

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of the Proposed Vacation of a Portion)	
of Bert Bishop Road [aka Bishop Creek Road] Lying)	ORDER NO. 33 - 2004
Within Section 32, Town-ship 6 North, Range 2 West,)	(Finalizing Vacation Proceedings)
Columbia County, Oregon [Petersen Petition])	
)	

WHEREAS, pursuant to ORS 368.341(1)(b) the Board of County Commissioners for Columbia County, Oregon adopted Resolution No. 20 - 2004 initiating proceedings to vacate a portion of Bert Bishop Road [aka Bishop Creek Road], a public right-of-way located in Section 32, Township 6 North, Range 2 West, Columbia County, Oregon, pursuant to a petition filed with the Board by John Petersen and Agnes Petersen; and

WHEREAS, that portion of the public right-of-way proposed to be vacated is legally described as follows:

A tract of land in Section 32, Township 6 North, Range 2 West, Willamette Meridian, Columbia County, Oregon, more particularly described as follows:

All that portion of Bert Bishop Road from its intersection with vacated A.A. Smith Road to approximately 20 feet west of the western right-of-way line of County Road No. 41, also known as McDermott Road, Columbia County, Oregon;

and,

WHEREAS, pursuant to ORS 368.351, the Board may make its determination about the vacation of property without holding a hearing if: (1) the County Roadmaster files with the Board a written report that contains his assessment that the vacation would be in the public interest; and (2) the vacation proceedings were initiated by a petition under ORS 368.341 that contains:

"the acknowledged signatures of owners of 100 percent of any private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated. The petition must indicate the owners' approval of the proposed vacation";

and

WHEREAS, the Petition meets the signature requirements of ORS 368.351, and County Roadmaster, Dave Hill, filed a report with the Board stating his assessment that the vacation would be in the public interest; a copy of the Roadmaster's report being attached hereto, labeled Attachment "1" and incorporated herein by this reference; and

WHEREAS, despite the fact that, pursuant to ORS 368.351, the Board was authorized to make its determination without holding a hearing, the Board decided to hold a hearing to allow the Petitioners an opportunity to respond to objections raised by neighboring property owners; and

WHEREAS, a map of the area proposed to be vacated is attached hereto, labeled Attachment "2" and incorporated herein by this reference; and

WHEREAS, the Board held a hearing on May 19, 2004, and after hearing from staff and taking public testimony, voted unanimously to grant the Petition because the vacation is in the public interest.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1) The property as described herein and as depicted in Attachment "2", is hereby vacated and shall vest in the abutting property owners as provided in ORS 368.366(1)(d) by extension of said owners' abutting property boundaries to the centerline of the vacated public right-of-way.

2) This vacation is being made with a specific reservation of any existing right-of-way for utility easements.

3) Pursuant to Order No. 55-2001 and the decision of the Board of County Commissioners, the required fee of \$1,000 was paid by the petitioners, \$500 deposited directly into the County Road Fund and \$500 into the General Fund, Fees for Services, Road Vacations, Line Item No. 100-00-00-3255, out of which the costs shall be paid.

4) The \$28.50 filing fee has already been paid to the County Clerk. The Treasurer is hereby authorized to disburse the following amounts from the General Fund, Fees for Services, Road Vacations account as follows:

To County Clerk	:	\$171.50
To County Surveyor	:	\$ 45.00

5) This order shall be recorded with the County Clerk, a copy inserted in the appropriate road jacket, and certified copies shall be filed with the County Surveyor and the County Assessor.

DATED this 26th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: *Fitz M. Steward*
Chair

APPROVED AS TO FORM:

By: _____
Commissioner

By: *Sarah Tom*
Office of County Counsel

By: *Joe Corvick*
Commissioner

S:\COUNSEL\ROADS\BISHOP CRK\ORDER FINAL II.wpd



Columbia County Road Department

1054 Oregon Street, St. Helens, OR 97051

Dave Hill, Public Works Director

Ph: (503) 366-3964

Fax: 397-

COLUMBIA COUNTY
e-mail: hilld@co.columbia.or.us

APR 30 2004

to: Board of County Commissioners
via: Cynthia Zemaitis, Natural Resources Administrator
from: Dave Hill, Public Works Director
date: April 28, 2004
subject: Petition for Vacation of Bishop Creek County Road

COUNTY COUNSEL

John and Agnes Petersen have petitioned the Board of County Commissioners to vacate that portion of Bert Bishop Road from its intersection with vacated A.A. Smith Road to approximately 20 feet west of the western right-of-way line of County Road #41 (Michael McDermott Road), commonly known as Bishop Creek Road.

I have attached a vicinity map, photographs of the roadway, Assessor's map, aerial photograph, and inventory information of official County Road records in the area.

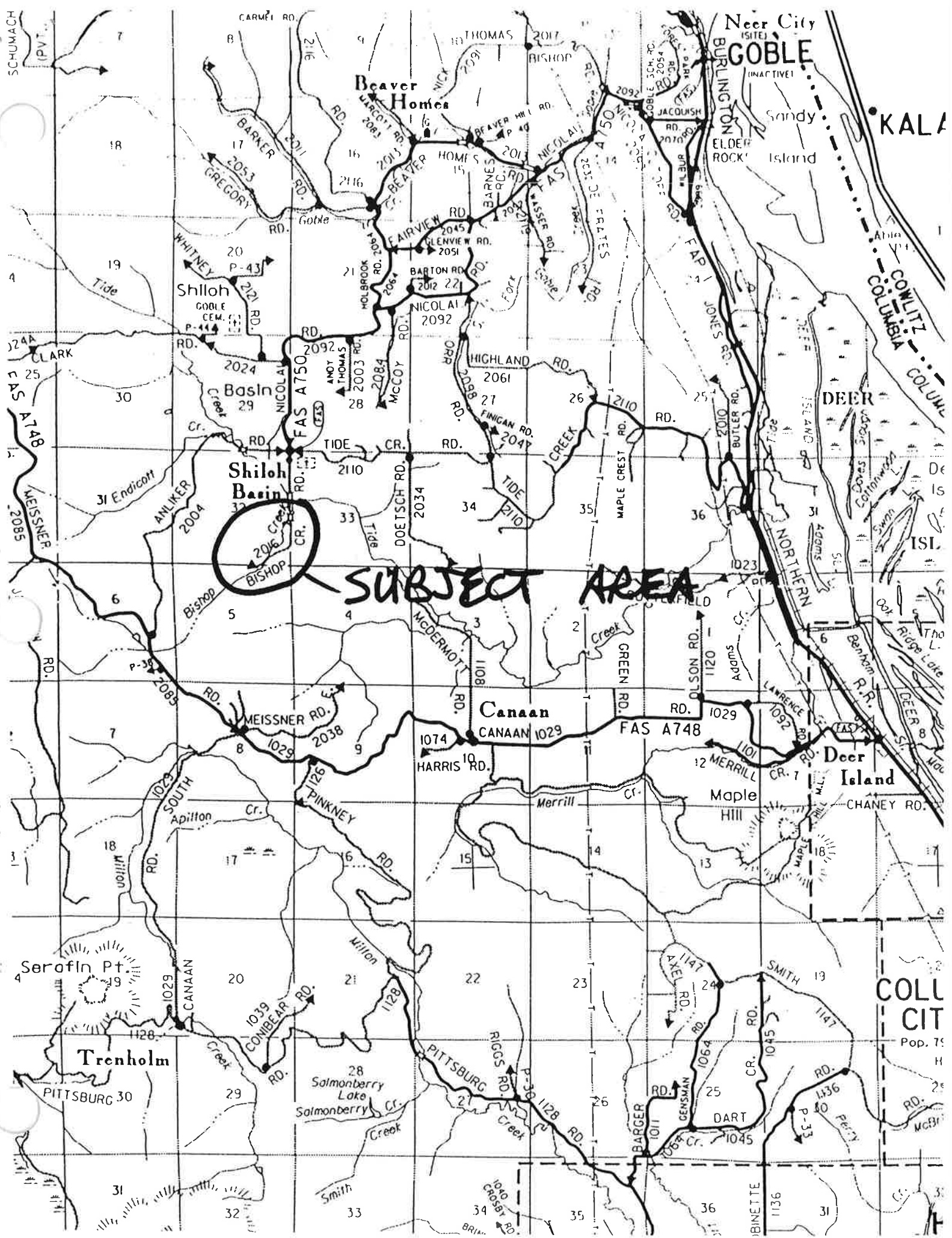
The subject roadway is being used primarily as access to the abutting properties in the area, and occasional use by other citizens. The Road Department has performed very little maintenance on the roadway in the past 10 years. The roadway does not directly access Longview Fibre timberland or other property where hunting or recreational use is allowed.

The Petersen's own three parcels of land abutting the subject roadway, and are the only abutting owner. The size of their parcels are about 70 acres, 63 acres, and 38 acres. I believe there are two homes on these three parcels, but in speaking with Glen Higgins it is unlikely that a third residence would be allowed to be constructed in the near future. It is possible, however, that the third parcel could be sold separately and if the road was vacated that an easement would then need to be granted to the parcel for access. I do not believe that the Petersen's have any intent at this time to sell any of the parcels. ORS 368.331 prohibits the vacation of public lands if the vacation would deprive an owner of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner. In this case, the Petersen's have consented (petitioned) for the road vacation.

Tammy Maygra has let it be known that she and her family object to the vacation of this roadway for reasons as she has explained, as her family has also owned property in this area for a long time.

Other than for access to the property currently owned by the Petersen's, I cannot see any other reason for the public to use this roadway. The road is narrow, not well maintained, and there is not an adequate turn-around at the end for public travel. The Petersen's desire the road vacation to prevent trespass, vandalism and harassment. Vacation of the roadway would allow for greater security of the area, and eliminate the potential for future road maintenance by the County.

Therefore, in the interest of the public, I believe that this roadway should be vacated as proposed.



SUBJECT AREA

Shiloh Basin
BISHOP

Canaan

Deer Island

GOBLE
(INACTIVE)

COLLITZ CITY
Pop. 75

Trenholm

Beaver Homes

DEER ISLAND

KALAMAZOO

COLUMBIA

COLUMBIA

DEER ISLAND

DEER ISLAND

DEER ISLAND

DEER ISLAND

DEER ISLAND

DEER ISLAND

DEER ISLAND

DEER ISLAND

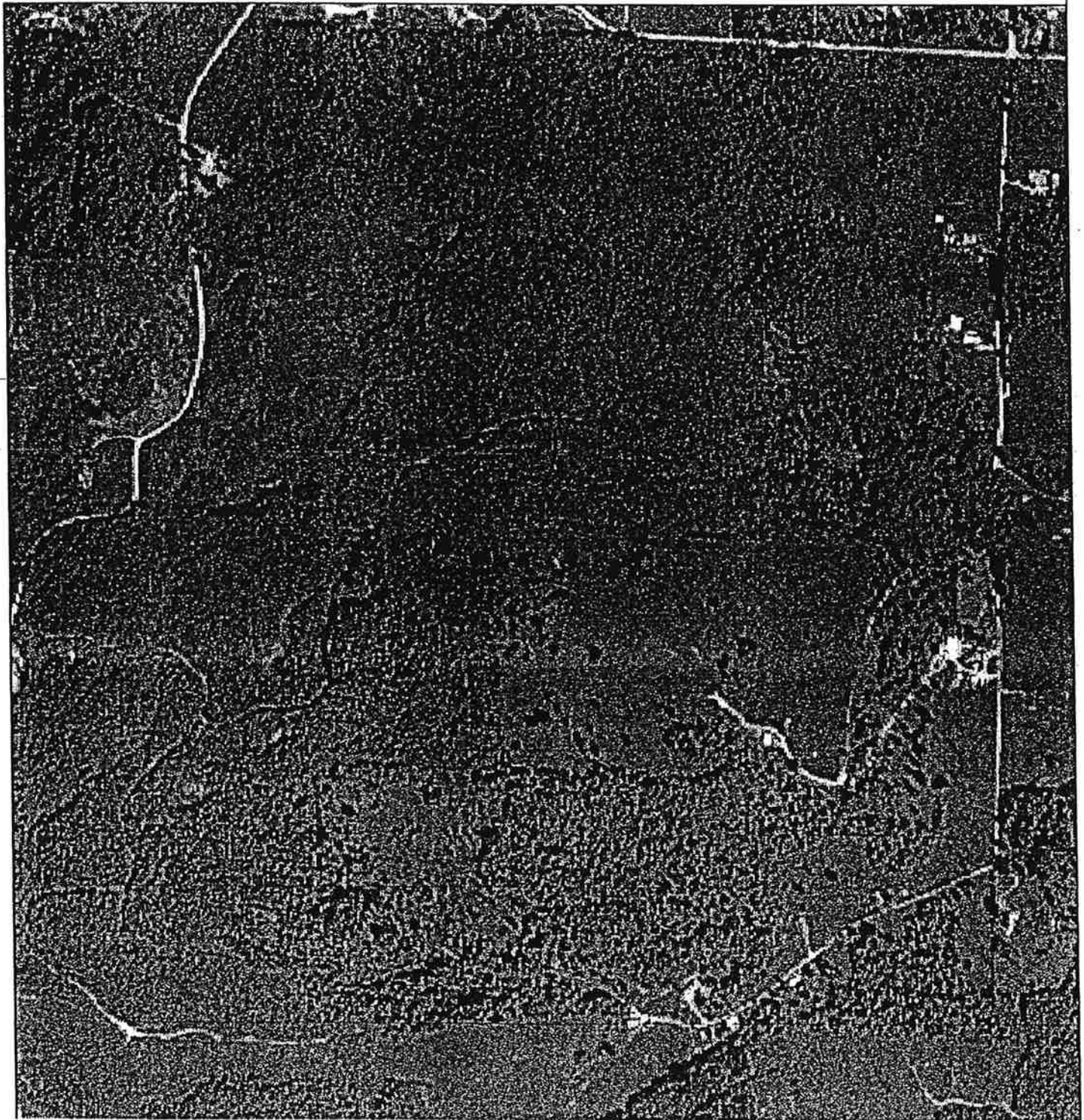
DEER ISLAND

DEER ISLAND

DEER ISLAND







Road Number: "P-125"

Name: Bert Bishop Road

Location: Section 32, T.6,R.2, beginning point 917.0' North of S. E.
corner section 32, T.6,R.2, thence S. W. ending 1913.0'
West of S. E. corner of section 32, T.6,R.2.

Petition: December 3, 1919 Commissioner's Journal Book H Page 7.

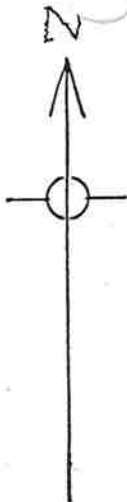
Accepted: August 5, 1920 Commissioner's Journal Book H Page 91.

Right of Way: 40'

Notes:

Suggest: Leave this road as it is.

Road Book
#2
Page 50



MAP
SHOWING LOCATION
of
BERT BISHOP ROAD
Sec. 32, Twp. 6, N., R. 2, W. W. M.

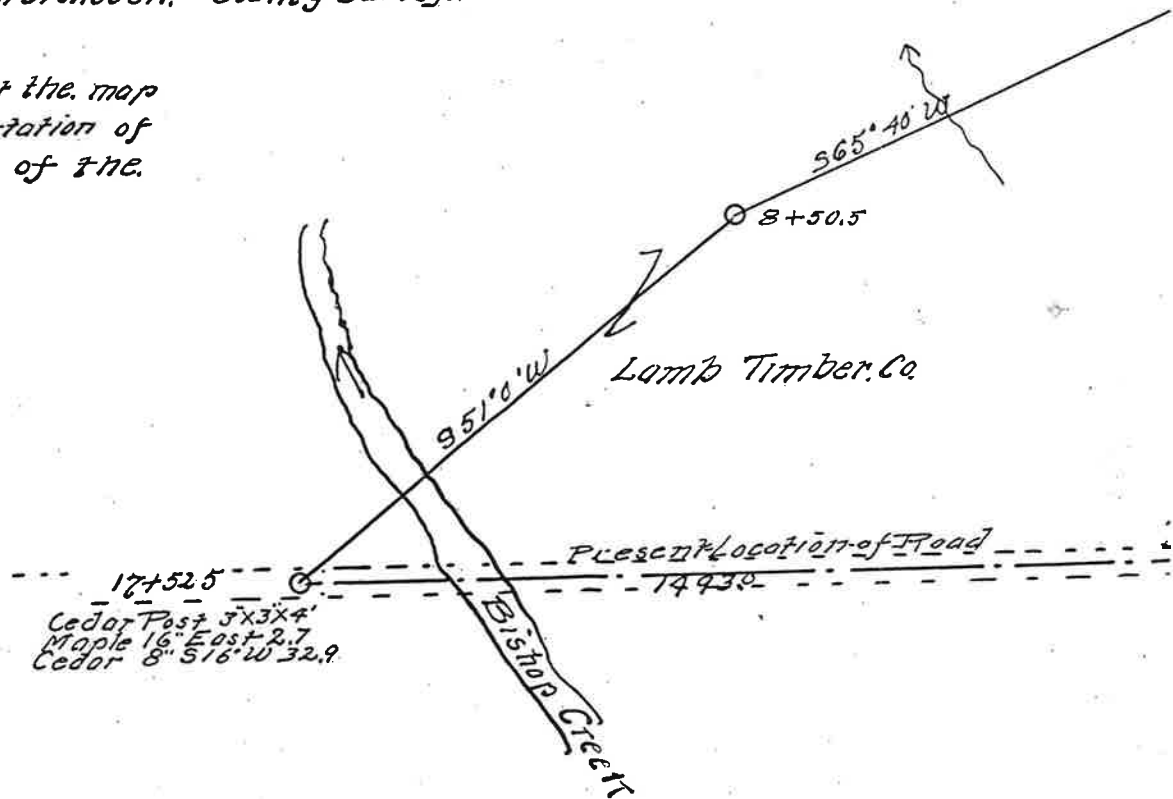
Scale: 1 inch = 300 feet May 1920

L. J. Van Orshoven, County Surveyor

I, L. J. Van Orshoven, do hereby certify that the map here on delineated is a true transportation of notes taken during an actual survey of the ground.

L. J. Van Orshoven,
County Surveyor

by — R. D. Dean
Deputy



Road Number: "38"

Name: A.A. Smith

Location: Section 4, and 5, T.5,R.2 and section 32, and 33, T.6,R.2.
Beginning at the N.E. corner, section 4, T.5,R.2 at the end of
Smith Road #33, ending at the $\frac{1}{2}$ post on N. line of section 5, T.5,R2.

Petition: 7/2/1888 Commissioner's Journal Book C Pages 191 and 186.

Accepted: 1/9/1889 Commissioner's Journal Book C Pages 221 and 222.

Right of Way: (none given) 60' by law.

Notes: A portion of this road may be unopened.

Suggest:

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of the)
Vacation of A.A. Smith)
County Road, No. 38)

No. 89-75

AMENDED RESOLUTION

WHEREAS, an amended petition has been filed with the Board of County Commissioners seeking the vacation of the A. A. Smith County Road, No. 38, as hereafter described:

The Easterly terminus of said road is the Northeast corner of Section 4, Township 5 North, Range 2 West, Willamette Meridian, Columbia County, Oregon.

The Westerly terminus of said road is the quarter section post on the North side of Section 5, Township 5 North, Range 2 West, Willamette Meridian, Columbia County, Oregon.

and,

WHEREAS, a hearing must be held to determine whether or not the petition should be granted, now, therefore

BE IT RESOLVED that a hearing before the Board of County Commissioners shall be held at 10³⁰ AM on the 15th day of October, 1975 in Room 308 of the Columbia County

Courthouse to hear testimony and receive evidence for and against the petition to vacate said road.

DATED this 10 day of September, 1975.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Tom Fishburne
Chairman

C.W. Horn
Commissioner

Jack Minkoff
Commissioner

APPROVED AS TO FORM:

John F. Hunnicutt
John F. Hunnicutt
County Counsel

STATE OF OREGON
COLUMBIA COUNTY
RECORDED OR FILED

Com. File
SEP 12 4 01 PM '75
BOOK Y PAGE 942
ROY A. NELSON CO CLK
BY *S. Nelson* DEP.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of the)
Vacation of A.A. Smith)
County Road, P-38.)
)
)

No. 107-75

ORDER OF VACATION

On the 15th day of October, 1975, this matter came before the Board of Commissioners for public hearing. One of the petitioners, Mrs. Dwayne O. Sonnenberg and her attorney, Robert P. VanNatta appeared and gave testimony seeking vacation of said road, and the Board of Commissioners being fully advised in the premises, now, therefore

THE BOARD FINDS:

1. Notice of this road vacation hearing has been properly made and an affidavit supporting same has been returned and signed by the County Roadmaster.
2. The road herein has not been used by the public for a period exceeding 16 years.
3. No land will be deprived of legal access by reason of this vacation.
4. The County Roadmaster has filed a report recommending that the road herein be vacated.
5. The petition is in proper form and has been signed by the proper number of freeholders.

Now, therefore

IT IS ORDERED that all of A. A. Smith County Road, P-38 which was accepted by the Board of County Commissioners on the 9th day of January, 1889, said acceptance being recorded in Book B, page 221 of the Commissioners' Journal, Columbia County, Oregon, is and shall hereby be vacated.

DATED this 22 day of October, 1975.

7082

COUNTY COMMISSIONERS
RECORDED OR FILED
NOV 13 9 32 AM '75
BOOK 203 PAGE 380
ROY A. NELSON CO CLK
BY Jannie R. Runci DEP.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

[Signature]
Chairman

[Signature]
Commissioner

Commissioner

APPROVED AS TO FORM:

[Signature]
John F. Hunnicutt
County Counsel

STATE OF OREGON
COLUMBIA COUNTY
RECORDED OR FILED

OCT 31 10 56 AM '75
Com. Jnl.
BOOK Z PAGE 62
ROY A. NELSON CO CLK
BY [Signature] DEP.

Now, therefore,

IT IS ORDERED that all of A.A. Smith County Road, #38 which was accepted by the Board of County Commissioners on the 9th day of January, 1889, said acceptance being recorded in Book B, page 221 of the Commissioners' Journal, Columbia County, Oregon, is and shall hereby be vacated.

Nunc pro tunc the 22 day of October, 1975.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, Oregon

Paul Johnson
Chairman

Cleo W. Brown
Commissioner

Jack Minkoff
Commissioner

APPROVED AS TO FORM:

John F. Hunnicutt
John F. Hunnicutt
County Counsel

7443
CLERK'S OFFICE
STATE OF OREGON
COLUMBIA COUNTY
RECORDED OR FILED
Dec 11 8 59 AM '75
BOOK 203 PAGE 569
ROY A. NELSON CO CLK
BY S. Nelson DEP.

STATE OF OREGON
COLUMBIA COUNTY
RECORDED OR FILED

DEC 1 8 58 AM '75
Com. J. Nelson
BOOK Z PAGE 140
ROY A. NELSON CO CLK
BY S. Nelson DEP.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the)
Vacation of A.A. Smith)
County Road, #38.)
)
)
_____)

No. 114-75

SECOND AMENDED ORDER OF VACATION

On the 15th day of October, 1975, this matter came before the Board of Commissioners for public hearing. One of the petitioners, Mrs. Dwayne Sonnenberg and her attorney, Robert P. Van Natta appeared and gave testimony seeking vacation of said road, and the Board of Commissioners being fully advised in the premises, now, therefore

THE BOARD FINDS:

1. Notice of this road vacation hearing has been properly made and an affidavit supporting same has been returned and signed by the County Roadmaster.
2. The road herein has not been used by the public for a period exceeding 16 years.
3. No land will be deprived of legal access by reason of this vacation.
4. The County Roadmaster has filed a report recommending that the road herein be vacated.
5. The petition is in proper form and has been signed by the proper number of freeholders.

Now, therefore,

IT IS ORDERED that all of A.A. Smith County Road, #38, which was accepted by the Board of County Commissioners on the 8th day of January, 1889, said acceptance being recorded in Book C, page 221 of the Commissioners' Journal, Columbia County, Oregon, is and shall hereby be vacated.

nunc pro tunc the _____ day of October, 1975.

SIGNED - 12-3-75

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Paul Fosberg
Chairman

Clayton W. Brown
Commissioner

Jack Minkoff
Commissioner

APPROVED AS TO FORM:

John F. Hunnicutt
John F. Hunnicutt
County Counsel

7771

STATE OF OREGON
COLUMBIA COUNTY
RECORDED OR FILED

Dec 12 11 29 AM '75
Com. Jnl.
BOOK Z PAGE 148
ROY A. NELSON CO CLK
BY Nelson DEP.

STATE OF OREGON
COLUMBIA COUNTY
RECORDED OR FILED
Dec 12 11 29 AM '75
C. Nelson
BOOK 203 PAGE 755
ROY A. NELSON CO CLK
BY Nelson DEP.

No. 8

Rand Survey No. 38

July 15, A. J. 1884

Warrant

J. Kenkel, III, J. Stangen, E. C. Ragner

Sec 17, 10 corners in corner

South of road 1700 ft 15.2 miles

Vacated 7-12-78

Deed Book 203, P. 775

BBB Deed also survey

App of 1880

Sec 4

Having early had the above list of
Rand Survey No. 38 as true and correct
according to the land notes taken by me and
bearing A. B. Fitts
County Survey,
Gallatin County
State of Oregon



Road Number: "11"

Name: Michael McDermott Road

Location: Section 32, 33, 28, 34, 27, and 22 T.6,R.2..beginning S.W. $\frac{1}{4}$ corner of section 33, T.6,R.2 to the Nicolai Road section 22, T.6R.2.

Petition: April 3, 1889 Commissioner's Journal Book C Pages 239 and 240

Accepted: July 5, 1889 Commissioner's Journal Book C Page 263

Right of Way: (none given) 60' by law.

Notes:

Suggest: Vacation of different portions on the section line between section 33 & 28 and 34 & 27 T.6,R.2 covered by Wilson Road #P-102;
Vacation of portion from $\frac{1}{4}$ corner between section 27 & 34 covered by Clark and Wilson Road #P-101 and road #P-114 in section 22, T.6,R.2.



ROADWAY PROPOSED TO BE VACATED

