

AGENDA COVER MEMO

DATE: May 28, 2003
TO: LANE COUNTY BOARD OF COMMISSIONERS
FROM: K. Robert Ezell, Lane County Surveyor *KREzell*
DEPARTMENT: Lane County Department of Public Works

AGENDA ITEM TITLE: IN THE MATTER OF CORRECTING FINAL ORDER NUMBER 03-4-9-10 REGARDING THE PETITION TO VACATE A PORTION OF DUNCAN SLOUGH ROAD (COUNTY ROAD NUMBER 499), LOCATED SOUTH OF BERNHARDT CREEK ROAD NEAR KARNOWSKY CREEK, IN SECTIONS 22 AND 23, TOWNSHIP 18 SOUTH, RANGE 11 WEST OF THE WILLAMETTE MERIDIAN (18-11-22 & 23)

I. MOTION

Order that Order No. 03-04-09-10 regarding Duncan Slough Road to be and the same hereby is, declared void, and that any recording of said Order be made to indicate that the same is void, more particularly described in the Final Order.

II. ISSUE

The Board, during a public hearing authorized by Resolution and Notice of Hearing and Order number 03-2-26-10 Ordered that the petition to vacate that particular section of South Slough Road be Denied. However, despite the Board's decision a Final Order 03-4-9-10 to vacate the road was inadvertently signed and recorded into the records of the County Clerks Office. The issue before the Board is to correct the Order as described.

III. DISCUSSION

A. Background

A petition to vacate a portion of South Slough Road by Gloria Brown, the Forest Supervisor for the Siuslaw National Forest was received by the Lane County Surveyor and on approval by Ollie Snowden, Public Works Director, the Resolution and Notice of Hearing Order was forwarded to the Board for approval.

A public hearing date was set for April 9, 2003. After a presentation by staff, Ollie Snowden Public Works Director and John Hogervorst, of the USFS, the Board decided it was not in the public interest to vacate the section of road as petitioned for. Instead, the Board directed staff to come back with an Order to Deny the petition to vacate the road. The Board further directed staff to prepare the proceedings for an Order to withdraw county road status but not public road status and convert the road to a public road. However, despite the Board's plan of action, the Order to Vacate the road was likely included with other Board business of that day and the Order to vacate was

inadvertently signed and the Final Order NO. 03-4-9-10 has been recorded on April 18, 2003 into the County Clerks Records as 2003-034363 document.

B. Analysis

The Final Order No. 03-4-9-10 inadvertently signed and recorded into the County Clerks records can be corrected by these proceedings. The first task at hand is to prepare an Order to Correct the Final Order No. 03-4-9-10 that, according to the record, vacated the segment of road.

C. Alternatives/Options

The Board approves the Correction Order prepared to correct the Record for this segment of road.

D. Timing

Timing is important as inadvertently an incorrect Order to vacate a segment of South Slough Road is in the records of the County Clerk and needs to be corrected.

IV. IMPLEMENTATION/FOLLOW-UP

If the Board of County Commissioners approves the Order of Correction it is to be forwarded to the Lane County Clerk for filing and recording, after which copies are to be forwarded to the County Surveyor, Public Works Director and County Assessor for appropriate action.

V. ATTACHMENTS

Attachment "A"- Vicinity Map
Copy of filed Final Order No. 03-4-9-10

Contact person: Tom Drechsler, x3632



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IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

FILE NO. 4084

IN THE MATTER OF THE VACATION OF)
A PORTION OF DUNCAN SLOUGH ROAD)
(COUNTY ROAD NUMBER 499), LOCATED)
SOUTH OF BERNHARDT CREEK ROAD)
NEAR KARNOWSKY CREEK, IN SECTIONS)
22 AND 23, TOWNSHIP 18 SOUTH, RANGE)
11 WEST OF THE WILLAMETTE MERIDIAN)
(18-11-22 & 23))

FINAL ORDER NO.

03-4-9-10

WHEREAS, this matter now coming before the Board of County Commissioners for Lane County, Oregon, upon the Resolution, Notice of Hearing and Order No. 03-2-26-10 for the proposed vacation of a portion of Duncan Slough Road, County Road Number 499; and

WHEREAS, Duncan Slough Road (County Road Number 499) was established in 1892 with a right-of-way width of 40 feet, 20 feet on each side of centerline. Said portion of right-of-way proposed to be vacated being more particularly described as follows:

"All that portion of Duncan Slough Road (County Road Number 499), being 40 feet wide, from the beginning point of said road as surveyed in 1892, said point being in Section 23, Township 18 South, Range 11 West of the Willamette Meridian, thence northwesterly a distance of 1.4 miles, more or less, to the section line between Section 22 and Section 15, Township 18 South, Range 11 West of the Willamette Meridian, all in Lane County, Oregon."

WHEREAS, the petitioner has met the requirement of ORS 368.341(3)(f) of having at least 60% of the adjoining landowners sign the petition to vacate the road; and

WHEREAS, various public and private agencies have been notified of the proposed vacation and no objection has been received; and

WHEREAS, there are no known utilities or powerlines located within the area to be vacated; and

WHEREAS, no landowner will be deprived of legal access to their land by this road vacation; and

WHEREAS, the Director of Public Works has provided a written report in support of the proposed vacation, as required by ORS 368.346, attached hereto, marked Exhibit "A" and made a part hereof by this Order; and

FILED

APR 18 2003

COUNTY CLERK

BY *M. Bullock*

WHEREAS, all necessary procedures for a road vacation have been completed pursuant to ORS Chapter 368, including the giving of notice as evidenced by the Affidavit of Posting, Publication and Mailing, labeled as Exhibit "C", attached hereto, and made a part hereof by this Order; and

WHEREAS, a public hearing was conducted on this date, as ordered, regarding the proposed vacation of the road as described above; and

WHEREAS, in accordance with the provisions of ORS 368.356, the Board is of the opinion that approving the vacation of the road, as described herein, is in the interest of the public, at this time; now therefore, it is hereby

ORDERED, that the vacation of the above described portion of Duncan Slough Road, County Road Number 499, is hereby vacated and that in support of this action the Board hereby adopts the Findings of Fact, as set forth in Exhibit "B", attached hereto, and made a part hereof by this Order; and it is further

ORDERED, that this Order be entered into the Lane County Board of Commissioners Journal of Administration and be further recorded in the Lane County Oregon Deed Records and in the records for County Road Number 499 administered by the Lane County Surveyor.


DATED this 9th day of April, 2003


Peter Sorenson, Chair
LANE COUNTY BOARD OF COMMISSIONERS

Attachment: Vicinity Map

APPROVED AS TO FORM

Date 3-23-03 lane county


OFFICE OF LEGAL COUNSEL

**IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON**

FILE NO. 4084

IN THE MATTER OF CORRECTING FINAL ORDER)	
NUMBER 03-4-9-10 REGARDING THE PETITION)	
TO VACATE A PORTION OF DUNCAN SLOUGH)	
ROAD (COUNTY ROAD NUMBER 499), LOCATED)	
SOUTH OF BERNHARDT CREEK ROAD NEAR)	ORDER TO CORRECT
KARNOWSKY CREEK, IN SECTIONS 22 AND 23,)	NO.
TOWNSHIP 18 SOUTH, RANGE 11 WEST OF THE)	
WILLAMETTE MERIDIAN (18-11-22 & 23))	

WHEREAS, this matter came before the Board of County Commissioners for Lane County, Oregon, upon the Resolution, Notice of Hearing and Order No. 03-2-26-10 for the proposed vacation of a portion of Duncan Slough Road, County Road Number 499:

WHEREAS, Duncan Slough Road (County Road Number 499) was established in 1892 with a right-of-way width of 40 feet, 20 feet on each side of centerline. Said portion of right-of-way proposed to be vacated being more particularly described as follows:

"All that portion of Duncan Slough Road (County Road Number 499), being 40 feet wide, from the beginning point of said road as surveyed in 1892, said point being in Section 23, Township 18 South, Range 11 West of the Willamette Meridian, thence northwesterly a distance of 1.4 miles, more or less, to the section line between Section 22 and Section 15, Township 18 South, Range 11 West of the Willamette Meridian, all in Lane County, Oregon."

WHEREAS, The Board of Commissioners conducted a public hearing on April 9, 2003 in accordance with Resolution, Notice of Hearing and Order Number 03-2-26-10, to consider the vacation of the described portion Duncan Slough Road; and

WHEREAS, after consideration and deliberation of the record, which included a report from the Director of the Department of Public Works, staff report from the County Surveyor, and comments from Johan Hogervorst, a representative of the Siuslaw National Forest, the Board voted unanimously to not approve the proposed vacation; and

WHEREAS, Order No.03-4-9-10 was inadvertently signed as having passed, now therefore; it is hereby

ORDERED, that Order No. 03-4-9-10 be, and the same hereby is, declared void ab initio, and that any recording of said order be made to indicate that the same is void; and it is further

ORDERED, that this Order be entered into the Lane County Board of Commissioners Journal of Administration, and be further placed in the legal county road files administered by the County Surveyor and the Public Works Department.

DATED this day of , 2003

Attachment "A"- Vicinity Map
APPROVED AS TO FORM

Date 6-9-03 lane county


OFFICE OF LEGAL COUNSEL

Peter Sorenson, Chair
LANE COUNTY BOARD OF COMMISSIONERS

ATTACHMENT "A"

SECTIONS 22 & 23
TOWNSHIP 18 SOUTH, RANGE 11 WEST, W.M.
LANE COUNTY

NO SCALE

