

**PRELIMINARY FINDINGS OF FACT
LAND PARTITION/REPLAT REQUEST
LP-N-455
R-N-044-16
Amended January 13, 2017**

REQUEST: To Partition by Replat Parcel 1 of Partition Plat 1999-18 into three parcels.

APPLICANTS: Mario and Veronica Pacheco
1540 SW Meadow Dr.
Hermiston, OR 97838

OWNERS: Mario Pacheco Mendoza et al
1540 SW Meadow Dr.
Hermiston, OR 97838

PROPERTY DESCRIPTION: Tax lot 1800 of Assessor's Map 4N 25 14, or parcel 1 of Partition Plat 1999-18

PROPERTY LOCATION: South of Wilson Lane at the Rippee Road intersection outside the Boardman Urban Growth Boundary

FINDINGS OF FACT:

I. BACKGROUND INFORMATION:

This proposed replat is to partition Parcel 1 of Partition Plat 1999-18, defined as the parent parcel, into three parcels which will facilitate further development. The subject property currently has one dwelling and the remainder is bare land used for farm purposes. Parcel 2 is proposed at 2 acres with the existing dwelling located on that portion. Parcel 1 and 3 are proposed to be larger than 2 acres, but final configurations and dimensions are still to be determined (see the tentative plan). Zoning of the parcel is Farm Residential (FR) with a 2-acre minimum lot size.

II APPROVAL CRITERIA: The applicant has filed under the Morrow County Subdivision Ordinance, ARTICLE 5, LAND PARTITIONING, Section 5.020. Section 5.030 includes REQUIREMENTS FOR APPROVAL which are listed below in **bold type**, followed by a response in standard type.

MORROW COUNTY SUBDIVISION ORDINANCE SECTION 5.030 REQUIREMENTS FOR APPROVAL:

1. Proposal is in compliance with ORS 92 and the County and affected City Comprehensive Plans and applicable Zoning.

The proposed new parcels will meet the requirements of the Zoning Ordinance and Comprehensive Plan relative to minimum parcel size as they will be at least 2 acres. According to the application the parcels will remain in farm use and future residential development may occur, which are uses allowed outright in the zone. The applicant will need to submit both a preliminary and final partition plat to be in compliance with this Article and ORS Chapter 92. *Planning staff would*

ask that the location of the federal improvements and their easements be identified on the Partition Plat. This is recommended and listed as a Condition of Approval.

2. **Each parcel is suited for the use intended or offered; including, but not limited to, size of parcels, topography, sewage disposal approval and guaranteed access. Proof of access must show that each parcel has an easement sufficient for continued ingress and egress to a public, county or state highway or has a deeded access way.**

The current parcel has an existing dwelling and is used for farming and the new parcels will continue to be used for those purposes. The current dwelling has one existing access along Wilson Lane and would not require a new Access Permit. If any new access is necessary they will need to have approval from the Public Works Director and Access Permits obtained as outlined in the Morrow County Transportation System Plan. See discussion below based on criteria in 10(g).

The application indicates that there is an existing on-site septic system in use for the dwelling. Prior to the Planning Director signing the final Partition Plat, Site Suitability will need to be obtained for parcels one and three from the Department of Environmental Quality to assure that future residential development can obtain approval for and install onsite septic systems. This is recommended and listed as a Condition of Approval. The Department of Environmental Quality was provided a copy of the preliminary Findings of Fact. Wells will be needed, either individual or shared, at the time of development.

3. **All required public service and facilities are available and adequate.**
Electric and telephone utilities are currently available in the area. The property is located within the Boardman Rural Fire Protection District and notification of this action is being sent to the Boardman Rural Fire Protection District.
4. **Proposal will not have any identifiable adverse impacts on adjoining or area land uses, public services and facilities, and natural resource carrying capacities.**

The adjoining properties are primarily residential and the existing dwelling has utility services including electricity and telephone. The property is within the Morrow County School District and nearby Boardman schools serve children from Preschool through High School. Other public services are available in the City of Boardman.

The applicant should be aware that this property is located in an area designated for water quality concerns by the Oregon Department of Environmental Quality. The subject property is in the Lower Umatilla Basin Groundwater Management Area (LUB GWMA). The Department of Environmental Quality designated the LUB GWMA in 1990 due to elevated nitrate concentrations in groundwater. It is recommended that wells used for drinking water be tested at least annually to determine nitrate concentrations. The goal of the LUB GWMA Action Plan (which was developed by state agencies and local stakeholders) is to reduce nitrate concentrations throughout the region. The Morrow Soil and Water Conservation District is the lead agency implementing the Action Plan. DEQ and the Oregon Department of Agriculture have oversight responsibility.

5. An approved water rights diversion plan as applicable.

The Preliminary Findings of Fact were provided to the County Watermaster and the West Extension Irrigation District to determine water rights and for any necessary approvals. It is listed and recommended as a Condition of Approval that the applicant comply with any recommendations of the County Watermaster based on this review and comply with recommendations of and obtain approval from the West Extension Irrigation District.

After the December 6, 2016, Planning Commission public hearing, at which a letter from the West Extension Irrigation District was discussed (and is attached to these Findings), Planning staff met with District Manager Bev Bridgewater to better understand and clarify the District's comments. The District outlined certain conditions in their letter concerning water rights and the associated pipeline easements that the landowner will need to meet, either prior to the signing of the Plat by the District Manager or before future sale of the land. Those determinations are beyond the scope of this action, but are acknowledged by the signature of the District Manager on the final Partition Plat.

6. Flag lots will not be permitted when the results would be to increase the number of properties requiring direct and individual access from a State Highway or other arterial. Flag lots may be permitted to achieve planning objectives under the following conditions:

- a. When flag lot driveways are separated by at least twice the minimum frontage distance.
- b. The driveway must meet driveway standards described in Article 8, Section 8.020.V.
- c. The lot meets the minimum lot area of the zoning district, without including the driveway.
- d. Only one flag lot shall be permitted per private right-of-way or access easement.

This provision does not apply because no flag lot is proposed.

7. The depth of any lot will not be restricted as long as a buildable parcel is proposed.

The application as proposed meets this criterion.

8. No plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company will be approved unless the County has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.
The subject property is within the West Extension Irrigation District. The applicant will comply with recommendations of and obtain approval from the West Extension Irrigation District. See discussion in 5 above.

9. The Commission will deny an application for partitioning when it can be shown by the Commission that the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or

is part of a development pattern having the effect of creating more than three (3) parcels without subdividing.

Any further division of the parcels created by this action, which would include the remaining parcel or parcels created large enough to be further divided, will most likely be subject to subdivision standards based on transportation impacts to the existing access easements and to ensure a consistent development pattern.

10. In addition to the requirements set forth above, the following factors may be considered for approval or disapproval of an application for land partitioning if a geographical or other factor identified by other, appropriate professionals or Plans such as the requirements of the Comprehensive Plan, FEMA requirements, Byways rules, etc., requires it:
- a. Placement and availability of utilities.
 - b. Safety from fire, flood and other natural hazards.
 - c. The same improvements may be required for a partitioning as required of a subdivision, if required it will be installed by the applicant.
 - d. Possible effects on natural, scenic and historical resources.
 - e. Need for onsite or offsite improvements.
 - f. Need for additional setback, screening, landscaping and other requirements relative to the protection of adjoining and area land uses. If the proposed partition is located within an Urban Growth Boundary, the affected city must be given notice according to the respective Joint Management Agreement.
 - g. In the approval of a land partition, the need for street and other improvements will be considered and may be required as a Condition of Approval at a different standard than for a subdivision.

There are two existing 30' access easements that run parallel along the western edge of proposed parcel 1. Staff recommends dedication of the easements as an extension of Rippee Road. The easements currently serve several parcels of land, including 5 existing dwellings. The second 30' easement was created in the previous partition LP-N-206 approved on November 11, 1997 as required by the following language in the Findings:

"The existing 30 foot north-south easement is currently used by several residences south of the canal. According to the new minimum road standards, the easement must be a minimum 60 feet in width. Although the current proposal is to create three homesites, (two new homesites, one existing) the FR-2 Zone would allow for a total of twenty homesites.

According to the County Road Classification System, the road is considered a Rural Collector III. The classification is based on existing and projected traffic volume (10 ADT per household). The road is currently not improved to the Rural Collector III standard. However, since the subject partition will only add two new homes (20 ADT), the developer should not be required to improve the existing easement to a Rural Collector III standard. The existing surface appears adequate for existing traffic; the road appears to have been graded and well maintained. The road capacity does not appear to be sufficient to accommodate significant additional traffic. Certainly when the subject parcel is built out (FR2 allows for density of 20 homesites) the road will require improvement. Rather

than require the landowner to improve the road to the Rural Collector III standard, it would be reasonable to request improvements to a Rural Access II standard and then a commitment to participate in road improvements when the land is further partitioned. In addition to physical improvements, a commitment to participate in future improvement should also be required. County Counsel recommends a Consent to Participate Agreement."

The Transportation System Plan states that if it is possible to further partition the land into more than three lots, a 60-foot wide access to a county road must be provided. This could either be dedicated right-of-way or a legal guarantee that right-of-way would be provided at the time of further development. Staff would find that the previous partition created the need for a 60-foot wide access to a county road and that development is imminent creating the need for dedication to service existing and future development both to the south of this proposal and future development of parcels 1 & 3 of this proposal.

The existing easements currently have a fence running through the center of them, hindering current traffic to the existing parcels. In order to meet current and future needs of the surrounding development, a 60-foot right-of-way should be dedicated and the fence should be moved out of the right-of-way.

At the meeting identified above with the West Extension Irrigation District Manager the location of the lateral was confirmed as being along the western boundary of the property. The current separation of about eight to nine feet from the edge of the property to the westerly edge of the road easement allows space for the lateral. According to the District Manager there is a federal easement that covers 25 feet from the center of the installed District improvement. The District will work with the landowner or developer at the point the road is further improved to assure that road improvements would not endanger the District's improvements.

SECTION 5.075. REPLATTING. A reconfiguration of a recorded subdivision or partition plat or a change in the number of lots in the subdivision or partition may be approved by the Planning Commission or as defined in ORS 92.180. Replats will act to vacate the platted lots or parcels and easements within the replat area with the following conditions:

1. **A replat will apply only to a recorded plat.**
A replat is required as the applicant is proposing to partition a portion of Parcel 1 of Partition Plat 1999-18.
2. **Notice shall be provided when the replat is replatting all of an undeveloped subdivision as defined in ORS 92.225.**
This provision does not apply as this is not a replat of an undeveloped subdivision. However, notice was provided under the requirements of a Land Partition.
3. **Notice shall be provided to the owners of property adjacent to the exterior boundaries of the tentative subdivision replat.**
Notice has been provided.
4. **When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified, consistent with a governing body's notice to owners of**

property contiguous to the proposed plat. Any utility company that desires to maintain an easement subject to vacation under this section must notify the Planning Department in writing within 14 days of the mailing or other service of the notice.

No changes to utility easements are proposed. This replat is at the request of the applicant.

5. **A replat will not serve to vacate any public street or road.**

No streets or roads are proposed to be vacated.

6. **A replat will comply with all subdivision provisions of this Article and all applicable Ordinances.**

See Land Partition requirements above.

III. **PERMIT COMPLETION REQUIREMENTS:**

The Final Partition Plat will be completed within two years from the date of the Commission action or the approval of the partitioning will expire and said approval will be declared null and void. A one-year extension may be granted when a written request is made prior to the expiration of the permit with stated reasons for the request for which the applicant was not responsible.

IV. **LEGAL NOTICE PUBLISHED:** Heppner Gazette-Times and East Oregonian
November 16, 2016, and January 4, 2017

V. **AGENCIES NOTIFIED:** Linda Hayes-Gorman, Oregon Department of Environmental Quality; Marc Rogelstad, Boardman Rural Fire Protection District; Greg Silbernagle, Watermaster; Burke O'Brien, Morrow County Public Works Director; Mike Gorman, Morrow County Assessor; Steve Haddock, Morrow County Surveyor; Bev Bridgewater, West Extension Irrigation District.

VI. **PROPERTY OWNERS NOTIFIED:** November 16, 2016, and January 4, 2017

VII. **HEARING DATES:** December 6, 2016
Port of Morrow Riverfront Room
Boardman, Oregon

January 24, 2017
Bartholomew Building
Heppner, Oregon

VIII. **MORROW COUNTY ACTION:** The Morrow County Planning Commission makes, as allowed in our Subdivision Ordinance, a final decision that can be appealed to the Morrow County Court. Staff recommend approval subject to the following Conditions of Approval.

MORROW COUNTY PRECEDENT CONDITIONS OF APPROVAL: These conditions must be completed before the County Planning Director may sign the final partition plat or before the land may be deeded to a third party.

1. Submit both a preliminary and final Partition Plat in conformance with Oregon Revised Statute Chapter 92 and the Morrow County Subdivision Ordinance.
Planning staff would ask that the location of the federal improvements and their easements be identified on the Partition Plat.

2. Site Suitability shall be obtained from the Department of Environmental Quality for parcels one and three.
3. Comply with recommendations of and obtain approval from the West Extension Irrigation District.
4. Dedicate a 60-foot right-of-way where the two 30 foot easements are currently identified.

MORROW COUNTY SUBSEQUENT CONDITION OF APPROVAL: Prior to development the following subsequent Condition of Approval will need to be met:

5. Remove the fence and trees from the right-of-way.

Jeff Wenholtz, Chair

Date

ATTACHMENTS:

Vicinity map

Tentative Plan

Roy Dugan Email dated December 3, 2016

WEID Letter dated December 5, 2016

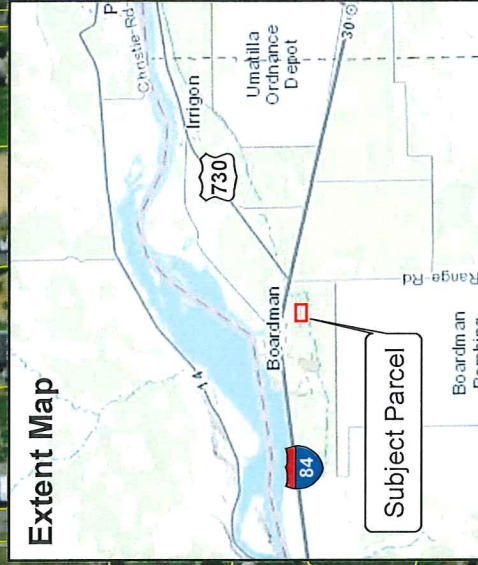
Vicinity Map

Rippee Road

Wilson Lane

TL1800

Extent Map



Subject Parcel

Source: Layer Credits: Sentinel, Esri, HERE, DeLorme, Intermap, Inetmap, P. Corp., GEBCO, USGS, NOAA, IGN, Swisstopo, Mapbox, © OpenStreetMap contributors, and the GIS User Community



LP-N-455
R-N-044-16
 4N 25E 14 TL1800

0 250 500 1,000 Feet

250' Buffer Subject Parcel Taxlots



Morrow County Planning Department
 November 2016
 Map for Reference Use Only

Document Path: S:\Planning\Maps\Land Parcels\LP-N-455-r-455.mxd

A PARTITION OF PARCEL 1 OF PARTITION PLAT 1999-18. LOCATED IN THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 25, EAST OF THE WILLAMETTE MERIDIAN, MORROW COUNTY, OREGON.

MENDOZA FAMILY
1540 SW MEADOW VIEW
HERMISTON, OREGON 97838

MARIA D. PACHECO MENDOZA
MARIO G. PACHECO MENDOZA } HUSBAND AND WIFE
VERONICA PACHECO MENDOZA }
AGUSTIN MENDOZA } HUSBAND AND WIFE
CITLALI M. MENDOZA }
JOSE G. PACHECO MENDOZA } HUSBAND AND WIFE
MARIA E. MADRIGAL MENDOZA }

THIS SURVEY WAS UNDERTAKEN IN APRIL OF 2016
INTO 3 PARCELS AS SHOWN. PARCEL 1 OF PARTITIC

Parcel 1 of PARTITION PLAT 1999-18, in the Coun
LS 02735 PERFORMED PARTITION PLAT 1999-18. I

THE NORTHWESTERLY CORNER OF PARCEL 1 OF PAR
THE NORTHEASTERLY CORNER OF PARCEL 1 OF PAR
THE SOUTHEASTERLY CORNER OF PARCEL 1 OF PAR
THE CENTER SOUTHERLY CORNER OF PARTITION PLA
THE SOUTHWESTERLY CORNER OF PARCEL 1 OF PAR

THE INTENT IS TO CREATE PARCEL 1 AS BEING 5.9
2.00 ACRES TO ENCOMPASS ALL IMPROVEMENTS ON

THE BASIS OF BEARING OF THIS SURVEY ARE THE I
MERIDIAN AND THE FOUND 5/8 INCH IRON ROD MOI
PARTITION PLAT 1999-18.

THIS SURVEY WAS ACCOMPLISHED UTILIZING 2 TRIM
FOUND MONUMENTS WERE SUBSEQUENTLY USED FOR



I, BRIT L. PRIMM, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON HEREBY CERTIFY THAT
CORRECTLY REPRESENTS A SURVEY CONDUCTED UNDER MY DIRECT SUPERVISION IN MAY 2016, IN CON
WITH THE REQUIREMENTS OF THE SURVEY RECORDING LAW, AS ESTABLISHED BY O.R.S. CHAPTER 92, I
SET THE PROPER MONUMENTS.

LEGAL DESCRIPTION AS PER RECORDED ON 2009-24574:

Parcel 1 of PARTITION PLAT 1999-18, in the County of Morrow and State of Oregon.

INITIAL POINT OF THIS PLAT BEING THE NORTHWEST CORNER OF PARCEL 1 OF PARTITION PLAT 1999-

I CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL PLAT AS FILED FOR THE MENDOZA IN MORROW COUNTY, OREGON.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Preliminary

BRIT. L. PRIMM
48509

EXPIRATION DATE: 12/31/16

Carla McLane

From: Roy and Heidi <royandheidisplace@gmail.com>
Sent: Saturday, December 03, 2016 8:33 AM
To: Carla McLane
Subject: Public Planning Meeting

Hello,

My name is Roy Dugan owner of property at 71831 Jerry Lane that adjoins tax lot 1800 4N 25 14 owned by Mario Pacheco. I was recently sent a notice for public hearing on December 6th to create 3 parcels of this property.

I am writing to make it known I am in **opposition** to this request. My reason is that the area surrounding Boardman Oregon has already divided many properties into smaller properties and without defined regulated and holding accountability to established county CCR's these properties have continued to sit without improvements, or if improvements have been made they are without approved permits and become dumping grounds for property owners cars, RV's, and otherwise "junk".

Current improved properties have septic and water wells and I have a worry that with additional properties where vehicles and equipment are allowed to be stored as an overflow storage property there is risk of oil, diesel and other chemical waste being dumped on the property contaminating water wells and overloading the established septic system plans maintained by the county and state.

There have been several divided parcels all within 1/2 mile of this property that have continued to sit without improvements and/or a storage lot for the owners. This drives down property values of those who want to live in a rural setting, increases risk for hazardous chemicals being dumped.

Examples properties that have been recently divided that have become a dumping ground with un approved permitted structures are located on Downey Road, Wayne Lane and the new Estates on Garrison Road across Wilson and Downey Road.

Sincerely,

Roy Dugan

I can be contacted at 541-701-4727

I would like to receive the outcome of this public hearing notice.



West Extension Irrigation District

P. O. Box 100; Irrigon, OR 97844-0100
541-922-3814 (ph) 541-922-9775 (fax)
westex@oregontrail.net

December 5, 2016

Morrow County Planning Department
P. O. Box 40
Irrigon, OR 97844

Re: Land Division No. LP-N-455 and R-N-044-16
Map No. 4N 25 14 Tax lot 1800 - Mario Pacheco Mendoza et al

The District has reviewed the Preliminary Findings of Facts regarding this Land Division Request and has the following comments.

Comment to Section II, Paragraph 9.

We point out that the 1997 Land Partition LP-N-206 stated in Section III (6), "Subdivision standards will apply when the parcel is partitioned again in the future." In the current findings, reference is made that "further division of the parcels created by this action... would most likely be subject to subdivision standards..." A phone call to Morrow County Planning indicated that this partition request is addressing subdivision requirements from the County's perspective, but we are not comfortable with this limited review. We have three concerns:

- 1) There is quite a bit of traffic along the west easement. The current traffic pattern is within the federal right-of-way for the District's lateral No. 7. The District completed piping this lateral earlier this year and wants to be assured it is protected.
- 2) The irrigation system serving the newly created properties does not appear to be consistent with what we would expect for a subdivision. Irrigation easements are being proposed through fields which could be a problem when future development occurs.
- 3) The property has high groundwater activity that is persistent in the area. This is groundwater that is not affected by the WEID canal or flood irrigation, but is systemic to the area. Subdivision activities such as roadways and buildings have an impact on the groundwater, which may become more of a nuisance as development occurs. It is important to the WEID that discussion about this problem take place.

We believe this partition to be part of a plan that creates a subdivision and request it be reviewed appropriately, including a Subdivision Committee review.

Section II, Paragraph 10. We agree with the comments provided by the County. As there is a federal right-of-way along the west easement, removing the fence would allow for two lane travel to occur without damage to the WEID's federal pipeline.

We spent several months this past winter replacing our open concrete lateral with buried pipe. We noted a high amount of traffic along this easement for travel to the south side of the canal. We also noted that the road is maintained by a landowner on the south side of the canal, likely at his cost. It is not clear in this document who will maintain the "wider" road when the fence is removed. Will this be a County Road?

We also believe there should be a cul-de-sac at the end of the east-west 30-foot easement to allow for vehicles to turn around. Currently, the two parcels to the south do not have houses. They access their properties along this 30-foot easement and park at the end. A cul-de-sac would be helpful, from our perspective.

We have the following specific comments to offer.

A. Comments:

1. The land is within the boundaries of the West Extension Irrigation District and is served by the District.
2. The property has 19.5 water right acres consisting of 1909 Umatilla River primary, 1968 Columbia River supplemental, and 1928 return flow supplemental rights from McKay Reservoir.
3. The parcel currently receives its delivery from the District's Main Canal at Headgate 5, which is the Sunrise Pump Station that delivers pressurized water.
4. The delivery pipeline has sufficient capacity to serve the property.

Following are the conditions WEID will have for final plat approval.

B. Precedent Conditions: Precedent conditions detail the work to be completed prior to District approval by signature on the final plat.

1. Easement along west- ingress/egress: There is a federal 50-foot right-of-way for the lateral pipeline along the west boundary of the property. This is 25-feet from centerline and should be shown on the plat. The District will not authorize vehicle or equipment travel within 15 feet of the buried pipeline.

2. Delivery: The landowner will provide plans for a delivery mainline for each of the parcels. Plans should include alignment of a dedicated line for delivery and size of the proposed line and valves. The current mainline should not be assumed to be adequate for future delivery to the three parcels.
3. Irrigation Delivery Easement: All easements for irrigation lines serving properties shall be dedicated on the final plat. We require 20-foot easement for a 6-inch line and 15-foot easement for a 4-inch line. Easements should be dedicated next to existing ingress/egress easements or property lines.
4. Water Rights: The District shall apportion the water rights to the newly created parcels in accordance with state law. Any water rights not being used shall be signed off for transfer elsewhere in the District.
5. Fees: All District fees shall be paid.

C. Subsequent Conditions: Subsequent conditions are those that are to be fulfilled following the plat approval and prior to water being delivered to the newly created parcels.

1. There shall be a dedicated delivery mainline for the parcels. The newly created lots shall each have a valve, filter and meter installed for delivery off the shared mainline, per District standards. The installation shall be inspected and approved by the District. The inspection fee of \$50 per lot shall be paid to the District in advance of the inspection. Landowner shall notify the District when the installation is ready for inspection.
2. Landowners will be responsible to install their individual system per the District standards.
3. Land that becomes unavailable for irrigation in the future (typically due to the siting of houses, driveways and out-buildings) shall have water rights signed off for transfer elsewhere in the District, or in accordance with District transfer policy. The landowner should meet with the District to confirm that all water rights are being used in accordance with State law.

The District will sign off on the final plat to assure all criteria has been met.
Thank you so much for allowing comments on this partition.

A handwritten signature in black ink that reads "Bev Bridgewater". The signature is fluid and cursive, with the first name "Bev" and last name "Bridgewater" clearly distinguishable.

Bev Bridgewater, District Manager

c/ Mario Pacheco Mendoza et al