation District Water and Energy Conservation Initiative (SHPO Case No. 12-0948) addressed the piping of the entirety of the Pilot Butte and North Unit canals. The document was signed in October 2012. Because the existing MOA addressed piping the entirety of the resource, our office recommended amending the MOA to specifically include the Juniper Ridge Phase II project as a project mitigated under the document and to more specifically state that proposed piping projects were covered by the provisions of the agreement even as the MOA's stipulations were still being carried out. The amended MOA was signed in February 2014.

National Register Process:

In November 2014 our office received an application to list the Pilot Butte Canal Historic District in the National Register of Historic Places. The document was reviewed and returned to the proponents for corrections, which were made, and the document was deemed complete and scheduled for the February 2015 meeting of the State Advisory Committee on Historic Preservation (SACHP), a nine-member governor appointed board of experts in various preservation-related fields. The proposed Pilot Butte Canal Historic District encompasses the entirety of the Pilot Butte Canal, generally bound by Yeoman Road to the south and Cooley Road to the North in Bend and unincorporated Deschutes County, including an area measuring 50' from the centerline of the canal on either side creating a single corridor measuring 100' in width.

The SACHP reviewed the nomination at their regular meeting on Thursday, February 19, 2014 at 1:00pm in Eugene, approving the document on a 4 to 2 vote. A copy of the Pilot Butte Canal Historic District nomination document as reviewed by the SACHP is on our website at http://www.oregon.gov/oprd/HCD/NATREG/Pages/nrhp_sachphome.aspx. The document will be held by our office for a 90-day comment period until May 21st. During this period, the proponents will have the opportunity to revise the document in order to address issues raised during the hearing. A final review copy will be ready in early May. Before the document is sent to the National Park Service (NPS) for final consideration, Christine Curran, the Deputy State Historic Preservation Officer, will make a recommendation to the agency. NPS is the federal agency responsible for the administration of the National Register of Historic Places. NPS will review the document for 45 calendar days, to approximately July 9th. We would expect to receive notification of the agency's decision by email the following week, around

July 16th. This timeline is approximate, and subject to change.

Throughout the remainder of the review process, the petition will be judged by NPS' criteria for determining the significance of historic properties. Property owners may object to listing by submitting a certified statement that they are the property owner of real property within the district boundary and that they object to listing. Anyone not objecting to the nomination, is, according to NPS regulations, considered to be supportive of the petition. Property owners, agencies, municipalities, and the general public are invited to comment at any point during the review process, now through approximately July 9th.

To broadly inform the community of the pending petition, a letter was sent to each property owner within the district boundary, the Mayor of Bend, Deschutes County Commission, Bend and Deschutes County Landmarks Commissions, the document preparers, and COID. A press release targeting local media was issued 10 days before the meeting.



Oregon

John A. Kitzhaber, MD, Governor

Parks and Recreation Department

State Historic Preservation Office

725 Summer St NE, Ste C

Salem, OR 97301-1266

(503) 986-0690

Fax (503) 986-0793

www.oregonheritage.org

September 9, 2013

Mr. Gerald Kelso
Bureau of Reclamation
1201 NE Lloyd Blvd STE 750
Portland, OR 97232



RE: SHPO Case No. 10-1873
Pilot Butte Canal Juniper Ridge Piping Proj Phase 2

Dear Mr. Kelso:

Thank you for submitting documentation on the project referenced above. While the Oregon State Historic Preservation Office (SHPO) acknowledges that the integrity of the subject section of the Pilot Butte Canal is diminished, we believe that the majority of this segment retains sufficient integrity for listing in the National Register and that the proposed piping project will adversely affect the resource's character-defining features.

However, we believe that the Memorandum of Agreement (MOA) mitigating for the adverse effect to historic properties for Phase II of the North Unit Irrigation District Water and Energy Conservation Initiative (SHPO Case No. 12-0948) signed in September 2012 among the Bureau of Reclamation (BOR), our office, and the Central Oregon Irrigation District (COID) is sufficient to address this adverse effect. As noted in personal correspondence with Chris Horting-Jones, as written the MOA does not adequately address how COID's ongoing piping projects should be addressed. We propose amending the document to allow projects to proceed, while carrying out the previously-agreed to stipulations that will identify what portions of the system should ultimately be preserved.

Until the MOA can be amended, and if BOR is amenable, we ask that the agency concur with our Determination of Eligibility, Finding of Effect, and mitigation for this project in writing, and confirm that the agency will seek an amendment to the existing MOA to resolve the issues noted in this letter. It is our hope to have the document amended within the next several months, sooner if possible. Please contact me if there are any further questions, comments, or concerns.

Sincerely,

Ian P. Johnson, M.A.

Historian

(503) 986-0678

ian.johnson@state.or.us



MEMORANDUM OF AGREEMENT
No. R14MA13733
AMONG
THE U.S. BUREAU OF RECLAMATION,
THE OREGON STATE HISTORIC PRESERVATION OFFICE
AND
CENTRAL OREGON IRRIGATION DISTRICT

For
Piping of a Segment of the I-Lateral

ALFALFA VICINITY, DESCHUTES COUNTY, OREGON

This Memorandum of Agreement (MOA) is entered into by Bureau of Reclamation, Columbia-Cascades Area Office (Reclamation), the Oregon State Historic Preservation Office (SHPO) and the Central Oregon Irrigation District (District) to define their respective roles in mitigation efforts related to the piping of the I-Lateral of the Central Oregon Irrigation District System (System). This MOA outlines separate, but related mitigation for the current undertaking (subterranean piping of a Segment of I-Lateral) and the proposed future piping of the remainder of the canals, laterals, sub-lateral and ditches within the District. This MOA replaces MOA No. R12MA13723 thereby canceling it in its entirety.

1. Background

The District is located in Deschutes County. The District provides irrigation water within the Central Oregon Tri-county area with 43,000 acres delivered to water users in the vicinity of Bend, Alfalfa, Powell Butte, Redmond, and Terrebonne, within the upper Deschutes River basin.

A. I-Lateral Piping

Under the current undertaking, the District intends to protect and improve water quality and improve water delivery by converting approximately 4,800 feet of open ditch laterals within the I-Lateral of the System to pipe, in T17S R14E Sections 25, 26 and 36.

The District has been awarded a grant through Reclamation's WaterSMART Program to perform the work. Because Reclamation-administered Federal funds will be involved in this project, the Section 106 process of the National Historic Preservation Act was applied to identify affected historic properties.

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), the District has documented the extent of the Lateral within the current undertaking's Area of Potential Effects for historic and archaeological resources to standards acceptable to Reclamation and SHPO.

Reclamation, in consultation with SHPO, determined that replacement of the open I-Lateral with the pipe will have an adverse effect upon the historic integrity of the Lateral. Reclamation notified the Advisory Council on Historic Preservation (Council) of the adverse effect on the I-Lateral pursuant to the Code of Federal Regulations (CFR) 36 CFR Section 800.6(a)(1), and in a letter dated September 17, 2012, the Council indicated that their participation is not needed in the consultation for resolution of adverse effects from this undertaking.

Specific mitigation strategies designed to address the adverse effect of this undertaking are identified below, in section 3.A.

B. Future Piping of Canals, Laterals, sub-Laterals, and Ditches

Through discussions between Reclamation, SHPO, and the District related to future project planning and the stated intentions of the District, a proposal to programmatically mitigate for future adverse effects related to the future piping of canals, laterals, sub-laterals, and ditches throughout the District has been developed. This MOA is intended to provide mitigation for such future piping efforts.

Specific mitigation strategies designed to address the adverse effects of these future undertakings are identified below, in section 3.B.

C. Interim Management

Until the Programmatic Agreement is signed and in place, all consultation regarding non-Federal undertakings will be reviewed by SHPO under standard State review practices, as defined in Oregon State Regulations (ORS) 358.653.

This MOA is entered into under the authority of the National Historic Preservation Act of 1966 as amended, as specified in the regulations in 36 CFR 800, and specifically in Section 6(c) – Resolution of Adverse Effects without the Council.

2. Purpose and Applicability

This MOA will serve to define the necessary actions for documentation of the System in its current state, define in more detail the historical significance, contextual setting, character-defining characteristics and the contributing properties within the System, and set the parameters by which future actions to pipe the System can be accomplished. This MOA will reduce the need to consult with the SHPO on a case-by-case basis when qualifying future activities (defined as subterranean piping of canals, laterals, sub-laterals, and ditches) take place on the System, and provides for a schedule that allows the SHPO to be updated on implemented actions.

This MOA does not apply to projects affecting any feature or element that is or may be individually eligible for listing in the National Register of Historic Places. Federal undertakings that affect these elements of the District will continue to be reviewed under standard Section 106 review processes (36 CFR 800). Non-Federal projects will continue to be reviewed under ORS 358.653.

3. Implementing Actions

A. Piping of I-Lateral

The SHPO, Reclamation, and the District agree that the current undertaking, consisting of the subterranean piping of approximately 4,800 feet of the I-Lateral, currently an open-ditch structure, represents an adverse effect to the National Register-eligible District water conveyance system. In order to mitigate that adverse effect, the following shall be implemented:

1. Reclamation will:

- (a) Consult with the proper interested parties, such as the Council, SHPO, and the Confederated Tribes of the Warm Springs Reservation.
- (b) Ensure that mitigation efforts defined in this MOA as part of the current undertaking (identified below, Section 3.A.2) are completed to the standards set forth below.

2. The District will:

- (a) Perform or cause to be performed the Historic Documentation of the System:

- Following all applicable guidance provided by the National Park Service and SHPO, the District will conduct a historic properties inventory of the entirety of the District facilities and infrastructure related to water conveyance (i.e., not to include district offices and equipment/vehicle maintenance or storage facilities). This inventory will document all water-conveyance system buildings and structures, provide locational information (in GIS format, using lines to represent canals, etc., and points or polygons, as appropriate, to represent features) for all water conveyance-related buildings and structures, as well as associated features. The inventory will meet the requirements set forth for Reconnaissance Level Surveys, as defined in the document, "Guidelines for Historic Resource Surveys in Oregon." Prior to initiation of the survey, a written, detailed survey design will be submitted to SHPO for review and concurrence.
- This inventory will be completed and submitted to Reclamation and SHPO for draft review within three (3) years of the date of the final signature on the document. Comments and revision requests from Reclamation and/or SHPO will be addressed, and a final version of the inventory will be submitted within one (1) year of the receipt of such comments.

B. Future Piping of Canals, Laterals, sub-Laterals, and Ditches Elsewhere Within the District

SHPO, Reclamation, and the District understand that it is the intention of the District to convert significant portions of the system of open canals, laterals, sub-laterals and ditches within the District to a subterranean, piped system. In order to mitigate for future adverse effects that would arise from these efforts, Reclamation, SHPO and the District have agreed to mitigate programmatically through the following measures in order to reduce time, effort, and resources required to conduct standard Section 106 and/or ORS 358.653 consultation:

1. Develop a Programmatic Agreement (PA)

- (a) Reclamation, SHPO, and the District shall enter into a PA to allow for the more efficient fulfillment of the entity's obligations under Section 106 of the National Historic Preservation Act, as amended, and Oregon Revised Statute 358.653, as applicable.
- (b) All parties shall use the Multiple Property Document (see Section 3.B.2., below) to identify contributing segments of the canal system to be managed under the PA and any subsequent documents created as part of the process. The PA will include, at minimum:
 - A list of routine maintenance and minor construction activities and actions that do not adversely affect the historic resource and that are exempt from regular review by SHPO;
 - A provision to address emergency situations where catastrophic breach of the canal or other unforeseen event or eminent threat endangers human life or property. Such a provision shall allow the District to act on the immediate situation without consultation and address compliance with applicable cultural resource laws in consultation with appropriate federal agencies and stakeholders within 30 days of the incident.
 - An inadvertent discovery clause, which will outline procedures to be followed when unknown, unanticipated cultural resources are discovered due to District activities;
 - A description of annual reporting requirements and timetable for reporting activities undertaken by the District where the provisions of the PA were applied;

- A defined effective period of ten (10) years with provisions for the document to be reviewed at five years from last date of signature, amended as necessary, and the effective period continued, based on consultation. If appropriate, the effective period can be extended for an additional ten (10) years (with an additional five-year review), subject to the agreement of Reclamation, SHPO, and the District.
- (c) The PA may also include a probability model for subsurface archaeological sites, cultural resource treatment plans, and preservation plans, as agreed to by the signing Parties.
- (d) Reclamation, SHPO, and the District, as well as any other interested, consulting parties, will be signatories to the PA.
- (e) Until the PA is signed and in place, all consultation regarding future federal undertakings (those not covered under Stipulation A) affecting the District water conveyance system will be reviewed by Reclamation and SHPO under standard Section 106 review practices, as defined in 36 CFR 800.

2. Develop Multiple Property Document (MPD)

- (a) Following all applicable guidance provided by the National Park Service and SHPO for the preparation of MPDs, the District will edit the MPD, *Historic Agricultural Resources in Central Oregon*, which is currently in draft form, as prepared by Claeysens and Tomlinson (2006) under a previous Reclamation water conservation grant. The MPD will be prepared sufficiently such that subsequent Irrigation Districts are able to add their district-specific contexts and registration requirements. The MPD elements will be based on the results of the Reconnaissance Level Survey inventory created as a result of Stipulation A.2. (above). The MPD elements to be developed include:
 1. General framework for the functioning of the MPD, once registered, including Sections A through D (complete), Sections E-I such that deal specifically with the District, but that includes general introductions, contexts, and registration requirements that will be applicable across all irrigation districts included in the final MPD;
 2. Establishment of the various historic contexts pertaining to the history and significance of the District. The historic context(s) will be based on historical research, and supported by historical documents and images;
 3. Development of associated property types and general and type-specific registration requirements through which identified elements of the system can be evaluated for eligibility (including consideration of significance and integrity) for inclusion in the NRHP through the framework of the MPD; and
 4. A GIS-based map of the entire system identifying the location, extent, and features of the District, and any other necessary appendices, shall be included. The map should identify elements and sections of the System as either contributing or non-contributing to the District as a comprehensive historic resource.
- (b) The draft MPD (including all GIS information) will be submitted to Reclamation and SHPO for review and comment within three (3) years of the date of the final signature of this MOA. Draft MPD and nomination materials will be submitted to Reclamation and SHPO for review by SHPO and the Oregon State Advisory Committee on Historic

Preservation (SACHP). The District will address any SHPO and SACHP comments prior to forwarding the document to the National Park Service for final consideration.

3. Preservation and Interpretation

- (a) Following completion of the draft MPD elements described above (Stipulation B.2.a-b), the District, in consultation with Reclamation and the SHPO, shall select appropriate, contributing segments to be listed in the National Register of Historic Places through the MPD. These segments will be selected based on the following criteria:
 1. The segments will be high-integrity, substantial, contributing segments (minimally, one substantial segment each in the Pilot Butte Canal and the Central Oregon Canal) to the overall eligible District;
 2. The segment should include a variety of features, such that it well-represents the function and appearance of the water conveyance system, as it appeared as an intact system;
 3. The segment should be of sufficient length that on-site interpretation (see Stipulation B.3 (b), below) can be achieved in an attractive, well-organized fashion, without crowding or overwhelming the resource itself.
- (b) Once selected, the identified segment will be cleaned, repaired, and returned to working condition in a way that meets the Secretary of the Interior's Standards for the Treatment of Historic Properties, and the immediate vicinity prepared such that it creates a welcoming, attractive environment for the public visitation and interpretation of the resource.
- (c) The interpretation of the resource will be achieved through the use of static or active displays that relate the history, function, and significance of the Central Oregon Irrigation District water conveyance system. Such displays will be presented in a format that is weather- and vandal-resistant, attractive, and engaging. Draft content and layout of the interpretive display(s) will be submitted to Reclamation and SHPO for review and comment, and if any revisions are requested, revised versions will be submitted for a second review prior to fabrication. Upon acceptance of the draft content by Reclamation and SHPO, the District will cause the interpretive display to be constructed.
- (d) Once constructed, the interpretive site and displays must be maintained by the District in an attractive and functioning condition.

4. Completion of this MOA

The terms of this MOA will be considered to be completed when the above implementing actions (A-B) have been completed to the satisfaction of Reclamation and SHPO. Upon completion of the implementing actions, all adverse effects resulting from subterranean piping of *all canals, laterals, sub-laterals, and ditches will be considered to be fully mitigated*, and may proceed without Section 106 or ORS 358.653 (as appropriate) consultation with Reclamation or SHPO.

5. Period of Performance

This MOA shall become effective on the date of the last signature hereto and extend three years after the date of the last signature. The MOA will also be considered terminated once all stipulations are complete, or five years after the date of the last signature on this MOA. Any party may terminate this MOA by providing 30

days written notice to the other party(ies). Any party may formally request modification of the MOA by providing a written request to the other party(ies).

If this MOA is terminated prior to completion of the above stipulations, then all projects undertaken from the date of the final signature not covered by the PA (should it be in effect) on this MOA must be reviewed under standard review practices under Section 106 of the National Historic Preservation Act, or under ORS 358.653, as appropriate.

6. Modifications

Reclamation, SHPO or the District may formally request modification of this MOA. Modifications shall be made by mutual consent of Reclamation, SHPO and the District by the issuance of a written modification to this MOA, signed and dated by all parties prior to any changes being performed.

7. Principal Contacts

The principal contacts for this MOA are:

For Reclamation:

Chris Horting-Jones
Archeologist
1375 SE Wilson Ave. #100
Bend, OR 97701
Phone (541) 389-6541
Fax (541)-389-6394
Email: chortingjones@usbr.gov

For the District:

Laura Wollam
Grant Specialist
Central Oregon Irrigation District
1055 SW Lake Ct.
Redmond, OR 97756
Phone (541) 504-7577
Fax (541) 548-0243
Email: lauraw@coid.org

For SHPO:

Jason Allen
Historic Preservation Specialist
State Historic Preservation Office
Oregon Parks and Recreation Department
725 Summer St. NE, Suite C
Salem, OR 97301-1266
Phone (503) 986-0579
Fax (503) 986-0793
Email: Jason.Allen@state.or.us

8. General Provisions


- a. Reclamation's responsibility for ensuring completion of consultation with SHPO for future undertakings identified in Section 3.B. is limited only to those that qualify as Federal undertakings. Projects identified in Section 3.B. that do not qualify as Federal undertakings are subject to review by the SHPO under ORS 358.653, and the responsibility for consultation and completion will rest with the District.
- b. Completion of the mitigation stipulations will be considered to satisfy the requirements for mitigation of adverse effects for a previous undertaking (Pilot Butte Canal Juniper Ridge Piping Project Phase 2 [SHPO Case# 10-1873]) that has not yet been mitigated as of the date of the final signature on this MOA.
- c. This MOA is neither a fiscal nor a funds-obligating document for Reclamation. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties of this MOA will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This MOA does not provide such authority.
- d. Nothing herein shall be construed to obligate Reclamation to expend or involve the United States of America in any contract or other obligation for the future payment of money in excess of the appropriations authorized by law and administratively allocated for the purposes and projects contemplated hereunder.
- e. No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of the MOA or to any benefit that may arise out of it.
- f. Any information furnished to Reclamation, under this MOA, is subject to the Freedom of Information Act (5 U.S.C. 552).
- g. All parties to this MOA agree to comply with all Federal statutes relating to nondiscrimination, including but not limited to: Title VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, religion, sex, or national origin; Title IX of the Education amendments of 1972, as amended, which prohibits discrimination on the basis of sex; the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, which prohibit discrimination on the basis of disability; the Age Discrimination in Employment Act of 1967, as amended, which prohibits discrimination based on age against those who are at least 40 years of age; and the Equal Pay Act of 1963.

9. Signatures

Reclamation, SHPO and the District will abide by the terms and provisions expressed or referenced herein.

BUREAU OF RECLAMATION


by:


Gerry Kelso, Manager
Columbia-Cascades Area Office

DATE:

2/12/14

OREGON STATE HISTORIC PRESERVATION OFFICE

BY: 

Roger Roper
Deputy State Historic Preservation Officer

DATE: 2.25.14

CENTRAL OREGON IRRIGATION DISTRICT

BY: 

Steven Johnson
Secretary-Manager

DATE: 14 Feb. 2014

~~ End of Document ~~

Eval sheets - COID Pilot Butte Canal

NATIONAL REGISTER NOMINATION EVALUATION SHEET

SACHP Meeting Date: 6/16/2016

PROPERTY
ADDRESS:

IRRIGATION PROJECTS IN OREGON, 1850-1978

MULTIPLE CITIES, MULTIPLE CO COUNTY

EVALUATOR:

DATE:

X

see below

OK

Concerns

INTEGRITY: Major alterations or additions? New materials? Altered setting? Moved? etc.

INTEGRITY: Major alterations or additions? New materials? Altered setting? Moved? etc.

X

and non-contrib. features
OK
and

Concerns

DESCRIPTION: Is the property adequately described? Too general? Too specific? Have contrib. been clearly identified?

DESCRIPTION: Is the property adequately described? Too general? Too specific? Have contrib.

X

OK

Concerns

SIGNIFICANCE
SIGNIFICANCE

Has the appropriate Criterion been used? Has it been justified? Is the context

Has the appropriate Criterion been used? Has it been justified? Is the context sufficient in breadth and depth to support the claims of significance? Is the

and CONTEXT: narrative history complete and of the appropriate detail?

X

OK

Concerns

FACTS AND

Are the appropriate and best sources used? Are key dates and facts accurate and supported with references?

X

OK

Concerns

TECHNICAL: Typos, grammar, organization and flow of the narrative, etc.

TECHNICAL: Typos, grammar, organization and flow of the narrative, etc.

X

OK

Concerns

SUPPORTING

MATERIALS: Adequate photos, maps, drawings, etc.?

OTHER ISSUES AND COMMENTS: The Redmond Historic Landmarks Commission reviewed the proposal and is supportive of the proposal as long as the piping is completely underground and support leaving the remaining channel unchanged (i.e. no grading or removal of historic structures). The HLC also expressed concern for protection of any found artifacts as a result of the piping and questioned whether bridge crossings would be allowed, the actual width of the designation, and the phasing plan for piping of COID canals.

NATIONAL REGISTER NOMINATION EVALUATION SHEET

SACHP Meeting Date: 6/16/2016

PROPERTY
ADDRESS:

CENTRAL OREGON CANAL: BRASADA RANCH SEGMENT
ALFALFA RD
POWELL BUTTE, CROOK COUNTY

EVALUATOR:

DATE:

OK Concerns

INTEGRITY: Major alterations or additions? New materials? Altered setting? Moved? etc.
INTEGRITY: Major alterations or additions? New materials? Altered setting? Moved? etc.

OK Concerns
and non-contrib. features
and

DESCRIPTION: Is the property adequately described? Too general? Too specific? Have contrib. and non-contrib. features been clearly identified?
DESCRIPTION: Is the property adequately described? Too general? Too specific? Have contrib.

OK Concerns

SIGNIFICANCE Has the appropriate Criterion been used? Has it been justified? Is the context sufficient in breadth and depth to support the claims of significance?
SIGNIFICANCE Has the appropriate Criterion been used? Has it been justified? Is the context sufficient in breadth and depth to support the claims of significance? Is the narrative history complete and of the appropriate detail?
and CONTEXT:

OK Concerns

FACTS AND Are the appropriate and best sources used? Are key dates and facts accurate and supported with references?

OK Concerns

TECHNICAL: Typos, grammar, organization and flow of the narrative, etc.
TECHNICAL: Typos, grammar, organization and flow of the narrative, etc.

OK Concerns

SUPPORTING MATERIALS: Adequate photos, maps, drawings, etc.?

OTHER ISSUES AND COMMENTS:

Gadow_BRS



PO Box 764 • Troutdale, OR 97060 • Phone: (503) 830-1448
E-Mail: brian@brs-legal.com

Brian R. Sheets
Licensed in Oregon

January 17, 2017

VIA EMAIL ONLY

Land Conservation and Development Commission
c/o Amie Abbott
635 Capitol St., Ste. 150
Salem, Oregon 97301
Email: amie.abbott@state.or.us

RE: LCDC Agenda Item 12 Rulemaking – Goal 5 Historic Resources

Dear Chair MacPherson and Land Conservation and Development Commissioners:

This office represents Matt and Suzanne Gadow, residents of unincorporated Deschutes County, Oregon, and fee simple landowners within the Pilot Butte Canal Historic District (Cooley Road-Yeoman Road Segment) (“PCBHD”). For the past four years, Matt, Suzanne, and I have been involved in various actions to maintain the integrity of their home and property in Deschutes County. We have heavily participated in the rulemaking process by submitting written testimony to the DLCD RAC and LCDC hearings, as well as testifying in person.

In this second hearing for the Goal 5 Historic Resources, we incorporate our prior testimony, both written from November 8, 2016 and the November 18, 2016 oral testimony in this comment. As a result of DLCD disclosures to the origins of this Goal 5 Historic Resources Rulemaking, this office submitted Public Records Requests to DLCD and the Governor’s Office. The documents produced disclosed the origins of this rulemaking as a direct result from the lobbying of the Central Oregon Irrigation District (“COID”) and the push from the Governor’s Natural Resources Office to accommodate COID. The present rulemaking effort is tainted with the Pilot Butte Canal controversy in Deschutes County Oregon.

The Commission should be aware of the motives behind the present rulemaking, and balance the interests of a single lobbying interest with the far-reaching statewide implications of rewriting the Goal 5 historic protection program. Moreover, entities lobbying for standing to oppose historic designation should be scrutinized for their motives; Oregon and its historic resources should not suffer collateral damage from a single irrigation district’s desire to destroy a historic canal for an additional 1.7 MW of electricity from its hydropower generator.



1. Background



*COID Hydropower Generator on the Pilot Butte Canal
Source: Google Maps*

Central Oregon Irrigation District (“COID”) desires to extend its hydropower facility into my client’s property by piping the canal through the length of the PCBHD, destroying the canal for their hydropower venture.¹ The present generator has a capacity of 5.0 MW, however it is operating at 3.3 MW due to less than optimal pressures in the canal piping leading to the generator.

Through lobbying the Governor’s office, COID received support from several state agencies under the auspices of water conservation. To preserve the historic nature of the BCHD, property owners along the still-remaining canal applied to the National Park Service to list the canal and adjoining properties into the PBCHD. Despite fierce opposition from COID and coordinated actions through the Governor’s office, in February 2016, the National Park Service (“NPS”) listed the PBCHD on the National Register of Historic Places (“NRHP”). Following that nomination, the Governor’s office initiated this rulemaking with LCDC to right the perceived wrongs with the historic preservation program. This is using a sledgehammer to do a scalpel’s work, and supplants historic preservation for the entire state in order for one irrigation district to receive more power revenue. We oppose this rulemaking insofar as its directed approach to strip historic protection from

¹ See Attachment 1 at 2.



the PBCHD, and we oppose the incremental erosion of historic protection for similarly affected Oregon listed properties. The Commission should know the impetus behind the rulemaking, and we will explain the policy formulation as follows.

2. This Rulemaking is the Direct Response to the Pilot Butte Canal Historic District Being Nominated and Listed in the National Register.

a. Governor's Office

The main pressure behind this rulemaking lies in the Governor's Natural Resources Office. Gabriela Goldfarb, the Natural Resources Policy Advisor to Governor Kate Brown is the main proponent for advancing the support of COID's hydropower project. In January of 2015, Ms. Goldfarb discussed with Deschutes River Land Conservancy allies about the COID piping project and noted that the hydropower aspect of the COID piping plans could be a problem for COID.² Later in April 2015, Ms. Goldfarb specifically points out the hydropower aspect of the piping project in reference to the historic designation nomination, noting:

“However -- and this is info from a call I made to Tod Heisler at the Deschutes River Land Conservancy about this a few weeks back -- there is a twist in the regulatory framework because this canal connects to the COID's 5MW hydroelectric project. The irrigation district needs landowner permission to put the pipe underground; they have secured the legal right to run the pipe aboveground. However, if it's aboveground, the irrigation district will need to engage in an expensive FERC regulatory and construction process to construct a much bigger hydro facility forebay. The FERC process also provides another Historic Preservation nexus.”³

In response to the message above, Chrissy Curran, interim deputy SHPO, put together a summary memo of the process of listing a historic district with the end analysis including a statement of “[w]hether COID may proceed with demolition of a National-Register-listed resource depends on what the local ordinance says.”⁴ Clearly, the focus at the Governor's office is to find how to enable COID an opportunity to destroy the PBCHD for its hydropower venture.

In response to Mr. Curran's memo, Ms. Goldfarb noticed the objection grounds for “owners” of nominated resources, and asked who owned the canal.⁵ This is the first mention of the canal ownership issue from the Ms. Goldfarb on April 17, 2015. Ms. Curran responded:

“Ah, the million dollar question. I'm afraid I can't clarify it at this point. The property owners hold the fee simple title to their land; the Central Oregon Irrigation District holds an easement on the land and they own the water rights

² See Attachment 2

³ See Attachment 3

⁴ See Attachment 4 at page 2

⁵ See Attachment 5



to move water through the canal. Who owns the canal itself is currently the topic of a heated legal debate at the local level.”⁶

Ms. Curran answered Ms. Goldfarb’s question uncertainty on the ownership issue. Ms. Curran later explained to Ms. Goldfarb about standing to object as an owner at the local level, and stating that they have been “walking [COID] through this process since the very beginning” of the nomination process.⁷

On April 20, 2015, Ms. Goldfarb held a teleconference with Richard Golb, from PacificCom LLC and the lobbyist for COID, where she noted the position of COID for historic designation, as well as noting the Stoel Rives law firm in Portland as involved in the controversy.⁸ Mr. Golb then sent a lengthy email to Ms. Goldfarb specifically linking OAR 660-023-0200 as the mechanism that would significantly hinder COID’s ability to destroy the Pilot Butte Canal.⁹ Mr. Golb then forwarded an email originally from Craig Horrell, Manager of COID, to Dave Phillippi (Stoel Rives Attorney for COID), Matt Singer (Holland and Knight Attorney for COID) and himself noting the “the Advisory Committee process is not meant to provide real ‘review’ or assessment. It would really be helpful to discuss this matter.”¹⁰ Ms. Goldfarb responded to Mr. Golb Stating that she would contact him about his concerns, with Mr. Golb responding that he would like the assistance of the Brown Administration in opposing the PBCHD for listing on the National Register of Historic Places.¹¹

Seeking to assist COID in its opposition of listing the PBCHD, on June 29, 2015, Ms. Goldfarb drafted letter to the Secretary of the Interior.¹² Ms. Curran noted that Ms. Goldfarb’s position was “highly unusual,” and specifically noting:

“With your letter, the State is trying to stop a listing in order to help a local agency avoid the regulation that state law requires. That is an awkward circumstance, particularly since the State Advisory Committee on Historic Preservation and the State Historic Preservation Officer recommended the property to the NPS for listing. . . . I see the potential here for the State to inadvertently create the perception of mixed messages around cultural resources, and set an unhealthy precedent for future controversial nominations.”¹³ (emphasis added).

⁶ Attachment 6

⁷ See Attachment 7

⁸ See Attachment 8

⁹ See Attachment 9 at 1-2

¹⁰ See Attachment 10

¹¹ See Attachment 11

¹² See Attachment 12

¹³ See Attachment 13



Ms. Goldfarb was unpersuaded by Ms. Curran and sent her letter to the National Park Service stating that COID was the “owner” of the Pilot Butte Canal,¹⁴ despite knowing that Ms. Curran had alerted her that the issue was contested. Ms. Goldfarb remarked about the letter noting “hopefully this is the rare case where we have this degree of conflict between historic preservation and a major natural resource conservation priority.”¹⁵ Shortly later, on July 16, 2015, Ms. Goldfarb reacted to the return of the PBCHD listing with more instructions to the SHPO to resolve “ownership” issues with the canal.¹⁶

On July 21, 2015, Rich Golb requested a meeting with Gabriella Goldfarb, himself, Craig Horrell, and David Phillippi to discuss:

“We would like to discuss the following questions/issues:

- 1) How does the state intend to address/resolve COID’s limited fee ownership of the Pilot Butte Canal as granted under the 1891 Right of Way Act?
- 2) How does the state intend to address the NEPA issues surrounding the nomination?
- 3) Why won’t SHPO defer to the ongoing MOA/MPD process, which includes SHPO, USBR, and COID?
- 4) What is process that SHPO envisions going forward?
- 5) How will SHPO/state help to facilitate piping of irrigation canals to promote water conservation, higher instream flows for fish and wildlife, etc?”¹⁷

Ms. Goldfarb obediently arranged for more SHPO participants to attend Mr. Golb’s request for a meeting.¹⁸ Later, on July 23, 2015, Ms. Goldfarb addressed Mr. Golb’s issue with the State Advisory Committee on Historic Preservation’s decision without environmental consideration:

“Any such ‘balancing’ would have to come about via other mechanisms – but such changes would involve wholesale revisions to state law, and that it is unclear at this point whether the circumstances in this case are likely to recur to the degree that it such a big lift makes sense.

Raising the questions about ownership – which is something the National Register process DOES take into account – appears to be the best tool. And appears to have been effective in getting NPS to kick back the application.”¹⁹ (emphasis added).

Ms. Goldfarb’s calculation to oppose the listing of the PBCHD is couched in terms of “ownership,” as again mentioned with importance as a way of frustrating historic preservation efforts. After receiving a memo from me and my former law firm, Ms. Goldfarb forwarded the

¹⁴ See Attachment 14 at Page 2

¹⁵ See Attachment 15

¹⁶ See Attachment 16

¹⁷ Attachment 17

¹⁸ See Attachment 18

¹⁹ Attachment 19



letter to several department heads,²⁰ and ensured that attorneys for the State attended the in-person meeting between several heads of agencies and COID and their lobbyists and attorneys.²¹

Following the meeting, Ms. Goldfarb sought to eliminate roadblocks to COID's piping project by reaching out to several department heads, including Director Rue, on August 20, 2015, stating that:

“how important is it to the state's water and natural resource conservation needs to eliminate this as one barrier to piping projects? Is it significant enough to justify the lift that would be required to develop a mechanism that allows the state to make choices when natural resource protection and historic preservation values conflict.”²²

Following this call to action, Ms. Goldfarb began coordinating with Director Rue to initiate the present rulemaking.²³ Amanda Punton, the DLCD Natural Resources Specialists quickly responded to Ms. Goldfarb with an analysis of the Historic preservation programs, and measures to reduce the ability of individual resource owners to list their properties without local politicians' buy-off.²⁴ Ms. Goldfarb replied that Mr. Golb had again requested her to remove barriers to COID's piping projects and coordinated a meeting with Rob Hallyburton and Steve Shipsey.²⁵

Later in October, 2015 Ms. Goldfarb admitted to Richard Whitman that “GNRO sent a letter on behalf of the Governor to the National Park Service (NPS) *raising questions about the ownership as a basis for casting a shadow on the application . . .*” and initiated the present rule change with DLCD in order to “give well-vetted, broadly supported infrastructure projects that appropriately protect the environment and other values a clearer pathway to approval.”²⁶ (emphasis added). Of course, historic properties, once destroyed, are lost forever in favor of this one Policy Advisor's preferences and at the behest of COID's lobbyist. Ian Johnson, Interim Associate Deputy SHPO, in working with Amanda Punton, then directly links the Goal 5 amendments to the nomination of the PBCHD.²⁷

After the PBCHD nomination was accepted by the SACHP following NPS requested revisions to the document, Mr. Golb contacted Ms. Goldfarb by email stating “Gabriela - Are you available for a call on Monday? This process is really unfair.”²⁸ In response, Ms. Goldfarb contacted other staff to let them know Mr. Golb may be complaining to them about COID's

²⁰ See Attachment 20

²¹ See Attachment 21

²² Attachment 22

²³ See Attachment 23

²⁴ See Attachment 24

²⁵ See Attachment 25

²⁶ Attachment 26

²⁷ Attachment 27

²⁸ Attachment 28



problems.²⁹ Mr. Golb then forwarded an email to Ms. Goldfarb from Dave Phillippi complaining about NPS's use of their federal definition in determining who has standing to object to historic designation.³⁰ Again this links COID's lobbying to Ms. Goldfarb in furtherance of this rulemaking with rehashed arguments rejected by NPS.³¹

Following the listing of the PBCHD in the National Register of Historic Places, Ms. Goldfarb, through Governor Brown's Press Secretary, issued a statement for a Bend Bulletin Newspaper editorial.³² And shortly after, Mr. Golb asked Ms. Goldfarb "Is there any progress regarding a solution for COID?"³³ Ms. Goldfarb emailed several department heads stating "It is time to reconvene this group to discuss a path forward to promote appropriate consideration and balance between historic preservation and natural resource conservation under Goal 5."³⁴

b. DLCD and SHPO implemented the directives from the Governor's Natural Resources Policy Advisor.

After the NPS listed the PBCHD in the National Register of Historic Places in February 2016, DLCD and SHPO began in earnest with the rulemaking processes and drafting of the initial rule revision proposals. The internal communications between the departments and the Governor's office are in stark contrast to the public disclosures regarding the origin of the rulemaking.

The initial issue DLCD was tasked with implementing is defining "owner" so that parties like COID could object to historic designation. DLCD staff and Ms. Goldfarb requested a definition of "owner" from DOJ attorneys, despite the understanding that NPS had answered the question in its previous email stating that fee simple absolute owners were the only parties able to object.³⁵ DOJ responded with a definition that would include "irrigation canals" as property types able to give a party standing to object to historic designation.³⁶ This was a revision to a prior similar definition drafted under the assumption that DLCD had the authority to make the definition.³⁷ A survey of local jurisdictions in late 2015 answered that those jurisdictions did not have a definition of "owner," "but was generally understood as the entity listed in the County records as 'owner,' most often those with a fee-simple interest in the property."³⁸

²⁹ See Attachment 29

³⁰ See attachment 30

³¹ See Attachment 31

³² See Attachments 32-33

³³ Attachment 34

³⁴ Attachment 35

³⁵ See Attachment 36

³⁶ See Attachment 37 at Page 2

³⁷ See Attachment 38 at Page 1

³⁸ Attachment 39 at Page 2-3.



In May 2016, DLCD and SHPO staff discussed the upcoming strategy in presenting the draft rule amendments to the public at large, with specific intent to hide the main event in initiating the rulemaking. Knowing that openly advancing COID's hydropower project would be poor optics and call for questioning why this rulemaking was initiated, Ian Johnson discussed with Amanda Punton Ms. Goldfarb's reluctance to involve any discussions of COID:

"One thing that is not covered specifically in these documents is that this discussion was prompted by the listing of the Pilot Butte Canal. I am curious about what everyone's comfort level is with discussing this with our constituents. I anticipate that many will want to know why DLCD and SHPO are doing this and what problem we're trying to solve."³⁹

Mr. Johnson continued:

*"I chatted with Gabriella yesterday and she'd like to distance the Pilot Butte Canal issue from this process; however, she did say that we could describe it as a 'focusing event' if asked the larger question of why this rule and why now. She did ask that we couch it within other examples, and we have many."*⁴⁰

Ms. Goldfarb gave the SHPO and DLCD staff the authorization to move forward with the plan to revise the Goal 5 OARs.⁴¹

DLCD and SHPO staff drafted language in the revisions of OAR 660-023-0200, including the definition of "owner." In the initial draft, staff defined an option of "owner" to include:

"(e) [OPTION 3] "Owner" or "owners" means those individuals, partnerships, corporations or public agencies holding fee simple title to property or a property interest that entitles the possessor of the property interest to exclusive and continuous use and possession of all or part of the property. Examples of property interests constituting ownership are limited fee interests in rights-of-way, such as those for railroads, irrigation canals, public highways and major high-voltage powerlines, but not for common utility easements such as those for local water, gas, electricity, or communications services."⁴²

A comment in the draft questioned the origin of the definition, to which Mr. Johnson explained:

"Where did this come from? Do we know that it's correct?"

This was language recommended by Shipsey to address the Governor's concerns about certain interests. – Ian"⁴³

³⁹ Attachment 40 at Page 4

⁴⁰ Attachment 40 at Page 2

⁴¹ Attachment 41 at Page 1

⁴² Attachment 42 at Page 2

⁴³ Id.



These disclosures specifically explain the origin, intent, and purpose for trying to include COID as a party able to object to historic designation. This office's involvement quizzically triggered Director Rue to inform Ms. Goldfarb of our request to be listed as interested parties in this any action involving the PBCHD,⁴⁴ which can now be traced to the deliberate concealment of the PBCHD's listing as the impetus for this rulemaking. The intent to shape statewide policy in favor of a single hydropower project should be carefully scrutinized to ensure that all State resources are not jeopardized as collateral damage for Natural Resources Policy Advisor Gabriela Goldfarb's preferences and her close COID lobbying ally Richard Golb.

3. Giving an easement holder standing to object to historic designation degrades the ability to protect historic properties.

There will be entities that will ask the Commission to allow "less than fee simple interests" to have standing to object to historic designation. These requests to expand objection standing should be rejected. The prior proposed rules suggested that a definition of "owner" be added to the historic protection rules to allow based on the following rationale in the Department's previous staff report:

"The rule also does not have a definition of 'owner.' The result is that properties owned by public entities, and properties in which a public or private entity has an interest not recognized by NPS, can have restrictions placed on them without consideration of the consequences it will have for the owner. Jurisdictions that automatically apply local protections to federally-listed properties compromise their own ability to weigh the pros and cons of imposing standards that complicate efforts to maintain and upgrade structures, utilities or districts serving the public."

With the now disclosed origin of the definition proposed solely to benefit COID, it should be thoroughly rejected based on the recommendation by the RAC, as well as logical arguments against expanding lesser interest holders to object to historic designation.

While we generally agree with the present staff report on the proposed definition of "owner," the new rule should not grant objection standing for public entities. Allowing public entities the ability to object to historic designation grants a veto to agencies that have little interest in historic preservation. Public entities are not granted standing at the federal level, and the proposed rule should mirror the federal rule for consistency in application.

Moreover, the Commission should not consider any alternate definition that grants easement holders that standing to object to historic designation. An easement is the ability to use another's property for a specific purpose that benefits the easement holder. They do not have a financial interest in the value of the servient property owned by another private individual. Many

⁴⁴ Attachment 43



private properties have utility easements held by various municipal and public entities. Expanding the status to additional parties listing objection standing empowers power utilities, gas utilities, telcom utilities, irrigation districts, and local government the ability to object based upon a severely fractionated interest in the use of another's property. The footing to object to historic nomination is at a much reduced level for easement holders than the person that owns the property in fee simple, that pays taxes on the property, controls the property, and uses the incentives of historic preservation to maintain the property in historic status for the benefit of the community. Should an entity with an easement desire standing for historic designation objection, that entity should purchase or condemn the property at issue to assume all of the benefits and liabilities of fee simple absolute ownership.

We rely on our previous arguments in our November 8, 2016 comment to the Commission for reasons to not adopt a definition of owner that includes less than fee simple absolute interests for standing to object to historic designation.

4. Possible Potential or Actual Conflicts of Interest

Commissioner MacPherson should not participate in the decision making process on the proposed rules. We join Aleta Warren in her attorney's letter from November 15, 2016 detailing Commissioner MacPherson's ties to COID through his law firm. Commissioner MacPherson is employed as an attorney at Stoel Rives, LLP in Portland.⁴⁵ The Portland office of Stoel Rives LLP either currently or recently represented COID, and represents the Deschutes Basin Board of Control, a consortium of irrigation districts including COID in the Deschutes River Valley. Stoel Rives LLP has represented these current or former clients and has actively participated in the opposition of listing the PBCHD to the NRHP.⁴⁶ With this business relationship between COID and Stoel Rives LLP, it is possible that there is either an actual conflict of interest, ORS 244.020(1), or potential conflict of interest, ORS 244.020(13), that triggers the Commissioner's actions specified in ORS 244.120(2) including stating the conflict, or possible recusal. The Commission should explore the actual or potential conflict of interest of Commissioner MacPherson and act according to statute.

Additionally, the Commission should explore Commissioner Morrow's connection to COID, as "Catherine Morrow chose not to serve [on the RAC] because she knows the players in the canal situation."⁴⁷ While we are uncertain to the degree of familiarity of Commissioner Morrow to COID, she was observed at the November 18, 2016 LCDC hearing with COID Manager Craig Horrell immediately following the conclusion of the hearing, and her objectivity on the proposed rulemaking should be explored by the Commission.

⁴⁵ See Attachment 44

⁴⁶ See Attachment 30

⁴⁷ See Attachment 44



CONCLUSION

The proposed rulemaking is now explicitly traced to the PBCHD controversy in Deschutes County, and the impetus behind the rules should be carefully examined for biases in favor of a single utility seeking to increase its hydropower revenues at the expense of statewide historic preservation. Giving easement holders opportunity to object to historic listing undermines historic preservation when easement holders have zero incentive to protect historic properties. We hope that the Commission understands the broad-reaching effects from a single controversy in central Oregon, and declines to fix one utility provider's disappointment with far-reaching, and overbroad administrative rules.

We are dismayed that the continued attack on my clients' property continues through another state agency, this time by initiating rulemaking in favor of a disgruntled utility. We trust that additional revisions to the proposed rules will be made in a manner that increases historic protection, rather than eroding protections for our valuable historic resources. Thank you for hearing our concerns.

Sincerely,

Brian R. Sheets
BRS Legal, LLC

Cc: Clients

What is being proposed in Phase II of the project?

The District plans to pipe a 4,500 foot section of the Pilot Butte Canal with steel pipe, which will convey irrigation water to nearly 1,500 patrons 6 months of the year, similar to Phase I. This phase is estimated to cost approximately \$6.2 million, with \$2.6 million as the District's cost share (financed with revenue from other COID hydropower projects).

What are the likely benefits of Phase II?

Phase II will improve the District's efficiencies and result in up to 7.95 cfs of water being returned to the Deschutes and Crooked Rivers. Combined with Phase I, up to 27 cfs of additional water, in the form of senior water rights, will be returned to these rivers permanently. Additionally, the renewable electricity generated right here in Central Oregon will reduce our reliance on fossil fuels, and the green house gases they create.

What are the concerns some homeowners, who live along the canal, have raised about the project?

Some homeowners are concerned their home values may be affected by piping this section of the canal. Others have asked if the District would agree to excavate the canal so the pipe sits lower in it, reducing the need for a larger berm to cover the pipe. Others have asked if the District would agree to re landscape the area with native vegetation. The District has contacted every homeowner along this canal section, and we have agreed to excavate the canal and to provide native landscaping. Our goal is to minimize impacts to nearby homeowners. We believe the project will benefit everyone in Central Oregon.

Why doesn't COID line this section of the Pilot Butte Canal with concrete instead of piping it?

Piping this section of the Pilot Butte Canal will provide far greater economic and environmental benefits than if COID lined the two sides of the canal with concrete. First, piping will recapture, and conserve, more water due to seepage and evaporation losses. More conserved water means more water in the Deschutes and Crooked Rivers for salmon, steelhead, and recreation. **Second, piping enables the District to increase the amount of clean, renewable hydropower we can generate at our Juniper Ridge facility. This means more locally generated renewable energy, and less greenhouse gas emissions. Lining the canal will not result in any additional hydropower generation.** Finally, piping actually costs less over the long term due to lower operation and maintenance costs, and provides greater public safety benefits for the entire community.

What is the next step in this process?

COID has applied to Deschutes County to change its land use rules, so that irrigation districts can pipe their canals in the Suburban Residential 2 ½ acre minimum zone (SR 2 ½) without adjoining landowner approval. The rules already allow piping outright in the 18 "Exclusive Farm Use" zones in Deschutes County. The Board of County Commissioners will consider the District's proposal during their July 2, 2014 hearing at the County Administrative Offices.

Can COID meet its water conservation goals with a different project?

The Juniper Ridge Project is part of an effort in Central Oregon to stretch finite water supplies to meet our region's growing needs, especially those of cities and the environment. Piping is the most efficient tool to recapture lost water for these new uses, without reducing supplies for current needs. **Our Phase II project will build on the success of Phase I by increasing the productivity of our small hydropower facility, generating more renewable energy. Traditional piping projects would not allow COID to capitalize on this hydropower generation nor would they offer any revenue to offset the cost of the pipe, or the design, planning and construction costs of this project. Without the added benefit of green power generation, COID would have a difficult time finding future funding partners to cost share a traditional piping project.**

Doesn't COID have a federal right of way for their canals?

COID's rights of way for irrigation facilities were originally created by reservation from federal land patents when lands of the arid West were first transferred to states or private parties. This "subject to" language was reserved under authority of the Carey Act, passed by Congress in 1894. The Act utilized the Right of Way Act of 1891 as the means by which the right of way was granted. Since patent, some rights of way have been modified by subsequent transfer, subject to COID or federal approval.

From: [GOLDFARB Gabriela * GOV](#)
To: [WHITMAN Richard M * GOV](#)
Subject: Info from Tod Heisler re Central Oregon Irrigation District
Date: Wednesday, February 25, 2015 5:03:52 PM

Central Oregon Irrigation District

Pilot Butte Canal

Juniper Ridge area

On the UGB-County line, mostly on County Line

There is one small zone that didn't get the outright use designation; unclear if administrative oversight or intentional, every other part of county comprehensive plan provides for outright use.

Problem was compounded by the way the Irrigation District attorney and manager first approached this (he has since quit). New manager is likely going to ease the attorney off.

Districts would sell to DRC conserved water resulting from piping project

Private property/scenic value argument by residential property owners.

Neighbors trying to:

* use state historic and national historic designation to stop piping project

* land use issue to appeal LUBA and go through public conditional use process.

* They may prevail because of connection to the District's 5 MW hydroelectric process – that's what connects it to the land use jurisdiction.

Districts trying to get county commissioners to approve text amendment in zoning to allow piping as outright use in that land use zone.

Very large canal, 500cfs, will take 10 diameter pipe, in order to excavate they need landowner permission, but have perfected federal right of way (summary judgment from federal court)

If pipe is aboveground, need a much bigger hydro facility forebay.

In mediation, or discussions about doing mediation, for 6 months, has broken down.

District may back away for now.

Tod thinks all the local governments need to be brought into coalition in support of regional water plan, along with irrigators – can't be successful if this is COID's fight alone.

Cell 541-480-2388

Gabriela Goldfarb, Natural Resources Policy Advisor

Office of Governor Kate Brown, State of Oregon

Tel (503) 378-5232

Cel (971) 209-8277

Scheduler: Julie.Tasnady@Oregon.gov

Please change your records to reflect my updated information.

From: [GOLDFARB Gabriela * GOV](#)
To: [AUNAN Lauri * GOV](#); [LIEBE Annette * GOV](#); [BROWNSCOMBE BRETT E](#)
Cc: [MELCHER Curt](#)
Subject: RE: State Advisory Committee on Historic Preservation
Date: Tuesday, April 07, 2015 4:50:28 PM

Hello all:

I spoke w/MG Devereaux and asked OPRD to prepare a one pager outlining the historic property designation process generally and as it pertains to this location/infrastructure. Will forward when I get it.

Until then, my understanding is that the State Historic Preservation Advisory Committee approved recommending historic property designation for this canal system and sent it to the State Historic Preservation Office, which will review for technical issues and work with the applicant to make technical adjustments based on the Advisory Committee's recommendations. SHPO has 90 days to review, and in this case is expected to take the full 90 days. SHPO then forwards to the Keeper of the National Historic Registry, which makes the designation. In the past, significant local opposition has been a basis for the registry to deny designation.

MG noted that if it does make the list, the County and City have principal authority for implementation under their land use code, and that neither of those entities' codes have a restriction on demolition.

However -- and this is info from a call I made to Tod Heisler at the Deschutes River Land Conservancy about this a few weeks back -- there is a twist in the regulatory framework because this canal connects to the COID's 5MW hydroelectric project. The irrigation district needs landowner permission to put the pipe underground; they have secured the legal right to run the pipe aboveground. However, if it's aboveground, the irrigation district will need to engage in an expensive FERC regulatory and construction process to construct a much bigger hydro facility forebay. The FERC process also provides another Historic Preservation nexus. I mentioned this to OPRD and they are going to look into this angle as well.

Gabriela

--

Gabriela Goldfarb, Natural Resources Policy Advisor
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Scheduler: Â Julie.Tasnady@Oregon.gov
Please change your records to reflect my updated information.

-----Original Message-----

From: AUNAN Lauri * GOV
Sent: Tuesday, April 07, 2015 10:05 AM
To: LIEBE Annette * GOV; BROWNSCOMBE BRETT E; GOLDFARB Gabriela * GOV
Cc: MELCHER Curt
Subject: RE: State Advisory Committee on Historic Preservation

Looping Gabriela in re: Parks/SHPO

Lauri Aunan
Policy Advisor
Governor's Natural Resources Office
503-373-1680
503-400-5426 (cell)

From: [CURRAN Chrissy * OPRD](#)
To: [GOLDFARB Gabriela * GOV](#)
Cc: [VANLAANEN Lisa L * OPRD](#); [DEVEREUX MG * OPRD](#)
Subject: Pilot Butte Canal Issues Summary
Date: Friday, April 10, 2015 2:19:31 PM
Attachments: [PBC Issues Analysis.docx](#)

Hi Gabriela,

In response to the conversation you had on Monday with MG Devereux about the Pilot Butte Canal in Deschutes County, I have attached a one-page summary of the primary issues in play from the cultural resources perspective. I left out a lot of distracting detail, so if you have remaining questions or need more information, please let me know.

All best,

Chrissy Curran

Interim Deputy SHPO
State Historic Preservation Office
Oregon Parks and Recreation Department
725 Summer Street NE, Suite C
Salem, Oregon 97301
Tel: 503-986-0684
Email: chrissy.curran@oregon.gov

Cultural Resources Issues Summary
Pilot Butte Canal/Juniper Ridge Piping Project, Deschutes County
(April 10, 2015)

ISSUES:

1. The Central Oregon Irrigation District (COID) is planning to pipe an urban segment of the Pilot Butte Canal (PBC), located partially in Bend and partially in Deschutes County. The project is being funded by the Bureau of Reclamation (BOR). Its purpose is to extend an existing pipeline that was installed a few years ago as part of the Juniper Ridge Hydroelectric Project (opened in 2010), and add a small, secondary hydroelectric facility.
2. A group of property owners along the affected segment of the PBC nominated the segment to the National Register of Historic Places in 2014 in the hopes that it would stop the piping project and preserve the canal.¹
 - Issue No. 1 is resolved. It has to do with compliance with federal cultural resource laws. Because the project is funded by BOR, they are responsible for consultation with the State Historic Preservation Office (SHPO) under Section 106 of the National Historic Preservation Act.² (The Federal Energy Regulatory Commission (FERC) is evidently not involved in this “Phase II” of the Juniper Ridge extension project, likely because COID applied for and received a license exemption for the project during the first phase a few years ago, and exemptions exist in perpetuity.) BOR and the SHPO agreed that the PBC is historically significant, that the piping would constitute an adverse effect, and have agreed to mitigation, which is currently underway. Consultation between BOR and the SHPO is complete; BOR has satisfied its 106 obligations under federal law.
 - Issue No. 2 is nearly resolved. Proponents prepared a nomination to the National Register of Historic Places in 2014; it was reviewed by the State Advisory Committee on Historic Preservation in February 2015. The committee voted 4-2 to recommend it for listing. The SHPO holds the nomination for 90 days to resolve any remaining documentation issues and allow for additional public comments. In this case, that means the SHPO will forward the nomination to the National Park Service (NPS) on May 21st. The NPS will hold it for review for 45 days, then make the final decision. We should know by the middle of July if it is listed in the National Register.

ANALYSIS:

Involvement in both these issues was triggered for the State Historic Preservation Office (SHPO) under two distinct and administratively separate federal programs: Section 106 compliance, and the National Register of Historic Places. Neither program has the ability to stop the project or ensure preservation of the PBC. Because, in Oregon, National-Register listing is connected to local land use laws, if the PBC segment is listed in the National Register, it will be subject to local codes that govern protection of historic resources at both the county and city level (the PBC segment spans both jurisdictions). **Whether COID may proceed with demolition of a National-Register-listed resource depends on what the local ordinance says.** At present, the City of Bend and Deschutes County may prohibit demolition, but each considers a variety of factors in making such decisions, including economic impacts. This local process will take over once the NPS makes its final decision. It is the local process that will ultimately determine whether or not COID can pipe the canal segment and move the Juniper Ridge Phase II project forward.

¹ The National Register of Historic Places is a designation program run by the National Park Service and administered at the state level (SHPO).

² Section 106 of the National Historic Preservation Act compels federal agencies to assess their effects on historic properties when they are issuing licenses, permits, or providing funding.

From: [GOLDFARB Gabriela * GOV](#)
To: [CURRAN Chrissy * OPRD](#)
Cc: [VANLAANEN Lisa L * OPRD](#); [DEVEREUX MG * OPRD](#)
Subject: RE: Pilot Butte Canal Issues Summary
Date: Friday, April 17, 2015 10:34:30 AM

Thanks for this Chrissy.

This element of the bulletin caught my eye:

Can a property owner object to a listing?

Owners of private property within a proposed historic district may object to the listing by submitting to the SHPO a notarized statement certifying that the party is the sole or partial owner of the property and objects

to the listing. The National Register will not list a district if the majority of property owners object.

Each owner of private property in a district has one “vote” regardless of how many properties or what part of the one property that party owns and regardless of whether the property contributes to the significance of the district. An owner is defined as an entity (individual, partnership, corporation or public agency) holding fee simple title to a property. The right to object is described more fully in the federal regulations governing the National Register program, 36 CFR 60.6.

Can you clarify who owns the canal?

Gabriela

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Governor Kate Brown, State of Oregon
Tel (503) 378-5232
Cel (971) 209-8277

Note: Please change your records to reflect my updated title.

Scheduler: Julie.TASNADY@oregon.gov

From: CURRAN Chrissy * OPRD
Sent: Friday, April 17, 2015 9:52 AM
To: GOLDFARB Gabriela * GOV
Cc: VANLAANEN Lisa L * OPRD; DEVEREUX MG * OPRD
Subject: RE: Pilot Butte Canal Issues Summary

Gabriela,

Since the notarized objection process is typically limited to historic districts (multiple owners), we

From: [CURRAN Chrissy * OPRD](#)
To: [GOLDFARB Gabriela * GOV](#)
Cc: [VANLAANEN Lisa L * OPRD](#); [DEVEREUX MG * OPRD](#)
Subject: RE: Pilot Butte Canal Issues Summary
Date: Friday, April 17, 2015 11:26:55 AM

Ah, the million dollar question. I'm afraid I can't clarify it at this point. The property owners hold the fee simple title to their land; the Central Oregon Irrigation District holds an easement on the land and they own the water rights to move water through the canal. Who owns the canal itself is currently the topic of a heated legal debate at the local level.

The question of ownership needs to be answered, of course, but it is less of an issue for the National Register program than it is for the local jurisdictions. That is because, according to federal regulations, only private-owner objections can stop a listing, if they reach 51% of the majority. If a property is publicly owned, the public entity may object, but it can't prevent a listing. COID is considered a public entity, so even if it is determined that they own the canal, its objection cannot stop the listing.

So far as we know, COID has been the only objector of this nomination.

Chrissy Curran

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From: GOLDFARB Gabriela * GOV
Sent: Friday, April 17, 2015 10:35 AM
To: CURRAN Chrissy * OPRD
Cc: VANLAANEN Lisa L * OPRD; DEVEREUX MG * OPRD
Subject: RE: Pilot Butte Canal Issues Summary

Thanks for this Chrissy.

This element of the bulletin caught my eye:

Can a property owner object to a listing?

Owners of private property within a proposed historic district may object to the listing by submitting to the SHPO a notarized statement certifying that the party is the sole or partial owner of the property and objects to the listing. The National Register will not list a district if the majority of property owners object. Each owner of private property in a district has one "vote" regardless of how many properties or what part

From: [CURRAN Chrissy * OPRD](#)
To: [GOLDFARB Gabriela * GOV](#)
Cc: [VANLAANEN Lisa L * OPRD](#); [DEVEREUX MG * OPRD](#)
Subject: RE: Pilot Butte Canal Issues Summary
Date: Monday, April 20, 2015 4:29:29 PM

Gabriela,

The information about the objection letter process in the bulletin is pretty general. That's because the people (or agencies) who have the right to object under federal law (i.e., the fee-simple property owners with properties located within the boundaries of a proposed district) don't have to go in search of the information – we provide it to them. The SHPO is required to notify property owners and elected officials once a nomination is submitted. We also strongly encourage the local government to follow up with notification and public meetings of their own, since it is the local regulations that concern most property owners - but they are not required to do so.

By the way, just because the National Register regulations don't give public owners the right to prevent a listing doesn't mean the local jurisdiction follows those same rules. For example, in Bend and Deschutes County, I believe it is the case that an owner is an owner, public or private, and if the owner objects, the property isn't listed as a local landmark. That has probably caused some confusion for COID, but our staff has been walking them through this process since the very beginning.

I'd be happy to chat with you on the phone about all this. If there is a specific issue you are dealing with, perhaps I can help. I will be out of the office the rest of the week, but available by phone and email.

Chrissy Curran

Acting Deputy SHPO
State Historic Preservation Office
Oregon Parks and Recreation Department
725 Summer Street NE, Suite C
Salem, Oregon 97301
Tel: 503-986-0684
Email: chrissy.curran@oregon.gov

From: GOLDFARB Gabriela * GOV
Sent: Monday, April 20, 2015 9:06 AM
To: CURRAN Chrissy * OPRD
Cc: VANLAANEN Lisa L * OPRD; DEVEREUX MG * OPRD
Subject: RE: Pilot Butte Canal Issues Summary

Hello Chrissy:

I appreciate the clarification, that is helpful. Would the information regarding the public entity aspect be found only by reading the federal regulations? There is no mention in the Bulletin.

Thanks --

Attachment 7

From: [GOLDFARB Gabriela * GOV](#)
To: [GOLDFARB Gabriela * GOV](#)
Subject: TELCON: Rich Golb re COID Pilot Butte Canal
Date: Monday, April 20, 2015 4:56:36 PM

2 law firms have been involved
Stoel Rives in Portland

In non-legal terms: when state recommends hist designation, NPS is likely to designate as historic. Fed designation triggers state Goal 5 restrictions, atty's representing the district believe ability to maintain existing status quo, much less piping.

Believe can accommodate routine ops & maintenance, but if major problem, designation would make response problematic

Piping could be blocked.

State advisory committee met, brought forward 25 national and local/tribal supporters.

\$31M in funding for the project; 75% of funds are state funds.

Enhances public safety, environmental benefits in terms of conservation (8cfs in stream permanently).

Advisory cmte said – they don't look at any of those things.

9th circuit ruled that Districts have the right to do piping projects.

10 homeowners accept piping projects
10 going along
10 actively engaged

National Historic Designation triggers Goal 5 restriction

Phase 2 ready to go to construction; County going to bring the project back in 30 days.

BOR and USFWS have been big investors, millions of dollars, oppose designation.

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Governor Kate Brown, State of Oregon
Tel (503) 378-5232
Cel (971) 209-8277

Scheduler: Julie.Tasnady@Oregon.gov
Please change your records to reflect my
updated information.

From: [Richard Golb](#)
To: [GOLDFARB Gabriela * GOV](#)
Cc: [BROWNSCOMBE BRETT E](#); [MELCHER Curt](#)
Subject: Juniper Ridge Water Conservation Project
Date: Friday, May 01, 2015 5:41:17 PM
Attachments: [COID Fact Sheet - May 2015.pdf](#)

Gabriela - I'm getting back to you on your request for more information surrounding COID's concerns with the recent action by the State Advisory Committee on Historic Preservation (SACHP) to recommend approval of the application by the Pilot Butte Canal Preservation Alliance (PBCPA) to nominate a 1.5-mile segment of the Pilot Butte Canal to the National Register of Historic Places (NRHP).

I think everyone is clear on the process, in that given the 4 to 2 vote by the SACHP to recommend approval, the proposed nomination is currently being held by the SHPO for further comment for a 90-day period, until May 21. At that time, the nomination will be forwarded to the National Park Service (NPS), and then the NPS will make a decision 45 days later.

While COID strongly disagrees with the SACHP's recommendation for a variety of substantive reasons, which we have discussed (outlined in the attached fact sheet), you raised the issue of whether inclusion of the 1.5-mile segment of the canal to the NRHP will in fact effectively prevent piping of the subject segment. While we do not believe inclusion to the NRHP would amount to an absolute legal bar on piping, absent changes in state or local law, we believe as a practical matter, it would make it very difficult, if not impossible, for COID to proceed with piping. Including the 1.5-mile segment in the NRHP will lead to additional local approval processes, cause more delays and unnecessary expenses, and only empower those opposed to piping.

As background, and as COID understands the context for the current nomination, the NRHP is a historic designation program run by the NPS, but administered at the state level by the SHPO. As part of the State's effort to comply with federal law, the Oregon Land Conservation and Development Commission (LCDC) adopted Oregon Administrative Rule (OAR) 660-023-0200, which defines "historic resources of statewide significance" as including buildings, structures, objects, sites or districts listed in the NRHP. The rule goes on to require that local governments "protect all historic resources of statewide significance through local historic protection regulations, regardless of whether these resources are 'designated' in the local plan." In essence, if the canal is included in the NRHP, then by state rule, it must be protected under local historic resource protective codes, even if the local government would not have otherwise designated the resource for protection on its own. Thus, even if the local government is opposed to the designation and opposed to protecting the resource under its local historic protection regulations (which is the case here, as Deschutes County has already rejected the local designation effort by PBCPA of the same canal segment), local governments are required by state law to protect any resource included in the NRHP.

Given that the 1.5-mile segment of the canal is within Deschutes County, if the NPS ultimately decides to include the canal segment in the NRHP, then it will be protected under the Deschutes County Code. Chapter 2.28 of the Code governs historic preservation in the County, and in particular sets forth requirements for preserving districts, buildings, structures and sites, including those included in the NRHP. The Code goes on to mandate that no person

may demolish or alter any historic resource without the approval of the County. The County's decision to grant such approval is evaluated pursuant to a set of criteria, which are designed to make it very difficult to demolish or alter historic resources. If the criteria were applied to an application to replace the 1.5-mile segment of canal with a pipe, approval may be very difficult, if not impossible, to receive. For example, in determining whether to approve the demolition or removal of the canal, the County (through its Landmarks Commission) would consider a list of factors, including "[t]he criteria used in the original designation of the historical structure, building or district," as well as "[t]he effects of the proposed demolition or removal upon the protection, enhancement, perpetuation and use of the structure and/or building which cause it to possess a special character, or special historical or aesthetic interest or value." In short, COID will be at a significant disadvantage when it comes to receiving approval to pipe the subject segment of canal, given the emphasis that some of the criteria place on the manner in which the canal was protected in the first instance. Thus, COID will undoubtedly encounter the same arguments from the same opponents when it seeks approval to pipe that were raised at the time of the proposed nomination--in particular, that environmental, economic, and social consequences are irrelevant in the demolition/alteration decision, just as they apparently are not considered at the nomination stage. COID will of course dispute this, but the state's actions at the nomination stage are not only setting up COID to have to go through an additional layer of local approvals, with their own set of appeals, but the manner in which the state has approved the nomination only makes it that much more difficult to demolish or alter the canal in the future, whether for piping or otherwise. In sum, having to secure local approvals to pipe in a historic district--which again will only occur if the 1.5 mile segment of canal is included in the NRHP given Deschutes County's rejection of the local Goal 5 application--would severely hinder efforts to pipe the subject segment of canal, or otherwise upgrade and modernize COID's delivery system, on any reasonable timeframe.

We understand the position of the SHPO to be that once the canal segment is included in the NRHP, then the state will step away from the alteration and demolition decision, and it will be Deschutes County's decision to either allow or prohibit demolition. This position, however, ignores the fact that the County would never be in the position to have to make this decision absent the state's recommendation to the NPS to include the canal to the NRHP. Moreover, it's the way the state has chosen to implement protections for NRHP-listed resources that unduly burdens COID. Stated bluntly, there is no requirement in federal law that the inclusion of a building, structure, object, site, or district to the NRHP must necessarily result in Goal 5-level protections. Rather, by virtue of OAR 660-023-0200, this level of protection is required by the State. So while it may be true that the local process will ultimately determine whether or not COID can pipe the subject canal segment and move the Juniper Ridge Phase II project forward, the local process is only triggered as a result of the State forwarding the recommendation to the NPS. And then once included to the NRHP, it is a State administrative rule that requires the County to protect the canal with a heightened level of protection that is more appropriate for locally-designated resources.

I hope this explanation is helpful. What would be the best time for us to discuss options for the State to help COID and our partners (including the State) advance the project?

Richard K. Golb
PacificComm LLC
201 NE Park Plaza Drive Ste 269

Attachment 9 Page 2

Vancouver WA 98684
360.397.0248
360.326.1551 (fax)

From: [Richard Golb](#)
To: [GOLDFARB Gabriela * GOV](#); [MELCHER Curt](#); [BROWNSCOMBE BRETT E](#)
Subject: Fwd: National Register Irvington Historic District, proposed boundary decrease
Date: Thursday, May 14, 2015 9:31:37 AM

All - Please see the email below. As you can see, the Advisory Committee process is not meant to provide real "review" or assessment. It would really be helpful to discuss this matter.

Richard K. Golb
PacificComm LLC
201 NE Park Plaza Drive Ste 269
Vancouver WA 98684
360.397.0248
360.326.1551 (fax)

Begin forwarded message:

From: "Craig Horrell" <chorrell@coid.org>
To: "'Filippi, David'" <david.filippi@stoel.com>, "Richard Golb" <rich@pacificcommllc.com>, <Matt.Singer@hklaw.com>
Subject: FW: National Register Irvington Historic District, proposed boundary decrease
Date: May 14, 2015 at 9:28:19 AM PDT

-----Original Message-----

From: JOHNSON Ian * OPRD [<mailto:Ian.Johnson@oregon.gov>]
Sent: Thursday, May 14, 2015 8:38 AM
To: 'Heidi Kennedy'; 'Michael Hall'; 'Pat Kliewer'; 'Elizabeth Dickson'; 'COID'; 'Craig Horrell'; 'Matt Martin'; 'Peter Gutowsky'; Aleta Warren; Jeff Perreault
Subject: RE: National Register Irvington Historic District, proposed boundary decrease

Hello all,

I realized that I made a mistake yesterday when calculating the end of the 90-day SHPO comment period. The correct date is May 20th. The mistake was made when I calculated the 90 calendar days from the last day of the meeting (Friday) instead of Thursday the 19th when the hearing was held. I apologize for the inconvenience.

As of yesterday, I received a final draft from the proponents. I will be formatting the document to meet Oregon SHPO standards and then I will read the document for typographical and other surface errors per our standard procedure for preparing nominations to the National Park Service. Due to other pressing deadlines I will not be able to make the final copy available

From: [Richard Golb](#)
To: [GOLDFARB Gabriela * GOV](#); [MELCHER Curt](#); [BROWNSCOMBE BRETT E](#)
Cc: [TASNADY Julie * GOV](#)
Subject: Re: National Register Irvington Historic District, proposed boundary decrease
Date: Monday, May 18, 2015 3:23:45 PM
Attachments: [Pilot Butte Canal NHRP Comment Letter FINAL\(2\).docx](#)

Gabriela - Since we last spoke, the U.S. Bureau of Reclamation (see attached) has written SHPO in opposition to the historic designation. Now, the Bureau has joined the City of Bend, Deschutes County, and Central Oregon Irrigation District in raising concerns regarding the State proposal. Please remember too that over 20 stakeholders including Trout Unlimited, the Deschutes River Conservancy, the Upper Deschutes Watershed Council, and many others all support piping this section of canal.

We're hopeful the Brown Administration is willing to help COID and all of our partners in not seeking the federal designation.

Richard K. Golb
PacificComm LLC
201 NE Park Plaza Drive Ste 269
Vancouver WA 98684
360.397.0248
360.326.1551 (fax)

On May 14, 2015, at 10:51 AM, GOLDFARB Gabriela * GOV
<Gabriela.GOLDFARB@oregon.gov> wrote:

Thanks Rich. Per our email exchange this morning, I am awaiting information from DOJ about the land use implications of a National Historic Register designation. I should receive that in the next few days, and will be in touch to arrange a time for us to talk.

Curt/Brett, let me know if one of you wish to participate in that conversation.

Best,

Gabriela

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Governor Kate Brown, State of Oregon
Tel (503) 378-5232
Cel (971) 209-8277

Note: Please change your records to reflect my updated title.
Scheduler: Julie.TASNADY@oregon.gov

From: [GOLDFARB Gabriela * GOV](#)
To: [SUMPTION Lisa * OPRD](#)
Subject: Fwd: Letter re Juniper Ridge
Date: Monday, June 29, 2015 4:50:30 PM

Hi Lisa - I wanted to run the attached letter past you, and see if you wanted to add language that better conveys that historic preservation is a priority for the state -- assuming there is a way OPRD/SHPO would want to say it that goes beyond that dry statement I just made. (I will then add "but there are occasions when important values may come in conflict, as in this case...etc")

Also, it is frustrating to me - and a frustration I expressed to Chrissy -- that I cannot find any mention of the project or how to comment on it at the state and (equally important, and relevant now) the federal level - and I could not find it on the NPS website either.

I am going to try you by phone to discuss...sorry to dump this on you on short notice, I was just alerted that the federal deadline is the end of this week!

Gabriela

Sent from my iPad

--

Gabriela Goldfarb, Policy Advisor ~ Natural Resources
Office of Oregon Governor Kate Brown
Gabriela.Goldfarb@oregon.gov
[\(503\) 378-5232](tel:5033785232) Office
[\(971\) 209-8277](tel:9712098277) Cell

Please update your records to reflect changes above

Scheduler: Julie.Tasnady@oregon.gov (503) 986-6535

Begin forwarded message:

From: Curt Melcher <curt.melcher@state.or.us>
Date: June 29, 2015 at 4:32:43 PM PDT
To: MELCHER Curt <curt.melcher@state.or.us>, "GOLDFARB Gabriela * GOV" (gabriela.goldfarb@oregon.gov)" <gabriela.goldfarb@oregon.gov>, "LOFTSGAARDEN Meta" <meta.loftsgaarden@state.or.us>, RANCIER Racquel R <racquel.r.rancier@state.or.us>
Cc: BYLER Thomas M <thomas.m.byler@state.or.us>
Subject: RE: Letter re Juniper Ridge

Thanks Racquel.

CM

Attachment 12

From: [Curt Melcher](#)
To: [GOLDFARB Gabriela * GOV](#)
Subject: Fwd: Letter
Date: Tuesday, June 30, 2015 2:45:51 AM

Here is Rich's response regarding the letter I sent you.

CM

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: Richard Golb <rich@pacificcommllc.com>
Date: 06/30/2015 2:14 AM (GMT-08:00)
To: Curt Melcher <curt.melcher@state.or.us>, Brett Brownscombe <brett.e.brownscombe@state.or.us>
Subject: Letter

Curt - Thanks for the follow-up. Yes, COID is still pursuing the Juniper Ridge water conservation project. The District has asked Deschutes County for more time to “redesign” the project but still plans to pursue it. In fact, the District just sent the Bureau of Reclamation a letter requesting additional funds for a potentially larger canal piping project. A National historic listing (based upon the State Advisory Committee recommendation) does only apply to this section of the Pilot Butte canal. And that presents part of the problem. This is one of the worst sections of all of COID’s canals, with conveyance losses of up to 40%. Additionally, the listing would preempt a local, state and federal review now underway of all of COID’s canals, to determine which sections are the most appropriate to designate and which are not. And finally, we believe it is appropriate for the Brown Administration to write the Secretary of Interior. Of course, the letter could also be addressed to the National Park Service Director.

I’ll be out of the office later this week, but please call my cell on Tuesday if you would like to follow-up.

Richard K. Golb
PacificComm LLC
201 NE Park Plaza Drive Ste 269
Vancouver WA 98684
360.397.0248
360.326.1551 (fax)

From: [CURRAN Chrissy * OPRD](#)
To: [GOLDFARB Gabriela * GOV](#)
Cc: [SUMPTION Lisa * OPRD](#); [DEVEREUX MG * OPRD](#)
Subject: Follow-up on Pilot Butte letter
Date: Tuesday, June 30, 2015 5:09:22 PM

Gabriela,

The more I think about your letter opposing the listing of Pilot Butte Canal in the National Register, the more this situation strikes me as highly unusual, for the following reasons:

- I think I have mentioned to you in previous emails that, in Oregon, National Register listing is tied to local land-use laws. Most states have not linked the National Register to regulatory local ordinances, but Oregon has. It is a state law that does this. With your letter, the State is trying to stop a listing in order to help a local agency avoid the regulation that state law requires. That is an awkward circumstance, particularly since the State Advisory Committee on Historic Preservation and the State Historic Preservation Officer recommended the property to the NPS for listing.
- The National Register will make a decision on whether to list the Pilot Butte Canal based on the adequacy of the documentation prepared by the proponents, the ability of the property to meet the program criteria, and the integrity of the administrative process. They don't have the discretion to refuse to list a property based on local politics, planning issues, or even the balancing of natural and cultural resources. The scope of the National Register review is pretty narrow.

I am speaking frankly here, but I see the potential here for the State to inadvertently create the perception of mixed messages around cultural resources, and set an unhealthy precedent for future controversial nominations. I just want to make sure this situation has been viewed from every angle. Please call me if I can help in any way.

All best,

Chrissy Curran

Acting Deputy SHPO
State Historic Preservation Office
Oregon Parks and Recreation Department
725 Summer Street NE, Suite C
Salem, Oregon 97301
Tel: 503-986-0684
Email: chrissy.curran@oregon.gov

KATE BROWN
GOVERNOR



July 10, 2015

The Honorable Sally Jewell
Secretary
U.S. Department of Interior
1849 C Street
Washington DC 20005
Via Fax: 202-273-3501

J. Paul Loether, Chief
National Register of Historic Places
National Park Service
1201 Eye St. NW, 8th floor
Washington, DC 20005
Via FAX: 202-371-6447.

Dear Secretary Jewell and Chief Loether:

I understand the National Park Service is reviewing whether to include a section of Central Oregon Irrigation District's Pilot Butte Canal (Bend, Oregon) in the National Register of Historic Places.

I am writing on behalf of Governor Brown to express concern about the inclusion of this canal in the National Register. Such a designation would limit, and may even effectively preclude, the irrigation district from replacing this open section of canal with a buried pipe. The proposed piping project is the second phase of the successful Juniper Ridge water conservation project. The State of Oregon supports this project along with national, regional, and local stakeholders, including the Confederated Tribes of Warm Springs, the Upper Deschutes Watershed Council, Deschutes River Conservancy, local governments, irrigation districts, and other conservation organizations. Over \$30 million in local, state and federal funds have been committed to this project (Phases I and II) because it will conserve water and increase river flows for fish, wildlife, and recreation.

Piping canals is one of the most efficient means to conserve water, which is essential in the drought stricken West. Under Oregon law, at least 25 percent of the conserved water left instream is protected from appropriation and permanently returned to instream uses. Water conserved by this project would benefit numerous federally protected species, including bull trout, steelhead, and Oregon spotted frog. Additionally, the Central Oregon Irrigation District (COID), U.S. Bureau of Reclamation, and state agencies are reviewing all of COID's canals as part of a comprehensive process to determine their appropriate status.

July 10, 2015
Secretary Jewell and J. Paul Loether
Pilot Butte Canal in the National Register of Historic Places
Page 2 of 2

Oregon does strongly support in our policies and programs both the obligation to preserve significant historic and cultural resources of our communities for the benefit of present and future generations, and the obligation to be responsible stewards of our natural resources vital to the people, fish, and wildlife they support. In the present circumstance, these two important values are in conflict. Earlier this year, the State Advisory Committee on Historic Preservation recommended listing this section of canal in the National Register of Historic Places.

It is important to note that COID, owner of the Pilot Butte Canal, objects to such a listing. Furthermore, since that recommendation, the City of Bend, Deschutes County, the U.S. Bureau of Reclamation, and others have raised legitimate concerns that the listing would be counterproductive to Oregon's interests in efficient use of water and the associated fish, wildlife, and recreation values.

I encourage you to consider closely the circumstance that, notwithstanding support from real property owners in the vicinity of the project, the owner of the proposed historic structure itself, sited on the real property by way of an easement, strongly objects to the historic property designation. The outcome of your evaluation will have a decisive bearing on whether this important water conservation project advances and allows Oregon's fish, wildlife, and recreation values to be fully realized.

Sincerely,



Gabriela Goldfarb
Natural Resources Policy Advisor
Office of Governor Kate Brown

From: [GOLDFARB Gabriela * GOV](#)
To: [MELCHER Curt](#); [MELCHER Curt](#); [LOFTSGAARDEN Meta](#)
Cc: [RANCIER Racquel R](#); [BYLER Thomas M](#)
Subject: RE: Letter re Juniper Ridge
Date: Sunday, July 12, 2015 10:00:55 PM
Attachments: [7-10-15 Secretary Jewell Chief Loether Pilot Butte Final.pdf](#)

Folks, wanted to share with you the letter submitted to DOI and NPS on Friday. Let me know if you'd like to discuss, and thanks for pulling together on the original draft. I know SHPO has concerns about this letter, FYI – hopefully this is the rare case where we have this degree of conflict between historic preservation and a major natural resource conservation priority.

Best,

Gabriela

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Governor Kate Brown, State of Oregon
Tel (503) 378-5232
Cel (971) 209-8277

Note: Please change your records to reflect my updated title.

Scheduler: Julie.TASNADY@oregon.gov

From: Curt Melcher [<mailto:curt.melcher@state.or.us>]
Sent: Thursday, June 25, 2015 11:07 PM
To: MELCHER Curt; GOLDFARB Gabriela * GOV; LOFTSGAARDEN Meta
Cc: RANCIER Racquel R; BYLER Thomas M
Subject: RE: Letter re Juniper Ridge

Thanks Meta. Gabriela, let me know if you need anything else.

CM

From: LOFTSGAARDEN Meta
Sent: Wednesday, June 24, 2015 4:15 PM
To: MELCHER Curt; GOLDFARB Gabriela * GOV (gabriela.goldfarb@oregon.gov)
Cc: RANCIER Racquel R; BYLER Thomas M
Subject: RE: Letter re Juniper Ridge

No changes from our end. Thanks, Curt.

Meta

From: Curt Melcher [<mailto:curt.melcher@state.or.us>]
Sent: Wednesday, June 24, 2015 12:01 PM
To: GOLDFARB Gabriela * GOV (gabriela.goldfarb@oregon.gov)

From: [GOLDFARB Gabriela * GOV](#)
To: [MELCHER Curt](#); [BROWNSCOMBE BRETT E](#); [BYLER Thomas M](#); [RANCIER Racquel R](#); [LOFTSGAARDEN Meta](#); [SHIPSEY Steve](#); [WHITMAN Richard M * GOV](#)
Subject: Fwd: Pilot Butte Canal nomination
Date: Thursday, July 16, 2015 2:49:14 PM

FYI. I have asked SHPO how they intend to resolve the ownership question, or if they will ask the applicant to do so somehow.

Richard, I will flag for comms.

Gabriela

Sent from my iPad

--

Gabriela Goldfarb, Policy Advisor ~ Natural Resources
Office of Oregon Governor Kate Brown
Gabriela.Goldfarb@oregon.gov
[\(503\) 378-5232](tel:5033785232) Office
[\(971\) 209-8277](tel:9712098277) Cell

Please update your records to reflect changes above

Scheduler: Julie.Tasnady@oregon.gov (503) 986-6535

Begin forwarded message:

From: CURRAN Chrissy * OPRD <Chrissy.Curran@oregon.gov>
Date: July 16, 2015 at 5:31:04 PM EDT
To: GOLDFARB Gabriela * GOV <Gabriela.GOLDFARB@oregon.gov>
Cc: SUMPTION Lisa * OPRD <Lisa.Sumption@oregon.gov>, JOHNSON Ian * OPRD <Ian.Johnson@oregon.gov>
Subject: Pilot Butte Canal nomination

Gabriela,

Just a heads-up that the National Park Service is returning to the Oregon SHPO the Pilot Butte Canal nomination for major editing and **ownership questions**.

The schedule from this point is unclear and depends on two things: if and when the preparers can accomplish the necessary edits; and the answers to the ownership issues. We are returning the nomination to the preparers and will await further guidance from the NPS.

Chrissy Curran

From: [Richard Golb](#)
To: [GOLDFARB Gabriela * GOV](#)
Subject: Aug 10
Date: Tuesday, July 21, 2015 2:43:00 PM

Gabriela - How about Aug 10 in Salem with you, Oregon Parks and SHPO? Anytime that day works for Craig Horrell (COID General Manager), David Filippi (COID attorney) and myself. We would like to discuss the following questions/issues:

- 1) How does the state intend to address/resolve COID's limited fee ownership of the Pilot Butte Canal as granted under the 1891 Right of Way Act?
- 2) How does the state intend to address the NEPA issues surrounding the nomination?
- 3) Why won't SHPO defer to the ongoing MOA/MPD process, which includes SHPO, USBR, and COID?
- 4) What is process that SHPO envisions going forward?
- 5) How will SHPO/state help to facilitate piping of irrigation canals to promote water conservation, higher instream flows for fish and wildlife, etc?

Richard K. Golb
PacificComm LLC
201 NE Park Plaza Drive Ste 269
Vancouver WA 98684
360.397.0248
360.326.1551 (fax)

From: [GOLDFARB Gabriela * GOV](#)
To: [SUMPTION Lisa * OPRD](#)
Subject: Request from Central OR Irrigation District for a meeting FW: Aug 10
Date: Tuesday, July 21, 2015 5:38:44 PM

Hi Lisa – boy, this is my day for OPRD stuff (and your day for Governor's office stuff!)

I picked up a ringing phone and got Rich Golb, who wanted to meet to discuss "changing the SHPO advisory committee recommendation." I made clear that there is no avenue to change that, and that historic/cultural resource evaluations are based on those criteria, not natural resource protection criteria. He raised questions (which I have as well) about the pursuit of a "historic district" nomination versus the designation of the one section of canal that went forward.

I asked him to send me written questions, which he has done, and that I would meet with him and look into having OPRD/SHPO at the meeting as well.

Let me know if we need to discuss, or, if you are in agreement to have OPRD/SHPO participation, let me know who, and I'll have Julie follow up to schedule. In addition to August 10, I know August 11 is also an option.

Thank you!

Gabriela

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Governor Kate Brown, State of Oregon
T (503) 378-5232
M (971) 209-8277
Scheduler: Julie.Tasnady@Oregon.gov

From: Rich Golb [mailto:pacificcommllc@gmail.com] **On Behalf Of** Richard Golb
Sent: Tuesday, July 21, 2015 2:43 PM
To: GOLDFARB Gabriela * GOV
Subject: Aug 10

Gabriela - How about Aug 10 in Salem with you, Oregon Parks and SHPO? Anytime that day works for Craig Horrell (COID General Manager), David Filippi (COID attorney) and myself. We would like to discuss the following questions/issues:

- 1) How does the state intend to address/resolve COID's limited fee ownership of the Pilot Butte Canal as granted under the 1891 Right of Way Act?
- 2) How does the state intend to address the NEPA issues surrounding the nomination?
- 3) Why won't SHPO defer to the ongoing MOA/MPD process, which includes SHPO, USBR, and COID?
- 4) What is process that SHPO envisions going forward?

From: [GOLDFARB Gabriela * GOV](#)
To: [LIEBE Annette * GOV](#)
Subject: FW: Request from Central OR Irrigation District for a meeting FW: Aug 10
Date: Thursday, July 23, 2015 1:58:45 PM

Annette, scroll to the bottom to see their list of questions (I asked him to prepare those to structure a conversation with SHPO). Let me know if you want to join by phone or in person, and how your convo w/Craig goes today.

You should know I told Rich that there is no scope for reversing the decision of the state advisory committee on historic preservation or otherwise introducing natural resource considerations into the evaluation of historic resources related to this project. Any such "balancing" would have to come about via other mechanisms – but such changes would involve wholesale revisions to state law, and that it is unclear at this point whether the circumstances in this case are likely to recur to the degree that it such a big lift makes sense.

Raising the questions about ownership – which is something the National Register process DOES take into account – appears to be the best tool. And appears to have been effective in getting NPS to kick back the application.

Thanks!

Gabriela

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Governor Kate Brown, State of Oregon
T (503) 378-5232
M (971) 209-8277
Scheduler: Julie.Tasnady@Oregon.gov

From: SUMPTION Lisa * OPRD
Sent: Tuesday, July 21, 2015 8:00 PM
To: GOLDFARB Gabriela * GOV
Subject: RE: Request from Central OR Irrigation District for a meeting FW: Aug 10

Hilarious. We have not touched base this much in months!

Let me check with Chrissy in the morning and see if her and I can join the two of you.

I will have Jennifer coordinate with Julie.

I have another SHPO issue brewing with the city of Powder. I have a meeting tomorrow on it and if that does not resolve it I will give you a call and update.

Have a great rest of your evening!

Lisa

From: [GOLDFARB Gabriela * GOV](#)
To: [MELCHER Curt](#); [BYLER Thomas M](#); [LOFTSGAARDEN Meta](#); [SUMPTION Lisa * OPRD](#)
Cc: [GARRAHAN Paul](#); [SHIPSEY Steve](#); [BROWNSCOMBE BRETT E](#); [RANCIER Racquel R](#); [WHITMAN Richard M * GOV](#)
Subject: Split bill for COID/SHPO legal work
Date: Wednesday, August 05, 2015 1:53:55 PM
Attachments: [20150731133339081.pdf](#)
[7-10-15 Secretary Jewell Chief Loether Pilot Butte Final.pdf](#)

Directors, we have received a copy of the attached letter from a Bend homeowner challenging the letter sent to Secy Jewell and the NPS (also attached) raising concerns and questioning ownership issues relating to the National Register of Historic Places nomination of the Pilot Butte canal.



Please let me know if you'd like to discuss.

Best,

Gabriela

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Governor Kate Brown, State of Oregon
Tel (503) 378-5232
Cel (971) 209-8277

Note: Please change your records to reflect my updated title.
Scheduler: Julie.TASNADY@oregon.gov

From: [Busey Jen * OPRD](#)
To: [TASNADY Julie * GOV](#)
Cc: [SHIPSEY Steve \(Steve.SHIPSEY@state.or.us\)](#)
Subject: FW: Mtg: Rich Golb, Craig Horrell, David Filippi / Gabriela Goldfarb, Lisa Sumption, Chrissy Curran
Date: Monday, August 10, 2015 5:10:31 PM

Hi Julie,

Counsel Steve Shipsey will be joining tomorrow's 4pm by cell at 503.302.3006.

Can you help make sure he gets connected?

Thank you,
Jennifer Busey

From: Shipsey Steven [<mailto:steve.shipsey@state.or.us>]
Sent: Monday, August 10, 2015 5:09 PM
To: Busey Jen * OPRD
Subject: RE: Mtg: Rich Golb, Craig Horrell, David Filippi / Gabriela Goldfarb, Lisa Sumption, Chrissy Curran

I'm going to be by phone (mobile) after all

Steven Shipsey

503.947.4584 (Monday & Wednesday)
503.302.3006 (Tuesday & Friday – mobile)
503.934.0023 (Thursday – no messages)

-----Original Appointment-----

From: Jen.Busey@oregon.gov [<mailto:Jen.Busey@oregon.gov>] **On Behalf Of** GOLDFARB Gabriela * GOV
Sent: Monday, August 10, 2015 5:07 PM
To: SHIPSEY Steve
Subject: FW: Mtg: Rich Golb, Craig Horrell, David Filippi / Gabriela Goldfarb, Lisa Sumption, Chrissy Curran
When: Tuesday, August 11, 2015 4:00 PM-5:00 PM (UTC-08:00) Pacific Time (US & Canada).
Where: Captiol Bldg, Governor's conference room #254

Hi Steve – are you joining this meeting by phone or in person? I wasn't sure where you all left this?

Thank you,
Jennifer Busey

-----Original Appointment-----

From: GOLDFARB Gabriela * GOV
Sent: Monday, July 27, 2015 11:05 AM
To: GOLDFARB Gabriela * GOV; Richard Golb; SUMPTION Lisa * OPRD; CURRAN Chrissy * OPRD

Subject: Mtg: Rich Golb, Craig Horrell, David Filippi / Gabriela Goldfarb, Lisa Sumption, Chrissy Curran
When: Tuesday, August 11, 2015 4:00 PM-5:00 PM (UTC-08:00) Pacific Time (US & Canada).
Where: Capitool Bldg, Governor's conference room #254

8/10/15: Changing locations of this meeting to the Governor's Conf Room # 254 in the Capitol Bldg.

Thanks,
Julie

Meeting details:

Date: 8/11/15

Time: 4-5pm

Location: Public Service Building, 255 Capitol Street, Suite 126, Salem

Participants:

Craig Horrell (COID general manager), David Filippi (COID attorney), Rich Golb
States of Oregon: Gabriela Goldfarb, Lisa Sumption, Chrissy Curran

Please let me know if you have any questions.

Julie

From: Rich Golb [<mailto:pacificcommllc@gmail.com>] **On Behalf Of** Richard Golb

Sent: Tuesday, July 21, 2015 2:43 PM

To: GOLDFARB Gabriela * GOV

Subject: Aug 10

Gabriela - How about Aug 10 in Salem with you, Oregon Parks and SHPO? Anytime that day works for Craig Horrell (COID General Manager), David Filippi (COID attorney) and myself. We would like to discuss the following questions/issues:

- 1) How does the state intend to address/resolve COID's limited fee ownership of the Pilot Butte Canal as granted under the 1891 Right of Way Act?
- 2) How does the state intend to address the NEPA issues surrounding the nomination?
- 3) Why won't SHPO defer to the ongoing MOA/MPD process, which includes SHPO, USBR, and COID?
- 4) What is process that SHPO envisions going forward?
- 5) How will SHPO/state help to facilitate piping of irrigation canals to promote water conservation, higher instream flows for fish and wildlife, etc?

Richard K. Golb

PacificComm LLC

201 NE Park Plaza Drive Ste 269

Vancouver WA 98684


From: [GOLDFARB Gabriela * GOV](#)
To: [MELCHER Curt](#); [BYLER Thomas M](#); [Meta Loftsgaarden](#); [RUE Jim](#); [SUMPTION Lisa * OPRD](#)
Cc: [LIEBE Annette * GOV](#); [HOWARD Lisa * GOV](#); [GARRAHAN Paul](#); [RANCIER Racquel R](#); [WHITMAN Richard M * GOV](#)
Subject: Follow up piping project/historic preservation conflicts in Central Oregon
Date: Thursday, August 20, 2015 4:32:00 PM

Dear Directors:

At last week's NR Cabinet we discussed the issue of water conservation piping projects becoming subjects of historic preservation designation efforts by homeowners seeking to block piping in order to preserve scenic water features on their property. I will send under separate cover background documents related to the Central Oregon Irrigation District Pilot Butte/Juniper Ridge project, in the meantime, here is this link to OPRD's [webpage](#) with information about the nomination and process.

A meeting last week among COID, the Governor's office, and OPRD, clarified that the historic registry processes as presently implemented by both the state or the federal government do not provide an opportunity to evaluate and make a choice between conflicting water conservation and historic preservation priorities.

Oregon is one of three states in the country for which National Register of Historic Places designation carries significant implications for actions that affect listed historic resources. I am requesting your assistance to clarify what is at stake if the current state of affairs continues – that is, how important is it to the state's water and natural resource conservation needs to eliminate this as one barrier to piping projects? Is it significant enough to justify the lift that would be required to develop a mechanism that allows the state to make choices when natural resource protection and historic preservation values conflict.


Please notify Racquel Rancier at OWRD whom from your agency should participate in this threshold discussion. Racquel will coordinate pulling together the group.

Let me know if you have questions.

Best,

Gabriela

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Governor Kate Brown, State of Oregon
T (503) 378-5232
M (971) 209-8277
Scheduler: Julie.Tasnady@Oregon.gov

From: [GOLDFARB Gabriela * GOV](#)
To: [RUE Jim](#); [MACLAREN Carrie](#)
Subject: Central Oregon Irrigation District/Historic Registry related documents
Date: Monday, August 24, 2015 11:30:44 PM
Attachments: [JUSTICE-#6529969-v1-Goal_5; Historic Resources background.docx](#)
[7-10-15 Secretary Jewell Chief Loether Pilot Butte Final.pdf](#)
[PBC Issues Analysis.docx](#)
[Pilot Butte Canal Ownership.msg](#)

Hi Jim: In follow up to our conversation today, forwarding a number of documents as background.



SHPO (Chrissy Curran) is still awaiting the letter from the National Park Service specifying terms for the NPS' kicking back the original submission due to defects; I will forward it once I receive it.

Here is a link to the SHPO page consolidating documents from the Historic Registry process:
<http://www.oregon.gov/oprd/HCD/NATREG/Pages/Pilot-Butte-Canal-Historic-District.aspx>

I have somewhere the letter from the homeowners' attorney contesting the question I raise about ownership in the Governor's office letter I submitted to Interior/Park Service – can't lay my hands on it now. Will try to find it.

Let me know once you've had a chance to visit about this and discuss next steps.

Thanks –

Gabriela

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Governor Kate Brown, State of Oregon
Tel (503) 378-5232
Cel (971) 209-8277

Note: Please change your records to reflect my updated title.
Scheduler: Julie.TASNADY@oregon.gov

Ideas for re-establishing Goal 5 process elements or **alternative policy balancing option into local protection of a property listed on the National register of Historic Places.**

OAR 660-200, the “Goal 5 rule” for historic resources puts properties listed on the National Register of Historic Places (NRHP) on a fast track to receive protection under existing city and county historic preservation codes. **This fast track severely restricts a local government’s ability to weigh the benefits and consequences of limiting future actions that could conflict with preserving the listed property.** These restrictions on local process may be an unintended result of relying too heavily on a federal inventory process. **The Goal 5 rule could be amended to restore local and state influence over strategies to preserve historic resources.**

Option 1; Add requirement for ESEE analysis

For sites determined to be significant by the application of local standards a jurisdiction has the option of conducting an analysis of the economic, social, environmental and energy consequences of a decision to allow, limit, or prohibit conflicting uses. The “ESEE analysis” provides a basis for selecting appropriate protection standards. OAR 660-23-0200 could be amended to require that local protections for sites added to the NRHP be supported by an ESEE analysis.

Prose -This would insert a process to insure that local protections for a NRHP are considerate of the larger natural resource and land use implications of those protections.

Cons - Process costs money. The added cost of an ESEE analysis would likely be passed onto the applicant. Also the ESEE process is a discretionary process susceptible to LUBA challenge. Appeal of a local decision adds costs to all involved.

Option 2; Build in differentiation between sites of local, state and National significance

In addition to properties of “national significance”, properties of “state significance” and “local significance” can be nominated to the NRHP. Once a property is listed on the federal register they are treated the same way by Division 23. Possibly the rule could be amended to require properties nominated for their statewide significance be reviewed by a state entity, and properties nominated for local significance be reviewed by the local government.

Pros – This would restore state and local discretion to how the federal listing is incorporated into state and local planning and policy decisions.

Cons – The details for state level review would have to be worked out. Local review would add process and cost, but possibly less than Option 2.

Option 3; Keep amendments focused on designations that impact state interests

Amanda Punton
DLCD
September 8, 2015

National and local historic designations that affect state property, investments or policy could be reviewed by a state entity or be subject to state review standards. The intent would be to preserve the public benefits realized by state management of resources under its control. The state would need to have the ability to weigh in on the initial nomination or on the protections afforded to a building, structure or district at the local level. (The opportunity to influence nomination to the NRHP is limited by federal law.) Possible triggers for review are: districts that include multiple properties; districts and structures that serve the function of delivering a state owned or regulated natural resource; nominations of state owned property, such as state highways.

Pros- This approach recognizes that conflicts with state policy could arise from local listings as well as national listings. The set of nominations that have potential to affect the state's interest can be defined up-front and kept narrow so that the rest of SHPO's programs and local historic preservation efforts can continue as is.

Cons- Other NRHP listings could still result in local protections being applied without appropriate balancing of local or regional priorities.

Option 4; Comprehensive re-write of OAR 660-23-0200

The rules for historic preservation on Oregon are entwined with the Federal program for historic preservation. The federal program is an incentivized, voluntary program. Oregon uses the federal program as a basis for Goal 5 protection program. References to federal guidance are included in the rule and are found in local codes. The evolution of this system over the past 20 years has tangled voluntary and regulatory approaches together into local Goal 5 historic preservation programs. Interestingly, local governments are not required by Goal 5 to have to have a local protection program; however, if they choose to have a local program, State law says they must protect federally listed properties to a degree significantly beyond protections required by the federal government.

Pros – This option could result in a rule with the best utility for state, local and private interests.

Cons – This would be a difficult undertaking.

In considering various options for rule amendments we need to remember that, since local governments are not required to have local protection programs under OAR 660-23-0200, many do not. A complete lack of local protections is different problem than the one described above, but a problem none the less.

From: [GOLDFARB Gabriela * GOV](#)
To: [PUNTON Amanda](#)
Cc: [RUE Jim](#)
Subject: RE: Pilot Butte canal
Date: Tuesday, September 08, 2015 2:22:47 PM

Thanks Amanda, I will review and get back to you!

For both of you, I just had a discussion with Richard about taking a broader look at the obstacles to water conservation projects. Our scheduler Julie will be reaching out soon to schedule that – invitees to include the two of you, Rob Hallyburton, and Steve Shipsey.

Best,

Gabriela

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Governor Kate Brown, State of Oregon
T (503) 378-5232
M (971) 209-8277
Scheduler: Julie.Tasnady@Oregon.gov

From: Punton, Amanda [mailto:amanda.punton@state.or.us]
Sent: Tuesday, September 08, 2015 2:09 PM
To: GOLDFARB Gabriela * GOV <gabriela.goldfarb@state.or.us>
Cc: RUE Jim <jim.rue@state.or.us>
Subject: Pilot Butte canal

Hi Gabriela,

Please see attached and let me know if there is more that I can do at this point. I think it would be a good idea to meet jointly with SHPO. They may have some additional ideas on how to improve the balance between federal and state program priorities.

Amanda Punton | Natural Resource Specialist
Planning Services Division
Oregon Dept. of Land Conservation and Development
800 NE Oregon, #18 | Portland, OR 97232
Office: (971) 673-0961
amanda.punton@state.or.us | www.oregon.gov/LCD

From: [GOLDFARB Gabriela * GOV](#)
To: [WHITMAN Richard M * GOV](#)
Subject: Blurbs on Pilot Butte Canal Piping /Central Oregon Irrigation District
Date: Wednesday, October 07, 2015 11:03:05 AM

The Pilot Butte section of the Central Oregon Irrigation District (COID) irrigation canal system, which runs through the heart of Bend, looks like a stream (though it is not; it did not exist before the District constructed the system decades ago), and courses through the yards of a number of homeowners who enjoy the canal as an attractive water feature during irrigation season each year. The neighbors are seeking National Historic Register listing of the canal as one strategy to block a water conservation project that would pipe the canal underground. The state and federal governments have put tens of millions of dollars into this and similar water conservation efforts in the area. This is an unfortunate conflict between two values of historic preservation and natural resource protection.

Statewide Planning Goal 5 of Oregon's land use program ("Natural Resources, Scenic and Historic Areas, and Open Spaces") is set up to give properties listed in the National Register of Historic Places an automatic protected status that bypasses the intended "balancing" process of Goal 5. Under Goal 5, local governments are to inventory natural, historic, and other resources, and identify priorities when one or more protection values conflict. Oregon is one of three states where a federal listing automatically triggers significant protections.

Governor's office staff are in discussions with DLCD to identify an administrative change that would restore the intended process to carefully consider and balance competing uses such as historic preservation and water conservation, and eliminate the mechanism that allows federally listed historic properties to "go to the head of the line." We believe this tool will be not only against the COID project, but other water conservation projects, and indeed other infrastructure projects generally. For this reason, we are also exploring more broadly how to give well-vetted, broadly supported infrastructure projects that appropriately protect the environment and other values a clearer pathway to approval.

Other Background:

- GNRO sent a letter on behalf of the Governor to the National Park Service (NPS) raising questions about the ownership as a basis for casting a shadow on the application. The NPS responded by sending the application back to OPRD, which houses the state historic preservation office that processes historic registry listing applications. The NPS identified a number of technical flaws with the submission. OPRD returned the submission to the property owners, who are responsible to fix the flaws.
- The County Commissioners are supportive of the piping project and voted to oppose the findings of the OPRD advisory committee that recommended that OPRD forward the historic preservation application to the federal government.
- The Bend Bulletin ran an editorial specifically commending the Governor's letter to NPS, and others supporting the water conservation projects.
- The State Historic Preservation Office, Central Oregon Irrigation District, and Bureau of Land Management have been working for more than a year on a "cultural resources programmatic agreement" to survey all of the COID system, identify those canals and other

elements that best meet historic and cultural resource preservation criteria, identify conflicts with piping projects, and either protect or mitigate historic resources from those impacts.

This is the type of comprehensive, thoughtful approach to reconciling conflicting values we want to encourage. However, there is no mechanism at either the federal or state level to prevent applications being submitted by others, such as the Bend homeowners.

--

Gabriela Goldfarb, Natural Resources Policy Advisor

Office of Governor Kate Brown, State of Oregon

Office: (503) 378-5232

Mobile: (971) 209-8277

New Scheduler: Nancy.Salber@Oregon.gov

From: [Punton, Amanda](#)
To: [GOLDFARB Gabriela * GOV](#)
Subject: FW: Goal 5 Amendments in response to nomination of Pilot Butte Canal to the National Register
Date: Wednesday, October 14, 2015 2:57:20 PM

Hi Gabriela,

In case you have not heard directly from Parks I thought you might want to see the request I got from Ian today. I will tell him that the meeting happened and that he or his manager should talk to you about their interest in the topic.

This email chain is long because Ian originally forwarded me an email exchange with Tod Bassham when I asked Ian for some information on the intersection between the SHPO process for identifying and protecting historic resources and the Goal 5 rule.

Amanda Punton | Natural Resource Specialist
Planning Services Division
Oregon Dept. of Land Conservation and Development
800 NE Oregon, #18 | Portland, OR 97232
Office: (971) 673-0961
amanda.punton@state.or.us | www.oregon.gov/LCD

-----Original Message-----

From: JOHNSON Ian * OPRD
Sent: Wednesday, October 14, 2015 2:27 PM
To: Punton, Amanda
Subject: Goal 5 Amendments in response to nomination of Pilot Butte Canal to the National Register

Hello Amanda,

I see from my notes that a meeting was tentatively scheduled today to discuss Goal 5 Amendments in response to nomination of Pilot Butte Canal to the National Register. I am curious if that meeting happened or if it is planned. Our office would very much like to be part of the conversation.

Thanks.

Ian

Ian Johnson
Interim Associate Deputy State Historic Preservation Officer
(503) 986-0678

-----Original Message-----

From: JOHNSON Ian * OPRD
Sent: Monday, September 14, 2015 12:33 PM
To: PUNTON Amanda
Subject: RE: Re: LUBA speaker

Ah, next month then.

Thanks.

Ian

Ian Johnson
Interim Associate Deputy State Historic Preservation Officer

From: [Richard Golb](#)
To: [GOLDFARB Gabriela * GOV](#)
Subject: Fwd: National Register nomination for the Pilot Butte Canal Historic District (Cooley Road – Yeoman Road Segment)
Date: Friday, November 13, 2015 3:06:29 PM
Attachments: [NotificationLetter_13November2015.pdf](#)
[ATT00001.htm](#)

Gabriela - Are you available for a call on Monday? **This process is really unfair.**

Richard K Golb
PacificComm LLC
Sent from my iPhone

Begin forwarded message:

From: "JOHNSON Ian * OPRD" <Ian.Johnson@oregon.gov>
To: "CraigHorrell" <chorrell@coid.org>, "Pat Kliewer" <pkiewer@hotmail.com>, "Michael Hall" <HallMichaelA@msn.com>, "Matt Martin" <Matt.Martin@deschutes.org>, "Peter Gutowsky" <Peter.Gutowsky@deschutes.org>, "Nick Lelack" <Nick.Lelack@deschutes.org>, "Heidi Kennedy" <hkennedy@bendoregon.gov>
Cc: "Rasmussen, William" <william.rasmussen@millernash.com>, "Abernethy, Liza" <Liza.Abernethy@MillerNash.com>, "Richard Coe" <rcoe@bendbulletin.com>, "Ted Shorack" <tshorack@bendbulletin.com>, "Albrich, Elaine" <elaine.albrich@stoel.com>, "David Filippi" <david.filippi@stoel.com>, "Laura A. Schroeder (schroeder@water-law.com)" <schroeder@water-law.com>, "Jeff Perreault" <jeff.a.perreault@gmail.com>, "Carrie Richter" <crichter@gsblaw.com>, "Aleta Warren" <a.warren.bend@gmail.com>, "Daryl Cole" <daryl@water-law.com>, "Matt Gadow" <mgadow@bendbroadband.com>, "Brian Sheets" <b.sheets@water-law.com>, "ZELLER Tracy * OPRD" <Tracy.Zeller@oregon.gov>, "CURRAN Chrissy * OPRD" <Chrissy.Curran@oregon.gov>
Subject: National Register nomination for the Pilot Butte Canal Historic District (Cooley Road – Yeoman Road Segment)

The Oregon State Historic Preservation Office (SHPO) received the revised National Register nomination for the Pilot Butte Canal Historic District (Cooley Road – Yeoman Road Segment) on November 2nd, 2015. In consultation with the National Park Service (NPS), the SHPO determined that the revisions are not substantive enough to warrant further review by the State Advisory Committee on Historic Preservation, who reviewed the document in February 2015.

From: [GOLDFARB Gabriela * GOV](#)
To: [WHITMAN Richard M * GOV](#)
Subject: FW: National Register nomination for the Pilot Butte Canal Historic District (Cooley Road – Yeoman Road Segment)
Date: Friday, November 13, 2015 3:21:21 PM
Attachments: [NotificationLetter_13November2015.pdf](#)

FYI, in case someone pings you about this. The message that the focus of any changes does not lie with the historic preservation program (per se) simply does not stick with Rich Golb.

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Governor Kate Brown, State of Oregon
Tel (503) 378-5232
Cel (971) 209-8277
[New Scheduler: Nancy.Salber@oregon.gov](mailto:Nancy.Salber@oregon.gov)

From: GOLDFARB Gabriela * GOV
Sent: Friday, November 13, 2015 3:16 PM
To: 'Richard Golb'
Subject: RE: National Register nomination for the Pilot Butte Canal Historic District (Cooley Road – Yeoman Road Segment)

Rich, I'll send you a calendar invitation for a call late Monday. I got your phone call today, but am voiceless (bad head cold) so literally could not talk.

Gabriela

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Governor Kate Brown, State of Oregon
Tel (503) 378-5232
Cel (971) 209-8277
[New Scheduler: Nancy.Salber@oregon.gov](mailto:Nancy.Salber@oregon.gov)

From: Richard Golb [<mailto:rich@pacificcommllc.com>]
Sent: Friday, November 13, 2015 3:06 PM
To: GOLDFARB Gabriela * GOV
Subject: Fwd: National Register nomination for the Pilot Butte Canal Historic District (Cooley Road – Yeoman Road Segment)

Gabriela - Are you available for a call on Monday? This process is really unfair.

Richard K Golb
PacificComm LLC
Sent from my iPhone

Begin forwarded message:

From: [Richard Golb](#)
To: [GOLDFARB Gabriela * GOV](#)
Subject: Fwd: Additional information re the NPS email to SHPO re the definition of "owner" under NPS rules
Date: Tuesday, November 24, 2015 8:51:22 AM
Attachments: [NPSEmailOnOwnership.pdf.pdf](#)

Gabriela - No worries. Please see David???'s email below. It may help clarify some of the misunderstanding that is out there. How about Tuesday, December 1 at 4:15 pm? Happy Thanksgiving.

Richard K. Golb
PacificComm LLC
201 NE Park Plaza Drive Ste 269
Vancouver WA 98684
360.397.0248

Begin forwarded message:

From: "Filippi, David" <david.filippi@stoel.com>
Date: November 24, 2015 at 7:53:17 AM PST
To: "Richard K. Golb (rich@pacificcommllc.com)" <rich@pacificcommllc.com>
Subject: **Additional information re the NPS email to SHPO re the definition of "owner" under NPS rules**

Rich,

You asked me for an email that could be passed along to Gabriela regarding SHPO???'s apparent determination that COID is not the owner of the Pilot Butte Canal, and as such, is not entitled to vote against the revised nomination. As we discussed, it appears that SHPO is relying on the attached September 17 email from NPS as the basis for its determination that COID is not an owner for purposes of objecting to the revised nomination of a segment of the Pilot Butte Canal. The NPS email does not support such a determination.

First, the conclusory statement from NPS contains no analysis or reference to legal authority. The definition at 36 CFS 60.3(k) of ???owner or owners??? includes ???those individuals, partnerships, corporations or public agencies holding fee simple title to property. Owner or owners does not include individuals, partnerships, corporations or public agencies holding easement or less than fee interests (including leaseholds) of any nature.??? The NPS email inserts the term ???absolute,??? but fails to explain why that insertion is an appropriate interpretation of the rule language. We reviewed the rule history, and we located no support for the definitiveness of NPS???'s position.

Second, our 7/10 and 8/6 letters go into painstaking detail as to the limited fee interest that COID holds in the right of way (ROW) upon which the canal is located, and explains why that limited fee interest in the ROW is the legal

equivalent of fee simple title for purposes of determining whether COID is an owner under the definition. The same argument applies regardless of whether NPS's definition of "owner or owners" were to be interpreted to include the term "absolute."

And third, and most important, our 8/6 letter makes clear that COID is in fact the fee simple absolute owner of the canal itself. The 11/2 transmittal letter from the nominator's attorney in support of the revised petition does not dispute this point, and we're not aware that anyone has disputed this point. (And of course, the homeowner opponents won't dispute this point, as they don't want the responsibility or liability for operating and maintaining the canal.) Thus, the issue then is not who owns the canal, but whether SHPO/NPS will improperly accept a nomination for a historic "district" (as drawn up by the nominators to include adjacent lands), or whether SHPO/NPS will instead require the nomination to be of the canal structure itself. Again, the 8/6 letter makes the case for why a district nomination is inappropriate, and there's been no response from SHPO. The transmittal letter from the nominator's attorney dismisses COID's position by arguing that the difference between a district and a structure is nothing more than a "technical debate," and that there is no reason why a district and a structure would be mutually exclusive. Of course, it is much more than a technical debate, and the two are in fact mutually exclusive here, as COID can effectively preclude the listing of the canal segment if it is acknowledged for what it is--a structure. With COID as the sole owner of the structure, SHPO should reject the revised nomination.

In short, to the extent that SHPO is interpreting the NPS email to mean that COID is not the owner of the Pilot Butte Canal, SHPO is wrong. All the email says is that NPS will only recognize fee simple absolute owners of property as owners under its rules--but NPS has not opined as to whether COID is the fee simple (or fee simple absolute) owner of the Pilot Butte Canal. Given that COID is the fee simple (and fee simple absolute) owner of the canal, the issue is whether nominating the canal segment here as a district is appropriate, or whether it should be nominated as a structure. As set forth in its 8/6 letter, COID maintains that a district nomination is inappropriate here and should be rejected.

We of course will have additional arguments that will be provided to SHPO and NPS prior to the close of the comment period for the revised nomination.

Let me know if you need anything further.

David.

David E. Filippi

Stoel Rives LLP | 900 SW Fifth Ave., Suite 2600 | Portland, OR 97204

Direct: (503) 294-9529 | Fax: (503) 220-2480 | defilippi@stoel.com |

www.stoel.com

JOHNSON Ian * OPRD

Subject: FW: Ownership per NR Regulations

From: CURRAN Chrissy * OPRD
Sent: Thursday, September 17, 2015 9:53 AM
To: Loether, Paul; Chrissy Curran
Cc: Lisa Deline; Stephanie Toothman; JOHNSON Ian * OPRD
Subject: RE: Ownership per NR Regulations

Thanks for the clarification, Paul.

Chrissy Curran
Deputy State Historic Preservation Officer

State Historic Preservation Office
Oregon Parks and Recreation Department
725 Summer Street NE, Suite C
Salem, Oregon 97301
Tel: 503-986-0684
Email: chrissy.curran@oregon.gov

From: Loether, Paul [mailto:paul_loether@nps.gov]
Sent: Thursday, September 17, 2015 7:21 AM
To: Chrissy Curran
Cc: Lisa Deline; Stephanie Toothman
Subject: Ownership per NR Regulations

Chrissy:

In response to your inquiry, this email will serve to confirm that the National Park Service considers the term "owner or owners" as defined in 36 CFR 60.3(k) to only include individuals, partnerships, corporations, and/or public agencies that hold a fee simple absolute interest in the property.

If you have any additional questions in this regard, please let me know.

Best,

Paul

--
J. Paul Loether, Chief
National Register of Historic Places
and National Historic Landmarks
National Park Service
1201 Eye Street NW, #2280
Washington, DC 20005

From: [GOLDFARB Gabriela * GOV](#)
To: [WHITMAN Richard M * GOV](#)
Subject: FW: State Historic Preservation Office
Date: Tuesday, February 09, 2016 5:32:13 PM

Calling you to discuss

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Oregon Governor Kate Brown
Office: (503) 378-5232
Mobile: (971) 209-8277

From: NAVAS Melissa * GOV
Sent: Tuesday, February 09, 2016 3:50 PM
To: GOLDFARB Gabriela * GOV <Gabriela.GOLDFARB@oregon.gov>
Cc: GRAINGER Kristen * GOV <Kristen.GRAINGER@oregon.gov>; PAIR Chris * GOV <Chris.PAIR@oregon.gov>; WOJCICKI Amy * GOV <Amy.WOJCICKI@oregon.gov>
Subject: FW: State Historic Preservation Office

Hi Gabriela,

See the additional detail from Richard below. Please call me when you're out of meeting. His deadline is 7.

--

Melissa Navas
Press Secretary
Office of Governor Kate Brown
503-378-6496

From: Richard Coe <rcoe@bendbulletin.com>
Date: Tuesday, February 9, 2016 3:44 PM
To: melissa navas <melissa.navas@oregon.gov>
Subject: Re: State Historic Preservation Office

It is unfortunate when government makes conservation of water more difficult. I wrote an editorial to that effect. It is running tomorrow. If you get me an answer by 7 I can probably get it in.

I contacted the Congressional delegation to ask if they thought anything could be done. I contacted you again because you had stated that there were conversations regarding the federal historic registry program carried out by the State Historic Preservation Office. I would like to update readers if any progress has been made.

I got responses from Wyden and Walden. I was hoping to include a response from Brown's office as well.

Richard Coe
Editorial Page Editor
The Bulletin
541-383-0353

On Tue, Feb 9, 2016 at 3:05 PM, NAVAS Melissa * GOV <Melissa.NAVAS@oregon.gov> wrote:

Hi Richard,

I received your message and am looking into it. Are you writing something on this? If so, what's your focus? And what is your deadline?

Best,
Melissa

--

Melissa Navas

Press Secretary
Office of Governor Kate Brown
[503-378-6496](tel:503-378-6496)

From: Richard Coe <rcoe@bendbulletin.com>

Date: Tuesday, February 9, 2016 11:16 AM

To: melissa navas <melissa.navas@oregon.gov>

Subject: Re: State Historic Preservation Office

Anything new on this issue?

The National Park Service has gone ahead and listed the Pilot Butte Canal on the National Register of Historic Places. As you may recall Gov. Brown opposed this listing because it will make it much more difficult to conserve water by piping.

Richard Coe
Editorial Page Editor
The Bulletin
[541-383-0353](tel:541-383-0353)

From: [NAVAS Melissa * GOV](#)
To: [WHITMAN Richard M * GOV](#); [GOLDFARB Gabriela * GOV](#); [GRAINGER Kristen * GOV](#); [PAIR Chris * GOV](#); [WOJCICKI Amy * GOV](#)
Subject: FW: State Historic Preservation Office
Date: Tuesday, February 09, 2016 5:56:46 PM

FYI on response.

--

Melissa Navas

Press Secretary
Office of Governor Kate Brown
503-378-6496

From: melissa navas <melissa.navas@oregon.gov>
Date: Tuesday, February 9, 2016 5:56 PM
To: Richard Coe <rcoe@bendbulletin.com>
Subject: Re: State Historic Preservation Office

Hi Richard,

Following last year's drought, our need to conserve water is even more crucial as Oregon continues to experience climate change. The Governor's Office is working to make sure we strike the right balance between preserving important historic resources and ensuring we conserve water so it is available for people and ecosystems. We anticipate having specific recommendations on a path forward in the near future.

Best,
Melissa

--

Melissa Navas

Press Secretary
Office of Governor Kate Brown
503-378-6496

From: Richard Coe <rcoe@bendbulletin.com>
Date: Tuesday, February 9, 2016 3:44 PM
To: melissa navas <melissa.navas@oregon.gov>
Subject: Re: State Historic Preservation Office

It is unfortunate when government makes conservation of water more difficult. I wrote an editorial to that effect. It is running tomorrow. If you get me an answer by 7 I can probably get it in.

From: [Richard Golb](#)
To: [GOLDFARB Gabriela * GOV](#)
Cc: [Ward, Ben \(Merkley\)](#); [Adrian Deveny](#)
Subject: Editorial: Pipe around the Pilot Butte Canal;
Date: Wednesday, February 17, 2016 8:01:08 AM

Gabriela - Just catching up with you. **Is there any progress we can discuss regarding a solution for COID?**

<http://www.bendbulletin.com/opinion/editorials/4003824-151/editorial-pipe-around-the-pilot-butte-canal?referrer=fpblob>

Editorial: Pipe around the Pilot Butte Canal

Given that the National Park Service has declared historic a stretch of the Pilot Butte Canal, we want to do what we can to help preserve the ditch for generations to come.

Central Oregon Irrigation District should divert the water that has run through the canal by building a pipe on other nearby land. The ditch's historic character will be preserved. The piped water will be conserved.

COID General Manager Craig Horrell said he's considered it. It's possible. He should explore if the cost and other factors would make it feasible.

The future of the 1.5-mile section of canal has been a topic of fierce debate between homeowners near the canal and the irrigation district.

The district had plans to pipe that part of canal. And that was a very good idea. Piping prevents water loss due to seepage and evaporation. About half the water in an open canal is lost.

COID estimated that this piping project would save 7.95 cubic feet per second of water, when the canal was being used. One cubic foot of water is more than 7 gallons. The pipe would also build pressure for a COID hydropower project.

But homeowners had concerns about replacing the canal with a lump of pipe. During irrigation season, the canal is a broad stream flowing through backyards. Replacing that with a half-buried pipe is not attractive.

There were battles before the Deschutes County Commission over the piping. And then a group of homeowners nominated a stretch of the canal as a historic water feature — oops, historic district.

There's really no question it is old. Construction of the canal began in 1903 and it was completed in 1905. You can see marks left by steam drills in the basalt.

Water flowing through the canal helped open up the region to farming and settlement.

But there is a conflict between that character and the need to conserve water in the Deschutes Basin. The historic designation makes it more difficult for COID to get permission to pipe. The district would have to fight through a permitting process in the city and the county. Both could face multiple legal challenges from homeowners.

The answer could very well be to find a way to pipe around it. It preserves the canal. And it does what would be even more important: It saves water.

Richard K. Golb

PacificComm LLC

201 NE Park Plaza Drive Ste 269

Vancouver WA 98684

360.397.0248

From: [TASNADY Julie * GOV](#) on behalf of [GOLDFARB Gabriela * GOV](#)
To: [Rue, Jim](#); [Punton, Amanda](#); [SUMPTION Lisa * OPRD](#); [CURRAN Chrissy * OPRD](#); [JOHNSON Ian * OPRD](#); [GARRAHAN Paul](#); [SHIPSEY Steve](#); [MaClaren, Carrie](#); [Hallyburton, Rob](#)
Cc: [TASNADY Julie * GOV](#)
Subject: Doodle poll: Goal 5 & SHPO working group meeting
Date: Wednesday, February 10, 2016 3:47:11 PM

Greetings
all:

It is time to reconvene this group to discuss a path forward to promote appropriate consideration and balance between historic preservation and natural resource conservation under Goal 5. SHPO has now concluded its survey of local government practices related to historic properties designations, and SHPO, DLCD, and DOJ staff will have completed a joint background and options memo in advance of our meeting. On a related note, Pilot Butte Canal Historic District was listed in the National Register of Historic Places today by the National Park Service.

Please complete the doodle poll for a meeting later this month. Mandatory and optional invitees are listed below; if you think you should be listed in a different group, please let Julie.Tasnady@oregon.gov know!

Thanks,

Gabriela

GOAL 5 & HISTORIC RESOURCES MEETING

Required:

GOV: Gabriela Goldfarb, Richard Whitman

DLCD: Jim Rue, Amanda Punton

OPRD: Lisa Sumption, Chrissy Curran, Ian Johnson

DOJ: Paul Garrahan

Optional:

DLCD: Carrie Maclaren, Rob Hallyburton

DOJ: Steve Shipsey

<http://doodle.com/poll/47hta9679qzu83a>

From: [GOLDFARB Gabriela * GOV](#)
To: [Punton, Amanda](#); [SHIPSEY Steve](#)
Cc: [JOHNSON Ian * OPRD](#); [CURRAN Chrissy * OPRD](#)
Subject: RE: Follow up to meeting
Date: Monday, November 16, 2015 5:23:10 PM

Amanda, thanks for this follow up with Steve – the question of whether there is an existing definition of owner under state law that would be an appropriate reference in this context, or whether one needs to be developed, is a key issue.

Steve, as a follow up, I understand DLCD and SHPO are developing a joint memo to inform our discussions of the history of conflicting values in the context of protecting Goal 5 resources and a path forward for resolving those conflicts. That memo should be done by the first days of December, and I would like to schedule a meeting of the group for that week. Will you be able to answer the question below by then?

Best,

Gabriela

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Governor Kate Brown, State of Oregon
Office: (503) 378-5232
Mobile: (971) 209-8277

New Scheduler: Nancy.Salber@Oregon.gov

From: Punton, Amanda [mailto:amanda.punton@state.or.us]
Sent: Monday, November 16, 2015 3:18 PM
To: SHIPSEY Steve <Steve.SHIPSEY@state.or.us>
Cc: JOHNSON Ian * OPRD <Ian.Johnson@state.or.us>; GOLDFARB Gabriela * GOV <Gabriela.GOLDFARB@state.or.us>
Subject: RE: Follow up to meeting

Hi Steve,

We are looking for more clarity on the state's definition of owner for the purpose of complying with ORS 197.772. Although the Lake Oswego Carman house case is expected to settle a question about the status of past and current owners, it is not expected to provide clarity with regard to public ownership and easements (or other non-fee simple interests). We are trying to better understand a local government's obligation to consider an owner's objection to a local historic designation. If state statute does not set narrow parameters for what type of "owners" have the right to object to a local historic designation, are local governments free to set their own parameters?

Amanda Punton | Natural Resource Specialist
Planning Services Division
Oregon Dept. of Land Conservation and Development
800 NE Oregon, #18 | Portland, OR 97232
Office: (971) 673-0961
amanda.punton@state.or.us | www.oregon.gov/LCD

From: SHIPSEY Steve

Sent: Monday, November 16, 2015 2:54 PM
To: Punton, Amanda
Cc: JOHNSON Ian * OPRD
Subject: RE: Follow up to meeting

Amanda,

I wasn't aware I was tasked with that, sorry. My understanding was that National Parks Service had settled the applicable definition of "owner" in the attached e-mail.

Steven Shipsey

503.947.4584 (Monday & Wednesday)
503.302.3006 (Tuesday & Friday – mobile)
503.934.0023 (Thursday – no messages)

From: Punton, Amanda [<mailto:amanda.punton@state.or.us>]
Sent: Friday, November 13, 2015 8:45 AM
To: SHIPSEY Steve
Cc: JOHNSON Ian * OPRD
Subject: Follow up to meeting

Hi Steve,

My memory is that you were going to look into the definition of "owner" in follow up to our last meeting? Ian and I are working on our memo and your piece would be helpful to us.

Amanda

Amanda Punton | Natural Resource Specialist
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From: [Punton, Amanda](#)
To: [JOHNSON Ian * OPRD](#)
Subject: RE: Local Jurisdiction survey
Date: Wednesday, February 03, 2016 11:16:32 AM

Now that the legislative session is in full swing, Richard and Gabriela are probably fine with waiting on this.

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From: JOHNSON Ian * OPRD
Sent: Wednesday, February 03, 2016 9:42 AM
To: Punton, Amanda
Subject: RE: Local Jurisdiction survey

I am a bit behind on this project, but will respond before the end of the week.

Ian

Ian Johnson
Associate Deputy State Historic Preservation Officer
(503) 986-0678

From: Punton, Amanda [<mailto:amanda.punton@state.or.us>]
Sent: Monday, February 01, 2016 9:44 AM
To: JOHNSON Ian * OPRD
Subject: RE: Local Jurisdiction survey

Here you go.

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amanda.punton@state.or.us | www.oregon.gov/LCD

From: JOHNSON Ian * OPRD
Sent: Friday, January 29, 2016 1:46 PM
To: Punton, Amanda; GARRAHAN Paul; JOHNSON Ian * OPRD
Subject: RE: Local Jurisdiction survey

Amanda,

When you make those changes could you send the draft to me. I will look at it in light of the survey

info that we're getting through today.

Ian

Ian Johnson
Associate Deputy State Historic Preservation Officer
(503) 986-0678

From: Punton, Amanda [<mailto:amanda.punton@state.or.us>]
Sent: Wednesday, January 27, 2016 4:34 PM
To: GARRAHAN Paul; JOHNSON Ian * OPRD
Subject: RE: Local Jurisdiction survey

Thanks Paul, for looking it over. I'll make the changes.

Amanda Punton | Natural Resource Specialist
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From: GARRAHAN Paul
Sent: Wednesday, January 27, 2016 3:06 PM
To: Punton, Amanda; JOHNSON Ian * OPRD
Subject: RE: Local Jurisdiction survey

Amanda and Ian: I will add a couple comments on this draft. [REDACTED]

Second, I've realized that the suggested bullet on refining the definition of "property owner" needs some further refinement—just a slight wording change in the final clauses of the passage. Here it my proposed revised language, with the changed part underlined:

- Clarify that the term "property owner," as used in ORS 197.277, includes (i) public entities and (ii) all owners of property interests that entitle the owner to exclusive and continuous use and possession of all or part of the property. Examples of owners in category (ii) are fee simple owners and owners of limited fee interests in rights-of-way, such as for railroads, irrigation canals, public highways and major high-voltage powerlines, but not for common utility easements such as for local water, gas, electricity, or communications services.

Please let me know if you have any questions.

Paul Garrahan

Oregon Department of Justice
971.673.1943 (Tue, Thu, Fri) (Portland)
503.947.4593 (Mon, Wed) (Salem)
503.929.7553 (Mobile)

From: Punton, Amanda [<mailto:amanda.punton@state.or.us>]
Sent: Monday, January 25, 2016 6:12 PM
To: JOHNSON Ian * OPRD; GARRAHAN Paul
Subject: RE: Local Jurisdiction survey

Ian,
This is good information. Do the survey returns inspire you to make other changes to the memo?

I have attached Draft 5 of the memo with information and edits from Paul inserted.

Amanda

Amanda Punton | Natural Resource Specialist
Planning Services Division
Oregon Dept. of Land Conservation and Development
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Office: (971) 673-0961
amanda.punton@state.or.us | www.oregon.gov/LCD

From: JOHNSON Ian * OPRD
Sent: Monday, January 25, 2016 4:59 PM
To: Punton, Amanda
Subject: Local Jurisdiction survey

Amanda,

Here is a link to the survey where you can manipulate the data a bit more. I added some useful labels to the respondents and deleted duplicate entries. I found 4 duplicates where one entry was blank, likely a false start. I have two entries for Coburg, but the answers differ. I am inclined to delete the response from the person who I know is not their preservation planner, but it does not throw off the stats too much if we keep it. The PDFs I sent include the dups.

Here is the link: <https://www.surveymonkey.com/results/SM-HZCQKBJQ/> the password is oprd.

Ian

Ian P. Johnson
Associate Deputy State Historic Preservation Officer
(503) 986-0678

Oregon State Historic Preservation Office
725 Summer St NE, Suite C
Salem, OR 97301

Visit our website: www.oregonheritage.org

Like us on Facebook: <https://www.facebook.com/OregonHeritage>

Visit our Blog, The Oregon Heritage Exchange: <http://oregonheritage.wordpress.com/>

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From: GARRAHAN Paul
To: Punton, Amanda
Subject: RE: Historic preservation memo
Date: Friday, January 22, 2016 2:52:28 PM

Amanda: As I referenced in our telephone call last week, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Under the assumption that LCDC has authority to further define the term, my recommendation on the memo would be to replace the final bullet (at the top of page 4 in the current draft, the sixth bullet in the list) with the following:

- Clarify that the term “property owner,” as used in ORS 197.277, includes (i) public entities and (ii) all owners of property interests that entitle the owner to exclusive and continuous use and possession of all or part of the property. Examples of owners in category (ii) are fee simple owners, of course, and also owners of limited fee interests in rights-of-way, such as for railroads, irrigation canals, public highways and major high-voltage powerlines, but not including the owners of common utility easements such as for local water, gas, electricity, or communications services.

I will add that I think you should consider dividing the bullets under the DLCD “Potential Solution/Next Steps.” The first four of those bullets clarify the baseline protection standard for locally designated historic properties, as indicated in the introductory paragraph. The final two bullets, however, are not about the protection standard but instead clarify the process for a property achieving the local designation. I would also recommend that you specifically note, in the fifth bullet, that the local process to consider whether a property on the National Register should be added to the local inventory will still be subject to the landowner consent requirement under ORS 197.772, using the definition of “property owner” as refined by LCDC.

Please let me know if you think I have addressed the question that you were hoping I would address, and if you would like to discuss this advice or have any other questions or feedback on it. Thanks.

Paul Garrahan
Oregon Department of Justice
971.673.1943 (Tue, Thu, Fri) (Portland)
503.947.4593 (Mon, Wed) (Salem)

503.929.7553 (Mobile)

From: Punton, Amanda [<mailto:amanda.punton@state.or.us>]
Sent: Friday, January 15, 2016 12:11 PM
To: GARRAHAN Paul
Subject: Historic preservation memo

Hi Paul,
I'm interested to see what you can add to the ownership piece.

Amanda

Amanda Punton | Natural Resource Specialist
Planning Services Division
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MEMORANDUM

DATE: February 25, 2015

TO: Richard Whitman, Natural Resources Policy Director, Governor's Office
Gabriella Goldfarb, Natural Resources Policy Advisor, Governor's Office

FROM: Ian Johnson, Associate Deputy State Historic Preservation Officer
Oregon Parks and Recreation Department (OPRD)

RE: Survey of Local Jurisdiction Historic Preservation Programs

At the request of Mr. Whitman for further information regarding local administration of the Goal 5 Oregon Administrative Rule (OAR) 660-023-0200 following a meeting on October 23, 2015, DLCD and the Oregon SHPO prepared a seventeen question survey. The survey sought to determine how many jurisdictions have historic preservation programs; how requests for demolition and removal from landmark lists are addressed; and what, if any, distinction jurisdictions make between properties listed in the National Register of Historic Places and those that are listed in local landmark registers.

Survey Design, Distribution, and Respondent Profile:

The survey was designed using the web-based free service, Survey Monkey, and distributed on Friday, January 8th. The survey remained open until Friday, January 29th. The Oregon SHPO distributed the survey directly to the agency's own list of Certified Local Governments (CLGs)¹ and all 36 counties using a list provided by DLCD. Local DLCD field representatives distributed the survey to individual cities.² In total, 76 unique responses were received, with 19 counties responding, including all 4 counties participating in the CLG program. Responding counties were generally concentrated along the coast and the I-5 and I-84 transportation corridors, but also included Deschutes, Crook, Klamath, and Lake Counties. Fifty-nine cities responded, with most concentrated along the length of the I-5 corridor, and, to a lesser extent, along the coast. Twenty-two of the responding cities participate in the CLG program. No county or city responses were received from Josephine, Jefferson, Wheeler, Grant, Wallowa, Harney, or Malheur Counties, and, most notably, Multnomah County.

The survey allowed users to skip questions that did not apply. Generally, each question received about 40 or more responses. The percentages given below are rounded to whole numbers and reflect actual responses to the question and not a percentage of the total number of respondents. General comments provided in this memo are informed by the narrative responses to each question provided by the survey participants. Respondents include both small and large communities from across the state, with and without preservation programs, and in both rural and urban settings. While not comprehensive, the survey is reasonably representative for discussion purposes. Aggregate data and individual responses from the survey are appended to this document.

¹ The Certified Local Government Program is a partnership between the National Park Service, OR SHPO, and local jurisdictions that provides pass through grants for communities that have established historic preservation programs that meet minimum federal standards.

² Due to an oversight, the survey was not sent to cities and counties in DLCD's NE region.

Survey Results:

The first two questions of the survey established if the jurisdiction had a preservation program, and, if so, what body was responsible for its administration. The majority of the respondents 87% indicated that they did have a Goal 5 historic resource element in their comprehensive plan and/or a local preservation ordinance that provided some level of protection for historic resources. Comments indicated that the process for adding properties to the local landmark register and the protections afforded these properties varied. In most cases, the city council or county commission and/or planning commission were charged with administering the preservation program. In 22 jurisdictions, 29% of the respondents, indicated that a quasi-judicial landmarks commission fulfilled this role, and 14 communities, or 18%, reported that an advisory body served this function.

The second series of questions focused on how jurisdictions applied the Goal 5 OAR as it relates to the protection of properties listed in the National Register of Historic Places. Because listing in the National Register is federal process, questions in this section focused on how jurisdictions treated these properties following listing. In general, it appears interpretation and application of the Goal 5 OAR varies widely.

The majority, 66%, of the communities indicated that they add individual properties listed in the National Register to their local landmark lists. Asked the same question about districts, the majority stated that they did not add districts; however, the comments received appear to indicate that many perceived this question as asking if their jurisdiction had established districts already. When adding National Register properties to the local landmark register, 52% of the 60 respondents answering the question noted that an official adoption process was used, while only 18% did so “automatically” without a “formal adoption process.” This trend was also true in the case of historic districts. National Register properties are generally protected by demolition delay, with 53% of jurisdictions having the authority to delay demolition for some period of time up to 120 days and 10% able to deny demolition beyond 120 days. However, only 46% had the authority to deny demolition.

Of the respondents, 34% do not add properties listed in the National Register to their Goal 5 inventory or a local landmark list, and only 3 respondents indicated that separate review criteria applied to National Register-listed properties not on the landmarks list. Compliance with the intent of the Goal 5 OAR to protect all properties listed in the National Register is likely even lower when considering that several jurisdictions noted that although they do have a local process to add properties listed in the National Register to their local landmark list that this only occurs when the property owner initiates the process. Of those communities implementing the Goal 5 OAR, the level of protection offered also varies widely.

The third series of questions focused on the addition of properties to the local landmark register. Given that local jurisdiction have full control over this process, the questions asked about designation and removal of locally-listed properties, as well as protective measures. When asked if the adoption process for adding resources to the local landmark register considered other land use and planning priorities not related to preservation concerns, 53% of those answering the questions said yes, while 47% said no. Owner consent is required for listing a property in a Goal 5 inventory or local landmark register under ORS 197.772. For this purpose, the overwhelming

majority indicated “owner” was not defined in their code, but was generally understood as the entity listed in the County records as “owner,” most often those with a fee-simple interest in the property.

When asked about protecting locally-listed properties, a slightly higher percentage of respondents reported they had the authority to delay or deny demolition of a property listed in the local landmark register compared to those listed only in the National Register. While properties listed in the National Register may only be removed through a federal process, properties listed in a local landmark register may be removed from the register subject to applicable Goal 5 processes. When answering how removal is accomplished, 38% of the 40 respondents answering the question noted that an owner would need to meet specific criteria, not including the owner’s own personal wishes; 30% stated that a property could only be removed in “narrow circumstances” in cases where the resource had “been damaged, destroyed, or was mistakenly or incorrectly added to the local landmark register;” and 33% indicated that an owner could remove their property from the local landmark register “for any reason.”

Conclusion:

Although the survey results are not comprehensive, the number and variety of respondents are generally representative, including cities and counties from around the state in both urban and rural areas. The results show a varied understanding and application of the Goal 5 OAR and an inconsistent approach to the treatment of properties listed in the National Register.

tomorrow for about 45 mins or at 10:00. I would not call between 9 and 10:00. Later in the day would also work. Let me know. You can text or call my work cell at 971.718.1137.

Ian

Ian Johnson
Associate Deputy State Historic Preservation Officer
(503) 986-0678

From: Punton, Amanda [<mailto:amanda.punton@state.or.us>]
Sent: Friday, May 20, 2016 9:35 AM
To: JOHNSON Ian * OPRD
Subject: RE: Goal 5 OAR

Call if you can at 4:00 today. If that that doesn't work out I am also in the office Monday; give me a rough time window and I'll try to stay off the phone.

Thanks,
Amanda

Amanda Punton | Natural Resource Specialist
Planning Services Division
Oregon Dept. of Land Conservation and Development
800 NE Oregon, #18 | Portland, OR 97232
Office: (971) 673-0961
amanda.punton@state.or.us | www.oregon.gov/LCD

From: JOHNSON Ian * OPRD
Sent: Thursday, May 19, 2016 10:30 AM
To: Punton, Amanda <apunton@dlcd.state.or.us>; JOHNSON Ian * OPRD <Ian.Johnson@state.or.us>
Subject: RE: Goal 5 OAR

Amanda,

Thanks for your thoughts on this. I chatted with Gabriella yesterday and she'd like to distance the Pilot Butte Canal issue from this process; however, she did say that we could describe it as a "focusing event" if asked the larger question of why this rule and why now. She did ask that we couch it within other examples, and we have many. She also did note that she is currently unaware of any pending legislation regarding the canal, and would let us know if anything came up. She requested that we send her whatever documents we come up with to her, not for review, but just for her information.

We'll hit the outreach hard in mid- late June, which should give us time to refine our documents. We'll be taking the "meet them where they are" approach, meaning we're not posting these documents on the web, mailing them, or otherwise mass distributing them. Still, talking points sheets are nice to have over lunch or small meetings, especially when the information is so detailed.

I am around late Friday afternoon around 4, and then on the road the following week. I could do a call on Monday anytime, I will be traveling to Baker City, but not driving.

Ian

Ian Johnson
Associate Deputy State Historic Preservation Officer
(503) 986-0678

From: Punton, Amanda [<mailto:amanda.punton@state.or.us>]
Sent: Wednesday, May 18, 2016 3:12 PM
To: JOHNSON Ian * OPRD
Subject: RE: Goal 5 OAR

Hi Ian,

Here is the timeline we need to work within in order to get a rule amendment through our Commission by the end of the year:

July 21-22; Introduce the proposed rulemaking to LCDC at their meeting in Boardman. For this meeting we need to know the general attitude of stakeholders towards possible rule amendments. I believe we don't have to get LCDC's blessing at the July meeting but it would be nice.

November 17-18; Final rule amendments adopted at the LCDC meeting in Redmond.

As far as the Pilot Butte Canal goes, the issue certainly raised awareness of the need to better understand how the Goal 5 rule for historic resources is being implemented around the state. I believe our review of the rule, its implementation, and SHPO's experience with the intersect between NR objectives and Goal 5 objectives revealed that rule amendments have the potential to improve historic resource protection in general. In other words, we moved beyond the canal issue early on in our conversations.

I provided Rob with the documents you recommend along with the document explaining the specific draft rule amendments we came up with. He will review them with our new audience in mind. At a minimum we need to create versions that speak to this larger stakeholder audience rather than the Governor's office. The content will be largely the same.

I just tried to call you. Let's try and find a time to talk this week, if not this afternoon then Friday.

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From: JOHNSON Ian * OPRD

Sent: Wednesday, May 18, 2016 1:26 PM

To: Punton, Amanda <apunton@dlcd.state.or.us>; JOHNSON Ian * OPRD <Ian.Johnson@state.or.us>

Cc: MacLaren, Carrie <cmaclaren@dlcd.state.or.us>; CURRAN Chrissy * OPRD <Chrissy.Curran@state.or.us>; Rue, Jim <jrue@dlcd.state.or.us>; Hallyburton, Rob <rhallyburton@dlcd.state.or.us>

Subject: RE: Goal 5 OAR

Amanda,

Thanks for getting back to me. We'll wait to hear back on the timeline. I agree, we should carefully review the documents to make sure that they assist in explain the process and do not detract. I have attached the documents from our last large group meeting and the memo from the Local Jurisdiction survey and raw data. I also attached the Goal 5 Memo that we worked on.

For the purposes of outreach, I believe that the "660-23-0200 amendment discussion" document and related attachments B and C make sense to share. The survey data and accompanying memo will also be useful. The document titled "Memo on G5 Historic Rule Change Draft8" is a good background document, but may be more useful for staff purposes given the 660-23-0200 amendment discussion" covers some of this.

One thing that is not covered specifically in these documents is that this discussion was prompted by the listing of the Pilot Butte Canal. I am curious about what everyone's comfort level is with discussing this with our constituents. I anticipate that many will want to know why DLCD and SHPO are doing this and what problem we're trying to solve. I don't believe that the explanation needs to be long, complex, or impugn any process, office, or individual, but I think that we'll need to answer this important question for folks so that they do not read between the lines and make up their own stories.

Please let me know what documents you believe are sharable as is, and which will need some modification. We can work together on those changes if you like. As far as how to approach this, we'll pull together our list and a plan and then chat with you and your colleagues about how best to approach this so that we can support the rule-making process.

I look forward to moving on to the next steps.

Ian

Ian Johnson
Associate Deputy State Historic Preservation Officer
(503) 986-0678

From: Punton, Amanda [<mailto:amanda.punton@state.or.us>]

Sent: Wednesday, May 18, 2016 9:54 AM

To: JOHNSON Ian * OPRD

Cc: MACLAREN Carrie; CURRAN Chrissy * OPRD; RUE Jim; HALLYBURTON Rob

Subject: RE: Goal 5 OAR

Hi Ian,

We will need to get an answer to your first question from DLCD management.

To answer your second question, I believe we wrote the document explaining the various proposed amendments for a general audience. We may want to add a statement that the draft amendments reflect various issues that could be addressed by amendments, and that we recognize that not all of the issues addressed will be seen as priorities as we work through the rule writing process.

I also think your report on the survey of local jurisdictions provides valuable information about the state of affairs. Much of this was incorporated into our explanation of the draft amendments, but I bet people will appreciate seeing the report itself.

If you want to use any of the background materials we developed for our early conversations with management and the GNRO, we should review them, and edit as needed, to make sure they focus on where we ended up, otherwise they might add confusion to our request for input.

Amanda

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From: JOHNSON Ian * OPRD
Sent: Tuesday, May 17, 2016 5:02 PM
To: Punton, Amanda <apunton@dlcd.state.or.us>
Cc: CURRAN Chrissy * OPRD <Chrissy.Curran@state.or.us>
Subject: Goal 5 OAR

Amanda,

Sorry I did not return your call earlier. A couple of questions as we go out to our constituents on this.

1. What is DLCD's timeline on the rule? We want to meet DLCD's timelines.
2. What documents can we share with our constituents to help explain how we got to where we are? This will shape our strategy.

We are currently working up a list of key influence makers across the state. We'll use a variety of methods to reach them, but our initial plan is to give them the background of where we are and to let them know that this rule change will be coming forward and that there will be a formal opportunity to comment and to shape the process. **We understand that COID is exploring**

introducing legislation, and we'll discuss what the upside and downside is of each option.

Please let me know if you have any thoughts or ideas on this topic.

I am in the office through the end of the week and then traveling most of next week for business. I will have email and phone access at that time though.

Ian

Ian P. Johnson
Associate Deputy State Historic Preservation Officer
(503) 986-0678

Oregon State Historic Preservation Office
725 Summer St NE, Suite C
Salem, OR 97301

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Visit our Blog, The Oregon Heritage Exchange: <http://oregonheritage.wordpress.com/>

From: [JOHNSON Ian * OPRD](#)
To: [GOLDFARB Gabriela * GOV](#); [Punton, Amanda](#)
Cc: [CURRAN Chrissy * OPRD](#); [Hallyburton, Rob](#); [SUMPTION Lisa * OPRD](#); [Rue, Jim](#); [MacLaren, Carrie](#); [WHITMAN Richard M * GOV](#)
Subject: RE: Goal 5 historic resources
Date: Tuesday, May 17, 2016 4:53:40 PM

We are currently reviewing our list of influence-makers and the strategy for reaching out to them. Chrissy and I are out of the office most of the rest of this month, but we'll move quickly on this in coordination with DLCD. We will keep the group informed of our progress. Please let us know if there are any groups or organizations that you would like to include in these preliminary discussions before the rule-making process begins.

If we could likewise be informed of any new legislation or legislative efforts on this issue that would also be useful.

Ian

Ian Johnson
Associate Deputy State Historic Preservation Officer
(503) 986-0678

From: GOLDFARB Gabriela * GOV
Sent: Tuesday, May 17, 2016 4:26 PM
To: JOHNSON Ian * OPRD; PUNTON Amanda
Cc: CURRAN Chrissy * OPRD; HALLYBURTON Rob; SUMPTION Lisa * OPRD; RUE Jim; MACLAREN Carrie; WHITMAN Richard M * GOV
Subject: RE: Goal 5 historic resources

All, apologies for the delay in this follow up.

Last week I spoke with Lisa Sumption and Carrie MacLaren to say the agency leads have done a great job identifying a plan of action for moving forward. From here forward, staff and leadership should coordinate among yourselves to execute that plan and just keep Richard and me updated at appropriate junctures.

Ian, that's a long way of saying yes, move forward, together with DLCD and or just circling back with DLCD as SHPO deems appropriate. Please do so as soon as possible to inform DLCD's decisions about greenlighting and timing to execute its part of the plan.

Let me know if that is clear or if further guidance is needed.

Best,

Gabriela

--

Gabriela Goldfarb, Natural Resources Policy Advisor
Office of Oregon Governor Kate Brown
Office: (503) 378-5232
Mobile: (971) 209-8277

From: JOHNSON Ian * OPRD [<mailto:ian.Johnson@oregon.gov>]
Sent: Tuesday, May 10, 2016 5:24 PM
To: PUNTON Amanda <amanda.punton@state.or.us>; GOLDFARB Gabriela * GOV <Gabriela.GOLDFARB@state.or.us>
Cc: CURRAN Chrissy * OPRD <chrissy.curran@state.or.us>; JOHNSON Ian * OPRD <ian.johnson@state.or.us>; HALLYBURTON Rob <rob.hallyburton@state.or.us>
Subject: RE: Goal 5 historic resources

We are ready to move forward. Just let us know.

Ian

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Punton, Amanda" <amanda.punton@state.or.us>
Date: 5/10/16 3:22 PM (GMT-08:00)
To: GOLDFARB Gabriela * GOV <Gabriela.GOLDFARB@state.or.us>
Cc: CURRAN Chrissy * OPRD <chrissy.curran@state.or.us>, JOHNSON Ian * OPRD <ian.johnson@state.or.us>, HALLYBURTON Rob <rob.hallyburton@state.or.us>
Subject: RE: Goal 5 historic resources

Gabriela,

I spoke with Rob Hallyburton today and understand that the next step in moving towards possible rule amendment for Goal 5 historic resources is for SHPO to talk to folks in the historic preservation community. We would like to know what they think of the draft rule language Ian and I put together and the reasons for making these amendments. Can you confirm that this is correct.

Thanks,
Amanda

Amanda Punton | Natural Resource Specialist
Planning Services Division
Oregon Dept. of Land Conservation and Development
800 NE Oregon, #18 | Portland, OR 97232
Office: (971) 673-0961
amanda.punton@state.or.us | www.oregon.gov/LCD

From: Punton, Amanda
Sent: Wednesday, April 20, 2016 8:50 AM
To: GOLDFARB Gabriela * GOV <Gabriela.GOLDFARB@state.or.us>
Cc: JOHNSON Ian * OPRD <ian.Johnson@state.or.us>
Subject: Goal 5 historic resources

Good morning Gabriela,

Have you had a chance to look over the attachments in the email I sent on April 4th? Ian and I (and probably our management) are waiting for further instruction.

Amanda

Amanda Punton | Natural Resource Specialist
Planning Services Division
Oregon Dept. of Land Conservation and Development
800 NE Oregon, #18 | Portland, OR 97232
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DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

DIVISION 23

PROCEDURES AND REQUIREMENTS FOR COMPLYING WITH GOAL 5

660-023-0200

Historic Resources

(1) For purposes of this rule, the following definitions apply:

(a) "Designation" is a decision by a local government declaring that a historic resource is "significant" and including the resource on the list of significant historic resources.

~~(b) "Historic areas" are lands with buildings, structures, objects, sites, or districts that have local, regional, statewide, or national historic significance.~~

~~(b) "Historic Context Statement" is a policy document that describes the important, broad economic, social, and cultural patterns of development in an area impacting the physical development in a defined geographic area, which may be represented and identifies by historic properties/resources representative of the identified broad patterns. The document can serve as the foundation for decisions about the local significance of historic properties/resources.~~

(c) "Historic resources" are those buildings, structures, objects, sites, or districts that have a relationship to important events or conditions of the human past.

~~(d) "Historic resources of statewide significance" are buildings, structures, objects, sites, or districts listed in the National Register of Historic Places, and within approved national register historic districts pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).~~

~~(d) "National Register Resource" means buildings, structures, objects, sites, or districts listed in the National Register of Historic Places, and within approved National Register historic districts pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).~~

~~(e) [OPTION 1] "Owner" or "owners" means those individuals, partnerships, corporations or public agencies holding fee simple title to property. Owner or owners does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature. [36 CFR 60.3]~~

~~(e) [OPTION 2] "Owner" means a purchaser of real property under a recorded instrument of sale. In the case of multiple purchasers, "owner" may be a designee of the purchasers. [ORS 358.480(14)]~~

Commented [HR1]: A RAC member suggested that we add a definition of "demolition." Is that needed? What would it be?

Commented [H2]: Many communities already have a definition for demolition, usually based on how much of the building is removed. I believe that this suggestion was made based on the fear of a building being largely dismantled to the extent that it is demolished, but does not trigger the demolition code. This seems to me to be getting into the weeds for a rule. - Ian

Commented [H3]: Need to define "inventory" – the act of identifying historic properties eligible for local designation, and the "list" which is the actual list of what is designated.

Ian

Commented [HR4]: We heard from at least one RAC member that this could be clearer. Any suggestions?

Commented [PA5]: Whatever we do we need to understand how this definition relates to NR sites and the process that applies to them. I think we may want to retain two categories of "significant".

Local designation is independent of NR designation. Currently the rule links NR designation with local land use controls in some places. Ian

Commented [H6]: Do we also need a definition for local landmarks? Ian

Commented [HR7]: I have a question into Shipsey about defining "owner" differently for a site and a district. No answer yet.

Commented [H8]: May be problematic to include "designees" given that you cannot verify this through the Assessor and would then have to have a process to check that someone would have authority to speak for the owner. I provide them option 1 and 2. - Ian

(e) [OPTION 3] “Owner” or “owners” means those individuals, partnerships, corporations or public agencies holding fee simple title to property or a property interest that entitles the possessor of the property interest to exclusive and continuous use and possession of all or part of the property. Examples of property interests constituting ownership are limited fee interests in rights-of-way, such as those for railroads, irrigation canals, public highways and major high-voltage powerlines, but not for common utility easements such as those for local water, gas, electricity, or communications services.

Commented [HR9]: Where did this come from? Do we know that it's correct?

This was language recommended by Shipsey to address the Governor's concerns about certain interests. - Ian

Commented [PA10]: The definition in our draft came from Paul Garrihan.

Commented [PA11]: Should this be “and”?

Yes, and - Ian

(e) (f) “Protect” means to require local government review of applications for demolition, removal relocation, or major exterior alteration of a historic resource, or delay of permits to provide opportunities for restoration and continued preservation of historic resources.

Commented [PA12]: “ in addition to historic resources determined to be significant through application of (section) of this rule/OAR 660-023-003(4)) sites (and districts) on the NR of historic places are considered significant.

I would say that if they are listed they are “significant.” The wording here appears to suggest that after NR listing another process is required to establish significance for the provisions of this section to apply. Ian

(2) National Register Resources must be considered significant under OAR 660-023-003(4). For these resources, local governments are not required to follow the standard process described in OAR 660-023-0040 and 660-023-0050. Instead, local governments must:

Commented [PA13]: We should have two or three options listed for various degrees of protection.

Yes, I agree. We can vary the timeframes, require a process for demo or relocation, or prescribe more specifically what alteration means. - Ian

A couple of ideas:

Option 1 - what we have written now.
Option 2 - Longer wait periods, requirement that the owner demonstrate good faith effort for demo or relocation before

(a) Protect all National Register Resources, regardless of whether these resources are designated in the local plan or land use regulations by requiring a 120-day delay for demolition, relocation or major exterior alteration and require the owner of the National Register Resource to consider options to the proposed demolition, relocation, or major exterior modification.

Commented [HR14]: Will this necessarily require an amendment to the comp plan? That is, would the land use regulations conceivably be the only thing that needs

Commented [PA15]: Good question. I don't think the current rule is clear about the relationship of the protection

Commented [PA16]: I believe that if this subsection is expanded to allow another tier of local protection, it would

(b) Amend the comprehensive plan and land use regulations to protect National Register Resources in conformity with subsection (a). Comprehensive plans and land use regulations may include measures to protect National Register Resources in addition to those required in subsection (a)

Until such local regulations are adopted, subsection (a) shall apply directly to National Register Resources listed after -----.

Commented [PA17]: If there is no local designation process there is no trigger for applying the state owner consent rule.

Commented [HR18]: Meh. I put it in to see what it looks like, and I don't know if I like it. It seems to call attention

Commented [HR19]: We seem to randomly interchange “inventory” and “list.” Which word is correct?

Commented [PA20]: Section 2 only applies to NR sites. think it should be the other way around. A local designation

(c) Apply additional local protection measures to NR sites listed after ----- through a designation process pursuant to section (5).

Commented [PA21]: Do we need to callout specific sections? Possibly the sections that are specific to voluntary programs and not sections specific to NR site protection.

(d) A local government may apply additional local protection measures to a district listed in the National Register of Historic Places without a designation process under section (5) if the local government's program to achieve Goal 5 pursuant to OAR 660-023-0050 was acknowledged prior to the effective date of this rule and the program permitted implementation of protection measures to National Register districts without a designation process.

Commented [H22]: First time this shows up. We previously talk about contexts in the definitions, do we want to talk about plans here? Ian

(2)(3) Local governments are not required to amend acknowledged plans or land use regulations in order to provide new or amended inventories or programs regarding historic resources, except as specified in this rule lists of historic resources or programs protecting historic resources except as provided in section (2). The requirements of the standard Goal 5 process (see OAR 660-023-0030 through 660-023-0050) in conjunction with the requirements of this rule apply when local governments choose to adopt new or amend acknowledged historic preservation plans and regulations. However, the sequence of steps in the standard process is not recommended, as per

Additions **bold and underscored**
Deletions ~~struck~~

-2-

September 2, 2016 draft

From: [Rue, Jim](#)
To: [PUNTON Amanda](#); [MACLAREN Carrie](#); [WHITMAN Richard M * GOV](#); [HALLYBURTON Rob](#)
Cc: [GOLDFARB Gabriela * GOV](#)
Subject: FW: Notice Request from Matt Gadow
Date: Monday, July 18, 2016 8:34:08 AM
Attachments: [Notice Request for Matt Gadow.pdf](#)

Jim Rue | Director

Director's Office

Oregon Dept. of Land Conservation and Development

635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540

Direct: (503) 934-0002 | Cell: (503) 881-0667 | Main: (503) 373-0050

jim.rue@state.or.us | www.oregon.gov/LCD

From: Brian Sheets [mailto:brian@brs-legal.com]

Sent: Saturday, July 16, 2016 11:41 AM

To: Rue, Jim <jrue@dlcd.state.or.us>

Subject: Notice Request from Matt Gadow

Director Rue,

Please see the attached notice request for Matt Gadow regarding actions related to the **Pilot Butte Canal Historic District in Deschutes County**. Please let me know if you have any questions.

Sincerely,

Brian R. Sheets

BRS Legal, LLC

PO Box 764

Troutdale, OR 97060

Phone: (503) 830-1448

brian@brs-legal.com

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Hoge, Tabatha L

From: Macpherson, Greg
Sent: Monday, August 01, 2016 2:49 PM
To: Cribbins, Melissa
Cc: Hallyburton, Rob; Lidz, Jerry; MacLaren, Carrie; Rue, Jim
Subject: LCDC Rulemaking on Goal 5 Historic Resources
Attachments: Item_12_Goal_5_Historic_Rule_Initiate.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: FYI

Melissa,

We missed seeing you at the July Commission meeting in Boardman. It provided a great perspective on an economically dynamic part of the state.

I'm writing to ask whether you would be willing to serve on the rulemaking advisory committee for the project we launched based on the memo attached. A key question is what stature should be given in Goal 5 inventories of historic resources to designations under the National Register of historic places. The rulemaking arises, in part, due to the designation of an irrigation canal in the Bend area for the National Register to prevent it being converted to an underground pipe. But the rule will be of general applicability.

Catherine Morrow chose not to serve because she knows the players in the canal situation and I decided I should not do so because my law firm represents the irrigation district. The other commissioners at the meeting (Bart, Jerry and Robin) are loaded up with other duties. Therefore, I'm hoping you can take it on. You could participate in meetings via zoom. I don't think it is expected to take many meetings, but Rob Hallyburton could provide more detail.

Please let us know. Thanks.

Greg

Greg Macpherson | LCDC Commissioner
Oregon Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540
Main: (503) 373-0050
greg.macpherson@state.or.us | www.oregon.gov/LCD

LeBart_emailled_correspondence

ALLEN Jason * OPRD

From: Don LeBart <don.lebart@gmail.com>
Sent: Tuesday, June 14, 2016 11:23 AM
To: ALLEN Jason * OPRD
Subject: COID's Nominations of Two Canals for the National Register of Historic Places
Attachments: 20160208 PilotButteCanalHistoricDistrictPressRelease.pdf

To: Oregon's State Advisory Committee on Historic Preservation

The following is in reference to your upcoming meeting on June 16-17, 2016:

I live on the section of the Pilot Butte Canal that was recently listed in the National Register of Historic Places. I have attached the press release for your review.

While the community is very pleased, and proud, to have this historic designation, we continue to have concerns that COID will find a way to pipe this historic treasure to increase their hydroelectric output and subsequent revenues. During your evaluation of COID's nominations to the National Register of Historic Places, please ask the following questions:

1. Why did COID not nominate the section of the Pilot Butte Canal that has received listing in the National Register of Historic Places? It was the foundation of the water delivery system to every other section that they now nominate.
2. Since COID did not nominate the section that has received listing in the National Register of Historic Places, what is their motivation now to nominate these two segments of the canal? Why the sudden interest in preserving historic landmarks?
3. If these two nominations are accepted and receive listing in the National Register of Historic Places, will COID pledge publically to your committee, and for the record, that they will not use these listings as a legal tool (MOA) to subsequently pipe the segment of the Pilot Butte Canal between Cooley Road and Yeoman Road in Bend and unincorporated Deschutes County that currently has listing in the National Register of Historic Places?

If COID will not make this commitment, I would humbly ask you to deny their two requests for nomination. The Oregon State Advisory Committee on Historic Preservation clearly wants to protect historic locations that can enrich and educate generations in the future. It would be a tragedy if COID presented historic nominations that were accepted and then used them to destroy another historic treasure of potentially more value. Please make certain this does not happen.

Please confirm receipt of this correspondence. Thank you.

Most sincerely,
Don & Gail LeBart
63390 Old Deschutes Road
Bend, OR 97701



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Public Comments



PO Box 764 • Troutdale, OR 97060 • Phone: (503) 830-1448
E-Mail: brian@brs-legal.com

Brian R. Sheets
Licensed in Oregon

June 14, 2016

VIA EMAIL ONLY

Oregon State Historic Preservation Office
Attn: Tracy Zeller
725 Summer St. NE, Suite C
Salem, OR 97301
Email: Tracy.Zeller@oregon.gov

**RE: Comments on Nomination to the National Register of Historic Places for:
Irrigation Projects in Oregon, 1850-1978 (Multiple Properties Document)
Central Oregon Canal: Brasada Ranch Segment
Pilot Butte Canal: Downtown Redmond Segment**

Dear Chair Schallert and members of the State Advisory Committee on Historic Preservation:

This firm represents Matt and Suzanne Gadow, residents of unincorporated Deschutes County, Oregon, and we submit this comment on their behalf. Central Oregon Irrigation District (“COID”) submitted three documents to the SHPO: 1) Multiple Property Documentation (“MPD”) for “Irrigation Projects in Oregon, 1850-1978”; 2) Nomination to the National Register of Historic Places (“NRHP”) under the MPD for “Pilot Butte Canal: Downtown Redmond”; and 3) Nomination to the NRHP under the MPD for “Central Oregon Canal: Brasada Ranch Segment.” While we are neutral to the end result of the MPD and two NRHP nominations’ acceptance, the documents require scrutiny, revision, and resubmittal based on a number of factors.

1. The MPD should be revised to include an inventory of irrigation assets already listed in the NRHP.

Section H of the MPD includes the methods of the survey performed by the MPD proponents, however there is no mention or description of currently protected NRHP resources. Sections E and F similarly omit current NHRP protected irrigation properties. By listing currently protected resources and the associated acceptance criteria, the SACHP can evaluate whether this document is congruent with prior NRHP listed properties and the criteria used in listing them. Without demonstrating that the MPD is congruent with prior NRHP listings, it forms a new standard for NRHP listing based on arbitrary evaluative criteria. The criteria used and accepted in prior NRHP listing should be the standard for eligibility, and listing the NRHP listed irrigation properties *statewide*¹ will assist the SHPO in determining whether the proposal of new NRHP protection is warranted. Listing NRHP resources and their selection

¹ Statewide listings are appropriate because of the scope of the MPD’s statewide geographical limits.



criteria will assist future proponents of NRHP listing to use as a reference in deciding the most likely applicable criteria type. Based on previously listed properties, future proponents and SHPO can use actual historical criteria used in selecting a property, rather than the speculative criteria categories proposed in the MPD.

Given the limited scope of the survey performed in comparison to the geography proposed (discussed below), listing NRHP irrigation properties in the surveyed area could demonstrate the ratio of surveyed areas to historic properties, assuming that the survey is demonstrated as representative of the proposed geographical area. Because the MPD fails to include presently protected resources and their evaluative criteria, the MPD should be returned for inclusion of presently protected NRHP listed irrigation assets for the entire State of Oregon.

2. The survey conducted is too narrow in comparison to the geographical area under consideration.

The geographical survey of the affected areas is extremely limited in comparison to the geographical scope of the document. The MPD intends to cover the entirety of Oregon, however the survey was limited to two irrigation systems in Oregon: COID and the Vale project. Without analysis and surveying of the affected eligible structures in the entirety of the MPD's proposed geography, the survey fails to accurately list the totality of eligible properties, or even an estimation of eligible properties. The survey data is also unavailable for public review in conjunction with this MPD review, thereby making the data presented to SHPO unchallengeable at this stage. Given its statewide impact and tie to federal funding, the MPD also likely requires NEPA analysis, with at least an Environmental Assessment prior to its adoption by the National Park Service.²

Moreover, the MPD does not state methods for determining whether the sampling of the two irrigation systems is representative of the entire irrigation infrastructure of Oregon. To the extent that the MPD is deficient in its survey of eligible properties, or it cannot demonstrate its sampling is representative of the geography proposed, the MPD's geographical scope should be contained to the surveyed areas: properties served by COID and the Vale Project.

3. The nomination for "Pilot Butte Canal: Downtown Redmond" fails to include references to already NRHP listed stretches and should include the Pilot Butte Canal Historic District (Cooley Road – Yeoman Road Segment).

² See NPS Director's Order ("DO") 12 and DO-12 Handbook. The proponents do not address how their proposal is excluded from NEPA consideration.



In February of 2016, the National Park Service added the Pilot Butte Canal Historic District (Cooley Road – Yeoman Road Segment) (“PBCHD”) to the NRHP. Strikingly, the PBCHD on the same canal is absent from the narrative in the proposed nomination for the Pilot Butte Canal: Downtown Redmond section. The nomination does not explain how the Downtown Redmond segment is historically significant aside from being part of the Pilot Butte Canal, nor does it provide a brief context on how the Pilot Butte Canal compares to other irrigation systems. The nomination similarly fails to explain what remains of other local canal systems and how they compare to the Pilot Butte Canal. The nomination does not compare this stretch of the Pilot Butte Canal to other stretches of the canal already listed, and the nomination fails to demonstrate why this section is significant in addition to a previously nominated PBCHD listed in the NRHP a mere four months ago.

Perhaps the reason why the PBCHD is omitted is because the proponents of the current nomination *strenuously* opposed its listing in the NRHP. While this may be why its discussion is excluded, it does not excuse the nominees from addressing the PCBHD. The proponents should include discussion and analysis on why the Downtown Redmond segment is additionally qualified for NRHP listing. While we support the additional listing of segments of the Pilot Butte Canal, the nomination must include discussion of comparative sections of the canal, and additionally justify its inclusion on the NRHP in addition to the PBCHD. Omitting the PBCHD in the overall analysis of the historical integrity fails to demonstrate that there are segments already listed for protection, and it fails to differentiate how the Downtown Redmond segment adds to the historical character of the canal. For the previously stated reasons, the nomination for the Downtown Redmond segment should be returned for revision to include discussion of already protected segments of the canal.

4. The Downtown Redmond segment is of questionable historical importance.

The nomination for the Downtown Redmond segment maintains that its association with the Central Oregon Project, as stated in the MPD, allows for this segment of the canal to be eligible for the NRHP. By this logic, any lengthy unimproved stretch of the Pilot Butte Canal is eligible, from the diversion at the Deschutes River, to the final delivery in Crook County. The nomination fails to address the “feeling” aspect of the evaluation criteria, as the development of “Downtown Redmond” around the area has changed the feeling of the canal.³ Moreover, roadways bound the canal on both sides immediately to the east and west, one being a busy US Highway. Also, there are no mentions of irrigation deliveries in the area, which leads to the conclusion that there are none or few, thereby detracting from the historical significance of this section of the canal. These issues dissociate the feeling of historic connection, and the nomination should be returned and revised to explain the nomination criteria in greater detail.

³ The Downtown Redmond segment is relatively straight, and described as six-feet deep. However without scale on the pictures in the nomination, six feet in depth may be overstated.



5. The Nomination for the Downtown Redmond section should be amended to indicate “Public-Local” property ownership, if demonstrated.

Irrigation districts are public quasi-municipal corporations with the power to condemn property for public purposes and hold property in a public capacity. *See* ORS Chapter 545. Whether a particular parcel is *operated* in a private or public capacity is irrelevant. Because COID is an Irrigation District organized under ORS Chapter 545, it is a public entity. COID claims to own the parcels in the Downtown Redmond segment, however no evidence of that ownership has been presented. Assuming it can be presented, the Nomination should be returned and revised to reflect the property ownership as “public-Local” at the beginning of the nomination.

CONCLUSION

The MPD represents a statewide system of categorizing historic resources based on a survey of two limited irrigation projects. The proponents were directed at the behest of SHPO and the Bureau of Reclamation to draft this document as a condition of continuing its piping projects, that if realized, will effectively destroy the historical aspects of irrigation systems. Given this tension, and the ability of the proponent to survey and present its own data, the SACHP should undertake the submission of the MPD with great scrutiny. The MPD has several shortcomings, including failing to include already protected historical properties and using a very limited scope survey to apply statewide standards. Similarly, the nomination for the Pilot Butte Canal – Downtown Redmond section should also be revised based on its ownership information, questionable limited historical content, and its outright avoidance in discussing the recent addition of the PBCHD.

We are mindful that an additional section of the Pilot Butte Canal is proposed for listing, and we are concerned that additional listings will be used to undermine the historical significance of the PBCHD, or use additional NRHP properties on the canal as mitigation for a re-energized piping effort through the PBCHD. Given the proponent’s *vigorous objection* to the nomination of the PBCHD compared to its position in nominating the Downtown Redmond section, the SACHP should evaluate with close scrutiny the criteria applicable to the MPD and the associated listings. Deficiencies should be addressed, and the documents returned for review.

We appreciate your time in listening to our concerns, and we look forward to your decision.

Sincerely,

Brian R. Sheets
BRS Legal, LLC

cc: Clients

State Advisory Committee
c/o Mr. Jason Allen
Oregon State Historic Preservation Office
725 Summer St. NE. Suite C
Salem, OR 97301

June 14, 2016

RE: Irrigation Projects in Oregon 1850-1978—Pilot Butte Canal: Downtown Redmond Segment
Irrigation Projects in Oregon 1850-1978—Brasada Ranch Segment

Dear State Advisory Committee,

After reviewing these two nominations I simply had to write you. As a proponent of the successful Pilot Butte Canal Historic District (Cooley Road-Yeoman Road Segment) I became aware of National Register requirements and found these nominations appalling. Remember your official duty is protecting historical sites in Oregon, and not serving political whims. You may have received considerable pressure to pass these nominations, but you need to **tell Central Oregon Irrigation District (COID) "NO" because these nominations are not acceptable for presentation to the National Register.** They contain misinformation, exclusions of pertinent facts, and are based on faulty premises. In example, I will state just a few of my reasons and show you some appropriate photos concerning the Pilot Butte nomination. Mr. Allen of SHPO told me to include the photos in the body of the narrative, so I have. In numbered paragraphs I will identify what nomination subheading I am primarily addressing in italics.

1. *Summary Paragraph*-- The downtown Redmond canal section is totally owned by COID. There is no way COID can substantiate stopping the nomination boundary when the canal continues in a straight line with similar terrain, vegetation and use on both sides of the property line. Only the fence line (wooden posts strung with wire) on the left side of the canal differentiates where the nominated area ends (roughly in line with the first telephone pole in the below photo). No other nomination for an historic district could consider only ownership of property an acceptable boundary line. COID's decision was based on expediency, hiding their actions from the public, and their true goals which I will discuss later.



2. *Summary Paragraph*-- The downtown Redmond section is not representative of all the Pilot Butte Canal System. You may ask why this segment was chosen. When looking for sections of the canals to nominate to fulfill the MOA requirements, COID studied only parcels of land that they owned (which is only about 2 to 3 miles of the total 22 mile Pilot Butte Canal). The distance from where the Pilot Butte Canal surfaces from the pipe under Highway 97 in the industrial section of Bend to the nominated "downtown Redmond section" is roughly 18.5 miles. Of the 18.5 miles, COID only owns about 8 % of that (most stretches shorter than this ½ mile section). 20% of the canal is owned by other governmental entities like the City of Bend, the City of Redmond, and even the USA. 3% of the ownership of the Pilot Butte Canal is "null" or hidden from public records. **The remaining 69% of the canal is on private property.** The irrigation companies sold citizens the land as much as a century ago to make money, and only retained an easement for the canal. Citizens have the canal land on deeds and pay taxes on them, but COID does not want those landowners notified of piping and hydropower related plans. COID prefers blindsiding the residents. The Land Use Board of Appeals (LUBA) decision proved COID is not interested in conservation, but rather only interested in hydropower and its profit. COID's goal is NOT history, but destruction for money in their pockets. COID has been very outspoken about their goals to build at least 8 additional hydropower plants on the canals. Current laws require public hearings for hydropower, but COID has quietly changed or ignored laws and codes (while blocking public notification). COID's goal is total destruction all 700 miles of their system for profit. Due to a sweetheart deal with Pacific Power, COID is paid considerably more per kilowatt than even Bonneville Dam. COID is nominating one of their own small "junk" sections because it would be difficult to pipe with multiple structures across the canal, it is located near the end of their system so there is considerably less water in the canal making hydropower unprofitable in this location, and they could make all arrangements without public notification. COID only sees hydropower profits for themselves and they want to destroy the more historical and picturesque areas of the canals in Bend or Tumalo (including the already listed Pilot Butte Canal Historic District (Cooley Road-Yeoman Road Section)) and therefore immediately excluded them from consideration before looking for sites to nominate.

3. *Pilot Butte Canal: Downtown Redmond Segment*—1. *Pilot Butte Canal (1903-1905)*

The actual geology of an area should be correct in a nomination. When the Pilot Butte Canal Historical District (Cooley Road-Yeoman Road Segment) nomination was being prepared, SHPO required all reference to the basalt canal bed be removed and replaced with "rocks". SHPO threatened to not forward our nomination approved by your committee "as written" to the National Register unless that was done. But SHPO allowed COID to use "basalt" to describe the Redmond area which is sand, gravel, and rocks in an area of fast and easy construction. COID does finally admit in the last sentence that "the riprap and lining of the channel floor are characterized by stone and gravel of various sizes" but they expect you to overlook that sentence. The National Register nomination for the Pilot Butte Canal Historic District (Cooley Road-Yeoman Road segment) (PBCHD) which your committee read and approved in February 2015 described the downtown Redmond stretch of the Pilot Butte Canal as "medium integrity, but lacks

distinction.” “This stretch was the fastest to construct and was unchallenging.” “The small, shallow canal has a smooth gradient and lacks riprap.”

The actual downtown Redmond segment of the canal at the south end of the nominated section—the banks are sand and gravel, with a few rocks. This is not riprap, and definitely not basalt. Most of the banks are just weeds in the sand and gravel.



(note: the truck is driving on Highway 97 heading to Madras)

4. *Pilot Butte Canal narrative description*—on the top of page 4—COID claims that the downtown Redmond portion “measures 2500 feet long, 6 feet deep, and has a consistent width of approximately 25 feet through its entire length.” The COID water gauge located within the section actually shows that the water is about 18 inches deep. The empty canal photos in the nomination also show the minimal depth. The canal is between 15 to 20 feet wide.



6. *Weir (circa 1940)* Yes, there is an hand-operated weir in this section. The Pilot Butte Canal Historical District has 3 functioning and continually used weirs, and all have the “wheels” to activate them as well as padlocked chains for COID control. This small Redmond Weir leads to a very narrow lateral that is immediately adjacent the canal for one city block.



5. *Lateral*—“2-4 feet wide, 2-3 feet deep and 530 feet long” per COID’s nomination. It doesn’t tell you that it is concrete at one end, and about 1 to 1 ½ feet wide and less than a foot deep where the water is. The still water is a great breeding location for mosquitos. The lateral is sealed on both ends. It is too small to have been a major agricultural lateral serving several large farms.



6. *Narrative Description*—It was required that we fully describe, photograph, and measure all parts of the Pilot Butte Canal from the Deschutes River to the pipes leading to North Unit Canal and to Lone Pine Irrigation—requiring considerable time and effort— but COID is allowed to use a one-size-fits-all couple of paragraphs? The canal systems are similar to the Oregon Trail in that they look very different in different locations. To put it in a different way, can you declare that an 8 lane freeway in downtown Portland is just the same in geology, looks, history, and purpose as a small residential mountain road with no center line in Joseph, Oregon? Both roads are governmentally maintained, but they are totally different, and one cannot take the place of the other. COID is attempting to sell you the mistaken philosophy of similarity so that you will incorrectly assume all canal sections are interchangeable. There is no one size fits all in canals. COID already destroyed an irreplaceable 40 foot water fall on the City of Bend Juniper Ridge project with no remorse. The only reason that COID is treating the canals in this manner is to intentionally mislead you into thinking they are all the same so you will allow COID to destroy all other sections of the 700 mile canal system including the section already on the National Register. Perhaps a direct comparison of 2 different segments might prove that they do not look the same and each additional stretch should each be evaluated for future modifications in open public hearings on their own merits in their local jurisdiction as is presently required by law. Voting should exclude anyone personally financially benefiting from hydropower plans in any manner.

This is a photo of the 15 to 20 foot wide, 18 inch deep Downtown Redmond Segment. The whole ½ mile is perfectly straight and flat. It is crossed by 7 non-contributing roads and pipes. It is rocky and sandy in the canal bed and sides. This section is “medium integrity, but lacks distinction” per the prior National Register description for this segment of the canal.



Below is a photo of the National Register listed Pilot Butte Canal Historical District (PBCHD) which ranges from 20 to 81 feet wide, and between 3 to 10 feet deep. It meanders and curves for 1 ½ miles and even contains small natural islands. It has a basalt bed and black basalt riprap along its sides. There are no pipes and only one historical road crossing this segment. This section has the highest rating in all seven aspects of integrity of any stretch of the Pilot Butte Canal. A peaceful historic walk describing the history, economic impact, geology, and wildlife of canals is envisioned for this segment.



The two COID nominations (Pilot Butte Canal: Downtown Redmond Segment and Central Oregon Canal: Brasada Ranch Segment) required much work from someone, but the information contained is deceptive and faulty. These two nominations should each be comprehensively reviewed by your committee as would any other nomination. These nominations are full of errors, exclusions, and intentionally misleading narrative (like calling a buried industrial pipe a "conduit"). In the Brasada Ranch Segment the canal is piped and buried for at least a ¾ mile stretch across the Dry River (the center of their nomination area) and the wooden trestle has been rebuilt for marketing of Brasada Ranch and daily golf cart use by golfers and maintenance personnel and is not 50 years old. Please do not approve these 2 untruthful nominations.

You previously reviewed and approved an excellent nomination on the Pilot Butte Canal Historic District (Cooley Road-Yeoman Road segment) (PBCHD). COID managed to delay every step in the process as long as possible including at National Register and received full cooperation from SHPO. All PBCHD records, submissions and questions were immediately shared with COID, who used them without documenting the source in COID submitted documents. SHPO actively assisted those in opposition to our nomination. However SHPO never shared anything from COID and their supporters with us in spite of our repeated requests. Our nomination was approved "as written" in your committee, but SHPO required major comprehensive rewrites of the nomination at least four times before it was submitted to the National Register. We were also required to add information and photos about the complete Pilot Butte Canal and other Central Oregon

irrigation districts. And now COID is pushing very hard to get your approval on 2 nominations which are sadly as faulty as the MOA to which they desire to apply. In spite of repeated requests to SHPO that we be notified of all actions concerning the Pilot Butte Canal, and SHPO's agreement to do so, we only were notified of the June 16 proceedings on June 4 when COID announced in a professionally prepared press release on the front page of the local newspaper about these nominations. We requested an extension on this hearing at SHPO and just opposite of everything granted to COID, our request was denied. There has been no effort on COID's part to rebuild the historic waterfall they destroyed with the Juniper Ridge hydropower project that is also required in the MOA. It cannot be rebuilt, moved or put back in original condition because it has been totally destroyed and is now a COID concrete forebay structure. The problems with the MOA are too numerous to discuss here, but it should be totally revoked since it is based on an equally faulty Section 106. Neither the Section 106 nor the MOA should ever have been approved by SHPO for required legal procedures were not followed on either document.

Please do whatever you can to help protect the Pilot Butte Canal Historic District (Cooley Road-Yeoman Road Section) from COID destruction. Do not let any new nomination be used to replace our current listing. Don't throw the best segment of the Pilot Butte Canal, the PBCHD, under the COID bulldozer for the downtown Redmond, Brasada Ranch, or any other inferior COID self-gratifying nomination. As you know from your previous review, the PBCHD is very historic and representative of original use, economic and social growth of the canal systems, and teeming with wildlife. Please help save the best honest canal history in Oregon. Do what you can to protect the PBCHD since it is now on the National Register. Do not approve the current COID MOA with these two devious, incorrect and unrepresentative nominations.

I wish I could attend the meeting on the 16th, but I already had a commitment that same day. If I had known about this meeting before the press release in the Bulletin on June 4, 2016, I would have planned on attending. Did COID plan a summer meeting many hours drive from Bend, announce it only one week before it is to occur by using a major, professionally prepared press release to hide the relevant information, and deny all requests for continuation from actual landowners of the canal in order to have it used as COID's intentionally deceptive "public notification"? Tell them no—these two nominations should not be approved. SHPO would not give us a continuation so I was unable to obtain, read, or comment on the MPD or other documents prepared by COID, but I am sure they are vaguely worded self-serving hydropower plans to override the existing laws put in place to protect citizens, private property, and historic districts. COID desires to use your committee as a scapegoat while they steal and destroy private property and eradicate real Central Oregon history for their own profit. As a quasi-municipal governmental agency they are exempt from taxes, and use the money for lawyers, public relations efforts, and lobbying politicians. Please do not approve any COID documents on June 16 for they are nefariously designed to circumvent existing laws and harm the historic canals.

Thank You, Aleta Warren (a.warren.bend@gmail.com)

NATIONAL REGISTER NOMINATION EVALUATION SHEET

SACHP Meeting Date: 6/16/2016

PROPERTY ADDRESS: IRRIGATION PROJECTS IN OREGON, 1850-1978
MULTIPLE CITIES, MULTIPLE CO COUNTY

EVALUATOR: DATE:

see below
 Concerns

INTEGRITY: Major alterations or additions? New materials? Altered setting? Moved? etc.

INTEGRITY: Major alterations or additions? New materials? Altered setting? Moved? etc.

Concerns
and non-contrib. features
OK
and

DESCRIPTION: Is the property adequately described? Too general? Too specific? Have contrib. been clearly identified?

DESCRIPTION: Is the property adequately described? Too general? Too specific? Have contrib.

Concerns

SIGNIFICANCE Has the appropriate Criterion been used? Has it been justified? Is the context

SIGNIFICANCE Has the appropriate Criterion been used? Has it been justified? Is the context sufficient in breadth and depth to support the claims of significance? Is the narrative history complete and of the appropriate detail?

and CONTEXT:

Concerns

FACTS AND Are the appropriate and best sources used? Are key dates and facts accurate and supported with references?

Concerns

TECHNICAL: Typos, grammar, organization and flow of the narrative, etc.

TECHNICAL: Typos, grammar, organization and flow of the narrative, etc.

Concerns

SUPPORTING

MATERIALS: Adequate photos, maps, drawings, etc.?

OTHER ISSUES AND COMMENTS: The Redmond Historic Landmarks Commission reviewed the proposal and is supportive of the proposal as long as the piping is completely underground and support leaving the remaining channel unchanged (i.e. no grading or removal of historic structures). The HLC also expressed concern for protection of any found artifacts as a result of the piping and questioned whether bridge crossings would be allowed, the actual width of the designation, and the phasing plan for piping of COID canals.

Steven G. Liday
steven.liday@millernash.com
503-205-2362 direct line

June 14, 2016

**BY FIRST-CLASS MAIL AND
ELECTRONIC MAIL**

tracy.zeller@oregon.gov

State Advisory Committee on Historic Preservation
c/o Oregon State Historic Preservation Office
Attention: Tracy Zeller
725 Summer Street N.E., Suite C
Salem, Oregon 97301

Subject: Comments on the Background and Effect of the NRHP Nominations by
COID

Dear Members of the State Advisory Committee on Historic Preservation ("SACHP"):

Miller Nash Graham & Dunn LLP represents Aleta Warren. This letter concerns the nominations by the Central Oregon Irrigation District ("COID") of two properties for the National Register of Historic Places (the "NRHP"), which are being evaluated by SACHP during its meeting on June 16 and 17. The primary focus of this letter is not on the details or technical eligibility of the properties, but on the context and effect of these nominations.

Although facially about preservation, the goal of these nominations is the intended destruction of most other segments of historic canals within COID's system—including the Pilot Butte Canal Historic District that was named to the NRHP earlier this year.¹ COID, the State Historic Preservation Office ("SHPO"), and the Bureau of Reclamation ("BOR") have entered into an unlawful agreement whereby COID is required to preserve one segment of each of its main canals in order to destroy the rest. As explained below, this agreement is the result of a faulty and indefensible review process under Section 106 of the National Historic Preservation Act ("NHPA") and the National Environmental Policy Act of 1969 ("NEPA").

¹ Pilot Butte Canal Historic District (Cooley Road—Yeoman Road Segment).
<http://www.oregon.gov/oprd/HCD/NATREG/Pages/Pilot-Butte-Canal-Historic-District.aspx>.

Ms. Warren and many others have worked tirelessly to persuade COID, SHPO, and BOR to fulfill their obligations under federal law—but they have flatly refused. We now ask the members of SACHP—in their role of overseeing SHPO and the NRHP nomination process in Oregon—to prevent the unnecessary destruction of historical resources.

1. Historical Background of COID's NRHP Nominations and the Related Section 106 Agreements.

In or around 2012, COID initiated plans to pipe a portion of the I-lateral canal near Alfalfa, Oregon. COID's irrigation system consists of two main canals, the Pilot Butte Canal and the Central Oregon Canal, with numerous laterals off these mains canals. This particular I-lateral is part of the Central Oregon Canal system and more than 15 miles from the Pilot Butte Canal.

Because the project was to be partially funded with federal money, it was required to be vetted under NHPA and NEPA. Generally speaking, these laws require the parties involved in a federally-funded project to determine the impact of the project on historic properties and avoid or mitigate those effects. 40 CFR § 1508.1 *et al*; 36 CFR § 800.1 *et al*. This process requires a number of formal steps and public involvement throughout. NHPA also requires that SHPO be involved in the process (commonly referred to as Section 106) because SHPO "reflects the interests of the State and its citizens in the preservation of their cultural heritage." 36 CFR § 800.2(c)(1)(i). The results of the NHPA analysis and the chosen mitigation are frequently formalized in a "memorandum of agreement" between SHPO and the agencies involved.

In 2012, pursuant to this law, COID contacted SHPO so that the two public agencies could conduct a Section 106 review of the I-lateral piping project and develop a mitigation plan for this protected historic property. During the summer and fall of 2012, COID, its archeologist contractor, and SHPO engaged in negotiations over the necessary mitigation for the piping project. There is no indication that public notice was provided, or that the public was involved in any way, during this process.

These negotiations resulted in a Memorandum of Agreement that was executed by BOR, COID, and SHPO in the fall of 2012. (Exhibit 1 – "2012 MOA".) The 2012 MOA was limited by its own terms to satisfy the Section 106 responsibilities for the I-lateral piping. (2012 MOA, ¶ II.) As mitigation for that project, COID was required to edit and complete the Multiple Property Document (the "MPD"), *Historic Agricultural*

Resources in Central Oregon (which already existed in draft form)², and enter into a "programmatic agreement." (2012 MOA, ¶ II(A)-(B).) The completed MPD and programmatic agreement were to be used to evaluate other portions of the COID irrigation system, and more efficiently fulfill the parties' Section 106 responsibilities for future piping projects. *Id.*

In January 2013, COID submitted an application for a BOR grant for a new project to pipe a portion of the Pilot Butte Canal (named the Juniper Ridge Phase II project). The Pilot Butte Canal is not connected to the I-lateral, which is part of the Central Oregon Canal system. These canals are more than 15 miles apart.

On January 2, 2013, COID contacted SHPO about the mitigation that would be required for this new piping project. One day later, SHPO stated that the parties could simply use the 2012 MOA, amended to include this new project. (Exhibit 2.) This decision was in contradiction to the 2012 MOA, which required the completion of the MPD and a programmatic agreement before evaluating subsequent projects in a systematic fashion. No public notice was provided about this decision, and the public was not involved in any way. Even the landowners whose property this segment of canal flows over were not notified of this global MOA amendment impacting the historic resource on their property.

In May 2013, COID was selected for the BOR grant for the Juniper Ridge Phase II piping project. (Exhibit 3.) In September 2013, SHPO officially informed BOR that the parties could re-write their 2012 MOA to specifically name this new project and thus "satisfy" their Section 106 obligations for the Pilot Butte Canal piping project. (Exhibit 4.)

In February 2014, COID, BOR, and SHPO re-executed the MOA for the I-lateral canal—except now it purported to apply to future piping projects within COID's system. (Exhibit 5, "2014 MOA", ¶¶ 2, 3(B).) The most significant change to the MOA was the additional mitigation requiring COID to preserve one segment from each of the canals. (2014 MOA, ¶ 3(B)(3).) Despite the MOA's new far-reaching terms, it was still titled "For Piping of a Segment of the I-Lateral, ALFALFA VICINITY, DESCHUTES COUNTY, OREGON." As before, this global MOA amendment that impacts vast swaths of historic canals in central Oregon was done with no public outreach and no notice to the impacted owners in violation of NHPA and NEPA law.

² We have not had adequate time to review the MPD and, therefore, can provide no substantive response in regard to the document. We request that the SACHP postpone its consideration of the document to allow Ms. Warren and other impacted parties an opportunity to review and provide comment.

Unfortunately, the terms of this invalid MOA state that COID is the party that selects the two segments to be preserved. The 2014 MOA also states that upon completion of the MPD and preservation of two canal segments, "all adverse effects resulting from subterranean piping of all canals, laterals, sub-laterals, and ditches will be considered to be fully mitigated, and may proceed without Section 106 or ORS 358.653 (as appropriate) consultation with Reclamation or SHPO." (Again, no public notice or public involvement was provided prior to the execution of this new MOA.)

In other words, the invalid 2014 MOA appears to state in part that approval of the MPD and the two segments of canal proposed by COID—now before the SACHP—will allow COID to destroy all other segments of its canal without any additional historical review (at least at the state and federal level). And the first segment that COID intends to destroy is the Pilot Butte Canal Historic District—which is already listed on the NRHP.

2. The Section 106 Process Related to COID Nominations Violated Both the NEPA and the NHPA.

COID and BOR have systematically excluded the public from being involved in the NEPA and Section 106 review of the I-lateral and Juniper Ridge Phase II piping projects. They have refused to provide public notice, hold public hearings, make documents available for review, or otherwise allow any public involvement. Even the owners of the land under the historic canals were not given notice or allowed to comment before the 2012 MOA and its amendments were made.

These actions are a clear violation of the both NEPA and NHPA. The NEPA and NHPA mandates to involve the public are not suggestive—they are mandatory.³ The failure to do so is grounds for a court-ordered injunction to redo the

³ 36 CFR § 800.2(d) provides:

"(1) Nature of involvement. The views of the public are essential to informed Federal decisionmaking in the section 106 process. The agency official shall seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, the likely interest of the public in the effects on historic properties, confidentiality concerns of private individuals and businesses, and the relationship of the Federal involvement to the undertaking.

"(2) Providing notice and information. The agency official must, except where appropriate to protect confidentiality concerns of affected parties, provide the public with information about an undertaking and its effects on historic properties and seek public

Section 106 process. *See Montana Wilderness Ass'n v. Fry*, 310 F Supp 2d 1127, 1151 (D Mont. 2004).

COID, SHPO, and BOR also engaged in an unauthorized process for the 2014 MOA. There is no authority that allows amending a past Section 106 MOA to include a subsequent project. Only a programmatic agreement can somewhat function in this way, and the 2012 MOA did not meet those additional requirements (or even purport to be such a document). 36 CFR § 800.14. Thus, the parties' revision of the 2012 MOA to state that it also covered the Juniper Ridge Phase II project was invalid, and does not constitute a Section 106 review for that project.

Finally, the parties failed to develop and evaluate alternatives or modifications to the piping plans to minimize the adverse effect on historic properties. 36 CFR § 800.6(a); 40 CFR § 1508.20). The focus of the review process was instead on fast-tracking the piping projects and minimizing the interference with COID's development plans. Thus, the terms of the invalid 2014 MOA allows COID to select the segments to be preserved. It is unclear why SHPO (as the representative protecting the state's historic resources) did not insist on preservation of all segments on the NRHP, or

comment and input. Members of the public may also provide views on their own initiative for the agency official to consider in decisionmaking." * * *

40 CFR § 1506.6 provides:

"Agencies *shall*:

"(a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.

"(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

"(1) In all cases the agency shall mail notice to those who have requested it on an individual action."

* * *

"(c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. * * *

"(d) Solicit appropriate information from the public.

"(e) Explain in its procedures where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process." (Emphasis added.)

* * *

at least preservation of the segments with the highest integrity. A review of e-mails produced by SHPO indicate little analysis of the value or comparative integrity of the segments selected by COID. This type of rubber-stamping approval is expressly forbidden by NEPA and NHPA case law. *See Metcalf v. Daley*, 214 F3d 1135, 1142 (9th Cir. 2000) ("the comprehensive 'hard look' mandated by Congress and required by the statute must be timely, and it must be taken objectively and in good faith, not as an exercise in form over substance, and not as a subterfuge designed to rationalize a decision already made").

3. The Segments Selected by COID Are Not for Historical Purposes and Do Not Satisfy the 2014 MOA.

The segments proposed by COID do not even satisfy the terms of the invalid 2014 MOA, which are:

1. The segments will be high-integrity, substantial, contributing segments (minimally, one substantial segment each in the Pilot Butte Canal and the Central Oregon Canal) to the overall eligible District;
2. The segment should include a variety of features, such that it well-represents the function and appearance of the water conveyance system, as it appeared as an intact system;
3. The segment should be of sufficient length that on-site interpretation (see Stipulation 8.3(b), below) can be achieved in an attractive, well-organized fashion, without crowding or overwhelming the resource itself. (2014 MOA, ¶ 3(B)(3)(A).)

As pointed out in comments by Ms. Warren, the segments nominated by COID are not of high historic value. The segments nominated by COID were not selected for their historical value, but for their lack of interference with COID's plans to generate and sell hydroelectric power. It cannot be argued that the segment of the Pilot Butte Canal already on the NRHP does not meet the standards above, or is less worthy of preservation. The only issue with that segment is that it interferes with COID's plan to generate additional power at its nearby hydroelectric plant.

Ms. Warren and other concerned members of the public agree with the overall goals of piping some irrigation canals—if done in a responsible way that protects Oregon's historical resources and allows land owners to be involved in the decision. Conservation of water and preservation of wildlife should be top priorities. But

generation of power and revenue for COID should not take priority over the preservation of historic resources.

4. Request for the SACHP to Reject COID Nominations and Direct the Parties to Fulfill Their NEPA/NHPA Obligations.

The preservation of historic resources is of the utmost importance to the State of Oregon. *See* ORS 358.605, 358.475, 358.653, Goal 5, etc. To that end, SHPO was created and empowered by the Oregon legislature. ORS 358.612, 358.565. Unfortunately, it appears (from our review of documents obtained under public information requests) that SHPO is under political pressure to abdicate its primary responsibility and instead fast-track COID piping projects. Thus, it appears SHPO has been complicit in excluding the public from meaningful involvement in the NEPA/NHPA reviews of the canal piping projects. SHPO has repeatedly declined to provide notice of activity or decisions related to the process—including this very meeting of SACHP. Despite numerous requests for notice of relevant activity, SHPO failed to notify the owners of the Pilot Butte Canal Historic District of the COID nominations.

In stark contrast to its treatment of the public, SHPO immediately forwarded to COID all information relating to the 2014 NRHP nomination for Pilot Butte Canal Historic District. A review of SHPO's relevant emails shows that SHPO continues to provide COID with a summary or copy of almost all substantive communication it has with members of the public opposed to the piping of the Pilot Butte Canal. SHPO is recognized under both federal and state law as the agency representing Oregon's interest in protecting the state's historical resources. At a minimum, SHPO should be neutral between COID and the public opposed to the destruction of historic resources—and certainly not acting as an agent for COID.

Fortunately, the Oregon legislature foresaw these types of pressures and created an independent, non-political committee to advise and oversee SHPO. Under ORS 358.622, the SACHP has the responsibility of not only reviewing nominations for the NRHP, but also is required to "advise the State Historic Preservation Officer on matters of policy, programs and budget[.]"

We respectfully request that the SACHP perform both of these functions now. We ask that the SACHP reject the nominations by COID in order to prevent the destruction of better, already recognized, historic canals. At a minimum, SACHP should postpone a decision on these nominations and the MPD until the interested members of the public have a reasonable opportunity to review and comment.

State Advisory Committee on Historic Preservation

June 14, 2016

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We also ask that the SACHP advise SHPO to insist that BOR and COID fulfill their Section 106 obligations for all piping projects, including Juniper Ridge Phase II. This should involve SHPO notifying BOR and COID that the invalid 2014 MOA does not cover the Juniper Ridge Phase II project and insisting that the parties conduct a new Section 106 review that complies with federal law. Even if the 2014 MOA was not invalid under federal law, its own terms state that it does not apply to properties that are listed on the NRHP. (2014 MOA, ¶ 2: "This MOA does not apply to projects affecting any feature or element that is or may be individually eligible for listing in the National Register of Historic Places. Federal undertakings that affect these elements of the District will continue to be reviewed under standard Section 106 review processes (36 CFR 800).")

If BOR, COID, and SHPO refuse to comply with their obligations under NEPA and NHPA for the Juniper Ridge Phase II project, Ms. Warren may be forced to file a lawsuit to prevent the parties from moving ahead with their plans to unlawfully destroy historic properties.

Please let me know if you would like any additional information, or additional supporting documentation, for the matters discussed above.

Very truly yours,



Steven G. Liday

cc: Ms. Aleta Warren

Enclosures:
Exhibits 1-5

MEMORANDUM OF AGREEMENT
No. R12MA13723
AMONG
THE U.S. BUREAU OF RECLAMATION,
THE OREGON STATE HISTORIC PRESERVATION OFFICE
AND
CENTRAL OREGON IRRIGATION DISTRICT

For
Piping of a Segment of the I-Lateral

ALFALFA VICINITY, DESCHUTES COUNTY, OREGON

This Memorandum of Agreement, hereinafter referred to as "MOA", is made and entered into by and between the United States Of America, acting through Columbia-Cascades Area Office, Bureau of Reclamation, Department of the Interior, hereinafter referred to as "**Reclamation**", the Central Oregon Irrigation District, hereinafter referred to as "**District**", and the Oregon State Historic Preservation Office, hereinafter referred to as "**SHPO**", pursuant to the Reclamation Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto and other applicable State laws and regulations, and Section 106 of the National Historic Preservation Act (36 CFR 800).

I. Background

WHEREAS, the Bureau of Reclamation (Reclamation), in consultation with the Oregon State Historic Preservation Office (SHPO), determined that the Central Oregon Irrigation District's I-Lateral (Lateral) is eligible for the National Register of Historic Places as a contributing feature of the Central Oregon Irrigation District, a linear irrigation water conveyance system;

WHEREAS, the District is intending to install within the prism of the Lateral approximately 4,800 ft. of a maximum diameter 63-inch diameter HDPE pipe, located in sections 25, 26 and 36 of T.17S R.14E (for water conservation aimed at improving operation efficiencies and restoring anadromous fish habitat), and has documented the extent of the Lateral within the current undertaking's Area of Potential Effects for historic and archaeological resources to standards acceptable to Reclamation and SHPO;

WHEREAS, the Bureau of Reclamation (Reclamation), in consultation with the Oregon State Historic Preservation Office (SHPO), determined that replacement of the open I-Lateral with the pipe will have an adverse effect upon the historic integrity of the Lateral;

WHEREAS, Reclamation notified the Advisory Council on Historic Preservation (Council) of the adverse effect on the I-Lateral pursuant to 36 CFR Section 800.6(a)(1), and in a letter dated September 17, 2012, the Council indicated that their participation is not needed in the consultation for resolution of adverse effects from this undertaking;

II. Implementing Actions

The Reclamation, SHPO and the District agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties, and adherence to the terms of this agreement satisfy the Section 106 responsibilities for addressing the effects of the undertaking on historic properties.

STIPULATIONS

The Central Oregon Irrigation District will ensure that the following actions will occur:

A. Historic Documentation: Following all applicable guidance provided by the National Park Service and SHPO for the preparation of Multiple Property Documents (MPD), the District will edit the MPD, *Historic Agricultural Resources in Central Oregon*, which is currently in draft form, as prepared by Claeysens and Tomlinson (2006) under a previous Reclamation water conservation grant.

The MPD will establish standards by which eligibility and integrity can be evaluated across the entire COID irrigation water conveyance system. Section E will include a summary of the history of irrigation in Central Oregon and a complete context for the District. Section F shall include general registration requirements pertaining to all irrigation districts and their associated water systems in Central Oregon, and specific registration criteria for District resources. The selection and definition of property types and eligibility of the identified properties for listing in the National Register of Historic places shall be based primarily on field work documenting the system, and secondarily on Historic American Engineering Record (HAER) and/or Historic American Building Record (HABS) documentation, determinations of eligibility for associated features such as dams, diversion dams, and hydroelectric facilities for components of the COID system, and other secondary sources. The remaining sections of the document shall be edited as needed to reflect the changes made in Section E and F. A GIS-based map of the entire system identifying the extent and features of the COID, and any other necessary appendixes shall be included..

The draft MPD will be submitted to Reclamation and SHPO no later than three years from the date of the last signature on this document for review and comment. The final document must be revised as requested by Reclamation and SHPO and submitted to the National Park Service for listing in the National Register one calendar year from date of submission of the draft document.

B. Development of a Programmatic Agreement (PA) The District shall enter into a Programmatic Agreement (PA) with the SHPO to allow for the more efficient fulfillment of the agency's obligations under Section 106 of the National Historic Preservation Act, as amended and Oregon Revised Statute 358.653 as applicable. All parties shall use the MPD to identify contributing segments of the canal system to be managed under the PA and any subsequent documents created as part of the process. The PA will include, at a minimum:

- A list of routine maintenance and minor construction activities and actions that do not adversely affect the historic resource and that are exempt from regular review by the SHPO
- A provision to address emergency situations where catastrophic breach of the canal or other unforeseen event or eminent threat endangers human life or property. Such a provision shall allow the District to act on the immediate situation without consultation and address compliance with applicable cultural resource laws in consultation with appropriate federal and state agencies and stakeholders at a later time.
- An inadvertent discoveries clause, which will outline procedures to be followed when unknown, unanticipated cultural resources are discovered due to District activities.
- A description of annual reporting requirements and timetable for reporting activities undertaken by the District where the provisions of the PA were applied.
- A defined effective period of 10 years with provisions for the document to be reviewed at 5 years from last date of signature, amended as necessary, and the effective period continued, based on consultation.

The PA may also include a probability model for subsurface archaeological sites, cultural resource treatment plans, and preservation plans, as agreed to by the signing Parties.

The District and the SHPO as well as any other interested, consulting parties will be signatories to the PA.

III. Period of Performance

This Agreement shall become effective on the date of the last signature hereto and extend three years after the date of the last signature. The MOA will also be considered terminated once all stipulations are complete, or five years after the date of the last signature on this document. Any party may terminate this MOA by providing 30 days written notice to the other party(ies). Any party may formally request modification of the agreement by providing a written request to the other party(ies).

IV. Designated Contacts

For Reclamation:

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 Archeologist
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 Bend, OR 97701
 Phone (541) 389-6541
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For the District:

Laura Wollam
Grant Specialist
Central Oregon Irrigation District
1055 SW Lake Ct.
Redmond, OR 97756
Phone (541) 504-6047
Fax (541) 504-7577
Email: lauraw@coid.org

For SHPO:

Jason Allen
Historic Preservation Specialist
State Historic Preservation Office
Oregon Parks and Recreation Department
725 Summer St. NE, Suite C
Salem, OR 97301-1266
Phone (503) 986-0579
Fax (503) 986-0793
Email: Jason.Allen@state.or.us

V. General Provisions

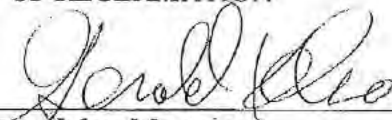
A. Nothing herein shall or shall be construed to obligate any party to expend funds or involve their respective agencies in any contract or other obligation for the future payment of money in excess of appropriations authorized by law and administratively allocated for the purposes and projects contemplated hereunder.

B. No Member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this MOA or to any benefit that may arise out of it.

C. The parties agree to comply with all Federal statutes relating to nondiscrimination, including but not limited to: Title VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, religion, sex, or national origin; Title IX of the Education amendments of 1972, as amended, which prohibits discrimination on the basis of sex; the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, which prohibit discrimination on the basis of disability; the Age Discrimination in Employment Act of 1967, as amended, which prohibits discrimination based on age against those who are at least 40 years of age; and the Equal Pay Act of 1963.

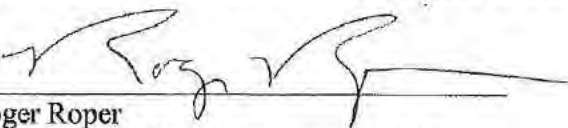
SIGNATORIES

BUREAU OF RECLAMATION

BY: 
Gerry Kelso, Manager
Columbia-Cascades Area Office

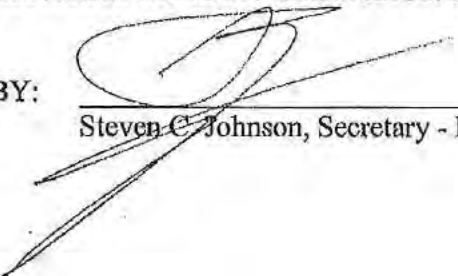
DATE: 9/2/12

OREGON STATE HISTORIC PRESERVATION OFFICE

BY: 
Roger Roper
Deputy State Historic Preservation Officer

DATE: 10-5-12

CENTRAL OREGON IRRIGATION DISTRICT

BY: 
Steven C. Johnson, Secretary - Manager

DATE: 27 Sept. 2012

From: [JOHNSON Ian * OPRD](#)
To: [JOHNSON Ian * OPRD](#)
Cc: [JOHNSON Ian * OPRD](#)
Subject: FW: RE: SHPO Case 12-0948
Date: Monday, May 09, 2016 11:00:23 AM
Attachments: [PBC_PIPED_MAP.pdf](#)
[JR Project Site Map.pdf](#)

-----Original Message-----

From: Laura Wollam [mailto:lauraw@coid.org];
Sent: 1/7/2013 12:33:23 PM
To: JOHNSON Ian * OPRD [mailto:JohnsoI@PRD.STATE.OR.US];
CC: ALLEN Jason * OPRD [mailto:AllenJa@PRD.STATE.OR.US];
Subject: RE: SHPO Case 12-0948

<!--[if mso 9]--> <!--[endif]-->

Hi Ian,

I am attaching a map of the PBC that shows the piped and unpiped sections. The total length of the PBC is 26.2 miles with 4.4 miles currently piped and 21.8 miles currently open canal.

I am also attaching the project map from Ward Tonsfeldt's report that he created when he did the historic/cultural review of this project area.

Please let me know what our next steps are after you have had a chance to review this information.

Thanks!

Laura

Laura Wollam

*Water Use Specialist / Grant Specialist
Central Oregon Irrigation District
1055 SW Lake Ct
Redmond, OR 97756
Phone: 541-504-7577
Email: lauraw@coid.org*

From: Ian Johnson [mailto:ian.johnson@state.or.us]
Sent: Thursday, January 03, 2013 1:14 PM
To: Laura Wollam
Cc: Jason Allen
Subject: RE: SHPO Case 12-0948

Laura,

Thanks for contacting us. Just to make sure we're talking about the same case I am attaching all the paperwork we have for 10-1873, a project proposed for the Pilot Butte Canal.

We can wrap the mitigation for the earlier project into the MOA for 12-0948; however, that will need to be a formal amendment process, and, as part of the deal we want to see segment(s) of Pilot Butte Canal preserved, as is, either watered or not, and interpreted. Since the MOA calls for an Multiple Property Document, preserved sections of the canal could be listed in the Register using this document.

As noted in my earlier letter, it is unclear in our records how much of the canal has already been piped and what the integrity of the remaining sections are. We'll need to know how much is left before we move forward. A good starting point might be a map that shows what is and is not piped and the area of the proposed project, which was missing from the first submission. We can discuss later what more information may be needed to complete and FOE and if/how we may amend the MOA.

Please contact me if you have any other questions.

Ian

Ian P. Johnson, Historian
Oregon SHPO
725 Summer Street NE, Suite C
Salem, Oregon 97301
Ph: (503) 986-0678
Fax: (503) 986-0793

Visit our website:
www.oregonheritage.org

Comments or suggestions:
Heritage.Programs@state.or.us

>>> "Laura Wollam" <lauraw@coid.org> 1/3/2013 7:52 AM >>>
Hi Jason,

I found a case number for this project. It is 10-1873.

Laura Wollam
Water Use Specialist / Grant Specialist
Central Oregon Irrigation District
1055 SW Lake Ct
Redmond, OR 97756
Phone: 541-504-7577
Email: lauraw@coid.org

-----Original Message-----
From: Jason Allen [<mailto:jason.allen@state.or.us>]
Sent: Wednesday, January 02, 2013 10:51 AM
To: Laura Wollam
Cc: Ian Johnson
Subject: Re: SHPO Case 12-0948

Hi Laura,

I'll look into this and let you know what I find. I may have to do some

digging, since I'm not familiar with the project. I'll be in touch, likely tomorrow or Friday, if that works.

Cheers,
-Jason

Jason M. Allen, M.A.
Historic Preservation Specialist
Oregon State Historic Preservation Office
725 Summer St. NE, Ste. C
Salem, OR 97301-1266
503-986-0579
jason.allen@state.or.us

Please Note: An updated version of the SHPO Clearance Form is now available for download at:
http://cms.oregon.gov/oprd/HCD/SHPO/pages/preservation_106.aspx

>>> "Laura Wollam" <lauraw@coid.org> 1/2/2013 10:41 AM >>>
Good morning Ian & Jason,

I have a couple of questions for you regarding our most recent MOA and plans for a PA.

We are going to be submitting an application for WaterSMART funding for a new project, and are working on the NEPA requirements. This project is the 2nd phase of previous piping project in the Bend area, but not on the COC which feeds the I-Lat for our current MOA. The project is being completed on our other main canal that flows through Redmond and Terrebonne.

Since our current MOA for Case #12-0948 includes completing the draft report that Paul Claeysens did, what is going to be required of us to have SHPO sign off for this project? I believe we had already submitted a historical & cultural report, or at least a draft report for this piping project a couple of years ago to you (2010 I believe), but we did not follow-up as the project got shelved for a couple of years until the design process was more complete. I am sorry, but I don't have a case number for our submittal to you.

Will we need to do a new MOA for this project, or will we be able to work off of the existing MOA?

Thanks,

Laura

Laura Wollam

Water Use Specialist / Grant Specialist

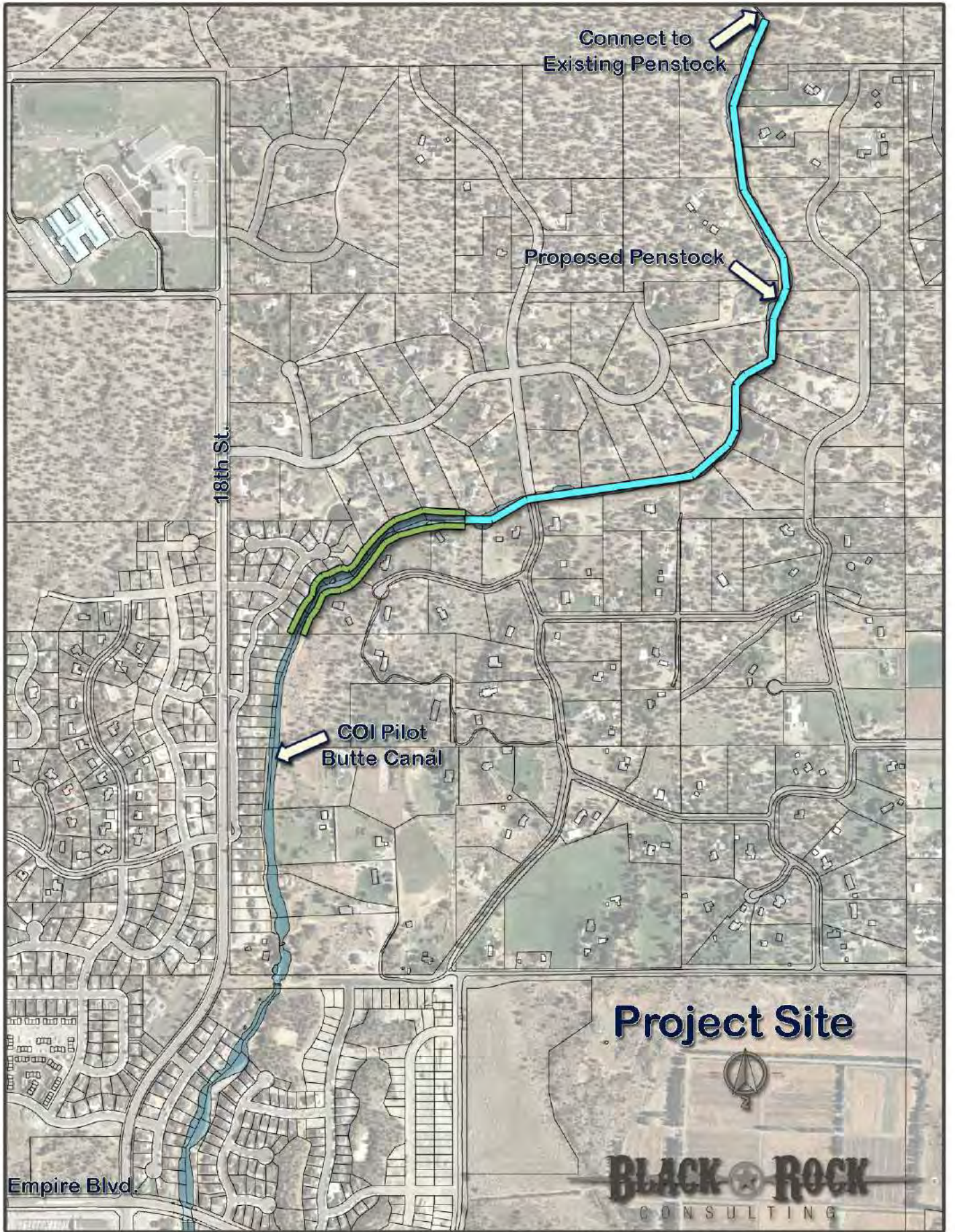
Central Oregon Irrigation District

1055 SW Lake Ct

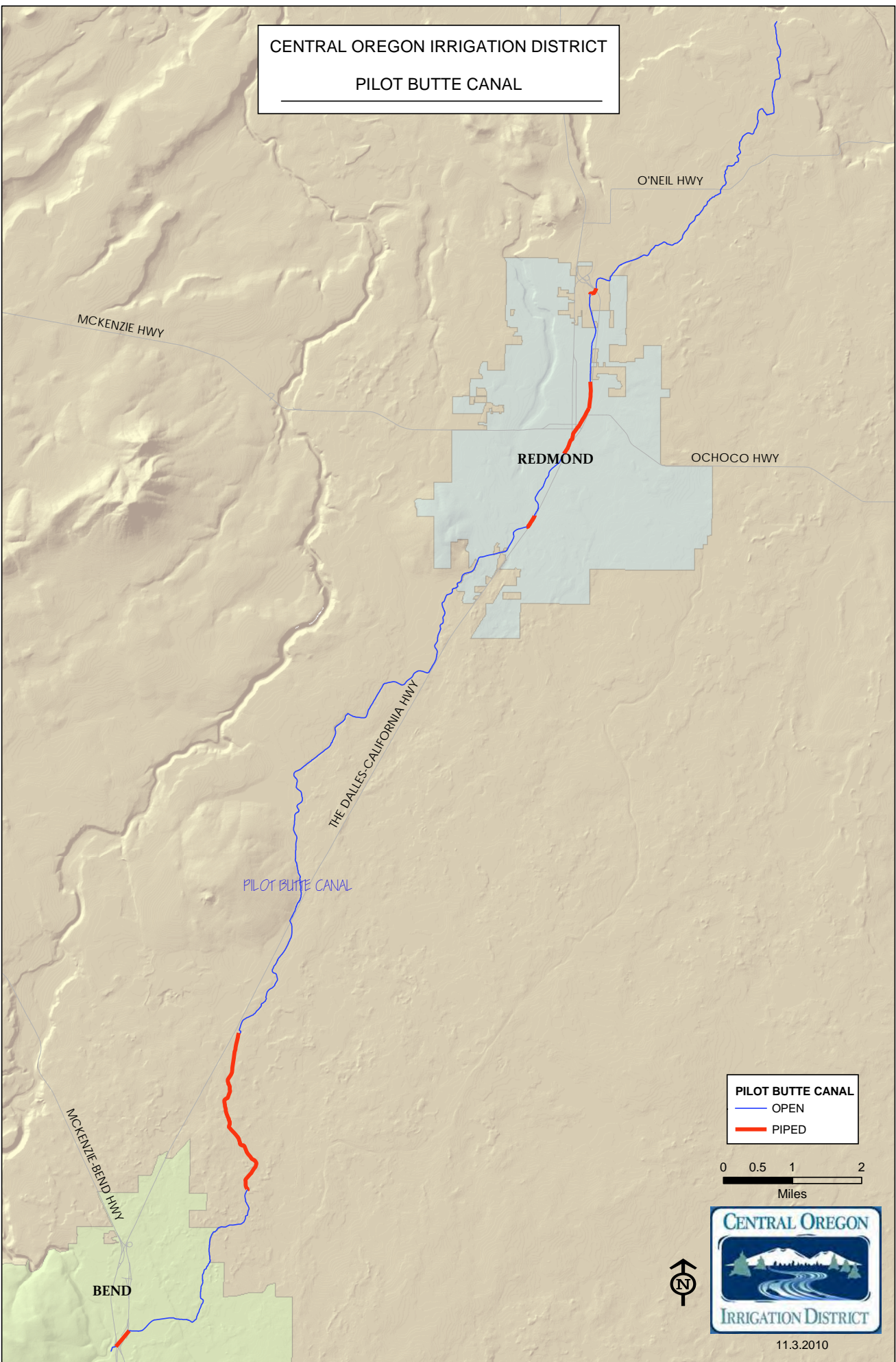
Redmond, OR 97756

Phone: 541-504-7577

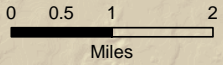
Email: lauraw@coid.org



CENTRAL OREGON IRRIGATION DISTRICT
PILOT BUTTE CANAL



PILOT BUTTE CANAL
— OPEN
— PIPED



11.3.2010

From: [JOHNSON Ian * OPRD](#)
To: [JOHNSON Ian * OPRD](#)
Cc: [JOHNSON Ian * OPRD](#)
Subject: FW: Pilot Butte Canal Project Timeline
Date: Monday, May 09, 2016 10:47:17 AM

-----Original Message-----

From: JOHNSON Ian * OPRD [mailto:Ian.Johnson@oregon.gov];
Sent: 4/9/2015 9:20:42 AM
To: CURRAN Chrissy * OPRD [mailto:Chrissy.Curran@oregon.gov];
Subject: Pilot Butte Canal Project Timeline

Chrissy,

Here is the project summary. Not every detail, but most of them. Please let me know if you would like more or less information – probably much much less.

Ian

Overview:

In consideration of the desire to conserve water and, where appropriate, produce hydroelectric power, the Central Oregon Irrigation District (COID) is engaged in a multi-year plan to pipe the majority of the Pilot Butte and North Unit Canals in Deschutes County. Much of this work will be paid for with federal pass-through grants. While most work completed thus far progressed without much public interest, there is considerable controversy regarding the piping and development of a hydroelectric facility on the Pilot Butte Canal in Township 17 South, Range 12 East, Section 15, W. M., Bend and unincorporated Deschutes Co. The project area is a relatively urban environment with several residences in close proximity to the Canal. In the last several years, and particularly recently, neighbors have sought to stop the project through various local, state, and federal processes due to concerns regarding property values; safety of the hydroelectric facility; and aesthetics.

The Oregon SHPO reviewed this project under two distinct and administratively separate federal programs, each with its own goals and outcomes. Section 106 of the 1966 National Historic Preservation Act, as amended (NHPA) requires agencies to seek consultation with the State Historic Preservation Office for projects funded with federal monies and under other circumstances. The goal of this program is not to prevent a project nor to prevent destruction of a resource, but rather to walk the agency through a process that considers the impact of an

action on a historic property. The SHPO provides guidance regarding the eligibility of the resource for listing in the National Register of Historic Places; the potential impact of the project on the qualities that make the property eligible for listing; and appropriate mitigation measures should the historic property be negatively impacted. Under this process, the federal agency is responsible for compliance with the law. In early 2014 our office began receiving public inquiries regarding the Juniper Ridge II project concerning our review process and the opportunity for public comment. Our office provided information and project documents, but referred all requests for public comment to Bureau of Reclamation (BOR), the project sponsor. To date, the federal agency has declined to re-examine the project or the MOA in consideration of comments received from the public.

Also established under the NHPA, the National Register of Historic Places seeks to recognize properties important in American History. As stated in federal law, any individual can propose that any property be listed. Owners may prevent the listing of their property by objecting in writing; . Owner is narrowly defined in federal regulations as only those who have fee-simple title to the property. The National Register program is honorific, requiring no federal or state oversight; however, Oregon's administrative rule for Goal 5 requires local governments to "protect" properties of "statewide significance," defined as those listed in the Register. The proponents of the Pilot Butte Canal have on several occasions stated to staff that they are pursuing listing in the National Register to gain local control over the fate of the Canal segment. As described below, efforts to list the Canal in the Register are ongoing. Attempts to list the Canal segment in the Bend and Deschutes County local landmarks registers have been unsuccessful due to the local definition of "owner" under ORS 197.772. The state law provides owners an opportunity to prevent their property from being listed in a local landmark register by objecting to the process before the property is listed. Local interpretation of the law defines COID as an owner.

Below is a more detailed synopsis of the Federal Compliance and National Register processes.

Federal Compliance Process:

In August 2010 our office received a request for concurrence for the Juniper Ridge Phase II project (SHPO Case No. 10-1873), which called for the piping of the Pilot Butte Canal and development of a hydroelectric facility, location described above. Federal law requires agencies to seek consultation with the State Historic Preservation Office under Section 106 of the NHPA for projects funded with federal monies. In this particular case, the Canal is maintained by the Central Oregon Irrigation District (COID), but the project is funded by a U.S. Bureau of Reclamation (BOR) pass-through grant. To our knowledge, no other federal agency is involved with the project. However, local authorities are involved in the local planning process.

In reviewing the documentation, the Oregon SHPO concurred with BOR that the Pilot Butte Canal was eligible for listing in the National Register, but disagreed with the assessment that the proposed project would not adversely affect the qualities that made the canal eligible for listing due to a lack of information regarding the overall condition of the resource. This response went unanswered until February 2013 when COID and BOR proposed surveying the entirety of the Canal, which SHPO agreed to. Subsequently, BOR reaffirmed its prior conclusion that the project would not adversely affect the Canal; however, our office disagreed. In a letter dated 9/9/2013 our office stated our position, but noted that the Memorandum of Agreement (MOA) mitigating adverse effects created by Phase II of the North Unit Irrigation District Water and Energy Conservation Initiative (SHPO Case No. 12-0948) addressed the piping of the entirety of the Pilot Butte and North Unit canals. The document was signed in October 2012. Because the existing MOA addressed piping the entirety of the resource, our office recommended amending the MOA to specifically include the Juniper Ridge Phase II project as a project mitigated under the document and to more specifically state that proposed piping projects were covered by the provisions of the agreement even as the MOA's stipulations were still being carried out. The amended MOA was signed in February 2014.

National Register Process:

In November 2014 our office received an application to list the Pilot Butte Canal Historic District in the National Register of Historic Places. The document was reviewed and returned to the proponents for corrections, which were made, and the document was deemed complete and scheduled for the February 2015 meeting of the State Advisory Committee on Historic Preservation (SACHP), a nine-member governor appointed board of experts in various preservation-related fields. The proposed Pilot Butte Canal Historic District encompasses the entirety of the Pilot Butte Canal, generally bound by Yeoman Road to the south and Cooley Road to the North in Bend and unincorporated Deschutes County, including an area measuring 50' from the centerline of the canal on either side creating a single corridor measuring 100' in width.

The SACHP reviewed the nomination at their regular meeting on Thursday, February 19, 2014 at 1:00pm in Eugene, approving the document on a 4 to 2 vote. A copy of the Pilot Butte Canal Historic District nomination document as reviewed by the SACHP is on our website at http://www.oregon.gov/oprd/HCD/NATREG/Pages/nrhp_sachphome.aspx. The document will be held by our office for a 90-day comment period until May 21st. During this period, the proponents will have the opportunity to revise the document in order to address issues raised during the hearing. A final review copy will be ready in early May. Before the document is sent to the National Park Service (NPS) for final consideration, Christine Curran, the Deputy State Historic Preservation Officer, will make a recommendation to the agency. NPS is the federal agency responsible for the administration of the National Register of Historic Places. NPS will review the document for 45 calendar days, to approximately July 9th. We would expect to receive notification of the agency's decision by email the following week, around

July 16th. This timeline is approximate, and subject to change.

Throughout the remainder of the review process, the petition will be judged by NPS' criteria for determining the significance of historic properties. Property owners may object to listing by submitting a certified statement that they are the property owner of real property within the district boundary and that they object to listing. Anyone not objecting to the nomination, is, according to NPS regulations, considered to be supportive of the petition. Property owners, agencies, municipalities, and the general public are invited to comment at any point during the review process, now through approximately July 9th.

To broadly inform the community of the pending petition, a letter was sent to each property owner within the district boundary, the Mayor of Bend, Deschutes County Commission, Bend and Deschutes County Landmarks Commissions, the document preparers, and COID. A press release targeting local media was issued 10 days before the meeting.



Oregon

John A. Kitzhaber, MD, Governor

Parks and Recreation Department

State Historic Preservation Office

725 Summer St NE, Ste C

Salem, OR 97301-1266

(503) 986-0690

Fax (503) 986-0793

www.oregonheritage.org

September 9, 2013

Mr. Gerald Kelso
Bureau of Reclamation
1201 NE Lloyd Blvd STE 750
Portland, OR 97232



RE: SHPO Case No. 10-1873
Pilot Butte Canal Juniper Ridge Piping Proj Phase 2

Dear Mr. Kelso:

Thank you for submitting documentation on the project referenced above. While the Oregon State Historic Preservation Office (SHPO) acknowledges that the integrity of the subject section of the Pilot Butte Canal is diminished, we believe that the majority of this segment retains sufficient integrity for listing in the National Register and that the proposed piping project will adversely affect the resource's character-defining features.

However, we believe that the Memorandum of Agreement (MOA) mitigating for the adverse effect to historic properties for Phase II of the North Unit Irrigation District Water and Energy Conservation Initiative (SHPO Case No. 12-0948) signed in September 2012 among the Bureau of Reclamation (BOR), our office, and the Central Oregon Irrigation District (COID) is sufficient to address this adverse effect. As noted in personal correspondence with Chris Horting-Jones, as written the MOA does not adequately address how COID's ongoing piping projects should be addressed. We propose amending the document to allow projects to proceed, while carrying out the previously-agreed to stipulations that will identify what portions of the system should ultimately be preserved.

Until the MOA can be amended, and if BOR is amenable, we ask that the agency concur with our Determination of Eligibility, Finding of Effect, and mitigation for this project in writing, and confirm that the agency will seek an amendment to the existing MOA to resolve the issues noted in this letter. It is our hope to have the document amended within the next several months, sooner if possible. Please contact me if there are any further questions, comments, or concerns.

Sincerely,

Ian P. Johnson, M.A.

Historian

(503) 986-0678

ian.johnson@state.or.us



MEMORANDUM OF AGREEMENT
No. R14MA13733
AMONG
THE U.S. BUREAU OF RECLAMATION,
THE OREGON STATE HISTORIC PRESERVATION OFFICE
AND
CENTRAL OREGON IRRIGATION DISTRICT

For
Piping of a Segment of the I-Lateral

ALFALFA VICINITY, DESCHUTES COUNTY, OREGON

This Memorandum of Agreement (MOA) is entered into by Bureau of Reclamation, Columbia-Cascades Area Office (Reclamation), the Oregon State Historic Preservation Office (SHPO) and the Central Oregon Irrigation District (District) to define their respective roles in mitigation efforts related to the piping of the I-Lateral of the Central Oregon Irrigation District System (System). This MOA outlines separate, but related mitigation for the current undertaking (subterranean piping of a Segment of I-Lateral) and the proposed future piping of the remainder of the canals, laterals, sub-lateral and ditches within the District. This MOA replaces MOA No. R12MA13723 thereby canceling it in its entirety.

1. Background

The District is located in Deschutes County. The District provides irrigation water within the Central Oregon Tri-county area with 43,000 acres delivered to water users in the vicinity of Bend, Alfalfa, Powell Butte, Redmond, and Terrebonne, within the upper Deschutes River basin.

A. I-Lateral Piping

Under the current undertaking, the District intends to protect and improve water quality and improve water delivery by converting approximately 4,800 feet of open ditch laterals within the I-Lateral of the System to pipe, in T17S R14E Sections 25, 26 and 36.

The District has been awarded a grant through Reclamation's WaterSMART Program to perform the work. Because Reclamation-administered Federal funds will be involved in this project, the Section 106 process of the National Historic Preservation Act was applied to identify affected historic properties.

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), the District has documented the extent of the Lateral within the current undertaking's Area of Potential Effects for historic and archaeological resources to standards acceptable to Reclamation and SHPO.

Reclamation, in consultation with SHPO, determined that replacement of the open I-Lateral with the pipe will have an adverse effect upon the historic integrity of the Lateral. Reclamation notified the Advisory Council on Historic Preservation (Council) of the adverse effect on the I-Lateral pursuant to the Code of Federal Regulations (CFR) 36 CFR Section 800.6(a)(1), and in a letter dated September 17, 2012, the Council indicated that their participation is not needed in the consultation for resolution of adverse effects from this undertaking.

Specific mitigation strategies designed to address the adverse effect of this undertaking are identified below, in section 3.A.

B. Future Piping of Canals, Laterals, sub-Laterals, and Ditches

Through discussions between Reclamation, SHPO, and the District related to future project planning and the stated intentions of the District, a proposal to programmatically mitigate for future adverse effects related to the future piping of canals, laterals, sub-laterals, and ditches throughout the District has been developed. This MOA is intended to provide mitigation for such future piping efforts.

Specific mitigation strategies designed to address the adverse effects of these future undertakings are identified below, in section 3.B.

C. Interim Management

Until the Programmatic Agreement is signed and in place, all consultation regarding non-Federal undertakings will be reviewed by SHPO under standard State review practices, as defined in Oregon State Regulations (ORS) 358.653.

This MOA is entered into under the authority of the National Historic Preservation Act of 1966 as amended, as specified in the regulations in 36 CFR 800, and specifically in Section 6(c) – Resolution of Adverse Effects without the Council.

2. Purpose and Applicability

This MOA will serve to define the necessary actions for documentation of the System in its current state, define in more detail the historical significance, contextual setting, character-defining characteristics and the contributing properties within the System, and set the parameters by which future actions to pipe the System can be accomplished. This MOA will reduce the need to consult with the SHPO on a case-by-case basis when qualifying future activities (defined as subterranean piping of canals, laterals, sub-laterals, and ditches) take place on the System, and provides for a schedule that allows the SHPO to be updated on implemented actions.

This MOA does not apply to projects affecting any feature or element that is or may be individually eligible for listing in the National Register of Historic Places. Federal undertakings that affect these elements of the District will continue to be reviewed under standard Section 106 review processes (36 CFR 800). Non-Federal projects will continue to be reviewed under ORS 358.653.

3. Implementing Actions

A. Piping of I-Lateral

The SHPO, Reclamation, and the District agree that the current undertaking, consisting of the subterranean piping of approximately 4,800 feet of the I-Lateral, currently an open-ditch structure, represents an adverse effect to the National Register-eligible District water conveyance system. In order to mitigate that adverse effect, the following shall be implemented:

1. Reclamation will:

- (a) Consult with the proper interested parties, such as the Council, SHPO, and the Confederated Tribes of the Warm Springs Reservation.
- (b) Ensure that mitigation efforts defined in this MOA as part of the current undertaking (identified below, Section 3.A.2) are completed to the standards set forth below.

2. The District will:

- (a) Perform or cause to be performed the Historic Documentation of the System:

- Following all applicable guidance provided by the National Park Service and SHPO, the District will conduct a historic properties inventory of the entirety of the District facilities and infrastructure related to water conveyance (i.e., not to include district offices and equipment/vehicle maintenance or storage facilities). This inventory will document all water-conveyance system buildings and structures, provide locational information (in GIS format, using lines to represent canals, etc., and points or polygons, as appropriate, to represent features) for all water conveyance-related buildings and structures, as well as associated features. The inventory will meet the requirements set forth for Reconnaissance Level Surveys, as defined in the document, "Guidelines for Historic Resource Surveys in Oregon." Prior to initiation of the survey, a written, detailed survey design will be submitted to SHPO for review and concurrence.
- This inventory will be completed and submitted to Reclamation and SHPO for draft review within three (3) years of the date of the final signature on the document. Comments and revision requests from Reclamation and/or SHPO will be addressed, and a final version of the inventory will be submitted within one (1) year of the receipt of such comments.

B. Future Piping of Canals, Laterals, sub-Laterals, and Ditches Elsewhere Within the District

SHPO, Reclamation, and the District understand that it is the intention of the District to convert significant portions of the system of open canals, laterals, sub-laterals and ditches within the District to a subterranean, piped system. In order to mitigate for future adverse effects that would arise from these efforts, Reclamation, SHPO and the District have agreed to mitigate programmatically through the following measures in order to reduce time, effort, and resources required to conduct standard Section 106 and/or ORS 358.653 consultation:

1. Develop a Programmatic Agreement (PA)

- (a) Reclamation, SHPO, and the District shall enter into a PA to allow for the more efficient fulfillment of the entity's obligations under Section 106 of the National Historic Preservation Act, as amended, and Oregon Revised Statute 358.653, as applicable.
- (b) All parties shall use the Multiple Property Document (see Section 3.B.2., below) to identify contributing segments of the canal system to be managed under the PA and any subsequent documents created as part of the process. The PA will include, at minimum:
 - A list of routine maintenance and minor construction activities and actions that do not adversely affect the historic resource and that are exempt from regular review by SHPO;
 - A provision to address emergency situations where catastrophic breach of the canal or other unforeseen event or eminent threat endangers human life or property. Such a provision shall allow the District to act on the immediate situation without consultation and address compliance with applicable cultural resource laws in consultation with appropriate federal agencies and stakeholders within 30 days of the incident.
 - An inadvertent discovery clause, which will outline procedures to be followed when unknown, unanticipated cultural resources are discovered due to District activities;
 - A description of annual reporting requirements and timetable for reporting activities undertaken by the District where the provisions of the PA were applied;

- A defined effective period of ten (10) years with provisions for the document to be reviewed at five years from last date of signature, amended as necessary, and the effective period continued, based on consultation. If appropriate, the effective period can be extended for an additional ten (10) years (with an additional five-year review), subject to the agreement of Reclamation, SHPO, and the District.
- (c) The PA may also include a probability model for subsurface archaeological sites, cultural resource treatment plans, and preservation plans, as agreed to by the signing Parties.
- (d) Reclamation, SHPO, and the District, as well as any other interested, consulting parties, will be signatories to the PA.
- (e) Until the PA is signed and in place, all consultation regarding future federal undertakings (those not covered under Stipulation A) affecting the District water conveyance system will be reviewed by Reclamation and SHPO under standard Section 106 review practices, as defined in 36 CFR 800.

2. Develop Multiple Property Document (MPD)

- (a) Following all applicable guidance provided by the National Park Service and SHPO for the preparation of MPDs, the District will edit the MPD, *Historic Agricultural Resources in Central Oregon*, which is currently in draft form, as prepared by Claeysens and Tomlinson (2006) under a previous Reclamation water conservation grant. The MPD will be prepared sufficiently such that subsequent Irrigation Districts are able to add their district-specific contexts and registration requirements. The MPD elements will be based on the results of the Reconnaissance Level Survey inventory created as a result of Stipulation A.2. (above). The MPD elements to be developed include:
 1. General framework for the functioning of the MPD, once registered, including Sections A through D (complete), Sections E-I such that deal specifically with the District, but that includes general introductions, contexts, and registration requirements that will be applicable across all irrigation districts included in the final MPD;
 2. Establishment of the various historic contexts pertaining to the history and significance of the District. The historic context(s) will be based on historical research, and supported by historical documents and images;
 3. Development of associated property types and general and type-specific registration requirements through which identified elements of the system can be evaluated for eligibility (including consideration of significance and integrity) for inclusion in the NRHP through the framework of the MPD; and
 4. A GIS-based map of the entire system identifying the location, extent, and features of the District, and any other necessary appendices, shall be included. The map should identify elements and sections of the System as either contributing or non-contributing to the District as a comprehensive historic resource.
- (b) The draft MPD (including all GIS information) will be submitted to Reclamation and SHPO for review and comment within three (3) years of the date of the final signature of this MOA. Draft MPD and nomination materials will be submitted to Reclamation and SHPO for review by SHPO and the Oregon State Advisory Committee on Historic

Preservation (SACHP). The District will address any SHPO and SACHP comments prior to forwarding the document to the National Park Service for final consideration.

3. Preservation and Interpretation

- (a) Following completion of the draft MPD elements described above (Stipulation B.2.a-b), the District, in consultation with Reclamation and the SHPO, shall select appropriate, contributing segments to be listed in the National Register of Historic Places through the MPD. These segments will be selected based on the following criteria:
 1. The segments will be high-integrity, substantial, contributing segments (minimally, one substantial segment each in the Pilot Butte Canal and the Central Oregon Canal) to the overall eligible District;
 2. The segment should include a variety of features, such that it well-represents the function and appearance of the water conveyance system, as it appeared as an intact system;
 3. The segment should be of sufficient length that on-site interpretation (see Stipulation B.3 (b), below) can be achieved in an attractive, well-organized fashion, without crowding or overwhelming the resource itself.
- (b) Once selected, the identified segment will be cleaned, repaired, and returned to working condition in a way that meets the Secretary of the Interior's Standards for the Treatment of Historic Properties, and the immediate vicinity prepared such that it creates a welcoming, attractive environment for the public visitation and interpretation of the resource.
- (c) The interpretation of the resource will be achieved through the use of static or active displays that relate the history, function, and significance of the Central Oregon Irrigation District water conveyance system. Such displays will be presented in a format that is weather- and vandal-resistant, attractive, and engaging. Draft content and layout of the interpretive display(s) will be submitted to Reclamation and SHPO for review and comment, and if any revisions are requested, revised versions will be submitted for a second review prior to fabrication. Upon acceptance of the draft content by Reclamation and SHPO, the District will cause the interpretive display to be constructed.
- (d) Once constructed, the interpretive site and displays must be maintained by the District in an attractive and functioning condition.

4. Completion of this MOA

The terms of this MOA will be considered to be completed when the above implementing actions (A-B) have been completed to the satisfaction of Reclamation and SHPO. Upon completion of the implementing actions, all adverse effects resulting from subterranean piping of *all canals, laterals, sub-laterals, and ditches will be considered to be fully mitigated*, and may proceed without Section 106 or ORS 358.653 (as appropriate) consultation with Reclamation or SHPO.

5. Period of Performance

This MOA shall become effective on the date of the last signature hereto and extend three years after the date of the last signature. The MOA will also be considered terminated once all stipulations are complete, or five years after the date of the last signature on this MOA. Any party may terminate this MOA by providing 30

days written notice to the other party(ies). Any party may formally request modification of the MOA by providing a written request to the other party(ies).

If this MOA is terminated prior to completion of the above stipulations, then all projects undertaken from the date of the final signature not covered by the PA (should it be in effect) on this MOA must be reviewed under standard review practices under Section 106 of the National Historic Preservation Act, or under ORS 358.653, as appropriate.

6. Modifications

Reclamation, SHPO or the District may formally request modification of this MOA. Modifications shall be made by mutual consent of Reclamation, SHPO and the District by the issuance of a written modification to this MOA, signed and dated by all parties prior to any changes being performed.

7. Principal Contacts

The principal contacts for this MOA are:

For Reclamation:

Chris Horting-Jones
Archeologist
1375 SE Wilson Ave. #100
Bend, OR 97701
Phone (541) 389-6541
Fax (541)-389-6394
Email: chortingjones@usbr.gov

For the District:

Laura Wollam
Grant Specialist
Central Oregon Irrigation District
1055 SW Lake Ct.
Redmond, OR 97756
Phone (541) 504-7577
Fax (541) 548-0243
Email: lauraw@coid.org

For SHPO:

Jason Allen
Historic Preservation Specialist
State Historic Preservation Office
Oregon Parks and Recreation Department
725 Summer St. NE, Suite C
Salem, OR 97301-1266
Phone (503) 986-0579
Fax (503) 986-0793
Email: Jason.Allen@state.or.us

8. General Provisions

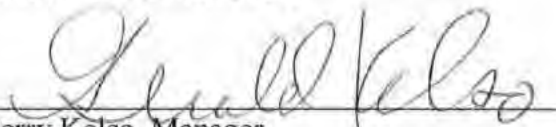
- a. Reclamation's responsibility for ensuring completion of consultation with SHPO for future undertakings identified in Section 3.B. is limited only to those that qualify as Federal undertakings. Projects identified in Section 3.B. that do not qualify as Federal undertakings are subject to review by the SHPO under ORS 358.653, and the responsibility for consultation and completion will rest with the District.
- b. Completion of the mitigation stipulations will be considered to satisfy the requirements for mitigation of adverse effects for a previous undertaking (Pilot Butte Canal Juniper Ridge Piping Project Phase 2 [SHPO Case# 10-1873]) that has not yet been mitigated as of the date of the final signature on this MOA.
- c. This MOA is neither a fiscal nor a funds-obligating document for Reclamation. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties of this MOA will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This MOA does not provide such authority.
- d. Nothing herein shall be construed to obligate Reclamation to expend or involve the United States of America in any contract or other obligation for the future payment of money in excess of the appropriations authorized by law and administratively allocated for the purposes and projects contemplated hereunder.
- e. No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of the MOA or to any benefit that may arise out of it.
- f. Any information furnished to Reclamation, under this MOA, is subject to the Freedom of Information Act (5 U.S.C. 552).
- g. All parties to this MOA agree to comply with all Federal statutes relating to nondiscrimination, including but not limited to: Title VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, religion, sex, or national origin; Title IX of the Education amendments of 1972, as amended, which prohibits discrimination on the basis of sex; the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, which prohibit discrimination on the basis of disability; the Age Discrimination in Employment Act of 1967, as amended, which prohibits discrimination based on age against those who are at least 40 years of age; and the Equal Pay Act of 1963.

9. Signatures

Reclamation, SHPO and the District will abide by the terms and provisions expressed or referenced herein.

BUREAU OF RECLAMATION

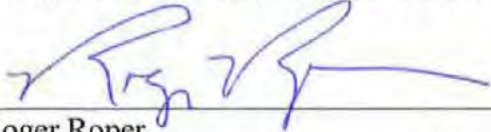
by:


Gerry Kelso, Manager
Columbia-Cascades Area Office

DATE:

2/12/14

OREGON STATE HISTORIC PRESERVATION OFFICE

BY: 

Roger Roper
Deputy State Historic Preservation Officer

DATE: 2.25.14

CENTRAL OREGON IRRIGATION DISTRICT

BY: 

Steven Johnson
Secretary-Manager

DATE: 14 Feb. 2014

~~ End of Document ~~

ALLEN Jason * OPRD

From: Greg Vernon <gregvernon65@gmail.com>
Sent: Wednesday, June 15, 2016 11:57 AM
To: ALLEN Jason * OPRD
Subject: Fwd: COID Request for Historic Designation

Follow Up Flag: Follow up
Flag Status: Completed

Sent from my iPad

Begin forwarded message:

From: Greg Vernon <gregvernon65@gmail.com>
Date: June 14, 2016 at 7:01:39 AM PDT
To: jasonallen@oregon.gov
Subject: COID Request for Historic Designation

My name is Greg Vernon and I live at 63385 Old Deschutes Rd. Bend, Oregon. I live on the 1.5 miles of Pilot Butte canal that recently was designated historic. COID has made numerous efforts to be allowed to pipe this section of the canal without regard for the land owners who own title to the land. They have the authority to pipe the canal if they follow the conditional use cited in our zoning. COID and their advocates have repeatedly said it will not impact property values. This is absurd as I had a real estate broker give me an opinion and he concluded that I would lose \$150,000 in property value.

Now COID is trying another end run by submitting three sections for historic designation and including MOA's that would trump zoning and allow them to pipe our section of the canal. I am a reasonable person and know the difference between right and wrong. Please reject their requests and make them do what is right.

Sent from my iPad

Sheets_061416

ZELLER Tracy * OPRD

From: Brian Sheets <brian@brs-legal.com>
Sent: Tuesday, June 14, 2016 3:19 PM
To: ZELLER Tracy * OPRD
Subject: Comment for June 16, 2016 SACHP Meeting re Oregon Irrigation
Attachments: Comments to SACHP re Oregon Irrigation.pdf

Tracy,

Please see the attached comment for the June 16, 2016 SACHP meeting in White City. The comments address agenda item 6, specifically the Oregon Irrigation proposals.

Please confirm that you have received the attached comment, and thank you for your consideration.

Sincerely,

Brian R. Sheets
BRS Legal, LLC
PO Box 764
Troutdale, OR 97060
Phone: (503) 830-1448
brian@brs-legal.com

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Brian R. Sheets
Licensed in Oregon

PO Box 764 • Troutdale, OR 97060 • Phone: (503) 830-1448
E-Mail: brian@brs-legal.com

June 14, 2016

VIA EMAIL ONLY

Oregon State Historic Preservation Office
Attn: Tracy Zeller
725 Summer St. NE, Suite C
Salem, OR 97301
Email: Tracy.Zeller@oregon.gov

**RE: Comments on Nomination to the National Register of Historic Places for:
Irrigation Projects in Oregon, 1850-1978 (Multiple Properties Document)
Central Oregon Canal: Brasada Ranch Segment
Pilot Butte Canal: Downtown Redmond Segment**

Dear Chair Schallert and members of the State Advisory Committee on Historic Preservation:

This firm represents Matt and Suzanne Gadow, residents of unincorporated Deschutes County, Oregon, and we submit this comment on their behalf. Central Oregon Irrigation District (“COID”) submitted three documents to the SHPO: 1) Multiple Property Documentation (“MPD”) for “Irrigation Projects in Oregon, 1850-1978”; 2) Nomination to the National Register of Historic Places (“NRHP”) under the MPD for “Pilot Butte Canal: Downtown Redmond”; and 3) Nomination to the NRHP under the MPD for “Central Oregon Canal: Brasada Ranch Segment.” While we are neutral to the end result of the MPD and two NRHP nominations’ acceptance, the documents require scrutiny, revision, and resubmittal based on a number of factors.

1. The MPD should be revised to include an inventory of irrigation assets already listed in the NRHP.

Section H of the MPD includes the methods of the survey performed by the MPD proponents, however there is no mention or description of currently protected NRHP resources. Sections E and F similarly omit current NHRP protected irrigation properties. By listing currently protected resources and the associated acceptance criteria, the SACHP can evaluate whether this document is congruent with prior NRHP listed properties and the criteria used in listing them. Without demonstrating that the MPD is congruent with prior NRHP listings, it forms a new standard for NRHP listing based on arbitrary evaluative criteria. The criteria used and accepted in prior NRHP listing should be the standard for eligibility, and listing the NRHP listed irrigation properties *statewide*¹ will assist the SHPO in determining whether the proposal of new NRHP protection is warranted. Listing NRHP resources and their selection

¹ Statewide listings are appropriate because of the scope of the MPD’s statewide geographical limits.



criteria will assist future proponents of NRHP listing to use as a reference in deciding the most likely applicable criteria type. Based on previously listed properties, future proponents and SHPO can use actual historical criteria used in selecting a property, rather than the speculative criteria categories proposed in the MPD.

Given the limited scope of the survey performed in comparison to the geography proposed (discussed below), listing NRHP irrigation properties in the surveyed area could demonstrate the ratio of surveyed areas to historic properties, assuming that the survey is demonstrated as representative of the proposed geographical area. Because the MPD fails to include presently protected resources and their evaluative criteria, the MPD should be returned for inclusion of presently protected NRHP listed irrigation assets for the entire State of Oregon.

2. The survey conducted is too narrow in comparison to the geographical area under consideration.

The geographical survey of the affected areas is extremely limited in comparison to the geographical scope of the document. The MPD intends to cover the entirety of Oregon, however the survey was limited to two irrigation systems in Oregon: COID and the Vale project. Without analysis and surveying of the affected eligible structures in the entirety of the MPD's proposed geography, the survey fails to accurately list the totality of eligible properties, or even an estimation of eligible properties. The survey data is also unavailable for public review in conjunction with this MPD review, thereby making the data presented to SHPO unchallengeable at this stage. Given its statewide impact and tie to federal funding, the MPD also likely requires NEPA analysis, with at least an Environmental Assessment prior to its adoption by the National Park Service.²

Moreover, the MPD does not state methods for determining whether the sampling of the two irrigation systems is representative of the entire irrigation infrastructure of Oregon. To the extent that the MPD is deficient in its survey of eligible properties, or it cannot demonstrate its sampling is representative of the geography proposed, the MPD's geographical scope should be contained to the surveyed areas: properties served by COID and the Vale Project.

3. The nomination for "Pilot Butte Canal: Downtown Redmond" fails to include references to already NRHP listed stretches and should include the Pilot Butte Canal Historic District (Cooley Road – Yeoman Road Segment).

² See NPS Director's Order ("DO") 12 and DO-12 Handbook. The proponents do not address how their proposal is excluded from NEPA consideration.



In February of 2016, the National Park Service added the Pilot Butte Canal Historic District (Cooley Road – Yeoman Road Segment) (“PBCHD”) to the NRHP. Strikingly, the PBCHD on the same canal is absent from the narrative in the proposed nomination for the Pilot Butte Canal: Downtown Redmond section. The nomination does not explain how the Downtown Redmond segment is historically significant aside from being part of the Pilot Butte Canal, nor does it provide a brief context on how the Pilot Butte Canal compares to other irrigation systems. The nomination similarly fails to explain what remains of other local canal systems and how they compare to the Pilot Butte Canal. The nomination does not compare this stretch of the Pilot Butte Canal to other stretches of the canal already listed, and the nomination fails to demonstrate why this section is significant in addition to a previously nominated PBCHD listed in the NRHP a mere four months ago.

Perhaps the reason why the PBCHD is omitted is because the proponents of the current nomination *strenuously* opposed its listing in the NRHP. While this may be why its discussion is excluded, it does not excuse the nominees from addressing the PCBHD. The proponents should include discussion and analysis on why the Downtown Redmond segment is additionally qualified for NRHP listing. While we support the additional listing of segments of the Pilot Butte Canal, the nomination must include discussion of comparative sections of the canal, and additionally justify its inclusion on the NRHP in addition to the PBCHD. Omitting the PBCHD in the overall analysis of the historical integrity fails to demonstrate that there are segments already listed for protection, and it fails to differentiate how the Downtown Redmond segment adds to the historical character of the canal. For the previously stated reasons, the nomination for the Downtown Redmond segment should be returned for revision to include discussion of already protected segments of the canal.

4. The Downtown Redmond segment is of questionable historical importance.

The nomination for the Downtown Redmond segment maintains that its association with the Central Oregon Project, as stated in the MPD, allows for this segment of the canal to be eligible for the NRHP. By this logic, any lengthy unimproved stretch of the Pilot Butte Canal is eligible, from the diversion at the Deschutes River, to the final delivery in Crook County. The nomination fails to address the “feeling” aspect of the evaluation criteria, as the development of “Downtown Redmond” around the area has changed the feeling of the canal.³ Moreover, roadways bound the canal on both sides immediately to the east and west, one being a busy US Highway. Also, there are no mentions of irrigation deliveries in the area, which leads to the conclusion that there are none or few, thereby detracting from the historical significance of this section of the canal. These issues dissociate the feeling of historic connection, and the nomination should be returned and revised to explain the nomination criteria in greater detail.

³ The Downtown Redmond segment is relatively straight, and described as six-feet deep. However without scale on the pictures in the nomination, six feet in depth may be overstated.



5. The Nomination for the Downtown Redmond section should be amended to indicate “Public-Local” property ownership, if demonstrated.

Irrigation districts are public quasi-municipal corporations with the power to condemn property for public purposes and hold property in a public capacity. *See* ORS Chapter 545. Whether a particular parcel is *operated* in a private or public capacity is irrelevant. Because COID is an Irrigation District organized under ORS Chapter 545, it is a public entity. COID claims to own the parcels in the Downtown Redmond segment, however no evidence of that ownership has been presented. Assuming it can be presented, the Nomination should be returned and revised to reflect the property ownership as “public-Local” at the beginning of the nomination.

CONCLUSION

The MPD represents a statewide system of categorizing historic resources based on a survey of two limited irrigation projects. The proponents were directed at the behest of SHPO and the Bureau of Reclamation to draft this document as a condition of continuing its piping projects, that if realized, will effectively destroy the historical aspects of irrigation systems. Given this tension, and the ability of the proponent to survey and present its own data, the SACHP should undertake the submission of the MPD with great scrutiny. The MPD has several shortcomings, including failing to include already protected historical properties and using a very limited scope survey to apply statewide standards. Similarly, the nomination for the Pilot Butte Canal – Downtown Redmond section should also be revised based on its ownership information, questionable limited historical content, and its outright avoidance in discussing the recent addition of the PBCHD.

We are mindful that an additional section of the Pilot Butte Canal is proposed for listing, and we are concerned that additional listings will be used to undermine the historical significance of the PBCHD, or use additional NRHP properties on the canal as mitigation for a re-energized piping effort through the PBCHD. Given the proponent’s *vigorous objection* to the nomination of the PBCHD compared to its position in nominating the Downtown Redmond section, the SACHP should evaluate with close scrutiny the criteria applicable to the MPD and the associated listings. Deficiencies should be addressed, and the documents returned for review.

We appreciate your time in listening to our concerns, and we look forward to your decision.

Sincerely,

Brian R. Sheets
BRS Legal, LLC

cc: Clients

SKM_C754e17021415100

ALLEN Jason * OPRD

From: Lori K. Murphy <lmurphy@lynchconger.com>
Sent: Tuesday, February 21, 2017 10:43 AM
To: ALLEN Jason * OPRD
Subject: Mark Huber Testimony

Jason,

Thank you for your call. Per my voicemail, my client does not reside directly along the nominated segment; his residence is along the preserved Pilot Butte Canal segment. Therefore, we did not submit the notarized form. Please send his testimony directly to the National Park Service.

Best regards,

Lori

LORI K. MURPHY

LYNCH●CONGER●MCLANE, LLP

1567 S.W. CHANDLER AVENUE | SUITE 204 | BEND, OREGON 97702

OFFICE: 541.383.5857 | FAX: 541.383.3968

lmurphy@lynchconger.com | www.lynchconger.com

(Please note my email address has recently changed)

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February 14, 2017

Oregon State Advisory Committee on Historic Preservation (SACHP)
In care of Jason Allen.
Oregon State Historic Preservation Office
725 Summer St NE, Suite C
Salem, OR 97301

Re: Opposition to Three National Register Nominations

Dear Members of the Oregon State Advisory Committee on Historic Preservation (SACHP),

On behalf of our client, Mark Huber, who is an owner of a portion of the Pilot Butte Canal, this firm offers the information and comments on three related nominations that will be heard by the Oregon SACHP on February 16, 2017:

1. Federal Irrigation Projects in Oregon, 1901-1978 Multiple Property Document (the "MPD")
2. Pilot Butte Canal: Downtown Redmond Segment Historic District (the "PBCHD Redmond")
3. Central Oregon Canal: Brasada Ranch Segment Historic District (the "COCHD Brasada")

We carefully reviewed the nominations and conclude that they do not meet the criteria for listing on the National Register of Historic Places (NRHP) nor is it in the best interest of the National Register of Historic Places program, the citizens of the region, or the state to proceed on the nominations.

A. Improper Segments Selected in Submitted Nominations

The Summary of Identification and Evaluation Methods, as addressed in Segment "H," pages H-65 and H-66 of the MPD, references the background of agreements entered into between the U.S. Bureau of Reclamation, the Oregon State

Historic Preservation Office (“SHPO”), and Central Oregon Irrigation District (“COID”). These 2012 and 2014 agreements addressed the proposed piping of the original open-lateral irrigation systems (the “MOAs”). See EXHIBIT A.

The proponent’s MPD request follows and is designed to seek Oregon SHPO’s consent to and approval of all future piping projects submitted by COID in exchange for the listing of one segment of each canal that will presumably remain un-piped and preserved. Yet, the selection of which parts of the canal should be listed are absent from the underlying Agreements. In other words, the particular segments of the canals to be listed were never specified.

The Agreements also do not address the methodology to be used in selecting segments of the canals for listing nor do they address the level of protection for any listed segment of the canals. Typically, the preservation of any resulting listings is mandated by statute to be the responsibility of local jurisdictions. Per statewide land use statutes, the local jurisdictions shall preserve and protect all properties and districts listed in the National Register. Yet here, without any historic preservation plan, the current maintenance of the preserved segments of the canals is dependent on COID and the local landowner.

It is notable that the proponent is seeking to list two segments of the canals in the PBCHD Redmond and COCHD Brasada nominations that were never proposed for piping in the first place. Neither segment is remarkable as to its age, distinction, integrity or significance. It is preposterous that the COCHD Brasada canal segment is a part of a golf cart path on a high-end resort, is not 50 years old, conveys no water and appears to be built by the resort, and could not possibly be associated with a 111-year old irrigation canal.

It is crucial that the SACHP ensure that a meaningful segment of each grand historic canal be identified and listed because the MOAs allow all other segments to be demolished and piped. Because of the historical significance and impressive size and age of the two canals, it is imperative that any selected segments should display the full volume of water (400-450 cubic feet per second in the up to 83-foot wide Pilot Butte Canal and the 527 cubic feet per second in the larger Central Oregon Canal) and the methodology of the workmen and horse teams that created the gravity system through challenging rock. Any listed segments must be able to interpret the original purpose of providing water for agricultural purposes. They must retain the historic integrity of the setting and structure and be at least 50 years old.

The listed NRHP Pilot Butte Canal Historic District (Yeoman Road – Cooley Road Segment) provides the following information about the canal in Redmond:

“Description of Characteristics of Segment 9 of the Pilot Butte Canal”

“Segment 9 in Redmond has low integrity with three portions being piped and others being realigned and rebuilt. This highly altered segment is entirely within the city limits of Redmond for 6 miles and drops 169 feet in elevation. Urbanization and road construction have resulted in 1.5 miles of the canal being piped in three segments both above ground and under ground. The canal is narrow and shallow in Redmond with a variety of lava flows, large rock, small rubble, or sand and grass in the beds and on the shallow sides. A rocky waterfall drops just feet away from the Comfort Suites Redmond Airport at 2243 SW Yew Avenue. The canal in the city is constrained between streets and urban residential, commercial, and industrial developments.”



“Segment 9

The photo of the smooth canal in Redmond was taken looking north with North Canal Blvd. and Home Depot on the left and the intake to a pipe that runs under US Highway 97 at the top. Smith Rock State Park is visible in the background.”

The photo above is of the shallow, urban segment nominated by COID. It is neither a challenging nor representative segment of the canal. Further, it is sandwiched between a Redmond city street and the Redmond Bypass of Highway 97. Home Depot is on the left side and Walmart Supercenter is to the north. Any historic setting is long gone.

This nominated segment of canal is wholly inappropriate for consideration. An alternate and preferred segment to be nominated by COID in the Redmond area should be the Segment 7 south of Redmond, located between Deschutes Junction and Redmond. This segment has much higher integrity.¹ A bonus for this segment is that

¹ Pilot Butte Canal Historic District (Cooley-Road – Yeoman Road Segment), National Register of Historic Places Registration Form, Page 23.

the canal winds into the ODOT right-of-way for Highway 97 and is close to the highway in several locations, adding to its public visibility.

B. Historical Context

There are three critical documents that must be reviewed in order to understand the context of the proponent's nominations:

- 1) Oregon SHPO Clearance Form, aka "Section 106", for Resource: Pilot Butte Canal, September 9, 2013, attached here as EXHIBIT A and hereinafter referred to as the "Section 106";

The SHPO Staff relied upon the Section 106 to determine eligibility and condition of the segment of the canal that would be demolished in the piping project.

- 2) Correspondence from Oregon Parks and Recreation Department to Bureau of Reclamation dated September 9, 2013 re: SHPO Case No. 10-1873, Pilot Butte Canal Juniper Ridge Piping Proj Phase 2, attached here as EXHIBIT B, and hereinafter referred to as the "OPRD Letter"; and

The OPRD Letter summarizes the Section 106 and asks the Bureau of Reclamation to concur with the determination of Eligibility, Finding of Effect, and mitigation for Pilot Butte Canal piping project Phase 2.

- 3) Memorandum of Agreement No. R14MA13733, Among the U.S. Bureau of Reclamation, The Oregon State Historic Preservation Office and Central Oregon Irrigation District for Piping of Segment of the I-Lateral, Alfalfa Vicinity, Deschutes County, Oregon, dated February 2014, attached here as EXHIBIT C and hereinafter referred to as the "MOA".

The MOA adds the Pilot Butte Canal piping project Phase 2 to the agreement between the parties regarding the piping of the Central Oregon Canal. The underlying MOA agreement requires COID to nominate at least one segment of each canal for preservation in exchange for allowing the piping of the remaining segments of each canal.

C. Private Nomination of the Pilot Butte Canal

Independent of the agreements between the parties, on October 31, 2014, over 200 private landowners and interested parties nominated a mile and a half of the 22-mile-long main Pilot Butte Canal to the National Register of Historic Places (the "NRHP"). This occurred six months after the COID, SHPO and Bureau of Reclamation signed the 2014 MOA.

The nominated segment has the highest degree of historic integrity of the entire canal. The SACHP reviewed this nomination in February of 2015. After the most arduous legal scrutiny of any nomination in the state, and after many additions required by SHPO staff, such as to inventory and evaluate the entire canal and justify why the entire canal was not nominated and to compare the canal to at least three other irrigation canals in Central Oregon (the Arnold Irrigation District, the Tumalo Irrigation District and the Swalley Irrigation District), and to add more information about the construction and significance of the nominated segment to Segment 8, the nomination was signed by the Keeper last February 2016. Compare the following photo from page 4 of that nomination taken in the middle of the historic district with the photo of the Redmond segment above.



“The Pilot Butte Canal Historic District (Cooley Road – Yeoman Road Segment) has a distinctive natural appearance that is a direct result of the geology, use of native materials found in place, and time-consuming, difficult construction in challenging conditions.² Photographer looking north.³”

D. Section 106 and MOA Contain Misrepresentations and Faulty Information

The underlying Section 106 for the Juniper Ridge Phase II Piping Project and the resulting questionable MOA that preceded the nominations before SACHP include faulty and misleading information. In fact, both documents are currently being challenged in U.S. District Court.

² Dubuis, John, Dec. 1, 1914, Report to Desert Land Board on Central Oregon Project, State Printing Department, 1915; and Energy Trust of Oregon, Inc. Open Solicitation, Juniper Ridge 3/27 MW Hydropower, January 23, 2008, page 1; Google Earth 2014 web site; Pat Kliewer Interview with COID General Manager Ron Nelson, April 2000; Oregon State Engineer, United States Department of the Interior, Bureau of Reclamation, “Deschutes Project”, December 1914, UC Berkley Library. page 110.

³ Unless otherwise noted, all photos were taken by Patricia A. Kliewer between February and October 2015.

In 2016, a property owner in the project area filed suit against COID, the Oregon SHPO and the Bureau of Reclamation. This case is current and has not reached a decision. The US District Court, Eugene Division Case is CV No. 6:16; cv; 01788; mc. Joseph Vance of Miller Nash Graham and Dunn, LLP, Attorneys at Law, Vancouver, Washington represents the plaintiff, Aleta Warren, and the respondents are the Bureau of Reclamation, the Oregon SHPO, and COID.

E. The Pilot Butte Canal Historic District (Yeoman Road - Cooley Road Segment) Already Fulfills the MOA Requirement

The proponent selected a segment where it owns the underlying land instead of evaluating the entire canal and determining which segment met the National Park Service criteria for listing. As a result, it improperly nominated an insignificant segment of the Pilot Butte Canal. Another way of meeting the MOA requirement is to note that the previously listed segment of the Pilot Butte Canal, the Pilot Butte Canal Historic District (Yeoman Road - Cooley Road Segment) already fulfills the MOA requirement. No additional segment needs to be nominated.

Prior to the MOA, SHPO staff became concerned in about 2010 that the historically significant late 19th Century and early 20th Century irrigation canals in Central Oregon were being piped for water conservation and power production at a fast rate. As staff concurred with successive Section 106 forms for piping projects, they entered into discussions with the Bureau of Reclamation and COID. The Bureau is partially funding the piping and hydropower projects.

COID is a relatively well-funded and well-staffed irrigation district in the Deschutes River basin. It is managed and served by over 30 paid staff and is led by an elected board of directors selected by the patrons or water right holders in its system. COID operates and maintains two separate and distinct canals.

The oldest canal is the 1904 Pilot Butte Canal, a north-flowing canal carrying 400 to 450 cubic feet per second with a diversion point north of downtown Bend, which serves a variety of urban, recreational, city, educational and rural users in Bend, Deschutes Junction, Redmond, and Terrebonne. The average parcel size served by the district is 6 acres. The Pilot Butte Canal drops 631 feet in elevation during its 22-mile length. The second canal, the Central Oregon Canal, which has a larger capacity and longer length, began construction in 1905 and has its diversion point south of Bend and serves patrons in Bend and east to Alfalfa. It drops 711 feet during its 40-mile length.

By 2012, COID constructed a hydropower plant on each canal and the general manager, Steven Johnson, announced that COID was planning to ask for government grants and loans to construct 8 to 10 more seasonal power plants where there were elevation drops and significant flows of irrigation water. Miles of pipes would be at least 9-feet in diameter and where excavation easements could not be secured, the pipes would be placed in the leveled canal beds and rest on gravel and be covered with

several feet of dirt in resulting mounds about 12 feet tall and 30-feet wide. It is unknown if the current easements and local zoning codes will allow that proposal or the construction of hydropower plants and piping. The laying of such large pipes would require pipes to be laid outside of the COID easements in any section of the segment that has a sharp curve. For any area like that, COID would need to negotiate new easements with the landowners.

The benefits and costs of the proposed seasonal hydropower projects are also widely debated. Stacked averages of data kept by the Oregon Department of Water Resources for Deschutes River water diverted to the Pilot Butte Canal by COID, since the Juniper Ridge Hydropower plant was put on line, show that more water was diverted after the piping project than before. During last year, 2016, COID diverted the most water in its history. Obviously, the power plants need a steady source of water. This demand is the opposite of conservation projects; when irrigation water is not flowing in the off season, no power is generated. Also, if water flow was reduced due to patron's conservation efforts, power production and revenues would accordingly drop. The generators need a sustained amount of water, in opposition to the community's desires to increase river flows, efficiency measures made by the users, increased participation in the in-stream leasing program to save water, and other water saving practices. Another reason for the total increase of water diverted last year was that the amount of water is tied to the needs of the hydropower plant to achieve maximum output during the months of use and no longer tied to the varying needs of patrons during the short growing season. The seasonal water flow step up and step down practices of a hundred years are being ignored.

F. I-Lateral of the Pilot Butte Canal in Alfalfa

The COID project reviewed by SHPO staff in 2012 was a request for a pipe on a segment of the "I" Lateral of the Central Oregon Canal near Zell Pond in the community of Alfalfa. Piping the "I" Lateral near Zell Pond is complete.

The "I" Lateral is larger than several main canals in the Deschutes River Basin. It serves several public recreational reservoirs such as Reynolds Pond and hay farms and pastures. The MOA detailing the agreement to pipe the lateral was signed by the three parties: Roger Roper of the Oregon SHPO, Steven Johnson of COID, and Gary Kelso of the Bureau of Reclamation, Columbia-Cascades Area Office. The MOA correctly identified the location of the project as "Alfalfa Vicinity, Deschutes County, Oregon and gave the correct locations as T17S, R14E, Segments 25, 26 and 36. This location is south and slightly east of the community center at Alfalfa Store.



The “I” Lateral in Alfalfa, looking southeast, August 2016.



Piped “I” Lateral near Zell Pond. The road is on top of the pipe. Looking northwest away from Zell Pond.



Photo taken from the top of the buried pipe looking southeast over Zell Pond, fed by a pipe from the "I" Lateral.



Looking south to Reynolds Pond and Recreation area fed by irrigation water flowing through a gate on the "I" Lateral, south of the Alfalfa Store.

G. Juniper Ridge Phase II-2013 WaterSMART Project on the Pilot Butte Canal

The next year, on September 6, 2013, Ian P. Johnson of Oregon SHPO signed an Oregon SHPO Clearance Form for the Juniper Ridge Phase II-2013 WaterSMART Project on the Pilot Butte Canal. The project was to extend the 9-foot diameter steel pipe set in the bottom of the canal for one mile to connect onto the current 2.6 miles of piped canal at Juniper Ridge Hydropower Plant. The project's purpose was to increase "head" at the plant, resulting in more income from the sale of electricity.

H. Continuation of Errors and Confusion Abounds: No Action Should be Taken on the Nominations

A review of the MOA illustrates that there are serious errors that require a deeper review. The importance of the Section 106 is not to be understated because it was relied upon by staff who had never visited the project site. Because the form was erroneous, it snowballed into multiple errors. The Section 106 documents the previous findings of eligibility of the one mile of the Pilot Butte Canal that would be demolished by the Juniper Ridge Phase II-2013 WaterSMART Project. However, instead of describing the significant project area, it describes the highly altered North Canal, two miles west of the subject project. It also erroneously characterizes the lots sizes and the land use in the project area.

The Section 106 erroneously states that the subject site would be a non-contributing segment of the PBC if it was listed on the NRHP. Yet, the project area is completely within the Pilot Butte Canal Historic District (Yeoman Road – Cooley Road Segment) listed in 2016 and found to have exceptional integrity of structure, location, setting, feeling, etc.

Additionally, the Section 106 erroneously states there is no agriculture in the area, when in fact 11 irrigation ponds and many acres of irrigated pasture supporting livestock are in the project area and can be readily seen on Google Earth and by walking beside the canal. See the nomination of the Pilot Butte Canal (Yeoman Road - Cooley Road Segment). The Section 106 preparer provided four photos, on pages 6 and 7. The two misleading photos on page 7 should not have been included because they were taken at a location several miles west of the project area and out of the Area Potential Effect ("APE").

SHPO did not notify or seek any input from the property owners or local jurisdictions in the APE, which would have resulted in corrections to misinformation in the form. Nonetheless, Ian Johnson concluded that the canal is considered eligible for listing on the NRHP. However, because of the information in the Section 106, he checked the box for the one-mile-long project that would destroy the resource, "The project has NO EFFECT on a property that is eligible or already listed in the National

Register, either because there is no eligible property involved or the eligible property will not be impacted physically or visually.”

Within a week of this form being submitted by Chris Horting-Jones, several property owners within the project area wrote to the SHPO asking to be notified when a Section 106 report was submitted on the proposed piping project so they could comment on it. None had been or has ever been notified, nor had the two local jurisdictions or the two landmarks commissions that oversee this area. The Section 106 application submitted by the Bureau of Reclamation incorrectly stated the project location as “T17S, R12E, Segment 12 WBM”. It is unclear as to what the “B” in WBM stands for or why Segment 12 was given as the location. The correct location is T17S, R12E, Segment 15, WM. The incorrect location is about two miles east of the correct location. This created a problem with public access to the forms.

Although the Juniper Ridge Phase II-2013 WaterSMART Project is for the Pilot Butte Canal which is 14 miles west of the Central Oregon Canal at Alfalfa, the canals and piping projects were confused and lumped together from that point forward. The title of the MOA failed to include the location of the Juniper Ridge project or even the name of the Juniper Ridge project.

The 2012 MOA for the “I”-Lateral on the Central Oregon Canal in Alfalfa was resurrected and three lines were added to it. It continued to be titled exclusively for the buried piping of the “I”-Lateral in Alfalfa near Zell Pond and Reynolds Pond with the correct Alfalfa locations of a below-ground water conservation piping project. But, in Segment 8, General Provisions, a 3.5- line paragraph was inserted. The new Alfalfa “I”-Lateral MOA now included the Juniper Ridge Phase II – 2013 WaterSMART Project that was actually on the other canal, 14 miles away and was an above-ground project that would create a mound 12 feet tall and 30 feet wide extending out of the COID easement areas in back yards and in some case literally running through houses. This altered-MOA was signed by the parties again with no notification of the owners or the local jurisdictions.



This photo shows the house on the west side of the Pilot Butte Canal in the project area that is shown on COID's plans to have the pipe go outside its easement and go through the owner's kitchen.

The three nominations before you are the proponent's attempt to satisfy the MOA in exchange for Oregon SHPO's approval on all future requests to demolish segments of the two NRHP eligible canals for conservation piping and hydropower projects.

I. Ownership of the Canals

A common misconception is that COID owns the canals. Most of the length of both canals are in private ownership, with COID owning with a fee-simple interest a few lots crossed by each canal. Some private parties, mostly in the urban areas, own to the centerline of the canal. Those landowners, typically with larger land holdings, own the entire area of land on both sides of the canal and under the canal. The ownership of the Pilot Butte Canal in the listed historic district between Yeoman Road and Cooley Road was determined by the National Park Service (NPS) when Stoel Rives LLP, Attorneys at Law of Portland, OR argued that COID was the owner and should be able to object to the listing. The attorneys for the NPS determined that in this historic district, all of the land in the historic district is in private ownership and COID has an easement of approximately 50 feet on each side of the centerline to operate and maintain the canal for irrigation purposes. Judges in previous local lawsuits have determined that the irrigation districts do not have an easement below the canal bed and cannot dig or excavate below that level without securing a new easement with the property owners.

J. Zoning

COID applied for land use approval from Deschutes County in 2013 to allow the Juniper Ridge Phase II piping project. The area is zoned Single Family Residential-2.5 Acres. Piping is a conditional use in that zone, requiring a public hearing. However, in

2013, staff at the Community Development Department administratively approved the project with no notice to property owners and no posting of the site and forwarded that approval to the Oregon DEQ which is also providing funds. When the property owners discovered the irregular approval, their attorney Bruce W. White appealed it to the Oregon Land Use Board of Appeals (LUBA) and won. See James Curl and Sheryl Curl vs. Deschutes County and Central Oregon Irrigation District, LUBA No. 2013-086/095.

The Final Opinion and Order remanded the decision back to the county to correctly process it in compliance with the procedures code and zoning code. Knowing it would not meet the code, COID chose instead to unsuccessfully apply for a text amendment to change the code to meet their needs. The Planning Commission unanimously found that the facts of the Juniper Ridge Phase II Piping Project are not as portrayed and the public benefit is questionable and any benefit is likely outweighed by significant adverse effects to water quantity in the river and many unacceptable significant effects on property and public safety. COID still has no local approval for the project from either the City of Bend or Deschutes County. The project passes in both jurisdictions.

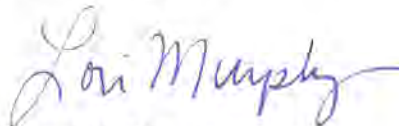
K. Conclusion

We recommend that the SACHP direct the SHPO to redo the Section 106 for Juniper Ridge Hydropower Phase II Piping Project with public involvement and notifications of owners and local jurisdictions. Also, the SHPO should nullify the MOA of 2014 which added the project to the 2013 MOA for the "I" Lateral on the Central Oregon Canal. Now that the project area and an additional half mile are listed on the National Register, the proponent's project should firmly be rejected.

Any future negotiations for acceptable nominations for the two canals as a trade for approval to pipe more of the canals needs to be comprehensive and include adequate public involvement. A preservation plan for each canal needs to be produced by COID and accepted by the City of Bend, City of Redmond, and the Deschutes County Community Development Departments.

At a bare minimum, it should be acknowledged that the Pilot Butte Canal Historic District (Cooley Road – Yeoman Road Segment) meets the requirement to list and preserve a segment of the Pilot Butte Canal, as required by the MOA.

Best Regards,



Lori K. Murphy, Esq.

Encls: Exhibits

Cc: Client

OREGON SHPO CLEARANCE FORM

Do not use this form for ODOT or Federal Highway projects or to record archaeological sites

-This form is for federal cultural resource reviews (Section 106), state cultural resource reviews (ORS 358.653)

SECTION 1: PROPERTY INFORMATION

SHPO Case Number: 09-005/10-1873

Resource Name: Pilot Butte Canal

Street Address: T17S, R12E, Section 12 WBM (Bend 7.5 min. quadrangle)

City: Bend

County: Deschutes

Agency Project #: 13-09-COID

Project Name: Juniper Ridge Phase II – 2013 WaterSMART Project

If there is not a street address, include the Township, Range, and Section, cross streets, or other address description

Owner: Private Local Gov State Gov Federal Gov Other: _____

Are there one or more buildings or structures? YES NO – If no, skip to Section 2 and append photo(s)

Is the property listed in the National Register of Historic Places? YES – Individually YES – In a district NO

Original Construction date: 1904-1905 Check box if date is estimated

Siding Type(s) and Material(s): N/A

Window Type(s) and Material(s): N/A

Has the property been physically altered? No Alterations Few Alterations Major/Many Alterations

SECTION 2: APPLICANT DETERMINATION OF ELIGIBILITY - Check the appropriate box

The purpose of this review is to avoid impacts to properties that are "eligible" (historic) or already listed in the National Register of Historic Places. Fully establishing historic significance can be very costly and time consuming. Therefore initial evaluations are based on age (50 years or greater) and Integrity (historic appearance), which are the minimum qualifications for listing in the National Register. Additional documentation may be needed further in the process, but typically initial evaluations allow the review process to proceed expeditiously.

The property is considered **Eligible** at this time because it is already listed in the National Register or

- is at least 50 years old **and** retains its historic integrity (minimal alterations to key features)
- has potential significance (architectural or historical)

The property is considered **Not Eligible** at this time because it:

- is less than 50 years old **or** is 50 years or older but there have been major alterations to key features
- is known to have no significance, based on National Register-level documentation and evaluation

SECTION 3: APPLICANT DETERMINATION OF EFFECT - Check the appropriate box

The project has **NO EFFECT** on a property that is eligible or already listed in the National Register, either because there is no eligible property involved or the eligible property will not be impacted physically or visually.

The project will have a minor impact on a property that is eligible or already listed in the National Register, and therefore there is **NO ADVERSE EFFECT**. Minor impacts include replacement of some, but not all, siding, doors, or windows, etc.

The project will have a major impact on a property that is eligible or already listed in the National Register, therefore there is an **ADVERSE EFFECT**. Major impacts include full or partial demolition, complete residing, full window replacement, etc.

STATE HISTORIC PRESERVATION OFFICE COMMENTS – Official use only

Eligibility: Concur with the eligibility determination above.
 Do not concur with the eligibility determination above.

Effect: Concur with the effect determination above.
 Do not concur with the effect determination above.

Signed: *Ian P. Johnson* Date: *9/6/2013*

RLS	
ILS	

IAN JOHNSON
503-986-0678
ian.johnson@state.or.us

Comments:

See comments dated 9/6/2013

OREGON SHPO CLEARANCE FORM

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SECTION 4: PREVIOUS ALTERATIONS TO THE BUILDING OR STRUCTURE

Only complete this section for buildings that are 50 years old or older. Describe any alterations that have already occurred to the building, such as material replacement, including siding, windows, and doors; any additions, including garages; and any removal or addition of architectural details, such as brackets, columns, and trim. Provide estimated dates for the work. Attach additional pages as necessary.

The approximately one mile section of the Pilot Butte Canal to be piped (financed by the 2013 WaterSMART grant) commences approximately 0.5 miles from the Bend City limits, to the southern terminus of the piping funded under an ARRA grant in 2009. It is a basalt rock and earthen canal four feet deep and 30-50 ft. in width on average with some areas as wide as 85-90 ft.

The approximately 26 mile-long Pilot Butte Canal was originally built by Deschutes Irrigation and Power (DIP) in 1904-1905 to deliver water to lands segregated under the Carey Act. The original diversion was south of Bend, with the Pilot Butte canal winding northward through the east side of town. DIP was reorganized as the Central Oregon Irrigation Co. in 1910, which constructed the North Dam and diversion (at the north end of Bend), and the North Canal in 1912. Water intended for irrigators north of Bend was diverted into the North Canal for 1.4 miles, then into the Pilot Butte Canal. Water which had been diverted into the PBC south of Bend was instead diverted into the Central Oregon Canal to irrigate lands in the Powell Butte and Alfalfa area. The PBC, north of the junction with the North Canal, was cut, isolating the "Old Pilot Butte Canal" from the "North Pilot Butte Canal" (Tonsfeldt 2010:15-16).

Modifications to the PBC from the North Dam to the Hydro-electric generating facility (a distance of approximately 6.4 canal miles) have included piping of a canal segment just downstream of the diversion to just east of the Highway 97 in the 1990s, due to construction of the Bend Parkway by ODOT (see attached maps). In 2009, a 2.8 mile section of the PBC (T17S R12E sections 3 and 10) was piped, and a small hydro-electric generating facility was constructed (SHPO Case 09-005). Segments of the canal prone to heavy seepage and water loss have been lined with shotcrete (need photo; date?) – a 350 ft. section from the diversion headgates at the river to the radial gates, and another 350 ft. section in the Boyd Acres area (personal communication, L Wollam, COID, 8/8/13). Additionally, bridges, checks and turnouts have been replaced or removed, and wooden flumes have been replaced with buried concrete siphons (NPS 1991:4), or removed altogether. Additional piped sections of the canal are located within the boundaries of the city of Redmond, as construction of the Hwy 97/Redmond Parkway required piping and burying of the canal along the city's east side.

Portions of the Pilot Butte Canal have been determined eligible to the National Register in the past several years. The North Canal (considered to be incorporated into the PBC) and the North Dam complex were determined eligible in 1991 and documented in the Historic American Engineering Record (HAER no. OR-61). The draft National Register Form (Claeyssens 2006) also recommended the PBC as eligible as a contributing feature of the historic Central Oregon Irrigation District. In 2009, the section of the PBC piped as funded by an ARRA Grant was determined to be eligible (SHPO Case #09-005). In 2010, the PBC was also determined eligible individually and as part of a district by AINW for the Federal Highway Administration/ODOT's US 97/Bend North Corridor Project

OREGON SHPO CLEARANCE FORM

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SECTION 5: PROJECT DESCRIPTION

Describe what work is proposed, including what materials will be used and how they will be installed. Specifically identify what historic materials will be retained, restored, replaced, or covered. Include drawings, photos, cut sheets (product descriptions), additional sheets, and other materials as necessary. For vacant lots, please describe the intended use.

Central Oregon Irrigation District is proposing to pipe approximately 1 mile of the Pilot Butte Canal, northeast of Bend, Oregon. The Canal, which delivers irrigation water to the Redmond/Terrebonne area, is approximately 26 mi. long, and open for the majority of that distance. This action will conserve 2,552 acre-feet of water by reducing seepage losses; the conserved water will be permanently restored instream in the Deschutes River and allocated to lands irrigated by the North Unit ID, which will reduce NUID's demand from the Crooked River.

The construction work will include a concrete forebay/trashrack in addition to the piping; all work will occur within COID's easement, the canal prism and ditchrider road – no new ground disturbance is anticipated. COID will retain the ditchrider road on the right (east) downstream side of the Canal.

SECTION 6: FUNDING SOURCE

ARRA
 FCC
 FERC
 HUD
 ODOE
 USDARD
 USFS
 Other: Bureau of Reclamation WaterSMART Grant

SECTION 7: AGENCY CONTACT INFORMATION

Name of Organization Submitting the Project: Bureau of Reclamation, Columbia-Cascade Area Office

Project Contact Name and Title: Chris Horting-Jones, archaeologist

Street Address, City, Zip: 1375 SE Wilson Avenue #100 Bend, OR 97702

Phone: 541-389-6541 ext. 236

Email: Chortingjones@usbr.gov

Date of Submission: August 20, 2013

SECTION 8: ATTACHMENTS

REQUIRED	<input checked="" type="checkbox"/> 3 – 4, color, 4 x 5 photographs of the subject property, digital or print. One photo is sufficient for vacant property
AS NEEDED <i>Contact SHPO staff with questions</i>	<input checked="" type="checkbox"/> Project area map, for projects including more than one tax lot
	<input type="checkbox"/> Additional drawings, reports, or other relevant materials
	<input type="checkbox"/> Continuation sheet for sections 4 or 5, or additional context to determine National Register Eligibility.

SHPO Mailing Address: Review and Compliance, Oregon SHPO, 725 Summer St. NE, Suite C, Salem, OR 97301
 Documents meeting all aspects of the digital submission policy may be submitted by email to
ORSHPO.Clearance@state.or.us

EXHIBIT A
 3 of 8

OREGON SHPO CLEARANCE FORM CONTINUATION SHEET

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CONTINUATION SHEET

- Include additional documentation for Section 4 or 5 as necessary. Attach maps, drawings, and reports as needed to illustrate current conditions and the planned project. If submitting this form by email, photos and maps may be inserted into continuation sheets.
- If completing a complete Determination of Eligibility (DOE) or Finding of Effect (FOE), use continuation sheets as necessary or include appendices.

Reclamation considers the initial 6.4 miles of the Pilot Butte Canal – from the North Diversion Dam, on the Deschutes River – to the hydroelectric generating facility, 2 mi. northeast of Bend - to be a non-contributing segment of the National Register-eligible Canal. This section of the conveyance feature has been extensively modified since initial construction, with concomitant loss of integrity of design, materials and workmanship: segments of the canal were realigned, piped and buried during construction of the Bend Parkway in the late 1990s, and as financed by an ARRA Grant in 2009. Additional segments have been permanently altered – canal walls covered with shotcrete, and the canal floor cemented to reduce heavy seepage through the highly fractured basalt bedrock. The canal also no longer retains any integrity of setting, feeling or association: the conveyance feature presently traverses an area characterized as industrial and commercial east of Highway 97, as well as land currently being developed as high-density residential developments. The one-mile APE itself wends through a neighborhood of 1+ acre developed residential lots, replacing the scattered agricultural homesteads segregated under the Carey Act which characterized the lands served by the Pilot Butte Canal immediately north of Bend. Irrigation water is no longer delivered to water users within the APE for agricultural purposes.

As a non-contributing segment, this undertaking will result in a No Adverse Effect determination. The remainder of the unpiped canal (some 20 miles), however, retains its contributing status, rendering the Pilot Butte Canal still eligible for the National Register.

In 2012, COID, The OR SHPO and Reclamation entered into a Memorandum of Agreement for mitigating the Adverse Effect to COID's Central Oregon Canal I-Lateral (SHPO Case 12-0678). COID has committed to developing standards for determining eligibility and integrity across the entire COID water conveyance system.

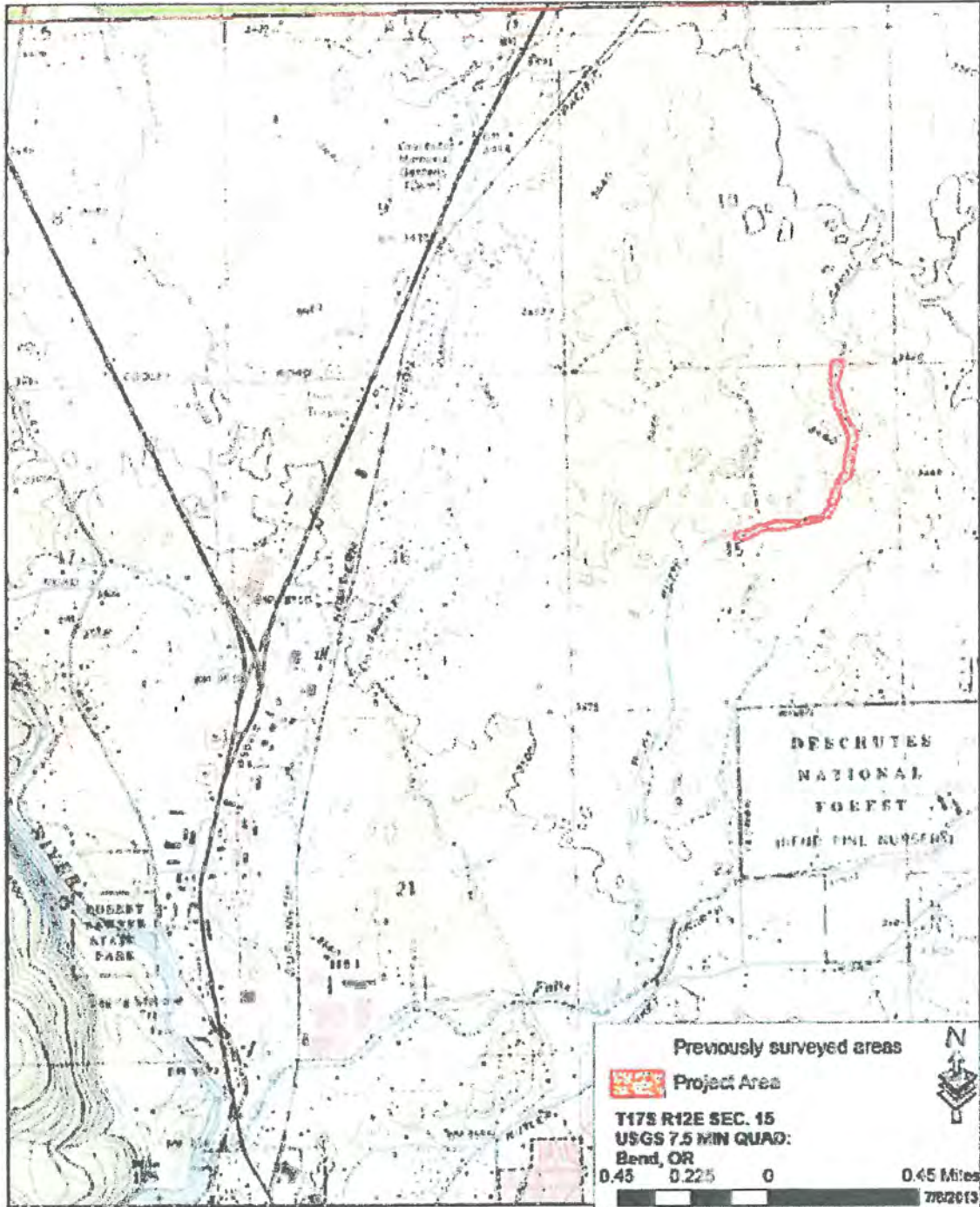
BIBLIOGRAPHY

- 2006 Claeysens, Paul and Jan Tomlinson
Draft Determination of National Register Eligibility for Historic Agricultural Resources in Central Oregon: Central Oregon Irrigation District. Report prepared for USDI, Bureau of Reclamation, Boise, Idaho. Heritage Northwest, Bend, OR
- 2013 Johnson, Steve. District Manager
Central Oregon Irrigation District Juniper Ridge Phase II. A Project Associated with North Unit Irrigation District Water and Energy Conservation Initiative. Reclamation WaterSMART Water and Energy Efficiency Grant Proposal. Central Oregon Irrigation District. Redmond, Oregon.
- 1991 National Park Service
North Canal Dam and Diversion Canals (Steidl and Tweet Dam and Diversion Canals). Deschutes River near North Division Street, Bend, Deschutes County, Oregon. Written Historical and Descriptive Data. Historical American Engineering Record, OR-9. Columbia Cascades Support Office, Seattle.
- 2010 Tonsfeldt, Ward and Dennis Gray
Cultural Resource Inventory of a Segment of the Pilot Butte Canal, Juniper Ridge Piping Phase II, Deschutes County, Oregon. East Slope Cultural Services, Inc., Bend, OR.

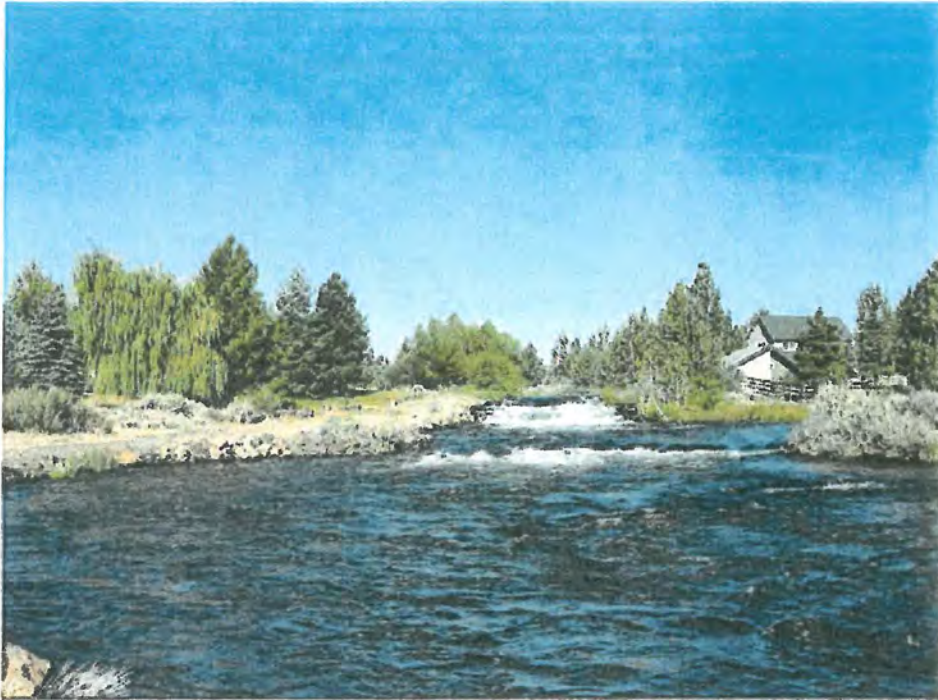
OREGON SHPO CLEARANCE FORM

**CENTRAL OREGON IRRIGATION DISTRICT -
2013 WaterSMART Grant**

Project Location



OREGON SHPO CLEARANCE FORM
Photos



Southernmost end of project area, facing west – proposed forebay with trash racks (beginning of piping) will be constructed between two small waterfalls, photo center.



Overview of residential properties encroaching on COID canal easement – both house and fenced yard are within easement.

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Overview of Pilot Butte Canal facing east at Boyd Acres Road. High density residential development in background. This photo is taken outside the APE, but within the non-contributing segment of canal.



View of Pilot Butte Canal looking west from Boyd Acres Road. Jeld-Wen window factory is to right, pedestrian bridge leads from Jeld-Wen parking lot. This photo is taken outside the APE, but within the non-contributing segment of canal.

OREGON SHPO CLEARANCE FORM

Overview of the Pilot Butte Canal (PBC) from the diversion on the Deschutes River northeast through Bend. The Canal is demarcated in light blue; it is piped from the diversion to just east of the Bend Parkway. Note the industrial/commercial and high density residential areas the canal traverses. GoogleEarth, 8/13/13.





Oregon

John A. Kitzhaber, MD, Governor

Parks and Recreation Department
State Historic Preservation Office
225 Summer St NE, Ste C
Salem, OR 97301-1266
(503) 986-0690
Fax (503) 986-0793
www.oregonheritage.org

September 9, 2013

Mr. Gerald Kelso
Bureau of Reclamation
1201 NE Lloyd Blvd STE 750
Portland, OR 97232



RE: SHPO Case No. 10-1873
Pilot Butte Canal Juniper Ridge Piping Proj Phase 2

Dear Mr. Kelso:

Thank you for submitting documentation on the project referenced above. While the Oregon State Historic Preservation Office (SHPO) acknowledges that the integrity of the subject section of the Pilot Butte Canal is diminished, we believe that the majority of this segment retains sufficient integrity for listing in the National Register and that the proposed piping project will adversely affect the resource's character-defining features.

However, we believe that the Memorandum of Agreement (MOA) mitigating for the adverse effect to historic properties for Phase II of the North Unit irrigation District Water and Energy Conservation Initiative (SHPO Case No. 12-0948) signed in September 2012 among the Bureau of Reclamation (BOR), our office, and the Central Oregon Irrigation District (COID) is sufficient to address this adverse effect. As noted in personal correspondence with Chris Horting-Jones, as written the MOA does not adequately address how COID's ongoing piping projects should be addressed. We propose amending the document to allow projects to proceed, while carrying out the previously-agreed to stipulations that will identify what portions of the system should ultimately be preserved.

Until the MOA can be amended, and if BOR is amenable, we ask that the agency concur with our Determination of Eligibility, Finding of Effect, and mitigation for this project in writing, and confirm that the agency will seek an amendment to the existing MOA to resolve the issues noted in this letter. It is our hope to have the document amended within the next several months, sooner if possible. Please contact me if there are any further questions, comments, or concerns.

Sincerely,

Ian P. Johnson, M.A.

Historian

(503) 986-0678

ian.johnson@state.or.us

EXHIBIT B
Page 1 of 1

MEMORANDUM OF AGREEMENT
No. R14MA13733
AMONG
THE U.S. BUREAU OF RECLAMATION,
THE OREGON STATE HISTORIC PRESERVATION OFFICE
AND
CENTRAL OREGON IRRIGATION DISTRICT

For
Piping of a Segment of the I-Lateral

ALFALFA VICINITY, DESCHUTES COUNTY, OREGON

This Memorandum of Agreement (MOA) is entered into by Bureau of Reclamation, Columbia-Cascades Area Office (Reclamation), the Oregon State Historic Preservation Office (SHPO) and the Central Oregon Irrigation District (District) to define their respective roles in mitigation efforts related to the piping of the I-Lateral of the Central Oregon Irrigation District System (System). This MOA outlines separate, but related mitigation for the current undertaking (subterranean piping of a Segment of I-Lateral) and the proposed future piping of the remainder of the canals, laterals, sub-lateral and ditches within the District. This MOA replaces MOA No. R12MA13723 thereby canceling it in its entirety.

I. Background

The District is located in Deschutes County. The District provides irrigation water within the Central Oregon Tri-county area with 43,000 acres delivered to water users in the vicinity of Bend, Alfalfa, Powell Butte, Redmond, and Terrebonne, within the upper Deschutes River basin.

A. I-Lateral Piping

Under the current undertaking, the District intends to protect and improve water quality and improve water delivery by converting approximately 4,800 feet of open ditch laterals within the I-Lateral of the System to pipe, in T17S R14E Sections 25, 26 and 36.

The District has been awarded a grant through Reclamation's WaterSMART Program to perform the work. Because Reclamation-administered Federal funds will be involved in this project, the Section 106 process of the National Historic Preservation Act was applied to identify affected historic properties.

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), the District has documented the extent of the Lateral within the current undertaking's Area of Potential Effects for historic and archaeological resources to standards acceptable to Reclamation and SHPO.

Reclamation, in consultation with SHPO, determined that replacement of the open I-Lateral with the pipe will have an adverse effect upon the historic integrity of the Lateral. Reclamation notified the Advisory Council on Historic Preservation (Council) of the adverse effect on the I-Lateral pursuant to the Code of Federal Regulations (CFR) 36 CFR Section 800.6(a)(1), and in a letter dated September 17, 2012, the Council indicated that their participation is not needed in the consultation for resolution of adverse effects from this undertaking.

Specific mitigation strategies designed to address the adverse effect of this undertaking are identified below, in section 3.A.

B. Future Piping of Canals, Laterals, sub-Laterals, and Ditches

Through discussions between Reclamation, SHPO, and the District related to future project planning and the stated intentions of the District, a proposal to programmatically mitigate for future adverse effects related to the future piping of canals, laterals, sub-laterals, and ditches throughout the District has been developed. This MOA is intended to provide mitigation for such future piping efforts.

Specific mitigation strategies designed to address the adverse effects of these future undertakings are identified below, in section 3.B.

C. Interim Management

Until the Programmatic Agreement is signed and in place, all consultation regarding non-Federal undertakings will be reviewed by SHPO under standard State review practices, as defined in Oregon State Regulations (ORS) 358.653.

This MOA is entered into under the authority of the National Historic Preservation Act of 1966 as amended, as specified in the regulations in 36 CFR 800, and specifically in Section 6(c) – Resolution of Adverse Effects without the Council.

2. Purpose and Applicability

This MOA will serve to define the necessary actions for documentation of the System in its current state, define in more detail the historical significance, contextual setting, character-defining characteristics and the contributing properties within the System, and set the parameters by which future actions to pipe the System can be accomplished. This MOA will reduce the need to consult with the SHPO on a case-by-case basis when qualifying future activities (defined as subterranean piping of canals, laterals, sub-laterals, and ditches) take place on the System, and provides for a schedule that allows the SHPO to be updated on implemented actions.

This MOA does not apply to projects affecting any feature or element that is or may be individually eligible for listing in the National Register of Historic Places. Federal undertakings that affect these elements of the District will continue to be reviewed under standard Section 106 review processes (36 CFR 800). Non-Federal projects will continue to be reviewed under ORS 358.653.

3. Implementing Actions

A. Piping of I-Lateral

The SHPO, Reclamation, and the District agree that the current undertaking, consisting of the subterranean piping of approximately 4,800 feet of the I-Lateral, currently an open-ditch structure, represents an adverse effect to the National Register-eligible District water conveyance system. In order to mitigate that adverse effect, the following shall be implemented:

1. Reclamation will:

- (a) Consult with the proper interested parties, such as the Council, SHPO, and the Confederated Tribes of the Warm Springs Reservation.
- (b) Ensure that mitigation efforts defined in this MOA as part of the current undertaking (identified below, Section 3.A.2) are completed to the standards set forth below.

2. The District will:

- (a) Perform or cause to be performed the Historic Documentation of the System;

- Following all applicable guidance provided by the National Park Service and SHPO, the District will conduct a historic properties inventory of the entirety of the District facilities and infrastructure related to water conveyance (i.e., not to include district offices and equipment/vehicle maintenance or storage facilities). This inventory will document all water-conveyance system buildings and structures, provide locational information (in GIS format, using lines to represent canals, etc., and points or polygons, as appropriate, to represent features) for all water conveyance-related buildings and structures, as well as associated features. The inventory will meet the requirements set forth for Reconnaissance Level Surveys, as defined in the document, "Guidelines for Historic Resource Surveys in Oregon." Prior to initiation of the survey, a written, detailed survey design will be submitted to SHPO for review and concurrence.
- This inventory will be completed and submitted to Reclamation and SHPO for draft review within three (3) years of the date of the final signature on the document. Comments and revision requests from Reclamation and/or SHPO will be addressed, and a final version of the inventory will be submitted within one (1) year of the receipt of such comments.

B. Future Piping of Canals, Laterals, sub-Laterals, and Ditches Elsewhere Within the District
 SHPO, Reclamation, and the District understand that it is the intention of the District to convert significant portions of the system of open canals, laterals, sub-laterals and ditches within the District to a subterranean, piped system. In order to mitigate for future adverse effects that would arise from these efforts, Reclamation, SHPO and the District have agreed to mitigate programmatically through the following measures in order to reduce time, effort, and resources required to conduct standard Section 106 and/or ORS 358.653 consultation:

1. Develop a Programmatic Agreement (PA)

- (a) Reclamation, SHPO, and the District shall enter into a PA to allow for the more efficient fulfillment of the entity's obligations under Section 106 of the National Historic Preservation Act, as amended, and Oregon Revised Statute 358.653, as applicable.
- (b) All parties shall use the Multiple Property Document (see Section 3.B.2., below) to identify contributing segments of the canal system to be managed under the PA and any subsequent documents created as part of the process. The PA will include, at minimum:
 - A list of routine maintenance and minor construction activities and actions that do not adversely affect the historic resource and that are exempt from regular review by SHPO;
 - A provision to address emergency situations where catastrophic breach of the canal or other unforeseen event or eminent threat endangers human life or property. Such a provision shall allow the District to act on the immediate situation without consultation and address compliance with applicable cultural resource laws in consultation with appropriate federal agencies and stakeholders within 30 days of the incident.
 - An inadvertent discovery clause, which will outline procedures to be followed when unknown, unanticipated cultural resources are discovered due to District activities;
 - A description of annual reporting requirements and timetable for reporting activities undertaken by the District where the provisions of the PA were applied;

Preservation (SACHP). The District will address any SHPO and SACHP comments prior to forwarding the document to the National Park Service for final consideration.

3. Preservation and Interpretation

- (a) Following completion of the draft MPD elements described above (Stipulation B.2.a-b), the District, in consultation with Reclamation and the SHPO, shall select appropriate, contributing segments to be listed in the National Register of Historic Places through the MPD. These segments will be selected based on the following criteria:
1. The segments will be high-integrity, substantial, contributing segments (minimally, one substantial segment each in the Pilot Butte Canal and the Central Oregon Canal) to the overall eligible District;
 2. The segment should include a variety of features, such that it well-represents the function and appearance of the water conveyance system, as it appeared as an intact system;
 3. The segment should be of sufficient length that on-site interpretation (see Stipulation B.3 (b), below) can be achieved in an attractive, well-organized fashion, without crowding or overwhelming the resource itself.
- (b) Once selected, the identified segment will be cleaned, repaired, and returned to working condition in a way that meets the Secretary of the Interior's Standards for the Treatment of Historic Properties, and the immediate vicinity prepared such that it creates a welcoming, attractive environment for the public visitation and interpretation of the resource.
- (c) The interpretation of the resource will be achieved through the use of static or active displays that relate the history, function, and significance of the Central Oregon Irrigation District water conveyance system. Such displays will be presented in a format that is weather- and vandal-resistant, attractive, and engaging. Draft content and layout of the interpretive display(s) will be submitted to Reclamation and SHPO for review and comment, and if any revisions are requested, revised versions will be submitted for a second review prior to fabrication. Upon acceptance of the draft content by Reclamation and SHPO, the District will cause the interpretive display to be constructed.
- (d) Once constructed, the interpretive site and displays must be maintained by the District in an attractive and functioning condition.

4. Completion of this MOA

The terms of this MOA will be considered to be completed when the above implementing actions (A-B) have been completed to the satisfaction of Reclamation and SHPO. Upon completion of the implementing actions, all adverse effects resulting from subterranean piping of *all canals, laterals, sub-laterals, and ditches* will be considered to be fully mitigated, and may proceed without Section 106 or ORS 358.653 (as appropriate) consultation with Reclamation or SHPO.

5. Period of Performance

This MOA shall become effective on the date of the last signature hereto and extend three years after the date of the last signature. The MOA will also be considered terminated once all stipulations are complete, or five years after the date of the last signature on this MOA. Any party may terminate this MOA by providing 30

days written notice to the other party(ies). Any party may formally request modification of the MOA by providing a written request to the other party(ies).

If this MOA is terminated prior to completion of the above stipulations, then all projects undertaken from the date of the final signature not covered by the PA (should it be in effect) on this MOA must be reviewed under standard review practices under Section 106 of the National Historic Preservation Act, or under ORS 358.653, as appropriate.

6. Modifications

Reclamation, SHPO or the District may formally request modification of this MOA. Modifications shall be made by mutual consent of Reclamation, SHPO and the District by the issuance of a written modification to this MOA, signed and dated by all parties prior to any changes being performed.

7. Principal Contacts

The principal contacts for this MOA are:

For Reclamation:

Chris Horting-Jones
Archeologist
1375 SE Wilson Ave. #100
Bend, OR 97701
Phone (541) 389-6541
Fax (541)-389-6394
Email: chortingjones@usbr.gov

For the District:

Laura Wollam
Grant Specialist
Central Oregon Irrigation District
1055 SW Lake Ct.
Redmond, OR 97756
Phone (541) 504-7577
Fax (541) 548-0243
Email: lauraw@coiid.org

For SHPO:

Jason Allen
Historic Preservation Specialist
State Historic Preservation Office
Oregon Parks and Recreation Department
725 Summer St. NE, Suite C
Salem, OR 97301-1266
Phone (503) 986-0579
Fax (503) 986-0793
Email: Jason.Allen@state.or.us

8. General Provisions

a. Reclamation's responsibility for ensuring completion of consultation with SHPO for future undertakings identified in Section 3.B. is limited only to those that qualify as Federal undertakings. Projects identified in Section 3.B. that do not qualify as Federal undertakings are subject to review by the SHPO under ORS 358.653, and the responsibility for consultation and completion will rest with the District.

b. Completion of the mitigation stipulations will be considered to satisfy the requirements for mitigation of adverse effects for a previous undertaking (Pilot Butte Canal Juniper Ridge Piping Project Phase 2 [SHPO Case# 10-1873]) that has not yet been mitigated as of the date of the final signature on this MOA.

c. This MOA is neither a fiscal nor a funds-obligating document for Reclamation. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties of this MOA will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This MOA does not provide such authority.

d. Nothing herein shall be construed to obligate Reclamation to expend or involve the United States of America in any contract or other obligation for the future payment of money in excess of the appropriations authorized by law and administratively allocated for the purposes and projects contemplated hereunder.

e. No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of the MOA or to any benefit that may arise out of it.

f. Any information furnished to Reclamation, under this MOA, is subject to the Freedom of Information Act (5 U.S.C. 552).

g. All parties to this MOA agree to comply with all Federal statutes relating to nondiscrimination, including but not limited to: Title VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, religion, sex, or national origin; Title IX of the Education amendments of 1972, as amended, which prohibits discrimination on the basis of sex; the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, which prohibit discrimination on the basis of disability; the Age Discrimination in Employment Act of 1967, as amended, which prohibits discrimination based on age against those who are at least 40 years of age; and the Equal Pay Act of 1963.

9. Signatures

Reclamation, SHPO and the District will abide by the terms and provisions expressed or referenced herein.

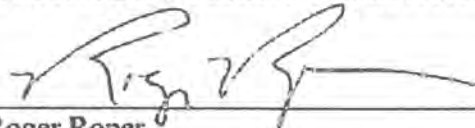
BUREAU OF RECLAMATION

by: Gerry Kelso
Gerry Kelso, Manager
Columbia-Cascades Area Office

DATE: 2/12/14

EXHIBIT C
Page 7 of 8


OREGON STATE HISTORIC PRESERVATION OFFICE

BY: 

Roger Roper
Deputy State Historic Preservation Officer

DATE: 2-25-14

CENTRAL OREGON IRRIGATION DISTRICT

BY: 

Steven Johnson
Secretary-Manager

DATE: 14 Feb. 2014

--- End of Document ---

SKM_C754e17021415480

ALLEN Jason * OPRD

From: Lori K. Murphy <lmurphy@lynchconger.com>
Sent: Tuesday, February 21, 2017 10:43 AM
To: ALLEN Jason * OPRD
Subject: Mark Huber Testimony

Jason,

Thank you for your call. Per my voicemail, my client does not reside directly along the nominated segment; his residence is along the preserved Pilot Butte Canal segment. Therefore, we did not submit the notarized form. Please send his testimony directly to the National Park Service.

Best regards,

Lori

LORI K. MURPHY

LYNCH●CONGER●MCLANE, LLP

1567 S.W. CHANDLER AVENUE | SUITE 204 | BEND, OREGON 97702

OFFICE: 541.383.5857 | FAX: 541.383.3968

lmurphy@lynchconger.com | www.lynchconger.com

(Please note my email address has recently changed)

Please consider the environment before printing this e-mail.

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February 14, 2017

Oregon State Advisory Committee on Historic Preservation
c/o Jason Allen
Oregon State Historic Preservation Office
725 Summer St NE, Suite C
Salem, OR 97301

Re: Opposition to Pilot Butte Canal: Downtown Redmond Segment Historic District (PBCHD Redmond) National Register Nomination

Dear Members of the Oregon State Advisory Committee on Historic Preservation (SACHP):

On behalf of our client, Mark Huber, who is an owner of a portion of the Pilot Butte Canal, this firm offers page by page corrections, information and comments regarding a nomination that will be heard by the Oregon SACHP on February 16, 2017. The nomination should not be forwarded to the National Park Service.

Pilot Butte Canal: Downtown Redmond Segment Historic District (PBC Redmond)

Summary Paragraph, Section 7, Page 3

The nomination states that the parcels are "Deschutes County parcels." That is incorrect. They are all within the City of Redmond, which is within Deschutes County.

The canal crosses parcels that are owned by COID. The idea of COID selecting a stretch of the Pilot Butte Canal to nominate simply because COID owns it is unacceptable. A proper study of relative significance, integrity and historic features would lead one to nominate many other segments of the canal before this one. The conclusions section of the nomination erroneously states that the nominated segment is the only open segment in the downtown. However, two other open segments of the main Pilot Butte Canal are located in Redmond and an adequate comparison to them was not done. This suggests that COID already has plans to pipe at least the one

stretch that includes a waterfall and a dramatic drop in elevation. We maintain that all three Redmond stretches of open canal should have been compared and evaluated for listing in this nomination.

Narrative Description, Page 3

The proponent states that the canal flows to the Crooked River. This is incorrect. The correct information about the northern end of the canal is given, described and photographed in detail on page 25 of the NRHP-listed Pilot Butte Canal (Yeoman Road - Cooley Road Segment) (the "Listed District"). The Pilot Butte Canal actually ends a half mile south of the Crooked River where it is met by the newer North Unit Canal.

The subject nomination incorrectly states that the canal passes through Terrebonne. The canal does not run through Terrebonne, but rather some laterals and ditches serve that area.

The nomination states that the canal was constructed with steam-powered scrapers. We respectfully request that this be described in detail and that any source documents be provided. Our information shows that the canal was constructed with horse drawn scrapers called Fresnos. A diagram of the Fresno and a historic photo of the scraping work being done on this canal are shown on page 51 and 52 of the nomination of the Listed District.

The nomination incorrectly states that there were stone walls on the Pilot Butte Canal and references "stacked stone" along the walls. This is also incorrect. Stone walls did not exist on the Pilot Butte Canal. The photos of the nominated downtown Redmond segment show no stone on the slopes of the canal walls. Photos of other portions of the canal show rip rap on sloped walls. Perhaps the author is confusing this canal with the North Canal that did have stacked stone that blew out with the pressure of water flow shortly after it was constructed.

The author cites no references for the statement that the canal has "a mostly flat bottom and side walls set at steep grade." The author seems to not know the term "toe" in referring to the slope of the sides which is the distance between the side slopes measured in the canal bed, as opposed to the width of the canal at daylight, the top of the water level, or the distance between the cuts and embankments of the canal structure. In the listed historic district, a team of professionals including a hydrologist, a registered civil engineer, a registered architect and a historic preservation planner surveyed the 1.5 miles of the canal and measured the angle, depth and width of each toe, side slope, and at daylight and from berm or cut to the other berm or cut on each side, every 180 feet, and measured the varying depth of the highest and lowest points of the beds every 180 feet. The canal beds in most of the canal are not flat and the sides are not steep anywhere. See pages 11, 116-130 in the nomination of the Listed District for the findings of the detailed survey. In the nominated Redmond segment, the

preparers must measure the side slopes and report them, rather than guessing and generalizing.

The author states that the Central Oregon Irrigation District was formerly known as the Central Oregon Project. That is incorrect. COID has had the same name since it was formed by court order in 1921.

The downtown Redmond nomination states that the overall system consists of over 700 miles of canals and laterals and serve Terrebonne, Redmond, Bend, Alfalfa, and Powell Butte. Here, the author needs to be clear that COID maintains and operates two separate canals with two separate diversion and end points. The west-to-east flowing Central Oregon Canal begins south of Bend and serves Bend, Alfalfa and Powell Butte, while the south-to-north flowing Pilot Butte Canal begins at the North Dam, named because it is north of downtown Bend, and serves Bend, Deschutes Junction, Redmond and Terrebonne. The author needs to separate and describe the two systems and be clear about their differences. The 700 miles refers to the total of both canal systems. Here, the nomination should describe the Pilot Butte Canal system and not the Central Oregon Canal system instead of confusing them or lumping them together.

The downtown Redmond nomination does not contain the peak summer flow of water in the canal or the nominated segment or the carrying capacity of either. As a nomination of an irrigation canal, this is critical missing information.

An incorrect history of the canal is given on this page 3. The preparer may consult the Listed District nomination Section 8 to trace the history of the Pilot Butte Canal from its origins with the privately owned for-profit 1902 Pilot Butte Development Company through 1921 when through Dietrich Decree, or court order, it became a not-for-profit district of users or patrons. Also, later in the Redmond nomination, on page 11, the correct list of companies and the resulting district is given.

Narrative Description, Page 4.

The nomination calls the "ditch rider roads" "ditch roads". This is incorrect.

The nomination fails to provide any footnote in the entirety of Section 7. We request that the committee be provided the facts and sources of information for the entirety of Section 7.

There are erroneous conclusions such as "The Pilot Butte Canal generally has consistent size and shape through its length to accommodate high levels of water flow." All irrigation canals convey more water at the beginning and become progressively smaller as water is delivered to those with water rights. At the end, the remaining water is called tail water and to avoid waste and be responsible, the volume of the tailwater should be as small as is possible to allow delivery to the last customer but not waste water. Reading the nomination that evaluated the entire canal, and seeing the photos of

the entire canal in the nomination for the Listed District in Section 7, will illustrate that the first six miles of the canal convey nearly 400-450 cfs and can be 83 feet wide and ten feet deep while the canal is less than six inches deep and three feet wide at its end. Further, in the Listed District, the variability is great depending on the elevation drops. The flatter the segment, the wider and deeper it must be to hold the water. Areas with steep drops result in swifter flowing water and the same volume of water can flow in narrower and shallower canal structures. That part of the Redmond nomination needs to be corrected and enhanced with actual measurements, not unsourced generalities.

What is the distance from the diversion point to the downtown Redmond segment? What is the flow rate there? This information must be added to the nomination.

The nomination erroneously states that the canal in the northeastern portion of Redmond is "8' to 12' deep". It is consistently less than three feet deep and is primarily 18 to 30 inches deep.

We also question the 50-foot width of the proposed district and ask the SACHP if it is adequate. It includes less than ten feet on each side of the canal and in some areas less than five feet on each side. We think that any nominated district should be at least 100 feet wide.

In this portion of Section 7, the NPS guidelines for preparing a nomination ask for a description of the location, geography and geology of the area. What is the terrain, setting, weather, and description of the city and locality? Tetherow Butte, the Deschutes River, the Crooked River, Smith Rock and the Cascades and the nearby buttes should be described in detail. Instead, this section includes nothing about those topics. For a canal that flows by gravity and winds with the terrain, this information is more essential. Other factors to consider are the population of Redmond and the houses, business, roads and hospital that are in the neighborhood. We seek an explanation of why the canal makes a sharp eastern turn at the northern end of the proposed district. The answers are not in this nomination.

There is a typo on page 4 that says 'feeoot'.

The sentence "Prior to the bypass construction, this area was primarily low-density industrial in use, but retained some of its past agricultural use" is inaccurate and misleading. As stated, the Hwy 97 Bypass was completed in 2009. The St. Charles Redmond Hospital has been remodeled and enlarged in the past decade and the houses are nearly the same. Home Depot opened in 2006. Walmart Supercenter opened in 2007 north of the proposed district. The area is within the city limits and is urban and is not agricultural. The author does not give an example of what has changed and what has not. The description of the setting is totally inadequate. What has happened in the last fifty years? Why was 2009 chosen as the date to discuss changes to the historic setting?

Narrative Description, Page 6.

Under #8, the nomination should describe the “adjacent property owner” and the use of the water. If the lateral is flowing east, how does it cross the Hwy 97 Bypass? Does it run out of the city limits? Who does it provide water to? The gate is labeled on the Figures, but the unnamed lateral is not indicated on any of the figures at the end of the nomination. Is it in the 50-foot wide district or not? If it is in the district, is only 5-10-feet of it enough to portray its purpose?

Narrative Description, Page 9

The SHPO required the preparers of the nomination for the Listed District to compare the nominated area to all other sections of the Pilot Butte Canal. Also, the NPS required the preparers to compare it to three other irrigation districts. That time consuming work was valuable in understanding and describing the variations in design, materials, size, water flow, setting, depth, width, construction methods and design and challenges of what was being nominated in relationship to the other stretches of the Pilot Butte Canal and other canals. That research needs to be done for this nomination to gain an understanding of how seriously this segment has no distinction and has little interpretive value in comparison to the other sections in Redmond and to remainder of the canal.

The preparers misuse the term “sidewalls” throughout all three nominations before the SACHP, instead of describing the angled sideslopes or “toes” where the sideslope intersects with the base of the sideslope at the bed of the canal. The width at daylight is the top measurement at the width of the water surface between the cut sides and/or the embankments. What is the water level? What is the hydraulic level? How much taller is the canal above water level? The canal was designed to hold less water than is flowing today, due to the increased flow demands of the Juniper Ridge Hydroelectric plant. It was designed to flow 18 inches below the level surface of the sides of embankments. Most of the canal is now flowing near the top of the structure and during the last two years has overflowed the banks in several stretches. Is that the case in the proposed Downtown Redmond Historic District? Is the high flow causing damage? The reader is left without a basic understanding of the description of the shape and hydraulics of the segment of canal that is being nominated.

The nomination misconstrues the history of the segment of the canal and its setting. The canal is not rectangular and it was not designed that way. It is trapezoidal. Again, there is no footnote telling the reader of sources of the information and the text is misleading and inaccurate. The canal does not have “basalt stone lining” in any location of the 22 miles. Irregular natural basalt flows are exposed in the beds, but the canal was not lined with rock in any location. The setting, feeling and association has dramatically changed as Redmond has grown and the area is now distinctively urban with the construction of the typical big box stores, new medical buildings and other commercial buildings across the street. How can a setting that used to be rural and now

is within the Redmond city limits, is just south of a Walmart Superstore, is across the street from a Home Depot and a hospital and is sandwiched between a new 4-lane highway on one side and a primary urban street on the other have a setting that “remains unchanged” from the historic period? A view of Google Earth will tell the story of the rapid growth in Redmond. We disagree with the conclusions here.

Section 7 does not describe the source of the water, the Deschutes River, or the route the water takes in order to reach this segment in Redmond. The nomination needs to do that.

The preparer should visit the Listed District and compare it to the Redmond segment.

It is odd that the Listed District is not mentioned in this nomination in either Section 7 or Section 8 until the conclusion on page 21, in which incorrect statements are made.

Statement of Significance, Page 11

The nomination says “... and the use of irrigation as a means to improve agricultural production, overcome harsh environmental conditions, and provide a sustainable livelihood with limited resources in the region.” Again, there is no footnote and it is an unsubstantiated opinion. What kinds of young volcanic soils are in the area? What is the weather? What is the precipitation? What is the geology? How many homesteads or owners in the historic district still resided on their land ten years later? How much land did they cultivate? How successful were they with the irrigation water? In some large areas of Deschutes County, over 90% of settlers abandoned their homesteads. Some homestead land was never resold and it reverted back to public lands. The Deedon Homestead nomination recorded that only two owners in an entire 36-square mile township were successful and owned their land for more than twenty years and were able to sell them at a profit. Hundreds of settlers were taken to circuit court by COID because they could not pay their water delivery fees and they lost their land. When it can freeze any day of the year, the growing season is short, and the soil will not hold water and is devoid of organic matter and sprinkled with rock outcroppings and lava flows that break farm equipment, the challenges to farming are there. If they grew something, did the deer and rabbits eat it? We request that the nomination provide the story of settlers in this downtown Redmond historic district, in addition to the Redmond family. Did they have other sources of income to survive? The nomination should elaborate on the generalities and then cite the sources of information. Who homesteaded the land or bought land here in the historic period? Was it worthwhile for them or did they, like others, lose it all, find a job elsewhere or abandon their lands. What does that say about the economics of the development of the irrigation system?

The nomination should separate the acres irrigated to Segregation List 6 and the Pilot Butte Canal from the total given for the other segregation lists for both canals.

How many acres in the Redmond area were irrigated? How long did it take to settle the acreage irrigated in the area? What is the average size farm today?

After paragraph one of Section 8, the preparer copies the text from the Brasada Ranch nomination. From the last two paragraphs on page 11 through the first three paragraphs of page 16 and from the last paragraph on page 18 through the last paragraph on page 20, Section 8 of the downtown Redmond segment is identical to the COCHD Brasada nomination on the Central Oregon Canal and are identical to pages in the MPD nomination. This is unacceptable.

The Matching Pages of Section 8, pages 11-16

The following mistakes are found in all three of the (1) the Federal Irrigation Projects in Oregon, 1901-1978 Multiple Property Document (the "MPD"); (1) the Central Oregon Canal: Brasada Ranch Segment Historic District (the "COCHD Brasada"); and (3) Pilot Butte Canal: Downtown Redmond Segment Historic District (the "PBCHD Redmond")

On page 12, in the paragraph beginning with 'The state of Oregon...' the preparer seems unaware of the state's financial and engineering involvement with the vexed Tumalo Reservoir, researched and recorded by Martin Winch. This paragraph is in error.

On page 12, the 5th paragraph mixes up the locations and the canals serving the land in the various Segregations. North Canal stops where it joins the Pilot Butte Canal and does not irrigate Segregation List 19.

In the last paragraph of page 13, the narrative states that Wiest surveyed the Drake holdings. There were many survey crews including dozens of men and Wiest did not personally perform all of the surveys. He was fired from working on the Pilot Butte Canal in early 1904 and other engineers took over. Wiest testified at the court cases that sorted out and assigned water rights on a first-come-first-served basis to water from the over-allocated Deschutes River. He addressed the date he arrived in the area and what he did. Transcripts of his testimony are available for review in the records of the Deschutes County Clerk.

The dates and description of progress in the third paragraph on page 15 are incorrect. The excavation of the Pilot Butte Canal up to David L. Wiest's house, three miles from the diversion point, was completed on April 1904. Water flowed to that point on June 3, 1904. A consistent deficiency in the nomination is that it does not use primary records or cite primary sources.

On page 16, and on many pages of the MPD, the nomination refers to the North Dam as the "North Canal Dam". This is incorrect. This needs to be corrected throughout the three nominations. At the North Dam, the North Unit Canal, the North Canal, and the Swalley Canal each has diversion structures on the east side of the

dam. Other districts have diversion structures on the west side of the impounded water. The history of the dam tells why it is named the North Dam. (See page 77 of the Listed District nomination).

On page 17 in the second paragraph, the preparer refers to the North Canal and a flume. It is unclear as to what is being referred. There is no flume on the North Canal. The paragraph needs to be re-written. The entire description of the North Canal is in error. The Bowman Museum has a collection of historic photos of the construction of the North Canal. Some of it has been piped and most of it has been heavily altered.

On page 17, the nomination states that the Pilot Butte Canal ends at the Crooked River. Instead, it ends a half mile south of the Crooked River. Again, the preparer refers incorrectly to "stacked stone" riprap. Rip rap is not stacked stone. Where was the "inverted siphon" and wooden flumes on the Pilot Butte Canal? Is this accurate? The only historic wooden flume on the main canal was at the original diversion point at the southern end of Bend.

On page 18, the preparer exclaims that the establishment of Redmond was due to the proximity of the nominated segment. It was not. The relationship between the Pilot Butte Canal and the City of Redmond is explored and recorded in the listed historic district nomination on pages 65 through 72.

On page 21, the preparer of all three of the nominations being promoted by COID, uses the MPD to evaluate the proposed PBCHD Redmond instead of the instructions for preparing a National Register nomination published by the National Park Service. We object to that since the National Park Service has not accepted the evaluative criteria set up in the MPD and we hope they do not. This is tantamount to writing your own criteria to evaluate your own nomination; it is self-serving and inappropriate. The term "historic" means 50 years old or older and the primary and contributing structures must be historic.

The third paragraph on page 21 is full of qualitative and evaluative opinions that are not backed up by research or facts. The fact is that the nominated segment does not run in the "heart of downtown." The canal is piped in the heart of the historic downtown.

Contrary to the conclusions, it is also not the only open canal in Redmond. Two other nice segments are in the city limits, south of the nominated area. The first irrigates the Redmond Cemetery, the Greens at Redmond Golf Course and school yards among other urban uses. It has a dramatic waterfall and varied design. The second segment looks like the nominated segment and gently winds between two piped sections and passes by a primary shopping center and the Safeway. Following are some photos of the open canal from south to north in Redmond that are not in the nominated area. They can also be seen on GoogleEarth.





There are 5.8 miles of open canal between Deschutes Junction and the southern Redmond city limits that lack the distinction of the listed historic district, but retain and display a more historic integrity of structures and setting than the constrained nominated downtown Redmond segment that is being nominated. It is described in the listed historic district on pages 23 and 24 as follows:

“Description of Characteristics of Stretch 8 of the Pilot Butte Canal

Stretch 8 had a good level of integrity, with some alterations. This winding stretch of the Pilot Butte Canal runs from the north end of the commercial and industrial area of Deschutes Junction on the west side of Highway 97 to the southern city limits of Redmond near Yew Avenue for about 5.8 miles. This area is used for small farms and hobby farms. The terrain is unchallenging, with few rock outcroppings and sandy soil which resulted in a canal with a consistent width and depth. The stretch lacks distinction and becomes narrower, shallower, smoother, and flatter with little or small riprap over its length. It has a smooth gradient and a smooth bed. Many

miles were created by cutting to the 1 to 3 feet depth on both sides and removing loose rock and soil from the canal bed. The bed was relatively easily scraped out. Therefore, few embankments are present, although material removed from the canal was piled beside it. The stretch drops 146 feet in elevation over the approximately 6 mile length. The canal is 15 to 32 feet wide and relatively smooth with a sandy or grassy bed and is 1 to 2 feet deep in most areas. The side slopes were easily cut from soil and are covered with grass or light, small rocks that can fit in a hand. A few places have shallow, nearly flat lava flows and short drops in the beds causing ripples and falls of fewer than 4 feet in height. Many non-historic bridges cross the canal."



"Stretch 8"

"Photo was taken in a hay farming area looking northeast from the 46th St. Bridge."

The preparer does not compare the nominated segment to the remainder of the canal in any methodical or thorough way, even though he did a windshield survey of the canal as described on page H-65 and H-66 of the MPD.

On page 21, the nomination incorrectly states that the straight, flat stretch being nominated is dissimilar to the canal in the listed Historic District. The southern and northern portions of the 1.5-mile-long, Listed District are relatively flat and of a relatively consistent width and in a trapezoidal shape. The magnitude and size is much greater because the canal in the listed historic district carries 400-450 cfs.

On page 21, the preparer boasts that the nominated district includes a lateral while the Listed District does not. Interestingly, the A-4 Lateral runs for several miles through T17 South, Range 12 East, Sections 11, 15 and 22, just east of the listed historic district in Section 15. It was mutually decided by the SHPO staff and the preparers to not include the lateral in the historic district because it needs constant

cleaning and constant digging of rodent holes and vegetation encroachment and would present a serious maintenance and preservation conflict. They had concerns about the burden the listing of a lateral would have on the local county jurisdictions charged with its preservation.

In the proposed downtown Redmond nomination, the preparer lists the 530' lateral as a contributing element, yet it is not within the 50-foot wide boundaries of the narrow, linear historic district. The lateral is not included in the Verbal Boundary Description on page 24. It is presumably included in the Boundary Justification but is not called out. This conflict needs to be remedied. Is the 530-foot long Lateral inside the district or not? Where is it? It is not indicated on any tax lot map in the Figures 3-11.


In looking at the Figures, the red lines drawn around the historic district on Figure 2 do not include a 530-foot lateral. In fact, the location of the 530' long lateral is not indicated on any Figure. The location of the gate is indicated, but not the lateral itself. Therefore, the Number of Resources within the property on page 2 must be changed to include only the resources within the historic district as described on Figure 2, the narrative describing them and in the Verbal Boundary Description. They all must be consistent. If the 530-foot lateral is not in the district and must be deleted from the list of contributing structures. Structures listed in the nomination as a contributing or non-contributing structure must be within the district boundaries.

Figures 3 through 11 are Deschutes County tax lot maps. They need to be marked with a thick marker to indicate the boundaries of the historic district. They serve no purpose as they are.

Conclusion

We respectfully request that the Pilot Butte Canal: Downtown Redmond Segment Historic District (PBCHD Redmond) National Register Nomination not be forwarded to the National Park Service due to the number of errors, inaccuracies, and failure to address proper historic and contributing criteria.

Best regards,



Lori K. Murphy, Esq.

Cc: Client

Vernon_EmailedComment

ALLEN Jason * OPRD

From: Greg Vernon <gregvernon65@gmail.com>
Sent: Wednesday, June 15, 2016 11:57 AM
To: ALLEN Jason * OPRD
Subject: Fwd: COID Request for Historic Designation

Follow Up Flag: Follow up
Flag Status: Flagged

Sent from my iPad

Begin forwarded message:

From: Greg Vernon <gregvernon65@gmail.com>
Date: June 14, 2016 at 7:01:39 AM PDT
To: jasonallen@oregon.gov
Subject: **COID Request for Historic Designation**

My name is Greg Vernon and I live at 63385 Old Deschutes Rd. Bend, Oregon. I live on the 1.5 miles of Pilot Butte canal that recently was designated historic. COID has made numerous efforts to be allowed to pipe this section of the canal without regard for the land owners who own title to the land. They have the authority to pipe the canal if they follow the conditional use cited in our zoning. COID and their advocates have repeatedly said it will not impact property values. This is absurd as I had a real estate broker give me an opinion and he concluded that I would lose \$150,000 in property value.

Now COID is trying another end run by submitting three sections for historic designation and including MOA's that would trump zoning and allow them to pipe our section of the canal. I am a reasonable person and know the difference between right and wrong. Please reject their requests and make them do what is right.

Sent from my iPad

Warren_2016.06 State Advisory Committee

State Advisory Committee
c/o Mr. Jason Allen
Oregon State Historic Preservation Office
725 Summer St. NE. Suite C
Salem, OR 97301

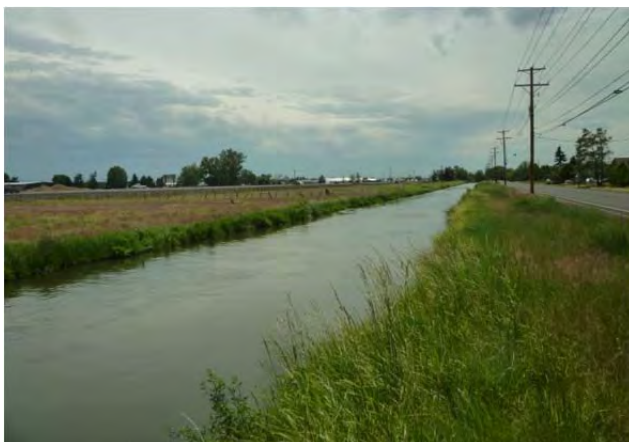
June 14, 2016

RE: Irrigation Projects in Oregon 1850-1978—Pilot Butte Canal: Downtown Redmond Segment
Irrigation Projects in Oregon 1850-1978—Brasada Ranch Segment

Dear State Advisory Committee,

After reviewing these two nominations I simply had to write you. As a proponent of the successful Pilot Butte Canal Historic District (Cooley Road-Yeoman Road Segment) I became aware of National Register requirements and found these nominations appalling. Remember your official duty is protecting historical sites in Oregon, and not serving political whims. You may have received considerable pressure to pass these nominations, but you need to **tell Central Oregon Irrigation District (COID) “NO” because these nominations are not acceptable for presentation to the National Register.** They contain misinformation, exclusions of pertinent facts, and are based on faulty premises. In example, I will state just a few of my reasons and show you some appropriate photos concerning the Pilot Butte nomination. Mr. Allen of SHPO told me to include the photos in the body of the narrative, so I have. In numbered paragraphs I will identify what nomination subheading I am primarily addressing in italics.

1. *Summary Paragraph*-- The downtown Redmond canal section is totally owned by COID. There is no way COID can substantiate stopping the nomination boundary when the canal continues in a straight line with similar terrain, vegetation and use on both sides of the property line. Only the fence line (wooden posts strung with wire) on the left side of the canal differentiates where the nominated area ends (roughly in line with the first telephone pole in the below photo). No other nomination for an historic district could consider only ownership of property an acceptable boundary line. COID's decision was based on expediency, hiding their actions from the public, and their true goals which I will discuss later.



2. *Summary Paragraph*-- The downtown Redmond section is not representative of all the Pilot Butte Canal System. You may ask why this segment was chosen. When looking for sections of the canals to nominate to fulfill the MOA requirements, COID studied only parcels of land that they owned (which is only about 2 to 3 miles of the total 22 mile Pilot Butte Canal). The distance from where the Pilot Butte Canal surfaces from the pipe under Highway 97 in the industrial section of Bend to the nominated "downtown Redmond section" is roughly 18.5 miles. Of the 18.5 miles, COID only owns about 8 % of that (most stretches shorter than this ½ mile section). 20% of the canal is owned by other governmental entities like the City of Bend, the City of Redmond, and even the USA. 3% of the ownership of the Pilot Butte Canal is "null" or hidden from public records. **The remaining 69% of the canal is on private property.** The irrigation companies sold citizens the land as much as a century ago to make money, and only retained an easement for the canal. Citizens have the canal land on deeds and pay taxes on them, but COID does not want those landowners notified of piping and hydropower related plans. COID prefers blindsiding the residents. The Land Use Board of Appeals (LUBA) decision proved COID is not interested in conservation, but rather only interested in hydropower and its profit. COID's goal is NOT history, but destruction for money in their pockets. COID has been very outspoken about their goals to build at least 8 additional hydropower plants on the canals. Current laws require public hearings for hydropower, but COID has quietly changed or ignored laws and codes (while blocking public notification). COID's goal is total destruction all 700 miles of their system for profit. Due to a sweetheart deal with Pacific Power, COID is paid considerably more per kilowatt than even Bonneville Dam. COID is nominating one of their own small "junk" sections because it would be difficult to pipe with multiple structures across the canal, it is located near the end of their system so there is considerably less water in the canal making hydropower unprofitable in this location, and they could make all arrangements without public notification. COID only sees hydropower profits for themselves and they want to destroy the more historical and picturesque areas of the canals in Bend or Tumalo (including the already listed Pilot Butte Canal Historic District (Cooley Road-Yeoman Road Section)) and therefore immediately excluded them from consideration before looking for sites to nominate.

3. *Pilot Butte Canal: Downtown Redmond Segment—1. Pilot Butte Canal (1903-1905)*

The actual geology of an area should be correct in a nomination. When the Pilot Butte Canal Historical District (Cooley Road-Yeoman Road Segment) nomination was being prepared, SHPO required all reference to the basalt canal bed be removed and replaced with "rocks". SHPO threatened to not forward our nomination approved by your committee "as written" to the National Register unless that was done. But SHPO allowed COID to use "basalt" to describe the Redmond area which is sand, gravel, and rocks in an area of fast and easy construction. COID does finally admit in the last sentence that "the riprap and lining of the channel floor are characterized by stone and gravel of various sizes" but they expect you to overlook that sentence. The National Register nomination for the Pilot Butte Canal Historic District (Cooley Road-Yeoman Road segment) (PBCHD) which your committee read and approved in February 2015 described the downtown Redmond stretch of the Pilot Butte Canal as "medium integrity, but lacks

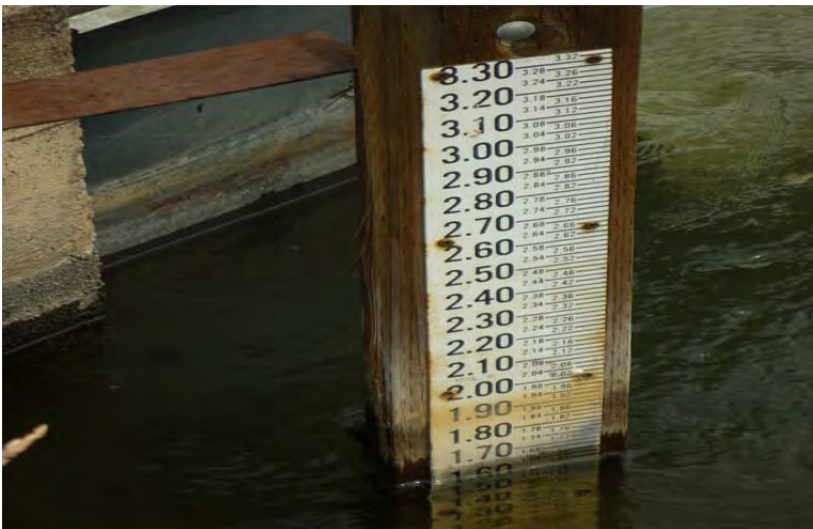
distinction.” “This stretch was the fastest to construct and was unchallenging.” “The small, shallow canal has a smooth gradient and lacks riprap.”

The actual downtown Redmond segment of the canal at the south end of the nominated section—the banks are sand and gravel, with a few rocks. This is not riprap, and definitely not basalt. Most of the banks are just weeds in the sand and gravel.



(note: the truck is driving on Highway 97 heading to Madras)

4. *Pilot Butte Canal narrative description—on the top of page 4*—COID claims that the downtown Redmond portion “measures 2500 feet long, 6 feet deep, and has a consistent width of approximately 25 feet through its entire length.” The COID water gauge located within the section actually shows that the water is about 18 inches deep. The empty canal photos in the nomination also show the minimal depth. The canal is between 15 to 20 feet wide.



6. *Weir (circa 1940)* Yes, there is an hand-operated weir in this section. The Pilot Butte Canal Historical District has 3 functioning and continually used weirs, and all have the “wheels” to activate them as well as padlocked chains for COID control. This small Redmond Weir leads to a very narrow lateral that is immediately adjacent the canal for one city block.



5. *Lateral*—“2-4 feet wide, 2-3 feet deep and 530 feet long” per COID’s nomination. It doesn’t tell you that it is concrete at one end, and about 1 to 1 ½ feet wide and less than a foot deep where the water is. The still water is a great breeding location for mosquitos. The lateral is sealed on both ends. It is too small to have been a major agricultural lateral serving several large farms.



6. *Narrative Description*—It was required that we fully describe, photograph, and measure all parts of the Pilot Butte Canal from the Deschutes River to the pipes leading to North Unit Canal and to Lone Pine Irrigation—requiring considerable time and effort— but COID is allowed to use a one-size-fits-all couple of paragraphs? The canal systems are similar to the Oregon Trail in that they look very different in different locations. To put it in a different way, can you declare that an 8 lane freeway in downtown Portland is just the same in geology, looks, history, and purpose as a small residential mountain road with no center line in Joseph, Oregon? Both roads are governmentally maintained, but they are totally different, and one cannot take the place of the other. COID is attempting to sell you the mistaken philosophy of similarity so that you will incorrectly assume all canal sections are interchangeable. There is no one size fits all in canals. COID already destroyed an irreplaceable 40 foot water fall on the City of Bend Juniper Ridge project with no remorse. The only reason that COID is treating the canals in this manner is to intentionally mislead you into thinking they are all the same so you will allow COID to destroy all other sections of the 700 mile canal system including the section already on the National Register. Perhaps a direct comparison of 2 different segments might prove that they do not look the same and each additional stretch should each be evaluated for future modifications in open public hearings on their own merits in their local jurisdiction as is presently required by law. Voting should exclude anyone personally financially benefiting from hydropower plans in any manner.

This is a photo of the 15 to 20 foot wide, 18 inch deep Downtown Redmond Segment. The whole ½ mile is perfectly straight and flat. It is crossed by 7 non-contributing roads and pipes. It is rocky and sandy in the canal bed and sides. This section is “medium integrity, but lacks distinction” per the prior National Register description for this segment of the canal.



Below is a photo of the National Register listed Pilot Butte Canal Historical District (PBCHD) which ranges from 20 to 81 feet wide, and between 3 to 10 feet deep. It meanders and curves for 1 ½ miles and even contains small natural islands. It has a basalt bed and black basalt riprap along its sides. There are no pipes and only one historical road crossing this segment. This section has the highest rating in all seven aspects of integrity of any stretch of the Pilot Butte Canal. A peaceful historic walk describing the history, economic impact, geology, and wildlife of canals is envisioned for this segment.



The two COID nominations (Pilot Butte Canal: Downtown Redmond Segment and Central Oregon Canal: Brasada Ranch Segment) required much work from someone, but the information contained is deceptive and faulty. These two nominations should each be comprehensively reviewed by your committee as would any other nomination. These nominations are full of errors, exclusions, and intentionally misleading narrative (like calling a buried industrial pipe a “conduit”). In the Brasada Ranch Segment the canal is piped and buried for at least a ¼ mile stretch across the Dry River (the center of their nomination area) and the wooden trestle has been rebuilt for marketing of Brasada Ranch and daily golf cart use by golfers and maintenance personnel and is not 50 years old. Please do not approve these 2 untruthful nominations.

You previously reviewed and approved an excellent nomination on the Pilot Butte Canal Historic District (Cooley Road-Yeoman Road segment) (PBCHD). COID managed to delay every step in the process as long as possible including at National Register and received full cooperation from SHPO. All PBCHD records, submissions and questions were immediately shared with COID, who used them without documenting the source in COID submitted documents. SHPO actively assisted those in opposition to our nomination. However SHPO never shared anything from COID and their supporters with us in spite of our repeated requests. Our nomination was approved “as written” in your committee, but SHPO required major comprehensive rewrites of the nomination at least four times before it was submitted to the National Register. We were also required to add information and photos about the complete Pilot Butte Canal and other Central Oregon

irrigation districts. And now COID is pushing very hard to get your approval on 2 nominations which are sadly as faulty as the MOA to which they desire to apply. In spite of repeated requests to SHPO that we be notified of all actions concerning the Pilot Butte Canal, and SHPO's agreement to do so, we only were notified of the June 16 proceedings on June 4 when COID announced in a professionally prepared press release on the front page of the local newspaper about these nominations. We requested an extension on this hearing at SHPO and just opposite of everything granted to COID, our request was denied. There has been no effort on COID's part to rebuild the historic waterfall they destroyed with the Juniper Ridge hydropower project that is also required in the MOA. It cannot be rebuilt, moved or put back in original condition because it has been totally destroyed and is now a COID concrete forebay structure. The problems with the MOA are too numerous to discuss here, but it should be totally revoked since it is based on an equally faulty Section 106. Neither the Section 106 nor the MOA should ever have been approved by SHPO for required legal procedures were not followed on either document.

Please do whatever you can to help protect the Pilot Butte Canal Historic District (Cooley Road-Yeoman Road Section) from COID destruction. Do not let any new nomination be used to replace our current listing. Don't throw the best segment of the Pilot Butte Canal, the PBCHD, under the COID bulldozer for the downtown Redmond, Brasada Ranch, or any other inferior COID self-gratifying nomination. As you know from your previous review, the PBCHD is very historic and representative of original use, economic and social growth of the canal systems, and teeming with wildlife. Please help save the best honest canal history in Oregon. Do what you can to protect the PBCHD since it is now on the National Register. Do not approve the current COID MOA with these two devious, incorrect and unrepresentative nominations.

I wish I could attend the meeting on the 16th, but I already had a commitment that same day. If I had known about this meeting before the press release in the Bulletin on June 4, 2016, I would have planned on attending. Did COID plan a summer meeting many hours drive from Bend, announce it only one week before it is to occur by using a major, professionally prepared press release to hide the relevant information, and deny all requests for continuation from actual landowners of the canal in order to have it used as COID's intentionally deceptive "public notification"? Tell them no—these two nominations should not be approved. SHPO would not give us a continuation so I was unable to obtain, read, or comment on the MPD or other documents prepared by COID, but I am sure they are vaguely worded self-serving hydropower plans to override the existing laws put in place to protect citizens, private property, and historic districts. COID desires to use your committee as a scapegoat while they steal and destroy private property and eradicate real Central Oregon history for their own profit. As a quasi-municipal governmental agency they are exempt from taxes, and use the money for lawyers, public relations efforts, and lobbying politicians. Please do not approve any COID documents on June 16 for they are nefariously designed to circumvent existing laws and harm the historic canals.

Thank You, Aleta Warren (a.warren.bend@gmail.com)

Warren_2017.02 letter to SACHP--Downtown Redmond

To: State Advisory Committee on Historic Preservation

Re: Pilot Butte Canal: Downtown Redmond Segment

Date: February 13, 2017

Dear SACHP,

It is interesting to compare this nomination with the one you had previously read on this segment a few months ago when Central Oregon Irrigation District (COID) received helpful suggestions which seem to have been ignored.. To avoid repeating items introduced in my other letters to you I will refer to subjects in this analysis and cite where expanded information exists. I will proceed with comments in the order that the subjects appear in this nomination

COID has not identified that this nomination is to fulfill an illegally prepared MOA which will allow them to destroy all other segments of canals, laterals, sublaterals, and ditches to expand their hydropower production for personal profit. (this topic was explored in the MPD analysis and is being heard in the courts.) COID wishes to hide this truth, but SACHP needs to know the real motive behind this nomination. There are so many roads and pipes crossing the canal in this area that it would be difficult and expensive to pipe. But actually the Downtown Redmond segment has insufficient water flow to generate hydropower, and that is why this segment was chosen by COID for nomination. COID could nominate the Pilot Butte Canal Historic District (Yeoman Road-Cooley Road Segment) (PBCHD) which is already listed on the National Register to meet the MOA requirements, but that doesn't suit their desires to maximize profit for themselves. Profit is more important than history to COID.

Irrigation facility?

On page 2 of this nomination the Pilot Butte Canal (PBC) is listed as an "irrigation facility" rather than a canal. The title says "Pilot Butte Canal", so why isn't this current function properly identified on page 2? COID can authorize changes in the future when listing it as an "irrigation facility" for this vague function would remain accurate even if the canal is totally destroyed. COID has claimed a historic "site" is as good as a "resource" several times already. As an irrigation facility COID could pipe it and build a power plant in this location. Historically it is a canal, and it is used as a canal today, so do not call it a "facility" without adding "canal" to the function if you really want this to preserve this segment of canal for irrigation history.

Description of segment?

This nomination is merely a minimal modification of the previously submitted nomination which was sent back for refinement. Changes are haphazard and result in inconsistencies in the nomination. The original nomination was for the short stretch of canal actually owned by COID between Dogwood Ave. on the south and to Kingwood Ave. in the north. The SACHP recommendation to carry the historic district further north was actually used, and now the nomination extends north to NW Quince Ave. But COID doesn't tell you that at least 8 parcels out of the 13 between Kingwood and Quince have private

ownership of the canal. These parcels are NOT owned by the irrigation district. This fact is hidden in the narrative by saying that COID “owned or managed” it (on page #3). These parcels are simply managed, and not owned by COID. If COID is responsible for management of the canal and it is actually on somebody else’s deed, they are only a utility, and not an owner. Have those landowners been notified of this nomination? Have they been informed that they could “opt-out” NOW to allow future development of their property? Have there been any public hearings on this nomination? Or is COID using their position as a utility and their connections with SHPO to increase the scope of this nomination while intentionally blockading the actual landowners from information and knowledge? Did they send letters generated by their legal team to owners without honestly telling them what National Register listing means to their individual property in terms of benefits, responsibilities, and requirements? Did COID individually request landowners sign a form that now has been recorded on their deeds without their knowledge?? COID has previously used this technique with individual citizen landholders.

Why was a preprinted form of support and opposition listed on the SACHP website for this nomination and the COID Brasada Ranch nomination when no other nomination included these forms in the SHPO website agenda? Will COID record these documents on landowner’s deeds without their permission? If you receive numerous identical forms, they were the result of a mass public relations ploy of COID and should be ignored. Will COID request all their water right owners to submit favorable votes to “sway” you?? Will they ask employees from other utility districts to vote? Will politicians support this action as a favor to COID? They have used that tactic before, and will again. COID is still a utility and not an owner, and should be treated as such by the federal guidelines. This nomination should be evaluated by National Register criteria, and not political whims and false claims of COID.

The Narrative Description on Page 3 is a description of the entire Pilot Butte Canal. It conveniently “forgot” to include the many miles of the PBC which COID has already piped and permanently destroyed. The narrative does not clearly identify locations so you will assume this all happened in the Downtown Redmond segment. It didn’t. There are no basalt bedrock canal beds in the Downtown Redmond area. COID claims that the canal has “impervious soils or stone” but the leakage of this portion of the canal system is obvious for the vegetation which grows adjacent to the canal. There is no “impervious” soil in the Downtown Redmond segment, only sand and rock. Only concrete sealing of this section could be considered impervious, and has not been done in the Redmond segment. Perhaps COID will still seal it since there is nothing to prohibit future modification or destruction of this segment of canal in the nomination.

Contributing and non-contributing factors:

Pilot Butte Canal: Downtown Redmond Segment Historic District incorrectly describes the nominated area. The sides and bed of the canal in this segment are not riprap, but rather just boulders and sand as proven by the photos in the nomination. Since there has been no identification of the “Period of Significance” identified for this section of the nomination, it is difficult to understand why some items are non-contributing and others are contributing. The multiple non-contributing items in this short stretch of canal detract from the historical feeling of the canal. COID claims there are four contributing features, and sixteen non-contributing ones. Nine of the sixteen non-contributing features are bridges.

The one bridge declared to be contributing is the only access to a nearly 15 acre farm adjacent to Hwy. 97. Did the owners of that bridge agree to include it in the nomination when it will permanently restrict all future development and use of their property? Even repairing or replacing the bridge on their own property will be blockaded by the local regulations. Or was this inconvenient truth withheld from them? Do they really know and understand the consequences of including that bridge? As the bridge is in good condition, it has obviously been maintained and repaired multiple times since it was first constructed. It is not 50 years old, and it certainly is not original. As a courtesy to the elderly owners it should NOT be listed and restricted as a National Register resource.

With 10 bridges in the 6780 foot segment, that averages a bridge every 678 feet. You are never out of sight of the next bridge. Several pipes cross this segment of canal yet they were not mentioned nor photographed in the nomination. The dead-end lateral the nomination claims as “contributing” has been modified with concrete at both ends and looks more recent than 50 years old. (I supplied photos previously in June). The concrete in the lateral is still not mentioned in the nomination. Is there information on when this lateral was actively used, or why it was placed in that location? Who did it serve? It may be a more recent addition to service the City of Redmond park for the non-contributing headgate is obviously of recent vintage (from the description of this type of headgate from the COID MPD). COID should have this information, but if they have “omitted” it in the nomination, what are they hiding? Without actual verifiable information this lateral should be listed as non-contributing.

The four headgates, the outlet structure, the check structure, and the intake structure are all listed as “non-contributing due to its age, which is outside the period of significance” (vague wording directly from the nomination) but with no identified period of significance in the narrative, this seems confusing. The identified “period of significance” on page 10 is 1903 to 1950. Why stop in 1950, which is 66 years ago?? Why stop when the Carey Act terminated? This seems to just be an arbitrary cut off without a reason to substantiate it. Termination of legislation does not change the function or maintenance of an irrigation canal. COID maintained this canal both prior to 1950 and continued afterwards.

Pilot Butte Canal Historic District: (Cooley Road-Yeoman Road Segment):

In comparison, the Pilot Butte Canal Historic District (Cooley Road - Yeoman Road segment) is a mile and a half long with one contributing feature (the canal), and 5 noncontributing features. It was built in an historic basalt lava flow, with basalt rip rap lining and a canal bed of solid basalt. The 5 non-contributing features consist of one historic road which actually predates the canal and was rebuilt in 1969 to meet current code requirements for a public road. This public road was listed as non-contributing so that it may continue to be maintained or modified by the road department in the future. A water measuring weir built by COID themselves without landowner permission in 2012 is a second non-contributing feature. The remaining 3 functioning and in active use (by COID and water users) screw type head gates of an unknown age had to be included as non-contributing since we were unable to positively verify their construction dates.

Integrity?

The nomination claims that this segment has “good integrity”, but does it? It is paralleled by a wide road on one side and a major interstate highway on the other. With continual heavy traffic it doesn't

give the historic feel of the original canal. Since the nominated historic district is only 50 feet across, it does not include all the property between these two roadways. COID has only nominated a straight line of canal and its adjacent banks, but not the neighboring property. Since the canal is 25-30 feet across, the nominated Historic District is simply the canal bed and less than 10 feet on each side. This nomination is insufficient to even allow for a ditch rider road along on side of the canal for maintenance.

The Downtown Redmond segment does not show original use of the irrigation canal in the neighborhood of apartments, homes, and commercial buildings including a regional public Hospital, a Super Wal-Mart, and Home Depot. The canal does not have basalt stone lining, but rather gravel and rocks. There is no information in the nomination on seasonal irrigation use, nor the amount of water flow in the canal at this location. The canal is flat, straight, and does not show any difficulty in construction. Combined with the PBCHD, it would show additional characteristics and a different type of construction, and might be a reasonable second listing for the Pilot Butte Canal if there weren't so many errors in the nomination.

History?

The narrative statement of significance consists of 9 pages of history about COID and other irrigation companies. All historical information should clearly be identified as whether it is in the Downtown Redmond segment, the PBC, the COID system (which includes all the Central Oregon Canal service area which services a totally different geographical area), or some other irrigation system. The inclusion of Benham Falls plan was not necessary. For a nomination on the PBC and the Downtown Redmond segment, irrelevant information should be omitted. Some maps in this section would be beneficial to the reader. This part of the nomination should contain a brief summary of COID history as it relates to the downtown Redmond area. If it is difficult for a local individual who knows the irrigation systems to read and understand what the statement of significance states, how can the National Register evaluators understand it? COID hopes everyone will trustingly assume this all happened in Downtown Redmond. Did anything happen that is all really special in the downtown Redmond segment that is unique and should be noted? If so, it is buried in unnecessary information.

Characteristics?

The nomination does not identify the characteristics of the downtown Redmond segment. How deep is the canal? How wide is it? What is the specific history of this segment? How much of it was altered and relocated when Highway 97 was built? A COID nomination should include information concerning water flow measurements in the canal at this location. Where is the Data Table for the Downtown Redmond Segment? There are requirements at federal level that have not been met by this nomination. There is no honest survey of the segment. This information is not in any other document, and should be included in this nomination.

There are no identifications of where the Pilot Butte Sections diagramed on Page 49-50 are located. Are they even located in the nominated segment? There is no information as to who obtained these measurements, how they were taken and who analyzed the information. When were they prepared? Are these construction drawings from over 113 years ago? Construction drawings and actual "as built" are very different in canals due to the difficulties that occurred during construction. Look at the photos

and it is obvious that this portion of the canal is not 8 to 12 feet deep but rather roughly 2-3 feet deep. Measurements for depth of a canal cannot be from the top of the highest bank as shown in these diagrams for water will find the lowest place to overflow. The city of Redmond or COID did an excellent job trimming the grass alongside the canal prior to the photos being taken so you can really see the canal but cannot use the grass to identify sizes.

Photographs need to be properly organized. The previously submitted nomination included all the same photographs as this one. A few photos between Kingwood and Quince were added to expand the nomination. National Register requires a consistent systematic photographic "tour" of the segment, not just random snapshots. COID is not to pick and choose what they show based on their desires. SACHP should not allow them to do it.

Analysis of information:

Documentation and verification of facts are necessary for the National Register, but it appears that COID expects everyone to bow down to them because of who they are instead of honestly preparing a valid nomination. Most comments I made to you on Downtown Redmond on June 14 still apply. COID has not corrected any of the confusing or incorrect information. The photos included in my June 14 letter will give you additional information on the current comments. This nomination is not accurate or comprehensive enough to submit to the National Register from the state of Oregon.

As if there weren't enough errors in what has been prepared for Downtown Redmond, description of the PBCHD (on Page #21) is deceptive and incorrect. This nomination criticizes the PBCHD's "wide shallow channel" for a segment of the canal which averages in width between 50 to 60 feet and in depth between 5-9 feet. In comparison to Downtown Redmond's 25-30 foot width, 2-3 depth and straight easy construction it does not appear the author even saw the PBCHD (COID No Trespassing signs had been installed in our section in 2013 as mentioned in the MPD analysis). Obviously the water flows in these two segments are not similar either. The "irregular" look of Cooley Road-Yeoman Road is due to the basalt bed and difficulty the builders faced in construction. The "regular" look of Redmond was caused by the ease of construction in sand and gravel. COID has repeatedly criticized the existing historic nomination to convince everyone that Downtown Redmond is a sufficient substitution for the PBCHD. Nothing could be further from the truth.

COID should guarantee the continued use of both the PBCHD and Downtown Redmond as open canals with water running seasonally in order to more fully instruct the public concerning the actual historical irrigation development in Central Oregon. You should not grant COID approval on the Downtown Redmond Segment unless they guarantee you that both of the National Register Historic Districts will be preserved as they are today. Without the guarantee both Historic Districts will be demolished by COID for profit. If COID desires to use this nomination to replace the PBCHD, they want you to save their "junk" so they can destroy the "best". If COID will allow only one nomination on the PBC, it should be the PBCHD which is already listed rather than Downtown Redmond.

Since the Downtown Redmond nomination is primarily to meet an illegally prepared MOA (discussed more fully in the MPD critique letter), and will allow total destruction of all other parts of the 700 mile

COID irrigation system we ask that the SACHP help protect the existing PBCHD whether or not the Downtown Redmond segment nomination is approved now or in the future. If the information in this nomination is corrected and there is sufficient historic background to list the Downtown Redmond segment in the National Register, there should be no hesitation about having 2 Historic Districts on the Pilot Butte Canal listed. This nomination needs correcting before it can be sent to National Register. It is not ready for approval at this time. There are too many errors for you to approve it without reviewing it again after COID's revision.

Thank you,

Aleta Warren

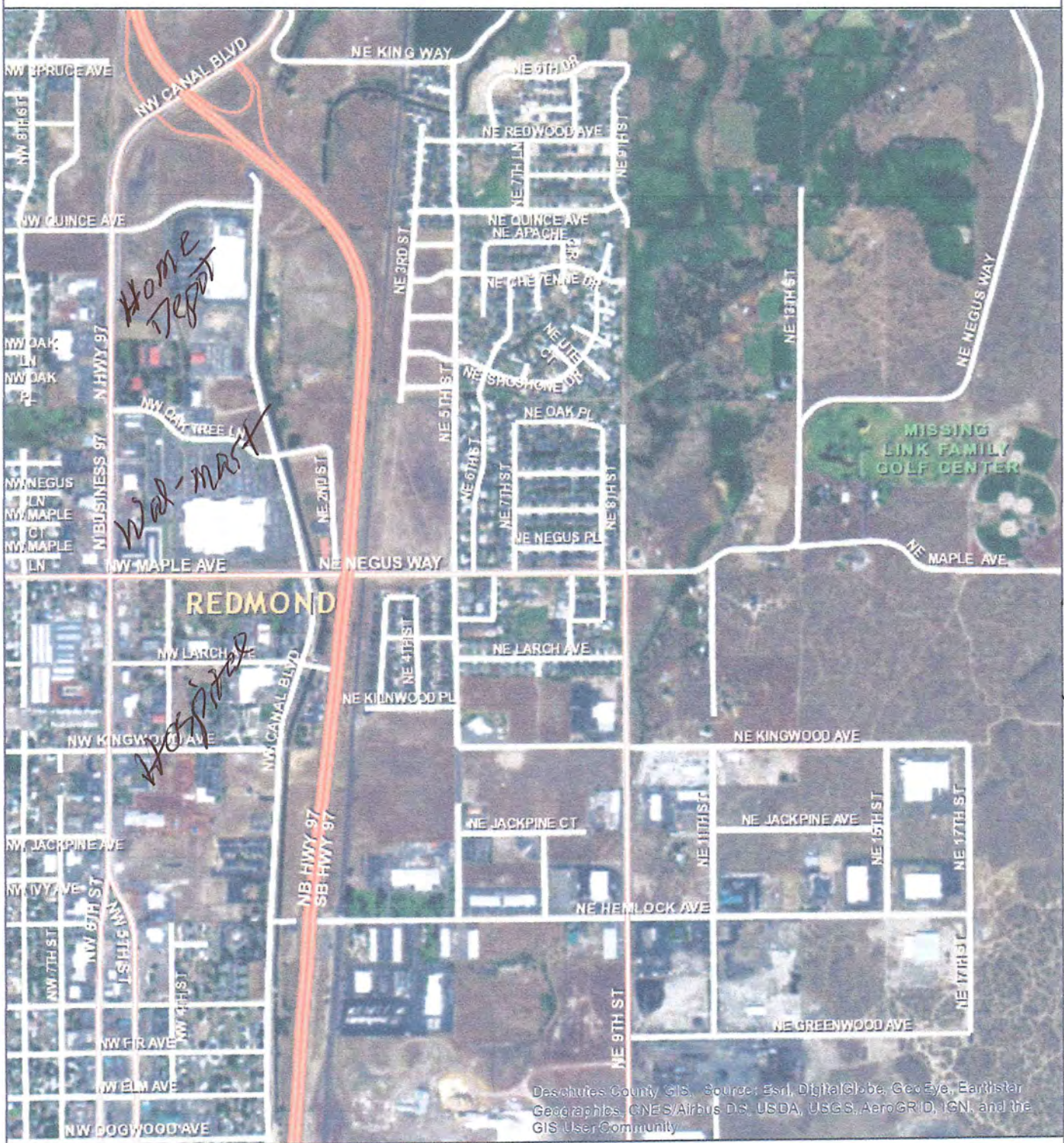
a.warren.bend@gmail.com

Warren_images to accompany 2017.02 letter

Photos from Arieta Warren

Downtown Redmond

original nomination



revised nomination



Deschutes County GIS. Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



A black line = Pilot Butte Canal, Downtown Redmond





Find address or place



117°19'38"W 44°04'13"N

Watering The Land Tuesday

McMENAMINS OLD ST. FRANCIS SCHOOL
HISTORY PUB NIGHT

WATERING THE DESCHUTES COUNTRY: A HISTORY OF THE PILOT BUTTE CANAL

TUESDAY, AUGUST 30, 2016

7 p.m. • Doors at 5:30 p.m. • Free • All ages welcome

Presented by historic preservation planner

PAT KLIEWER

*Sponsored by Oregon Encyclopedia,
Deschutes Historical Museum & Oregon Historical Society*

700 N.W. Bond St. • Bend • (541) 382-5174

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McMenamins History



WATERING THE DESCHUTES COUNTRY

A HISTORY OF THE PILOT BUTTE CANAL

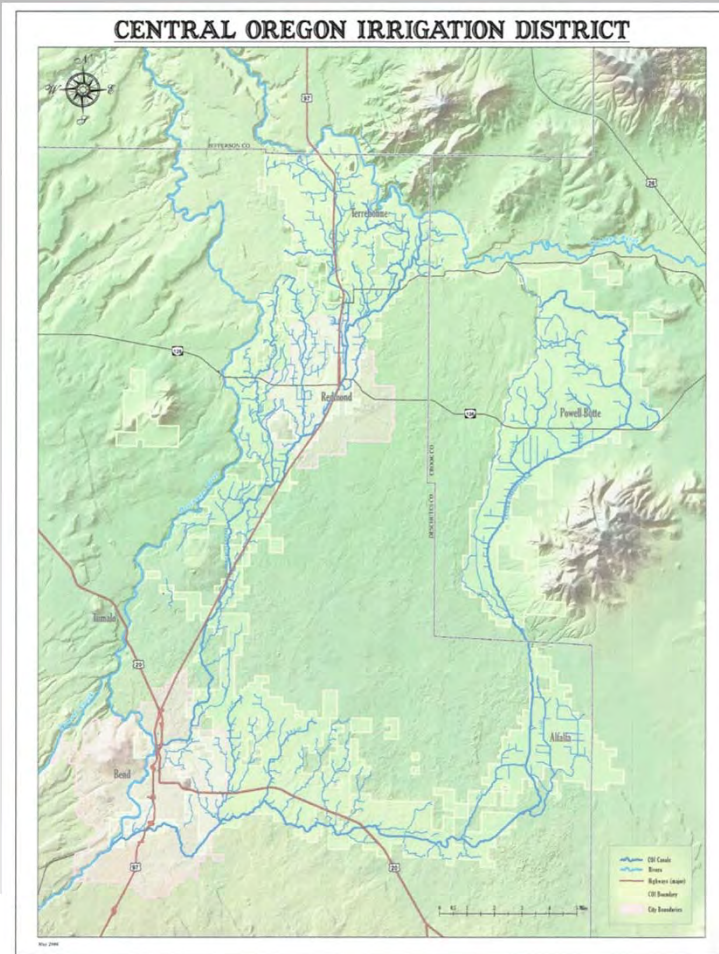
- Generate power and income at Juniper Ridge power plant.
- Water Terrebonne Cemetery
- Water Redmond Cemetery
- Water Redmond Schools and a golf course
- Water landscaping at mobile home parks
- Water residential yards in urban areas.
- Water residential landscaping and lawns in rural areas.
- Provide pasture and water for horses, cattle, llamas, alpacas, and other farm animals.

How is the water used?

Crops:

Hay
Grasses
Potatoes
Lavender
Peppermint
Horticulture plants
Pumpkins
Vegetables

The average parcel is about six acres in size.



The Pilot Butte Canal is 22 miles long. Water is diverted at the North Dam in downtown Bend and flows to the Crooked River at Smith Rock. It passes through Bend, Deschutes Junction and Redmond.



The 1912 North Dam replaced the 1904 diversion point and wooden flumes south of Bend that were shared with the Central Oregon Canal. Water diverted from the Deschutes River south of Bend for the Central Oregon Canal, Arnold Canal, the Pilot Butte Canal and the Arnold Canal resulted in a trickle of water flowing through the city of Bend during irrigation season. A power plant and a flour mill in Bend needed water flow. The new dam helped that situation somewhat.

- The Bend City Council pressed the for-profit Deschutes Irrigation and Power Company (1904-1910) and its successor, the Central Oregon Irrigation Company (formed in 1910), to create a new diversion point for the Pilot Butte Canal north of town.
- The North Dam was completed in 1912. It is mostly 15 feet wide and 9 feet deep. The North Canal is 1.4 miles long. Now, 2,204 feet are piped
- Water is diverted from the Deschutes River to the Swalley Canal, the North Canal and to the North Unit Canal on the east side of the dam.
- The North Canal was designed to be concrete lined in 1912, but it was hastily lined with stacked native rock, instead.
- The North Canal was originally used in 1913 and was nearly destroyed by the fast water flow and poor construction that did not follow the plans. The North Canal was rebuilt in 1915.



Water diverted from the Deschutes River flows east under Division Street near the Riverhouse convention Center.



Water enters a pipe at elevation 3,561. It is piped under the Bend Parkway and resurfaces at the railroad tracks. The system drops 631 feet from Bend to Smith Rock State Park.



The water flows in the narrow, straight and U-shaped 1912/1913 North Canal along Jeld–Wen Windows and Doors building. Between the Burlington Northern Railroad tracks to the Boyd Acres Road, the elevation drops 1 foot in 1,613 feet.



The North Canal has many alterations.

**Photos from Bowman
Museum Collection**



Horse pulled cart



**Construction of the North Canal in 1912 between North Dam
and the Pilot Butte Canal.**



The North Unit Canal and the North Canal are side by side near Jeld-Wen Windows and Doors. Pedestrian bridges cross them both. The North Unit Canal is lined with mortar.



The North Canal flows east of Boyd Acres Road to Pattie's Drop. The regular trapezoidal-shaped North Unit Canal parallels it on the south side.



Pattie's Drop on the North Canal, named for Ellen and Archie Pattie who owned 260 acres in the area.



The North Unit Canal is on the south side. The North Canal is on the north side. It is mortared at Pattie's Drop.



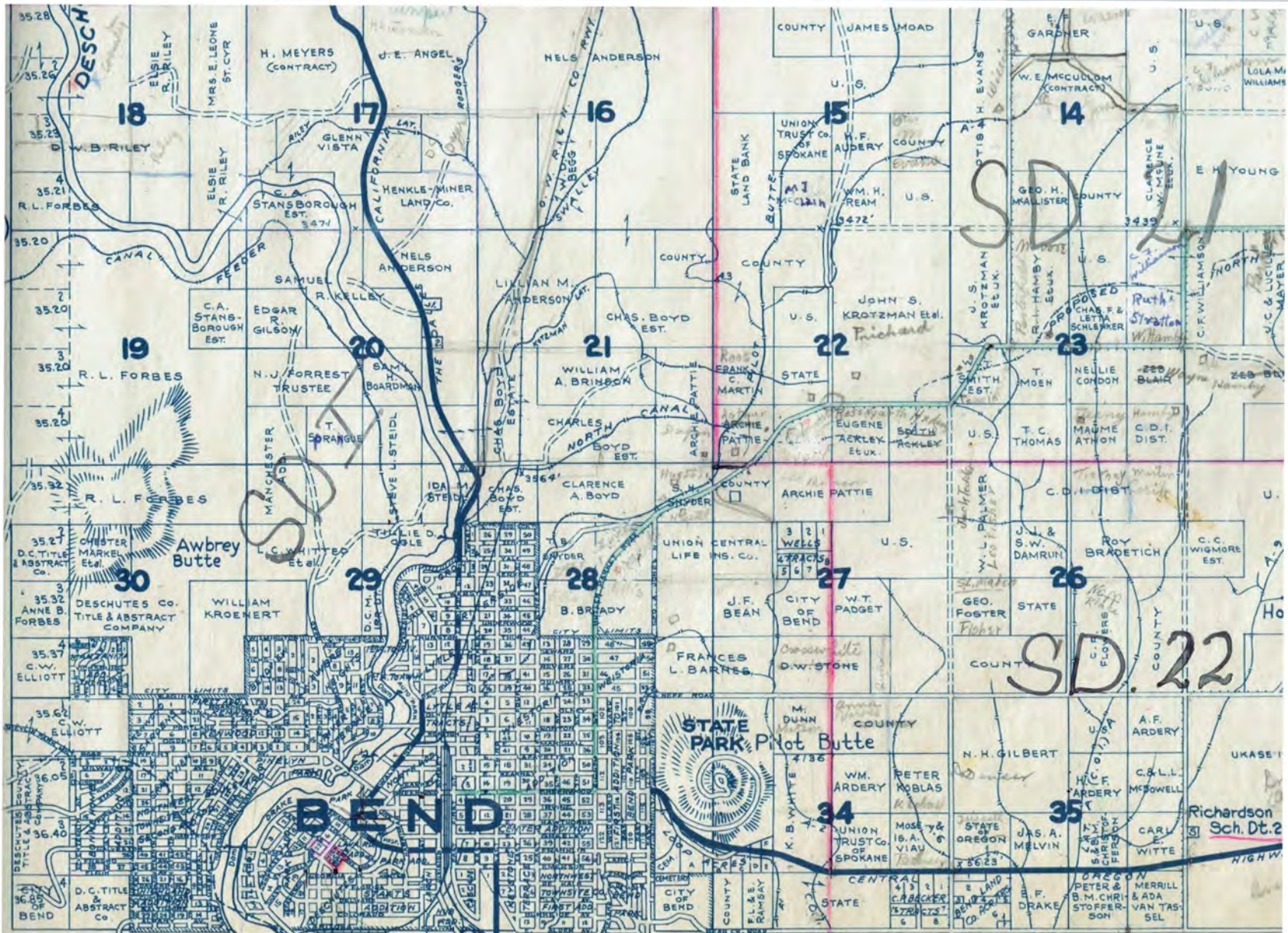
Between Boyd Acres Road and Brinson Blvd, the water drops 47 feet in 4,017 feet. The canal becomes an irregular width and depth. Rip rap is irregular. Houses, an industrial park and apartments line it.



A wider, shallower North Canal just before it meets the Pilot Butte Canal at Brinson Blvd.



1912 North Canal joins the 1904 Pilot Butte Canal at Brinson Blvd.



IRRIGATION SEASON: The irrigation season can begin in April and end in October. The length of the season and the amount of water delivered will depend on weather conditions and snow pack in the mountains. Also, Oregon law provides for the following deliveries of water:

April: About 1/3 of summer irrigation flows.

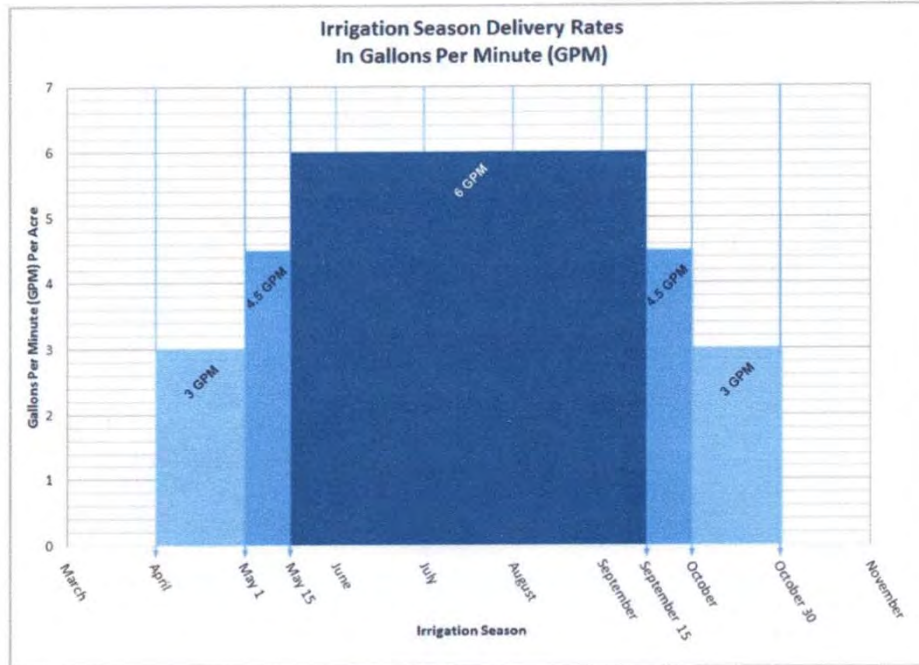
May 1-15: About 2/3 of summer irrigation flows.

May 16-September 15: Summer irrigation flows.

September 16-30: About 2/3 of summer irrigation flows.

October: About 1/3 of summer irrigation flows.

Irrigation season, April to October



Seasonal Flow Rates

This chart shows delivery flow rates throughout the season but does not reflect actual start and stop dates for the irrigation season.

The Board of Directors determines the irrigation season start and stop dates depending on weather and other conditions.

Irrigation Season Delivery Rates in Gallons Per Minute, COID.



March 1, 2015, water flows into the canal for a stock run. From Brinson Blvd. to Yeoman Road, the rocky Pilot Butte Canal drops 41 feet in elevation.



The Pilot Butte Canal is very irregular in width and depth for the next 2.5 miles. Some areas have basalt flows in the bed.



The 1904 Pilot Butte Canal at Brinson Blvd. Bridge. No abutments, two cuts on sides, rocky bed, scattered riprap, silt.



Looking south toward Pilot Butte. Houses on left. Loose rock in bed of undulating Pilot Butte Canal. Crude construction.



Between Brinson Blvd and Empire, rock and rock flows.



The wide and shallow canal just south of the Empire Ave. Bridge. Urban density single family housing stretches the entire length to Brinson Blvd. on the east side, while the East Empire Business Park stretches on the west side of the canal.



Urban industrial park and housing developments, a low head check, the A-4 Lateral Gate, suspended pipe, and concrete canal bed under bridge at Empire Avenue Bridge. The lateral is piped underground to the Old Deschutes Road where it flows above ground and heads northeast.



The A-4 Lateral comes out of pipe at gate at Old Deschutes Road near Ponderosa Elementary School, and heads northeast.



A-4 Lateral in T17S, R 12 E, Section 15.



Between Empire Ave. and Yeoman Road, the canal ranges from 32 to 40 feet wide and 2 to 5 feet deep. It flows between urban housing developments on both sides. Like the previous neighborhoods, some landscaping and rock walls encroach into the sides of the canal.



New retaining walls run into sides of canal.



As the canal gets closer to Yeoman Road, urban housing developments and personal fences are on both sides. People use the gravel pedestrian trail the east side



Yeoman Road Pedestrian Bridge

- The following color photos show the new historic district.
- The Historic District is 1.4 miles long.
- A small section on the west side is in single family residential subdivisions within the City of Bend. The remaining portions of the Historic District is in rural Deschutes County.
- Private property lines extend under the canal or end at the canal's centerline.
- The Historic District is entirely on private property and had 100% support of the owners.

Pilot Butte Canal Historic District



Entering the Historic District, looking north from the southern Section Line of Township 17 South, Range 12 East, Section 15, at the northern edge of Yeoman Road.



The water flows and roils for the next 1.4 miles in the wild canal bed in the new historic district. It has the highest rating on the seven aspects of integrity. It drops 35 feet in elevation. The width varies from 20 to 81 feet and the depth from 3 to 10 feet.



**Southern edge of the Pilot Butte Canal Historic District.
Listed on the National Register of Historic Places 2016**



**7,435 feet long historic district, 100 feet wide,
Yeoman Rd. to Cooley Rd.,
West of Overtree Road, East of 18th St. and Brightwater Dr.**

- **National Register of Historic Places Criteria**

- Is it more than 50 years old?
- Is it associated with events that have made a significant contribution to the broad patterns of our history? Local, regional, statewide or national events.
- Is it associated with the lives of persons significant in our past?
- Does the property embody the distinctive characteristics of a type, period or method of construction, design, engineering, work of a master?

The Canal in the Historic District-

- It retains the integrity of its design as a gravity-flow irrigation system.
- It retains its crude construction materials and techniques.
- It preserves the evidence of being constructed by laborers, steam drills, blasting, hand tools and horse teams.
- It retains its association with investors, land surveyors, engineers, field crews, settlers, homesteaders.
- It has few and unobtrusive alterations.
- It has not been moved, piped, or lined with concrete or mortar.
- It retains its interpretive value.
- It retains its connection to irrigated agriculture.
- It retains its rural setting with irrigation ponds and rural uses.

The Pilot Butte Canal HD was nominated for significant local events, exploration, settlement and agricultural development.

- The historic district runs across 20 residential tax lots in the city of Bend and 40 SR 2.5 acre zoned tax lots in the County.
- 101 individuals own the property in the historic district and every one of them, including those from Eugene, OR; Vancouver, WA; New Jersey and elsewhere, pro-actively signed a petition supporting the official designation as a historic resource. Not one objected to listing on the NRHP.
- The National Register of Historic Places Historic District covers a 50 to 100 feet wide portion of each tax lot and nothing else.

The narrow strip of land over the 60 tax lots in the linear historic district adds up to 17.01 acres.



On October 29, 2014, from south to north in the historic district, a team measured the depth and width and took photos of the canal bed every 180 feet. Toes were measured and side slopes were calculated.









Note carefully sloped riprapped sides of the canal. The west side is a cut while the right side was formed with an embankment. The lava flows form an impenetrable bed with standing water all winter.













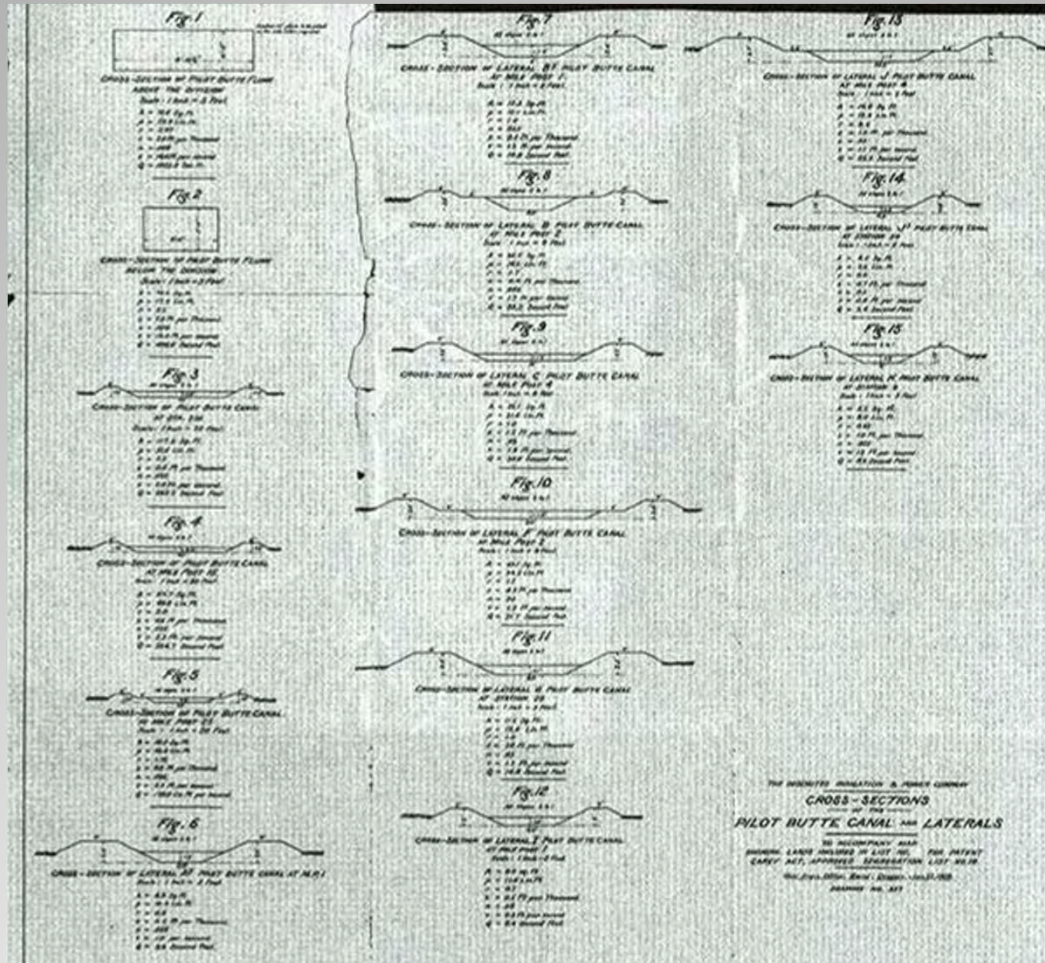
Let's Build a Canal, 1904 Style

- 1. Be a visionary with experience building towns and railroads and have exceptional financial and political connections for your for-profit venture. Hutchinson 1898 and Drake 1900.
- 2. Incorporate a company with your wife and wagon team driver, and call it the Pilot Butte Development Company, after the butte you stood on and saw the possibilities spread out below, use your finesse with the governor and elbow out the competition.
- 3. Place help-wanted ads in the Madras, Prineville and Oregonian Newspapers and hire several engineers with railroad and irrigation system experience to examine the land and to determine how and where to build the canal. Have them design the diversion structure, the main canal, flumes, laterals, ditches, and wooden pipes.

4. Post notices on the river and file for water rights in 1900.
5. Sign a ten-year contract with the state to reclaim the land in Federal Segregation list Number 6, consisting of 84,707.74 acres under the Federal Carey Act (1902).
6. Ask your engineers to design a sawmill, plat a town called Bend at the south end of the system, plat a town called Redmond at the north end of the system, design company offices and other buildings, design Bend's first domestic water system using river water, and design a power dam across the river to power the city.
7. Have your wagon driver drive you through sagebrush to Shaniko (82 miles) to catch the train to travel east again and again. Seek out your friends who are also visionaries and doers, capitalists, financiers, town builders, successful men who own banks and dine with politicians, build railroads and know all about rock and drill for oil and gas. Raise \$850,000 in capital to start.

You are not done, yet.

- 8. Partner with the railroads to have a huge national advertising campaign to attract visitors and entice settlers to buy into your vision of the future cities. Sell fertile, productive land in the last frontier with unlimited possibilities at a profit. They will also buy irrigation rights and pay annual fees for the delivery of irrigation water. On the side, use your connections to plan a railroad to get them here and bring in supplies and send out vast quantities of lumber and livestock.
- 9. Give the Oregon Land Board specific goals and a timeline for your project.
- 10. Draw construction drawings for the various widths of a one-to-four-foot deep trapezoidal shaped canal bed and work with state engineer to get necessary approvals.
- 11. Hire survey crews to mark the canal's route (locate the canal) so that the water will flow entirely by gravity.
- 12. Spend months in Portland and Salem with legislators and the governor and get contracts with Oregon State for your project.



Levi Wiest's plans for the Pilot Butte Canal in State Archives

• Now, Let's Build the Canal

- 1. Buy thousands of acres of timberland, design and build the sawmill. Get equipment from Midwest for sawmill by railroad and horse drawn freighters from Shaniko. Hire lumbermen to cut the timber and millworkers to produce the lumber for flumes and structures. Rebuild the mill when it burns in Jan. 1904.
- 2. Buy the latest canal building tools, rock cutters, Fresno Scrapers and 2 custom made drills; one is 20HP and the other is 6 HP, powered by steam boilers.
- 3. When land thaws out in the spring, advertise and hire more than 450 men, accountants and managers: the equipment and camp supply procurement team, carpenters, time keepers, cooks, laborers, blasters, operators of steam powered drills and supervisors. Pay laborers \$2.00 per day.
- 4. Advertise to pay up to \$2.50 a day for 215 men with horse teams.

- 5. Clear the route of trees, shrubs and vegetation.
- 6. Have cowboys round up 100 wild horses and have them broken for harness. Advertise over and over again for horse teams.
- 7. Advertise again and again for laborers and increase daily pay.
- 8. With Fresno scrapers on runners drawn by two to four horses, pull loads of dirt and rock and systematically smooth the bed or remove spoils. Loosen rock and soil with hand shovels.
- Canal building north of Deschutes Junction goes quickly. The project gets hung up in the rock of the historic district.
- 9. Advertise to pay up to \$2.50 a day for 215 men with horse teams.



Shovel Crew

10. Use hand and steam powered drills to make holes for blasting. Blast rock and remove "spoils" to form embankments. Where the canal must be shallow due to solid rock flows, make canal wider.

11. Where there will not be any embankments, laboriously load and move spoils out of the area with horse teams pulling wagons. (71,000 cubic yards were removed in the Historic District with 215 horse teams.) Each cubic yard weighed 3,000 pounds.

12. Layer rock and soil to form an embankment in six-inch layers called "lifts". Compact each layer with horses and scrapers. Some miles will have embankments along both sides.

13. Hand place large broken rock as riprap on sides of canal as needed to prevent erosion.

14. Test system with water. Fill fissures with rock and concrete.

- Open sales offices in Portland, Prineville and Bend.
- Buy ads across the nation. Use influence to get front page news articles to drum up interest.
- Provide transportation to and from hotels in Shaniko and Prineville.
- Offer 40 acres for an average price of \$590, ranging from \$2.50 to \$14.75 per acre, depending on the rock outcroppings and amount of irrigable acres.

Make a Profit for the Investors

Use the latest town planning ideas.

Help churches locate to the towns.

Make your town presentable to the ladies.

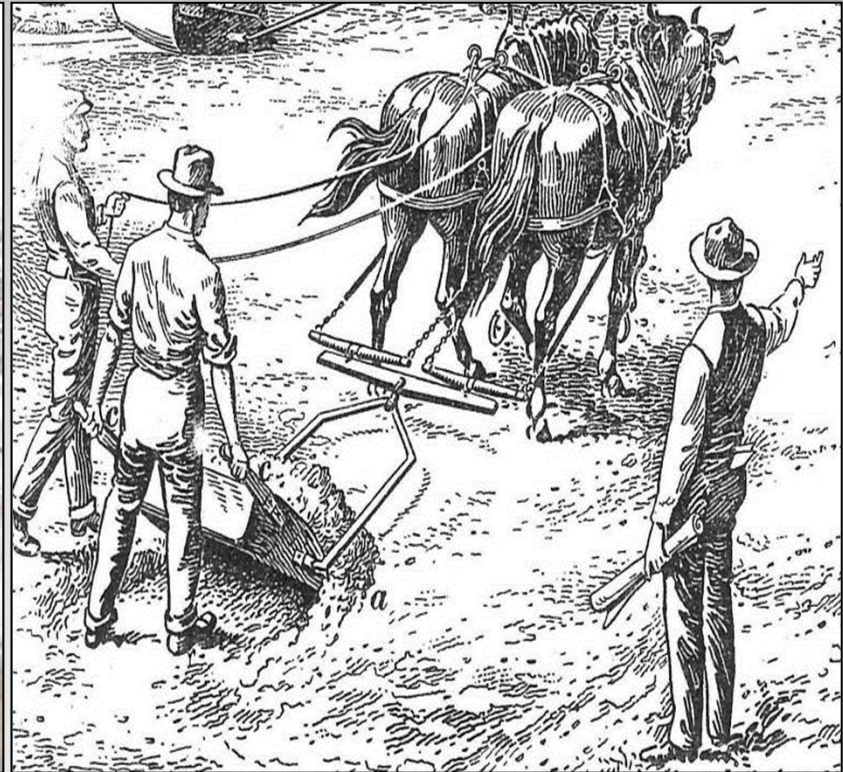
Give land for schools and parks.

Sell commercial and residential lots inexpensively.

Get the railroad!



Alexander Drake and LD Wiest Family



Fresno Scraper

The Townsite of BEND

On the Deschutes River in Western Part of Crook County, Oregon.

Center of the new Irrigation Development covering
250,000 ACRES OF RICH LAND

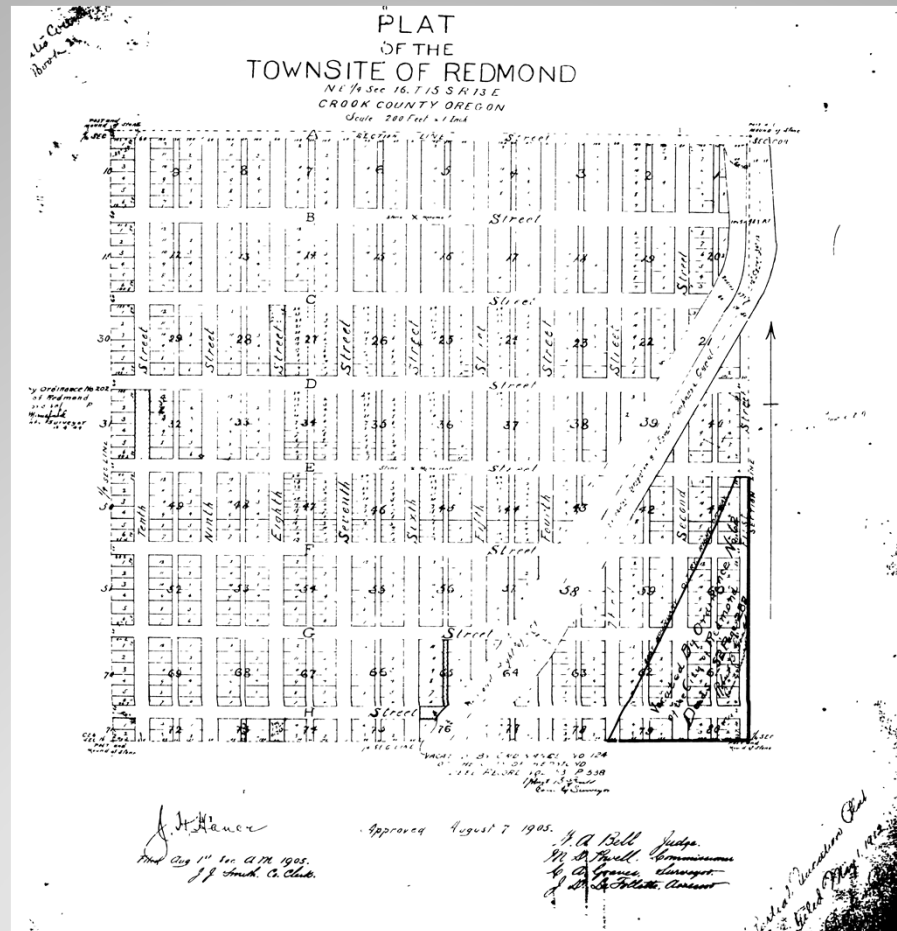
At Gateway to the Great
DESCHUTES PINE Timber Belt....

The Town has Grown
 In nine months so that it was
 on December 19, 1904, a larger
 town than the County Seat.

Doubled in Value
 In six months so that Bend
 Real Estate has done.

FOR INFORMATION
 INQUIRE OF.....
**The Pilot Butte
 Development Co.**
 PROPRIETOR OF TOWNSITE

The May 28, 1904 Plat of the Townsite of Bend, surveyed and drawn by Levi Wiest, civil engineer of Bend.



The August 1, 1905 Plat of Townsite of Redmond, surveyed and drawn by D. F. Glover, Civil Engineer of Eugene, Oregon













A hole drilled for explosives from 1904 in the canal.











The canal in the middle of the Historic District passes beside Houston Pond, the original homesteader's irrigation pond. There are 11 irrigation ponds along the canal in the Historic District, some of which irrigate pasture for a variety of livestock, which adds to the historic district's integrity and its interpretive value.

SEGMENT 4, HISTORIC DISTRICT

This is a sample of the record the team made every 180 feet for a mile and half.

Description of Characteristics of Segment 4 in the Historic District:

Rough irregular canal bed makes turns to east and north.

Sudden drops in elevation. Boulders and lava flows in canal bed.

Ditch rider road ceases due to rough terrain.

Ponderosa pine trees, mature native vegetation, rock outcroppings into banks.

Latitude and Longitude at Southern Edge of Segment 4:

North Decimal: 44.102583

West Decimal: 121.268639

Length of Segment: 1330'

Elevation at southern end: 3425'

Drop in elevation this segment: 10'

Terrain: sudden drops, many turns, undulating terrain

Presence of Standing Water: No

Average Width of Canal: 51.21' wide

Range of Canal Widths: 39' to 60.5'

Average Depth of Canal: 5.56' deep

Range of Canal Depths: 4.2' to 7.25' deep

Width of Ditch Rider Road: 10', partial at south end

Range of Widths of East Embankment: none

Range of Widths of West Embankment: none

Range of widths of west toe: 1.5' to 14' wide

Range of depths of west toe: 2.5' to 5.25' deep

Range of Widths of east toe: 1' to 16' wide

Range of Depths at east toe: 2.5' to 5.25' feet deep

Structures: Water distribution slide gate, metal agricultural gate at end of ditch rider road.

Alterations: none















Hydrologist Jeff Perreault measures a recently-constructed concrete flow measuring weir in the historic district. It is non-contributing.



**The northern boundary of the
Historic District.**



Just north of the Historic District is the intake to the Juniper Ridge Hydroelectric Project 9-foot diameter pipe.



**1904 waterfall and public picnic area near Cooley Rd.
This waterfall on the canal was replaced by the intake to the
Juniper Ridge Hydroelectric Project in 2009.**



The canal is in a 9-foot diameter buried pipe for 2.6 miles across Juniper Ridge and other public lands. It drops 129 feet in elevation.



Juniper Ridge Hydroelectric Plant



Flow Measuring Weir at Deschutes Junction



Looking north to Farm Funny The at Deschutes Junction. For 2.23 miles the canal passes rural industrial and commercial land and is piped under Hwy. 97. It drops 62 feet in elevation.



The canal passes through 5.8 miles of irrigated farms between Deschutes Junction and Redmond, dropping 146 feet in elevation. The Swalley Canal is close by, between the Deschutes River and the Pilot Butte Canal. Looking west toward Cline Butte.



Looking northeast near Quarry Ave. in the agricultural area south of Redmond. Hay is the #1 crop on small acreages averaging 6 acres in size.



Swalley Irrigation District Hydropower Plant on Hwy 97 near Deschutes Junction and canal crossing Tumalo Road. Oct. 24, 2015. The hydroelectric plants need a steady full flow of water during the irrigation season to run profitably. The other canals are dry on this date.



The Pilot Butte Canal enters Redmond for 6 miles and irrigates a golf course, a cemetery, school yards and other urban properties.





The Pilot Butte Canal in Redmond. At Yew Avenue, it nearly touches the Comfort Suites, Redmond Airport.



On the left is the waterfall at the Comfort Suites at Yew/S. Hwy. 97 that is planned to power a hydropower plant and a piped section near Odem Medo Rd./S. Hwy 97.



Pipe along S. Hwy 97 for 1,100 feet resurfaces at Odem Medo Road, Redmond.



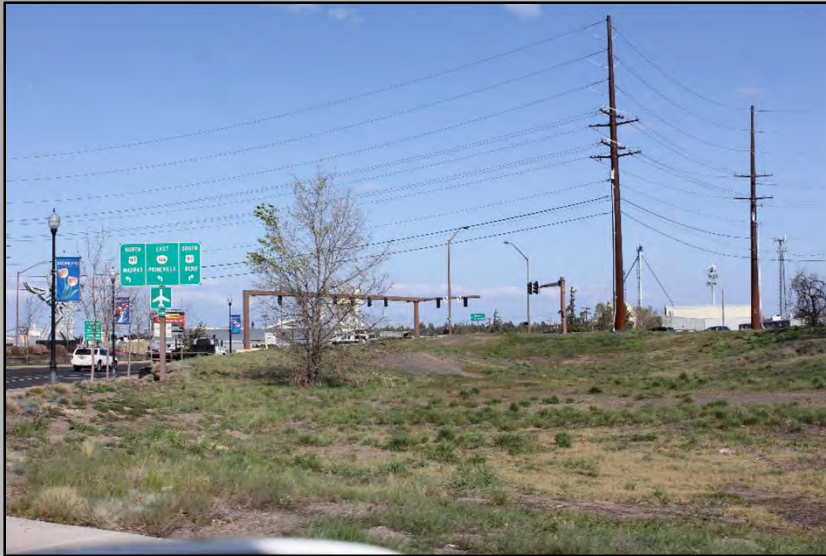
The canal along SW Canal Blvd., Redmond, near Safeway



The canal enters a pipe for 6,000 feet near Lowes Home Improvement store near Veteran's Way, Redmond.



The Pilot Butte Canal is in a pipe in most of Redmond.



The canal is underground in a pipe then resurfaces near St. Charles, Redmond Hospital on North Canal Blvd.



The canal is straight, shallow and narrow at the north end of Redmond near Home Depot. The canal is sandwiched between North Canal Blvd. and Hwy 97 and has dropped 169 feet in six miles in town. This is the nominated segment proposed for listing on the NRHP by COID. It lacks distinction, interpretive value and integrity.



Water puddles in front of a pipe that will take it under the new overpass at the north end of Redmond.



The Pilot Butte Canal comes out of small pipe on the east side of the new Redmond Bypass. The Redmond Home Depot is in the background.



The narrow, shallow canal has few rocks as it heads east of Redmond. Here, a flow measuring device is in the earthen bed. This was the fastest and easiest section to construct.



The open canal runs for 4.9 miles from Redmond to just south of Smith Rock State Park. The elevation drops 53 feet in a smooth, shallow canal bed, mostly lined with grasses.



End of the Pilot Butte Canal near Smith Rock State Park



At its end, the Pilot Butte Canal parallels the North Unit Canal again.



Smith Rock State park is in the background. North Unit Canal is on the right. The Pilot Butte Canal is 6 inches deep on left.



Unused tail water flows through the metal gate and then into a culvert.



Tailwater pours into the culvert which empties into the North Unit Canal. Some Pilot Butte Canal tailwater crosses over the North Unit Canal into Lone Pine Canal.



North Unit Canal passes on the left , flows across the Crooked River to Jefferson County. The canal on right drops into the Crooked River.



Jefferson County is on left of the Crooked River that flows west. North Unit Canal crosses river. Power lines. Irrigation water flows into a pipe that drops down to the power plant to power the generator and then is discharged into the Crooked River.

<u>Year</u>	<u>Population</u>	<u>Sources</u>
1900	21	Bend Precinct, Crook County, U.S. Census.
1903	250	Bend townsite, Sisemore, Deschutes and Lytle.
1904	¹¹ 400-500	Estimate made in 1917.
1910	536	Bend, Crook County, U.S. Census.
1912	1,300	Bend Bulletin estimate.
1916	3,205	Count made by high school principal and students.
1917	5,193	Figure filed with City Recorder.
1920	5,415	Bend, Deschutes County, U.S. Census.

Results

In an April, 23, 1921, letter to Fred Henshaw of the Federal Power Commission Board of Engineers, from J.G. McGuffie, Secretary and Counsel for the Central Oregon Irrigation Company, a successor of the D. I. & P. Co., McGuffie observed "the thrifty town of Redmond with its banks and mercantile establishments is *wholly dependent upon the agricultural community surrounding it, which is the result of irrigation*" [emphasis added]

SUMMARY of the Pilot Butte Canal's Key Dates

1898, Charles C. Hutchinson forms Oregon Irrigation Company and hires engineers and surveyors to build a mighty canal.

1899, Hutchinson writes to Drake in Spokane, WA to interest him in investing. Drake visits Bend and is offered half the company and the position of president and manager, if he supplies needed capital. Drake agreed and paid for surveys. Two months later, he elbowed Hutchinson out. A competition began between them.

June 1900, the Drakes move to Farewell Bend by covered wagon and build a hunting lodge at Drake Park. William H. Staats sells the future Bend townsite for \$4,000 to Drake. His father, Elias Drake, built railroads in Ohio, Indiana and Minnesota, and was a banker. He founded St. James and Worthington, MN. He served in the Ohio House of Representatives and the Minnesota Senate.

Oct. 1900-1907, civil engineer Levi Wiest works for Drake in many capacities and other engineers and survey crews are hired.

Oct. 29, 1900, The Pilot Butte Development Co. was incorporated by Alexander McClurg Drake, his wife Florence and their driver and cook Charles J. Cottor. It was a commercial enterprise. (The DRIC or Swalley Canal was developed as a cooperative enterprise with a low budget and settlers doing much of the work themselves.)

February 28, 1901, Oregon implements the Carey Act. It becomes State policy that Oregon's arid land should be reclaimed and settled.

Drake clearly understood the opportunities before him, including irrigation development, settlement of cities, encouraging his family's railroad partners and associates to extend a railroad to the area and the buying, selling and development of land for business and agricultural purposes. (NRHP Page 38)

May 31, 1902, PBD Co contracts with State to reclaim Segregation List # 6, 84,707.74 acres, ten percent a year for ten years.

Oct. 31, 1902, Drake files for water rights.

- Feb. 1903. Headgate at Deschutes River are constructed. It was located 3 miles upstream from new townsite. It would be found to leak badly and be undersized. Six men clear 25' wide path for first 1.25 miles over rock for flume. Flume was to bring water to camp. Mill 700,000 board feet of lumber for flume and 25' tall trestles in river canyon. Drake is behind schedule to complete 10% a year.
- Feb. 1904, 1.5 miles of flume completed on trestles 8" apart.
- Feb. 1904. Deschutes Irrigation and Power Company is incorporated and buys out PBDC for \$70,000 and Charles Hutchinson's Oregon Irrigation Company for \$35,000. Capital is \$2,500,000. New York RR man W. E. Guerin Sr., builder of the Palmer Cutoff, W. E. Guerin Jr, J. O. Johnson who was general manager of Columbus Gas, Light and Heating Co., and H. D. Turney of Ohio are involved. Harvey Scott, editor of the Oregonian and J. Frank Watson, president of Merchant's Bank were investors from Portland. George Sinks, president of Dasher National Bank, and others from Oregon, Alabama, and Ohio finance and manage project. Hutchinson is on the board.

- April 1, 1904. DI & P Co. takes charge of all irrigation work. Joseph Kelley become chief engineer over a group of engineers, including Wiest. 3 men employed to break 78 wild horses. Bridges are built to bring in supplies, including the one at Deschutes Market Road. The company built an office, a club house, stables, a blacksmith shop, a granary, a warehouse, a powder house, a cook house, a mess hall, barns, an experimental farm and a manager's residence. Sewer system begun.
- Building the Pilot Butte Canal as a commercial enterprise under the Carey Act brought significant private capital and experience in town building, and in infrastructure and irrigation development to the high desert.
- It took higher wages and an extraordinary amount of expertise in the use of technology and man and horse-power to complete the listed stretch of the canal. Meeting the deadlines, unique characteristics were carved into the canal in the tough terrain, leaving it like a natural river channel.

- 1904 Plans are for a second canal (the Central Oregon Canal) to share the diversion and headgate, but irrigate Powell Butte and Alfalfa to the east.
- June 3, 1904, water flows to Wiest's house, east of Bend. Four camps of men working at once. North end of canal is complete.
- Oct 1904. New intake and major changes to flume to allow three times more water to be diverted. The historic district rock was holding up the canal. Work is focused on area in the historic district.
- Dec 19, 1904. Election is held to incorporate Bend as a City.
- Jan 10, 1905. First city council meeting held at PBD Co offices.
- Feb. 10. 1905. Work on nominated stretch is completed and water flows to end of system.
- March 5, 1905 water is let into the canal for the first time. At a total cost of \$500,000 or around 12 million dollars in today's money.

1910. D I & P Co reorganized as the Central Oregon Company.

1911. The Drakes retire to Pasadena, California and sell all real estate and business holdings.

October 1911. Oregon Trunk Railroad arrives in Redmond and Bend.

1912. North Dam and North Canal built.

1913. 25,000 acres are served by the Pilot Butte Canal, with 16,800 acres in crop.

1915. Proposal of settlers to form a not-for-profit district to manage and operate the Pilot Butte and Central Oregon Canals.

July 9, 1921 Dietrich Decree (Dietrich vs. COIC) turns over ownership to settlers.

THANK YOU

- My sincere thanks to:
- The late Bruce White for initiating the idea of the historic district and for his encouragement when things got tough,
- Michael Hall for co-authoring the nomination for hours and hours,
- Don Kliewer for civil engineering expertise, and who thought this project would never get done,
- Jeff Perreault for hydrology expertise and canal research,
- Vanessa Ivey of the Des Chutes Historical Center and Rob Rector for research and historic photos.
- Leslie Pugmire Hole, editor of the Spokesman (now editor of the West Linn Tidings) and historian for research,
- Steve Lent at the Bowman Museum for research,
- Architect Tim Casey and journalist Gene Storm for a day outdoors performing the survey,
- My client Aleta Warren, who was the reason this project was completed.



117°20'12"W 44°04'09"N



Find address or place



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bridge over
canal is the
body of a former car.
flat bed rail road car.
p. 5 #3
(101711)

117°20'18"W 44°04'09"N



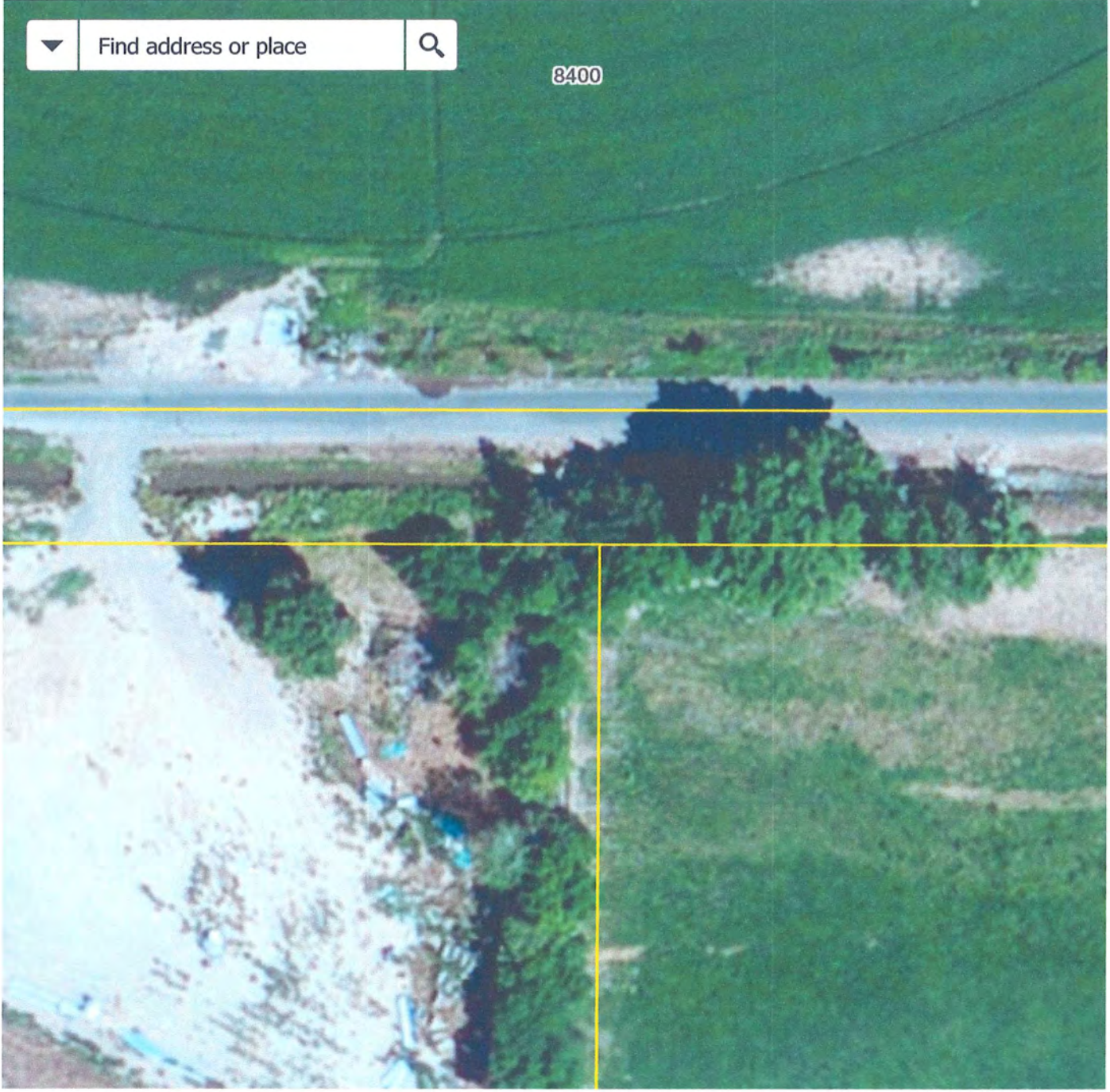
117°19'58"W 44°04'11"N



Find address or place



8400



117°20'06"W 44°04'09"N



Oregon

Kate Brown, Governor

Parks and Recreation Department

State Historic Preservation Office

725 Summer St NE Ste C

Salem, OR 97301-1266

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J. Paul Loether, Deputy Keeper
National Park Service
National Register of Historic Places
1849 C St. NW, Mail Stop 7228
Washington, D.C. 20240

Re: National Register Nomination

Dear Mr. Loether:

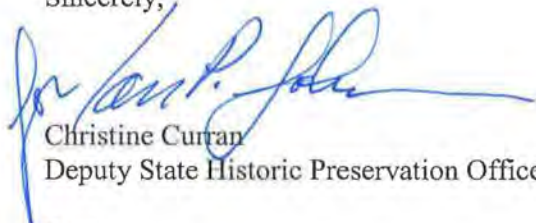
At the recommendation of the Oregon State Advisory Committee on Historic Preservation, I hereby nominate the following historic property to the National Register of Historic Places:

PILOT BUTTE CANAL: DOWNTOWN REDMOND SEGMENT
NW CANAL BLVD
REDMOND, DESCHUTES COUNTY

The enclosed disk contains the true and correct copy of the nomination listed above to the National Register of Historic Places.

We appreciate your consideration of this nomination. If questions arise, please contact Jason Allen, Survey Program Coordinator, at (503)986-0579.

Sincerely,



Christine Curran
Deputy State Historic Preservation Officer

Encl.

