

PASSED

RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

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

FILE NO. 4119

IN THE MATTER OF VACATING A PORTION OF J.W.)	
BOND ROAD, CO. RD. #37, LOCATED IN SECTION 31,)	
TOWNSHIP 16 SOUTH, RANGE 4 WEST AND SECTION 6,)	
TOWNSHIP 17 SOUTH, RANGE 4 WEST OF THE)	ORDER NO.
WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON,)	
WITHOUT A PUBLIC HEARING, AND ADOPTING)	05-1-12-4
FINDINGS OF FACT (16-04-31; 17-04-06))	

WHEREAS, this matter now coming before the Board upon a petition received by the Surveyor's Office of the Lane County Department of Public Works requesting, under authority of ORS Chapter 368.341, the vacation of a portion of J.W. Bond Road, County Road #37, more particularly described as follows:

All that portion of J.W. Bond Road (Co. Rd. #37), the centerline of which is described as follows: BEGINNING at a point on the north line of Section 6 in Township 17 South, Range 4 West of the Willamette Meridian, said point being South 89° 20' 00" East 644.50 feet from the northwest corner of said Section 6 and also being the westerly terminus of that portion of J.W. Bond Road previously vacated by Lane County Commissioners Order #85-6-26-16 recorded in Reel #1356, Instrument #85-23036, Lane County, Oregon Deed Records; thence North 89° 20' 00" West 594.50 feet, and there ending, in Section 31, Township 16 South, Range 4 West and Section 6, Township 17 South, Range 4 West of the Willamette Meridian. Right-of-way lines herein are intended to be extended or shortened to intersect the aforementioned westerly terminus of previously vacated portion of J.W. Bond Road,
and

WHEREAS, the petition complies with the provisions of ORS Chapter 368.351 in that the petitioner, who is the landowner of 100% of the property abutting the proposed vacation, requests that the vacation be approved as proposed; and

WHEREAS, ORS Chapter 368.351 provides for the vacation of public roads and right-of-ways without a public hearing; and

WHEREAS, the petitioner is requesting the vacation of this portion of road in order to provide greater security to the adjacent properties and help reduce vandalism, trespass and unauthorized camping; and

WHEREAS, in conjunction with the vacation, petitioner City of Eugene will construct a vehicle turnaround and gate at the westerly end of the vacation at no cost to the County, and by separate action dedicate to the County for public use any additional right-of-way necessary to construct said turnaround; and

WHEREAS, petitioner City of Eugene has provided a private access easement to petitioners Doris Ann Steele and Fred Widmaier, owners of the remainder of a portion of tax lot 16-05-36-200 which was not included in a transfer to the City of Eugene in Warranty Deed instrument #2004-049157, Lane County, Oregon Deed Records; and

WHEREAS, Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjacent and other nearby landowners were notified by mail regarding the proposed vacation; and

WHEREAS, the agencies and landowners either had no objections or did not reply to the referral; and

WHEREAS, as a part of this action, a public utility easement will be reserved for existing communication lines; and

WHEREAS, the petitioners have paid a vacation fee of \$650 and will pay recording fees upon final approval of the vacation; and

WHEREAS, the Director of the Department of Public Works has provided a written report in support of the proposed vacation, as required by ORS 368.351, marked as Exhibit "A", attached hereto and made a part hereof, by this Order; and

WHEREAS, all statutory procedures under ORS 368.351 necessary for this vacation have been complied with; and

WHEREAS, the Board is of the opinion that approving the vacation as petitioned for is in the best interest of the public; now, therefore, it is hereby


ORDERED, that the above described portion of J.W. Bond Road is hereby vacated; and it is further

ORDERED, that a public utility easement is hereby reserved for existing communication lines; and it is further

ORDERED, that in support of this action, the Board hereby adopts the Findings of Fact, marked as 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.

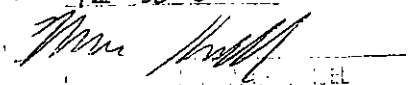
DATED this 12th day of January, 2005.


Chair
LANE COUNTY BOARD OF COMMISSIONERS

Attachment: Attachment - Vicinity Map

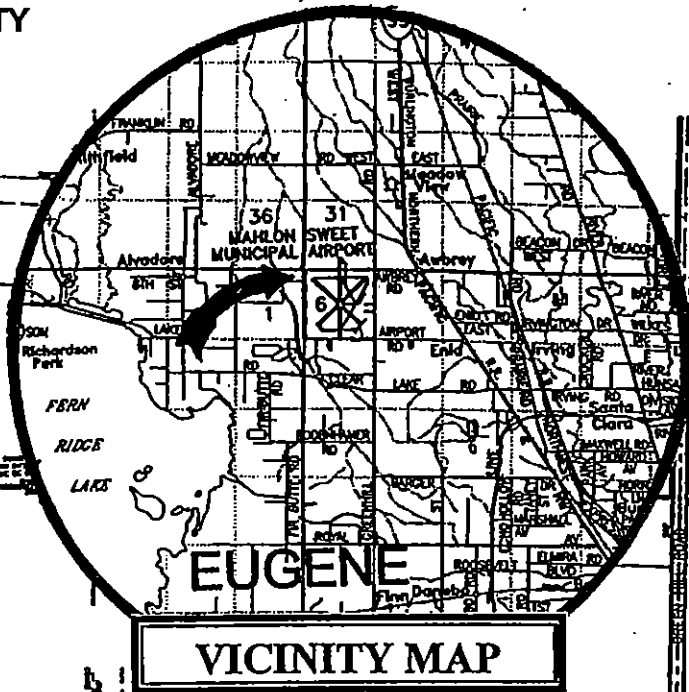
RECORDED AS TO FORM

Dec. 12-30-04 File number



SW ¼ SW ¼ Section 31 T. 16 S. R. 4 W. W.M.
SE ¼ SE ¼ Section 36 T. 16 S. R. 5 W. W.M.
NW ¼ NW ¼ Section 6 T. 17 S. R. 4 W. W.M.
NE ¼ NE ¼ Section 1 T. 17 S. R. 5 W. W.M.

LANE COUNTY
NO SCALE



069-25

16-05-36

CITY OF EUGENE
16-04-31

TO BE VACATED

TO BE DEDICATED

SEE INSET
DETAIL

17-05-01

17-04-06

TO BE DEDICATED

TO BE VACATED

INSET
DETAIL

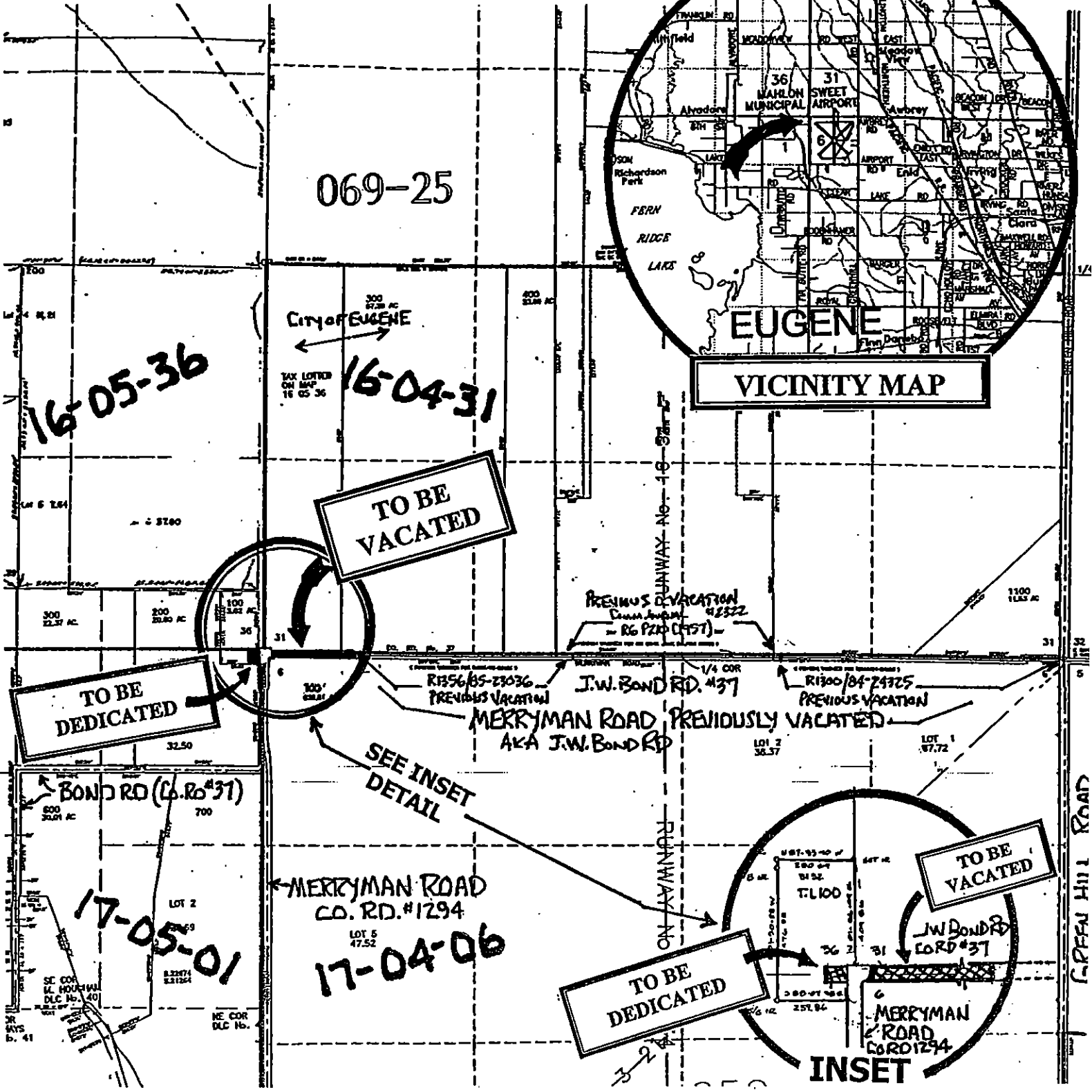


EXHIBIT "A"

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

FILE NO. 4119

IN THE MATTER OF VACATING A PORTION OF J.W.)	
BOND ROAD, CO. RD. #37, LOCATED IN SECTION 31,)	
TOWNSHIP 16 SOUTH, RANGE 4 WEST AND SECTION 6,)	DIRECTOR'S
TOWNSHIP 17 SOUTH, RANGE 4 WEST OF THE)	REPORT
WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON,)	
WITHOUT A PUBLIC HEARING, AND ADOPTING)	
FINDINGS OF FACT (16-04-31; 17-04-06))	

The Surveyor's Office of the Department of Public Works has received a valid petition signed by the owners of 100% of the property abutting the proposed vacation requesting, by the authority of ORS 368.351, a vacation without a public hearing.

J.W. Bond Road (Co. Rd. #37) was established in 1895 in County Commissioners Journal 6, Page 485, with a width of 40 feet. Beginning at the northeast corner of Section 6, Township 17 South, Range 4 West, it ran westerly to the northwest corner of said Section 6, thence southerly and westerly to its terminus at its junction with present day Goodman Road. Merryman Road (Co. Rd. #1294) was established by Board of Commissioners order #2326 filed September 3, 1957. Beginning at the northwest corner of said section 6, it runs southerly approximately 1.7 miles with a variable width to its intersection with present day Clear Lake Road. The established route of Merryman Road included an approximate 800 foot length of existing J.W. Bond Road running south from the northwest corner of Section 6. The portion of J.W. Bond Road from the northwest corner of Section 6 to the northeast corner of Section 6 has also commonly become known as Merryman Road.

The petitioner is requesting this vacation in order to provide greater security to this area adjacent to the Eugene Airport, and to help reduce vandalism, trespass and unauthorized camping. In conjunction with the vacation, the City of Eugene will construct a gate at the westerly end of the vacation, and also construct a vehicle turnaround at no cost to the County. Any portion of the constructed turnaround extending beyond public right-of-way will be dedicated to the County for public use. The City of Eugene has provided a private access easement to Doris Ann Steele and Fred Widmaier, owners of the remainder of a portion of tax lot 16-05-36-200 which was not included in a transfer to the City of Eugene in Warranty Deed instrument #2004-049157, Lane County, Oregon Deed Records.

The Surveyors Office notified Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjoining and other nearby landowners regarding the vacation. The agencies and landowners either had no objection to the vacation or did not respond to the referral. However, in conjunction with the

EXHIBIT "A"

vacation, the Lane County Transportation Planning section will require a hammerhead turnaround to be constructed at the westerly terminus of the vacation, at no cost to the County.

The portion of J.W. Bond Road proposed to be vacated, having a length of approximately 594.5 feet, is no longer needed by the Lane County transportation system. A public utility easement will be reserved for existing communication lines.

In conjunction with the vacation, a dedication for a vehicle turnaround at the westerly end of the vacation will be accepted as described by separate action. Separately, the City of Eugene has provided a private access easement to Doris Ann Steele and Fred Widmaier, owners of the remainder of a portion of tax lot 16-05-36-200 which was not included in a transfer to the City of Eugene in Warranty Deed instrument #2004-049157, Lane County, Oregon Deed Records. It is concluded that this vacation is in the public's interest, as vacating this portion of J.W. Bond Road will discourage undesirable trespass and vandalism in an area historically affected by such activities, while providing for safe and effective vehicle turnaround at the end of the remaining portion of J.W. Bond Road.

It is therefore recommended that the portion of J.W. Bond Road, as described in the Order, be vacated as petitioned for. It is further recommended that the vacation be allowed without a public hearing.

DATED this 23 day of DECEMBER, 2008

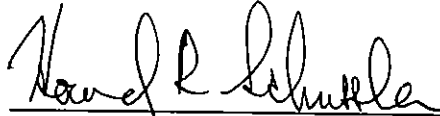

FOR Oliver P. Snowden, Public Works Director

EXHIBIT "B"

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

FILE NO. 4119

IN THE MATTER OF VACATING A PORTION OF J.W.)
BOND ROAD, CO. RD. #37, LOCATED IN SECTION 31,)
TOWNSHIP 16 SOUTH, RANGE 4 WEST AND SECTION 6,)
TOWNSHIP 17 SOUTH, RANGE 4 WEST OF THE) FINDINGS OF FACT
WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON,)
WITHOUT A PUBLIC HEARING, AND ADOPTING)
FINDINGS OF FACT (16-04-31; 17-04-06))

The Department of Public Works has received a valid petition, signed by the owners of 100% of the property abutting the proposed vacation, requesting that a portion of J.W. Bond Road, Co. Rd. #37, as described in the Order, be vacated as petitioned for. The petitioner is requesting this vacation, having a length of approximately 594.5 feet, in order to provide greater security to the abutting properties and reduce vandalism, trespass and unauthorized camping. Petitioner City of Eugene will construct at no cost to the County a vehicle turnaround and a gate at the westerly end of the vacation, and any portion of the constructed turnaround extending beyond public right-of-way will be dedicated to the County for public use. Separately, the City of Eugene has provided a private access easement to Doris Ann Steele and Fred Widmaier, owners of the remainder of a portion of tax lot 16-05-36-200 which was not included in a transfer to the City of Eugene in Warranty Deed instrument #2004-049157, Lane County, Oregon Deed Records.

Findings of Fact (Public Interest)

The Board takes notice and finds:

1. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or right-of-ways based upon the determination that the vacation is "in the public interest."
2. That, pursuant to ORS 197.175 (2) (d), after acknowledgment of a county's comprehensive plan and implementing ordinances, the plan and ordinances, not the Statewide Planning Goals, control land use decisions.
3. That, Lane County's Rural Comprehensive Plan and implementing ordinances were originally acknowledged to be in compliance with the Statewide Planning Goals on September 13, 1984, and reacknowledged on February 14, 1992.
4. That, neither the Lane County Comprehensive Plan nor any land use regulation within the Lane Code establish mandatory standards for the vacation of public easements.

Conclusion of Law (Public Interest)

Based upon the above findings of fact, the Board concludes, as a matter of law, that neither the Statewide Planning Goals nor the Lane County Rural Comprehensive Plan and related land use regulations are an applicable measure of the "public interest", as it pertains to this vacation.

EXHIBIT "B"

Findings of Fact (Impacts and Process of Vacation)

The Board takes notice and finds as follows:

1. That, the Surveyor's Office of the Department of Public Works has received a valid petition signed by the owners of 100% of the property abutting the proposed vacation requesting, by the authority of ORS 368.351, a vacation without a public hearing. Said property is further identified as Tax Lot 300 of Assessor's Map 16-04-31, Tax Lot 100 of Assessor's Map 17-04-06, and that portion of Tax Lot 200 of Assessor's Map 16-05-36 lying within Section 31, Township 16 South, Range 4 West, which was transferred to the City of Eugene in Warranty Deed #2004-049157.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or right-of-ways based upon the determination that the vacation is "in the public interest".
3. That, Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and adjoining and other nearby landowners were notified by mail regarding the proposed vacation. The agencies and landowners either had no objections to the vacation, or did not respond to the referral. However, the Lane County Transportation Planning section will require a turnaround as described in #4 below. A public utility easement will be reserved for existing utilities.
4. That, in conjunction with this vacation, petitioner City of Eugene will construct a vehicle turnaround at the westerly end of the vacation at no cost to the County, and any portion of the constructed turnaround extending beyond public right-of-way will be dedicated to the County for public use. Separately, the City of Eugene has provided a private access easement to Doris Ann Steele and Fred Widmaier, owners of the remainder of a portion of tax lot 16-05-36-200 which was not included in a transfer to the City of Eugene in Warranty Deed instrument #2004-049157, Lane County, Oregon Deed Records.
5. That, pursuant to ORS 368.351, a county governing body may make a determination about a vacation of property without a public hearing if:
 - (1) The county road official files a written report stating that the vacation is in the public interest.
 - (2) The proceedings were initiated by petition indicating the approval of 100% of the adjoining property owners.

Items (1) and (2) have been complied with.

Conclusions of Law (Impacts and Process of Vacation)

Based on the above findings of fact, the Board concludes, as a matter of law, that this vacation will not have any predictable negative impact on present or future land use, either in terms of allowable uses or actual development. The Board further concludes that statutory procedures necessary for making a determination on this vacation, without a public hearing, have been met.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

File No.

IN THE MATTER OF THE VACATION OF A PORTION OF J.W. BOND)	
ROAD (CO. RD. #37), AKA MERRYMAN ROAD (CO. RD. #1294), IN)	
SECTION 31, TOWNSHIP 16 SOUTH, RANGE 4 WEST AND SECTION 6,)	PETITION
TOWNSHIP 17 SOUTH, RANGE 4 WEST OF THE WILLAMETTE)	TO VACATE
MERIDIAN, IN LANE COUNTY, OREGON (16-04-31; 17-04-06))	

PURSUANT to the procedures set forth in ORS Chapter 368, the undersigned City of Eugene, as owner of the adjacent real property hereby petition for the vacation of a portion of J.W. Bond Road (County Road #37), aka Merryman Road (County Road #1294), which area to be vacated is described as follows:

All that portion of J.W. Bond Road (Co. Rd. #37), aka Merryman Road (Co. Rd #1294), the centerline of which is described as follows: BEGINNING at a point on the north line of Section 6 in Township 17 South, Range 4 West of the Willamette Meridian, said point being South 89° 20' 00" East 644.50 feet from the northwest corner of said Section 6 and also being the westerly terminus of that portion of J.W. Bond Road previously vacated by Lane County Commissioners Order #85-6-26-16 recorded in Reel #1356, Instrument #85-23036, Lane County, Oregon Deed Records; thence North 89° 20' 00" West 594.50 feet, and there ending, in Section 31, Township 16 South, Range 4 West and Section 6, Township 17 South, Range 4 West of the Willamette Meridian. Right-of-way lines herein are intended to be extended or shortened to intersect the aforementioned westerly terminus of previously vacated portion of J.W. Bond Road.

WHEREAS, the undersigned petitioner is the owner of 100% of all the real property adjacent to the above described area to be vacated; and

WHEREAS, petitioners allege as follows:

1. The purpose of this vacation request is to provide greater security to the properties referenced herein. Access to the Widmaier Trust remainder property and the Eugene Airport property shall continue per separate reciprocating easements.
2. There are powerlines located in the right-of-way to be vacated. An appropriate easement shall be reserved in the vacation for existing public utilities.
3. The vacation limit is to be held approximately 50' east of the Southwest corner of Section 31, Township 16 South, Range 4 West, such that it will allow area to construct the easterly portion of a hammerhead turnaround, at no cost to the County. Any additional right-of-way necessary to facilitate construction of the westerly portion of the turnaround will be dedicated to the County.

Necessary easements for the electrical utilities will be executed between the parties prior to completion of the vacation; and

WHEREAS, no portion of the area to be vacated is located within the boundaries of an incorporated city or town; and

WHEREAS, the public interest will be served and not prejudiced by vacation of the above described area; and

WHEREAS, petitioner has no objection to Lane County proceeding under the authority of ORS Chapter 368.326, for vacation without a hearing; and

THEREFORE, the petitioner requests an Order of the Board of Commissioners for Lane County as follows:

1. Setting a date for vacation of the above described portion of road, with or without a hearing before the Board of Commissioners of Lane County, pursuant to ORS Chapter 368.

2. Upon review of this matter, to direct the vacation of the above described road, and direct that title to the vacated area revert and vest in accordance with ORS 368.366.

DATED this 15 day of December, 2004

PETITIONER:

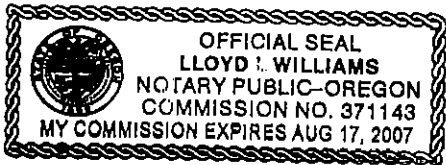


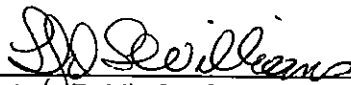
City of Eugene, a Municipal Corporation
17-04-06 TL100; 16-04-31 TL 300; 17-05-01 TL100
Addr: 28855 Lockheed Drive
Eugene, Oregon 97402

State of Oregon)
County of Lane)^{ss.}

On December 15, 2004, personally appeared the above named Russ Royer

_____ and acknowledged the foregoing instrument to be a voluntary act before me:





Notary Public for Oregon
My Commission Expires: 8/17/07

State of Oregon)
County of Lane)^{ss.}