

Memorandum Date: August 10, 2009  
Order Date: September 16, 2009

W. B. F. I.

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**TO:** Board of County Commissioners

**DEPARTMENT:** Public Works

**PRESENTED BY:** Frank Simas, Right of Way Manager

**AGENDA ITEM TITLE:** In the Matter of Authorizing the Sale of a Parcel of Surplus County-Owned Road Fund Real Property Located on the Northerly Side of Cottage Grove-Lorane Highway at MP 2.31

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**I. MOTION**

Move approval of the Order.

**II. AGENDA ITEM SUMMARY**

Herbert V. Bohl wishes to purchase surplus County-owned Road Fund property lying adjacent to his property located along Cottage Grove-Lorane Road at MP 2.31. Mr. Bohl owns property identified as Lane County Assessor's Tax Lot 4005 on Map 20-03-30, and which abuts a portion of the former alignment of Cottage Grove-Lorane Highway vacated in connection with the Alteration of Establishment Order which has been previously approved by the Board. The property he wishes to purchase is a fee-owned remnant which was purchased when Cottage Grove-Lorane Highway was re-aligned in the early 80s, and was originally part of the property located on the westerly side of the present right of way.

**III. BACKGROUND/IMPLICATIONS OF ACTION**

**A. Board Action and Other History**

Cottage Grove-Lorane Highway was re-aligned by Lane County in 1981. At that time the alignment was moved in a southwesterly direction. Although no additional right of way was needed from the property that is now owned by Mr. Bohl, there was a small crescent-shaped area between the old and new alignments that was formerly a part of the land on the westerly side of the new alignment which was purchased in fee due to its separation from the parent parcel by the new alignment. Mr. Bohl's property takes access from Blacks Drive which runs along the easterly line of his property and the address is 79040 Blacks Drive.

Pursuant to ORS 368.366, the portion of the vacated former alignment lying on the westerly side of the former alignment would inure to Lane County upon approval of the Alteration of Establishment Order by virtue for its ownership by Lane County. The area on the easterly side of the former alignment would inure to the Bohl property. The area affected by the Vacation incorporated in the Alteration of Establishment Order is shown hatched on Attachment "1".

The well on Mr. Bohl's property that serves as his domestic water supply produces water that contains high concentrations of minerals, and he would like to obtain legal ownership of the area shown hatched on Attachment "2", in order to potentially drill a new well that would produce better quality water as well as allowing him to fence the area to discourage parking, littering, partying and other unlawful activities. The proposed sale area contains approximately 7,260 s.f., more or less, and includes Lane County's portion of the vacated right of way and

also the fee-owned sale property.

The area he wishes to purchase consists of the vacated former right of way lying on the westerly side of the former centerline, plus the surplus county-owned parcel lying between his west and south property lines as if extended southwesterly and westerly.

#### **B. Policy Issues**

The property was not purchased by the County for use in realignment of the road, but because it was separated from the main ownership by the new road alignment, it was therefore considered uneconomic from the owner's perspective. It is not needed for County use now or in the foreseeable future. Mr. Bohl's property takes access off of Blacks Drive and a separate access to this County remnant would not be granted due to the location on a curve and the resulting inadequate stopping sight distance. Sale of this property will preclude some County maintenance expenses in the future, and past practice has been to sell small non-buildable remnants only to adjoining owners.

#### **C. Board Goals**

Sale of this surplus Road Fund Property is consistent with Lane County Goals relating to Resource Planning and Allocation as stated in Adopted Lane County Strategic Plan, and is also consistent with the County Goals of contributing "to appropriate community development in the area of transportation and telecommunications infrastructure, housing, growth management and land development", and protection of the "public's assets by maintaining, replacing or upgrading the County's investments in systems and capital infrastructure". Sale of this property will place it back on the tax rolls and into productive use.

#### **D. Financial and/or Resource Considerations**

The remnant parcel has been valued at \$2,350.00 by staff based on an "over the fence" approach, considering what it would add to the adjoining property and taking into account such factors as shape, topography, and the fact that normal market forces do not apply in cases where there is only one potential purchaser.

Because this property was originally purchased using Road funds, upon receipt of the funds at closing, they will be credited to the Road Fund in accordance with requirements in the Oregon Constitution regarding the use of funds derived from fuel tax revenues.

### **IV. Analysis**

Sales of parcels such as the subject property are permitted pursuant to ORS 271.310 and 275.030. If approved by the Board, the sale of this property will allow Lane County to avoid some future administration and maintenance costs, and the funds derived from the sale could be used for other road-related purposes.

Because no title report has been obtained and title insurance will not be provided, conveyance will be by quitclaim deed and as-is with no warranties.

**V. Alternatives/Options**

1. Approve the Order and Resolution authorizing the sale of the above-referenced property to Herbert V. Bohl, authorizing the execution of the attached quitclaim deed.
2. Deny the Order and direct staff otherwise.

**VI. RECOMMENDATION**

Option 1.

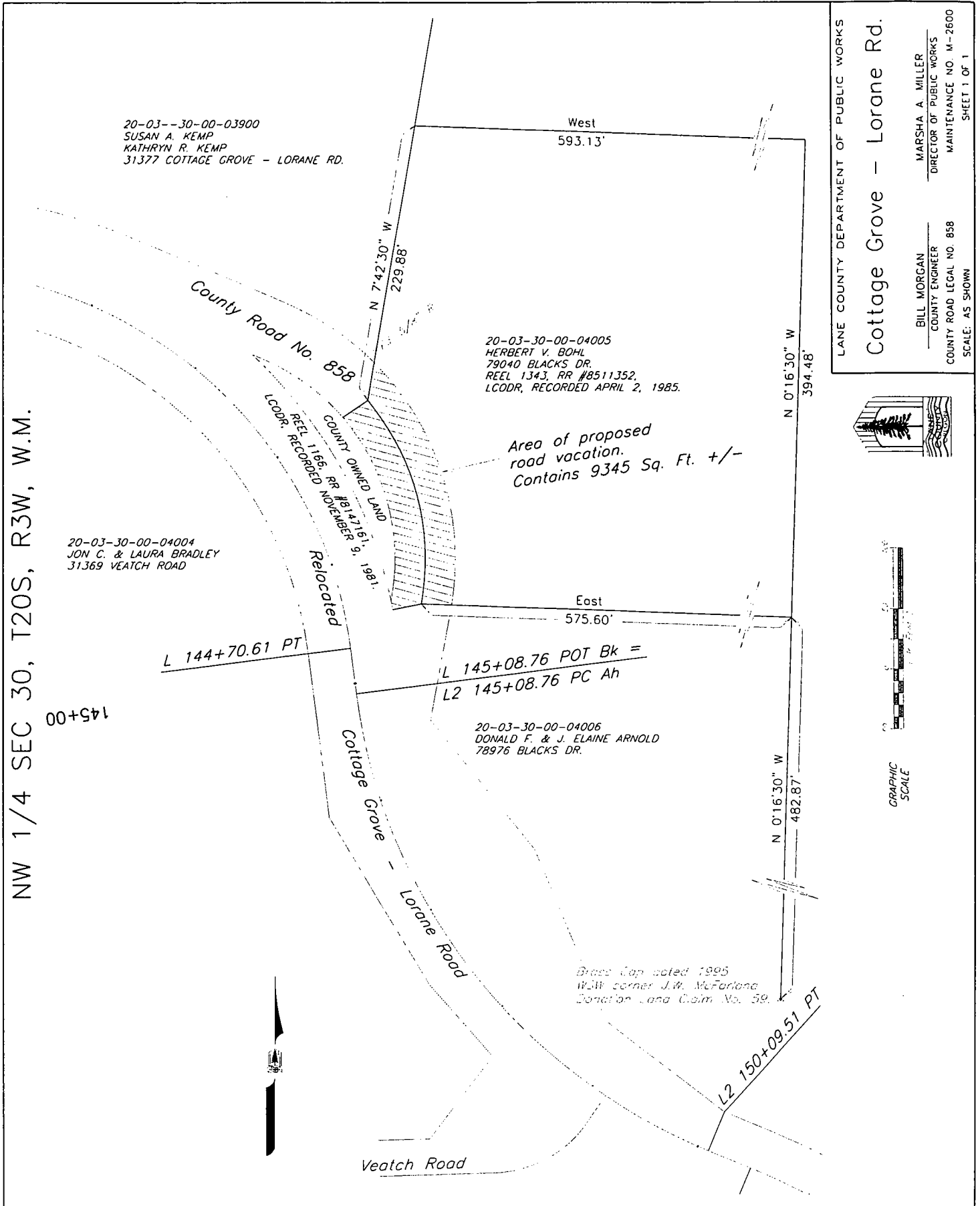
**VII. FOLLOW-UP**

If approved, staff will record the quitclaim deed once the funds have been received, and the proceeds will be deposited in the Road Fund.

**VIII. ATTACHMENTS**

Attachment 1- Map showing the area vacated by Alteration Order  
Attachment 2- Map showing the area proposed to be sold  
Exhibit A – Quitclaim Deed

# Attachment No.1



# Attachment No. 2

NW 1/4 SEC 30, T20S, R3W, W.M.

20-03--30-00-03900  
SUSAN A. KEMP  
KATHRYN R. KEMP  
31377 COTTAGE GROVE - LORANE RD.

20-03-30-00-04004  
JON C. & LAURA BRADLEY  
31369 VEATCH ROAD

20-03-30-00-04005  
HERBERT V. BOHL  
79040 BLACKS DR.  
REEL 1343, RP #8511352,  
LCODR, RECORDED APRIL 2, 1985.

Area to be sold to  
Mr. Herbert V. Bohl  
and added to taxlot  
20-03-30-00-04005  
Contains 7260 Sq. Ft. +/-

20-03-30-00-04006  
DONALD F. & J. ELAINE ARNOLD  
78976 BLACKS DR.

Brass Cap dated 1995  
WSRP corner J.M. McFarland  
Dorset Land Co. No. 59.

L 144+70.61 PT

L 145+08.76 POT Bk =  
L2 145+08.76 PC Ah

L2 150+09.51 PT

Veatch Road

Cottage Grove - Lorane Road

County Road No. 858

County Road No. 2272

County Owned Land  
REEL 1166, RP #817161's, 1991  
LCODR, RECORDED NOVEMBER 9, 1991

West  
593.13'

N 0°16'30" W  
394.48'

East  
575.60'

N 0°16'30" W  
482.87'

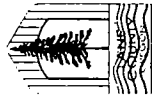
LANE COUNTY DEPARTMENT OF PUBLIC WORKS

Cottage Grove - Lorane Rd.

MARSHA A. MILLER  
DIRECTOR OF PUBLIC WORKS

BILL MORGAN  
COUNTY ENGINEER  
COUNTY ROAD LEGAL NO. 858

MAINTENANCE NO. M-2600  
SCALE: AS SHOWN  
SHEET 1 OF 1



GRAPHIC  
SCALE

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

**Resolution and Order No.**

( **IN THE MATTER OF AUTHORIZING THE**  
( **SALE OF A PARCEL OF SURPLUS**  
( **COUNTY-OWNED ROAD FUND REAL**  
( **PROPERTY LOCATED ON THE**  
( **NORTHERLY SIDE OF COTTAGE GROVE-**  
( **LORANE HIGHWAY AT MP 2.31**

**WHEREAS**, this matter now coming before the Lane County Board of Commissioners and said Board deeming it in the best interest of Lane County to sell the following real property, to wit: that portion of the lands conveyed to Lane County by Bargain and Sale Deed recorded November 9, 1981 on Reel 1166R as Reception No. 8147161 in the Office of Deeds and Records of Lane County, Oregon, and as more particularly described on Exhibit "A"; and

**WHEREAS**, said real property was acquired by purchase and not by foreclosure; and

**WHEREAS**, said real property is not needed by Lane County for any public purpose now or in the foreseeable future; and

**WHEREAS**, Herbert V. Bohl has offered to purchase said property for \$2,350.00; and

**WHEREAS**, the Board finds it is in the best interest of the County to sell said property, and such sales are permitted pursuant to ORS 271.300 and 275.030; **NOW THEREFORE**,

**IT IS HEREBY RESOLVED AND ORDERED** that the property be sold to Herbert V. Bohl and that the Board authorizes the execution of the Quitclaim Deed in connection with said sale; and

**IT IS FURTHER RESOLVED** that upon close of escrow and receipt of the proceeds, they be deposited in the Road Fund.

**IT IS ALSO FURTHER ORDERED** that this Order shall be entered into the records of the Board of Commissioners of the County.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

APPROVED AS TO FORM:

Date: 8-31-09



Lane County Office of Legal Counsel

\_\_\_\_\_  
Peter Sorensen, Chair  
Board of County Commissioners

After Recording Return to:  
and  
Send Tax Statements to:  
Herbert V. Bohl  
79040 Blacks Drive  
Cottage Grove, OR. 97424-9702

## RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

### QUITCLAIM DEED

**LANE COUNTY**, a political subdivision of the State of Oregon, hereinafter called GRANTOR, pursuant to Order No. 09-09-16-\_\_\_ of the Board of County Commissioners of Lane County, for the true and actual consideration of **\$2,350.00 dollars**, does hereby release and quitclaim to **HERBERT V. BOHL**, all its rights, title and interest in that real property situated in Lane County, State of Oregon, described as follows:

A parcel of land lying in the Northwest one-quarter of (NW ¼) of Section 30, Township 20 South, Range 3 West of the Willamette Meridian, Lane County, Oregon, and being a portion of that tract of land conveyed to Lane County by that certain deed recorded November 9, 1981 on Reel 1166, Recorder's Reception Number 8147161 lying on the northeasterly side of the relocated Cottage Grove – Lorane Road, County Road Number 2272, as shown on County Survey File Number 28330 as recorded in the office of the Lane County Surveyor, being more particularly described as follows: Beginning at a point on the centerline of County Road Number 858, being North 0°16'30" West, 482.87 feet and West, 575.60 feet from the brass cap monument marking the Westerly Southwest corner of the J.W. McFarland Donation Land Claim Number 59 in Township 20 South, Range 3 West, Willamette Meridian, said point also being the southerly southwest corner of that tract of land conveyed to Herbert V. Bohl by that certain deed recorded April 2, 1985 on Reel 1343, Recorder's Reception Number 8511352; thence along said centerline, northwesterly to the westerly southwest corner of said tract of land; thence southwesterly perpendicular to the centerline of said Cottage Grove – Lorane Road, to the northeasterly right of way of said Cottage Grove – Lorane Road being 40.0 feet from approximate Engineer's centerline station L 143+03 POC; thence southeasterly along said right of way to a point being southwesterly, perpendicular to the centerline of said Cottage Grove – Lorane Road, from the Point of Beginning, said point being 40.0 feet from approximate Engineer's centerline station L 144+46 of said Cottage Grove – Lorane Road; thence northeasterly to the Point of Beginning, in Lane County Oregon.

The bearings used herein are based on County Survey File Number 17598 as filed in the office of the Lane County Surveyor.

The parcel described herein lies outside the northeasterly right of way of Cottage Grove – Lorane Road, County Road Number 2272, between approximate Engineer's centerline stations L 143+03 POC and L 144+46 POC.

The parcel of land to which this description applies contains 7,260 square feet, more or less.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

IN WITNESS WHEREOF, the undersigned have executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

_____ Commissioner	_____ Commissioner
_____ Commissioner	_____ Commissioner
_____ Commissioner	

STATE OF OREGON     )  
                                  )     ss.  
County of Lane        )

On \_\_\_\_\_, 20\_\_\_\_, personally appeared \_\_\_\_\_

who, duly being sworn, did say that they are members of the Board of Commissioners of Lane County, Oregon and that said instrument was signed and sealed in behalf of Lane County by authority of its Board of Commissioners; and they acknowledged said instrument to be its voluntary act and deed. Before me:

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_