

PASSED

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

FILE NO. 4088

IN THE MATTER OF THE VACATION OF A PORTION)	
OF LEABURG DAM ROAD (COUNTY ROAD NUMBER)	
1101), LOCATED APPROXIMATELY 0.75 MILES EAST)	ORDER NO.
OF ITS INTERSECTION WITH THE MCKENZIE)	03-1-21-10
HIGHWAY, WITHOUT A PUBLIC HEARING, AND)	
ADOPTING FINDINGS OF FACT (16-25-32-2))	

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 the southerly right of way of Leaburg Dam Road (County Road Number 1101). Said portion of right-of-way proposed to be vacated is more particularly described as follows:

Beginning at a point on the Southerly right of way of Leaburg Dam Road, said point being North 80°01'45" East, 46.12 feet and North 77°35'26" East, 13.69 feet from a 5/8 inch iron rod set by Lane County Surveyor's Office and recorded on County Survey File Number 28141, said iron rod being 1554.94 feet North and 1949.30 feet East of the West One-Quarter Corner of Section 32, Township 16 South, Range 2 East of the Willamette Meridian; from the point of beginning run thence North 73°24'00" East, 215.71 feet to the Southerly right of way of said Leaburg Dam Road; thence along said South right of way South 48°02'29" West 48.11 feet; thence continuing along said Southerly right of way South 80°01'45" West 6.08 feet; thence North 1°28'00" West, 7.85 feet; thence South 77°35'26" West, 168.70 feet to the Point of Beginning and there ending, all in Lane County, Oregon; and

WHEREAS, the petition complies with the provisions of ORS 368.351 in that the petitioners, who are the landowners of 100% of the property abutting the proposed vacation, request 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, in conjunction with the proposed road vacation, the petitioners have individually provided to Lane County certain parcels of land for public road purposes being more particularly described in those Dedications of Public Road Easements with them as Grantors to Lane County, being herein described on separate Orders on the Board's Agenda on this same day; and

WHEREAS, Qwest Communications, Eugene Water and Electric Board, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and neighboring landowners were notified by mail regarding the proposed vacation; and

WHEREAS, Eugene Water and Electric Board wrote back stating that they may have an electric system in the area to be vacated and requested an easement be reserved; and

WHEREAS, a utility easement will be reserved for repair and maintenance of any existing utilities over the vacated right-of-way; and

WHEREAS, no property will be denied access as a result of this vacation; and

WHEREAS, the petitioners have paid a vacation fee of \$650 and will pay any remaining recording fees, if applicable, 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, along with the road dedications that ensure a 40-foot width right of way is maintained, is in the best interest of the public; now, therefore, it is hereby


ORDERED, that the above described portion of Leaburg Dam Road (County Road Number 1101) is hereby vacated; 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 a utility easement is hereby reserved for repair and maintenance of any existing utilities over the vacated right-of-way; 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 1101 administered by the Lane County Surveyor.

DATED this 21st day of January, 2003



Chair
LANE COUNTY BOARD OF COMMISSIONERS

Attachment: Vicinity Map (Attachment "A")

APPROVED AS TO FORM

Date 1-10-03 lane county


OFFICE OF LEGAL COUNSEL

FILE NO.

IN THE MATTER OF THE VACATION OF)	
A PORTION OF COUNTY ROAD NUMBER)	
1101, (LEABURB DAM ROAD) IN SECTION 32,)	
TOWNSHIP 16 SOUTH, RANGE 2 EAST)	PETITION TO VACATE
OF THE WILLAMETTE MERIDIAN, IN)	
LANE COUNTY, OREGON)	

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned, MARGARET R. HAAS, and DORIS M. SCHARPF, Trustee of the DORIS M. SCHARPF Revocable Living Trust, as owners of adjacent real property hereby petition for the vacation of a portion of County Road Number 1101 (Leaburg Dam Road), which area to be vacated is described as follows:

All that portion of County Road Number 1101 (Leaburg Dam Road) located adjacent to Tax Lots 1000 and 1101, Map 16-25-32-2, said portion being described as follows:

Beginning at a point on the Southerly right of way of Leaburg Dam Road, said point being North 80°01'45" East, 46.12 feet and North 77°35'26" East, 13.69 feet from a 5/8 inch iron rod set by the Lane County Surveyor's Office and recorded on County Survey File No. 28141, said iron rod being 1554.94 feet North and 1949.30 feet East of the West One-Quarter Corner of Section 32, Township 16 South, Range 2 East of the Willamette Meridian; from the point of beginning run thence North 73°24'00" East, 215.71 feet to the Southerly right of way of said Leaburg Dam Road; thence along said South right of way South 48°02'29" West, 48.11 feet; thence continuing along said Southerly right of way South 80°01'45" West, 6.08 feet; thence North 1° 28' 00" West, 7.85 feet; thence South 77°35'26" West, 168.70 feet to the Point of Beginning and there ending, all in Lane County, Oregon.

Bearings in the foregoing description are based on that survey for The Doris M. Scharpf Living Trust filed in the Lane County Surveyor's Office under survey file number 37613.

WHEREAS, the undersigned petitioners are the owners of 100% of all the real property located 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 for the moving of the Southerly right of way of Leaburg Dam Road as far North from an existing residence as is practicable, and replacement right of way will be provided by the petitioners to maintain a right of way width of 40.00 feet.
2. There are no utilities, and no powerlines located in the area to be vacated; 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, petitioners, separately and collectively, have no objection to Lane County proceeding under the authority of ORS Chapter 368.326, for vacation without a hearing; and

THEREFORE, the petitioners request 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 for 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 14 day of August 2002.

PETITIONERS:

Margaret R. Haas
Margaret R. Haas

Doris M. Scharpf, Trustee
Doris M. Scharpf, Trustee of the
Doris M. Scharpf Revocable Living Trust

Map 16-25-32-20, Tax Lots 1100 and 1101
44975 Leaburg Dam Road
44986 Leaburg Dam Road
44988 Leaburg Dam Road
Leaburg, OR 97489

Map 16-25-32-20, Tax Lot 1000
45001 Leaburg Dam Road
Leaburg, OR 97489

STATE OF OREGON)
County of Lane) ss.

On this 14 day of August, 2002, there personally appeared before me the above-named Margaret R. Haas and she acknowledged the foregoing instrument to be her voluntary act and deed.



L. Haith
Notary Public for Oregon
My commission expires 12/18/05

STATE OF OREGON)
County of ~~Lane~~ Winn) ss.

On this 20th day of August, 2002, there personally appeared before me the above-named Doris M. Scharpf, Trustee of the Doris M. Scharpf Revocable Living Trust, and she acknowledged the foregoing instrument to be her voluntary act and deed.



Angela J. Davis
Notary Public for Oregon
My commission expires 3/7/04

NOTE A

DEDICATION OF PUBLIC ROAD EASEMENT FROM HAAS TO LANE COUNTY IN 1994 PER INSTRUMENT NO. 9422892, LCOR.

SCALE 1" = 60'

EAST LINE OF THE WEST 1/2 OF LOTS 10 & 11 OLDFIELD'S MCKENZIE RIVER LAKE SIDE HOME TRACTS

MAP 16-28-32-20 TAX LOT 1000 SCHARPF

MAP 16-28-32-20 TAX LOT 1100 HAAS

PROPOSED DEDICATION OF PUBLIC ROAD EASEMENT FROM MARGARET HAAS TO LANE COUNTY = 1236 SF

PROPOSED DEDICATION OF PUBLIC ROAD EASEMENT FROM DORIS SCHARPF TO LANE COUNTY = 163 SF

COUNTY ROAD NO. 1101 EXISTING ROADWAY

SEE NOTE A

LEABURG DAM ROAD

EXISTING FOUNDATION

PROPOSED VACATION AREA = 1574 SF TOTAL

PORTION OF COUNTY ROAD 1101 VACATED IN 1994 PER INSTRUMENT NO. 9422891, LANE COUNTY OFFICIAL RECORDS

MAP 16-28-32-20 TAX LOT 1101 HAAS

LINE TABLE

L1	S 80°01'45" W	6.08'
L2	N 01°28'00" W	7.85'
L3	N 01°28'00" W	13.81'
L4	N 73°24'00" E	24.52'
L5	S 48°02'29" W	31.12'

5/8" ROD SET BY LANE COUNTY IN CSF NO. 28141. ROD IS BY RECORD 1554.94 FEET NORTH AND 1949.30 FEET EAST OF THE WEST ONE-QUARTER CORNER OF SECTION 32, TOWNSHIP 16 SOUTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN

PROPOSED ROW VACATION AND DEDICATION MAP

16-25-32-20, TAX LOTS 1000, 1100 & 1101

FOR: MARGARET HAAS

ADDRESS: 44975 LEABURG DAM ROAD, LEABURG, OR 97489

JOB NO. 01-5772 DATE: AUG 13, 2002

REGISTERED PROFESSIONAL LAND SURVEYOR

Michael R. Dahrens

OREGON JULY 11, 2000 MICHAEL R. DAHRENS 60052

RENEWAL: 12-31-2003

SS & W Inc.-Engineers
SURVEYORS & PLANNERS

2350 Oakmont Way, Suite 105 • Eugene, Oregon 97401 • (541) 485-8383

EXHIBIT "A"

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

FILE NO. 4088

IN THE MATTER OF THE VACATION OF A PORTION)
 OF LEABURG DAM ROAD (COUNTY ROAD NUMBER)
 1101), LOCATED APPROXIMATELY 0.75 MILES EAST)
 OF ITS INTERSECTION WITH THE MCKENZIE)
 HIGHWAY, WITHOUT A PUBLIC HEARING, AND)
 ADOPTING FINDINGS OF FACT (16-25-32-2))

DIRECTOR'S REPORT

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

Leaburg Dam Road (County Road Number 1101) was established as a 40-foot wide county road in 1932. The portion of road proposed for vacation is located along the southerly right of way adjacent to petitioners' property. The purpose of this vacation request is to provide for the moving of the Southerly right of way as far north from an existing residence as is practicable.

In order to maintain a 40-foot wide right of way, the petitioners will be dedicating right of way on the opposite (northerly) side of the road. This proposed plan of road dedications and road vacation will require three separate Board Orders. The first, by separate Orders on the same agenda day, would be to accept separate dedications of right of way from Margaret R. Haas and Doris M. Scharpf. Second, the Board would need to decide whether to approve an Order to Vacate the existing right of way that will be in excess of a 40-foot wide right of way at the completion of the acceptance of the dedications.

The Surveyor's Office notified Qwest Communications, Eugene Water and Electric Board, Northwest Natural Gas, McKenzie Fire and Rescue, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and neighboring landowners regarding the vacation. Eugene Water and Electric Board stated that they may have an electric system in the area to be vacated and requested an easement be reserved. McKenzie Fire and Rescue had a concern that the turn-around at the end of the county-maintained road is adequate to turn their fire apparatus around, but have since stated that they are okay with the proposed vacation. The other agencies and landowners either had no objections or did not respond to the referral.


If the petition to vacate is approved, a utility easement will be reserved in the Final Order for the repair and maintenance of any existing utilities within the vacated right-of-way.

The public interest will be served by vacating the portion of Leaburg Dam Road as petitioned for, as it will allow more distance between an existing residence and the legal right of way. The shifting of the legal right of way will not affect the existing traveled roadway, as it will still be located entirely within the new legal right of way.

Subject to the Board accepting the new right of way provided to Lane County by the petitioners as explained above, it is recommended that the Board of Commissioners approve the Order to Vacate this portion of Leaburg Dam Road as described by the petition. The prepared Order of Vacation is to become effective upon the Board's acceptance and approval of additional public road dedications provided by the petitioners by separate Orders.

It is further recommended that the vacation be allowed without a public hearing.

DATED this 6th day of January, 2003


 Oliver P. Snowden, Public Works Director

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

FILE NO. 4088

IN THE MATTER OF THE VACATION OF A PORTION)
OF LEABURG DAM ROAD (COUNTY ROAD NUMBER)
1101), LOCATED APPROXIMATELY 0.75 MILES EAST)
OF ITS INTERSECTION WITH THE MCKENZIE) FINDINGS OF FACT
HIGHWAY, WITHOUT A PUBLIC HEARING, AND)
ADOPTING FINDINGS OF FACT (16-25-32-2))

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 Leaburg Dam Road (County Road Number 1101), as described in the Order, be vacated. The purpose of this vacation request is to provide for the moving of the right of way as far north from an existing residence as is practical, but still keeping the existing traveled roadway within the new legal right of way. The vacation is in conjunction with additional right of way dedication, which will ensure that the 40-foot legal right of way width is maintained.

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. 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 Lots 1000 and 1101 of Assessor's Map 16-25-32-20.
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, Eugene Water and Electric Board, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and neighboring landowners were notified by mail regarding the proposed vacation. Eugene Water and Electric Board replied stating that they may an electrical system in the area to be vacated, and requested an easement be reserved. The landowners and other agencies either had no objection or did not respond to the referral.
4. That, a utility easement is reserved by the Vacation Order, for repair and maintenance of any existing public utilities over the vacated right-of-way.
5. That, the landowners abutting the proposed vacation, by separate Orders on the same Board's agenda day, provided documents to dedicate property to Lane County in order to provide a 40-foot right of way.
6. That, vacating the portion of Leaburg Dam Road, as described in the Order will not deny any landowners legal road access to a public road.
7. 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.

DEDICATION OF A PUBLIC ROAD EASEMENT

DORIS M. SCHARPF and W.F. SCHARPF (deceased), Trustee of the
DORIS M. SCHARPF Revocable Living Trust Dated January 10, 1989

GRANTOR, grants and dedicates to **LANE COUNTY**, a political subdivision of the State of Oregon (**GRANTEE**) a public road easement on and over the following described property:

A parcel of land lying in the Northwest one-quarter (NW 1/4) of Section 32, Township 16 South, Range 2 East of the Willamette Meridian, and being a portion of a tract of land conveyed to Doris M. Scharpf and W.F. Scharpf (deceased), Trustee of the Doris M. Scharpf Revocable Trust Dated January 10, 1989, by that certain Warranty Deed recorded on Reel 2605-R, Recorder's Reception Number 99092975, Lane County Oregon, Deed Records, said parcel being described as follows:

Beginning at the intersection of the East line of the West one-half of a parcel of land described as Tract 1 as recorded on Reel 284-D, Recorder's Reception Number 42317 with the Northerly right of way of County Road Number 1101 (Leaburg Dam Road), said intersection point being North 80°01'45" East, 48.78 feet and North 77°35'26" East, 182.39 feet from a 5/8 inch iron rod on the Northerly right of way of said County Road Number 1101 set by Lane County Surveyor's Office and recorded on County Survey File Number 28141, said iron rod being North 1594.91 feet and East 1945.65 feet from the West one-quarter (W 1/4) Corner of Section 32, Township 16 South, Range 2 East of the Willamette Meridian; from the point of beginning run thence along said East line North 1°28'00" West, 13.81 feet; thence North 73°24'00" East, 24.52 feet to the existing Northerly right of way of said County Road Number 1101; thence along said existing Northerly right of way South 48°02'29" West, 31.12 feet to the Point of Beginning, in Lane County, Oregon.

It being the intent herein to acquire additional right of way for County Road Number 1101 (Leaburg Dam Road) where said road abuts the GRANTOR'S property

There is no consideration for this dedication.

Said parcel being forever dedicated to the use of the public for road purposes and granting a public road easement.

Dated this _____ day of _____, 2002.

Doris M. Scharpf, Trustee

STATE OF OREGON)
COUNTY OF LINN) ss.

On _____, 2002, personally appeared the above named
Doris M. Scharpf, Trustee of the Doris M. Scharpf Revocable Living Trust, and acknowledged the
foregoing instrument to be a voluntary act before me.

Notary Public for Oregon
My Commission expires: _____

DEPARTMENT OF PUBLIC WORKS
LAND MANAGEMENT DIVISION

Approved _____, 2002

By _____
For Jeffrey Towery, Interim Director

The Board of Commissioners
hereby accepts and approves for
for recording this dedication
as described herein.

LANE COUNTY BOARD OF
COMMISSIONERS

By _____
Chair

DEDICATION OF A PUBLIC ROAD EASEMENT

JOHN R. HAAS (deceased) and MARGARET R. HAAS, husband and wife

GRANTOR, grants and dedicates to **LANE COUNTY**, a political subdivision of the State of Oregon (**GRANTEE**) a public road easement on and over the following described property:

A parcel of land lying in the Northwest one-quarter (NW 1/4) of Section 32, Township 16 South, Range 2 East of the Willamette Meridian, and being a portion of those tracts of land conveyed to John R. Haas (deceased) and Margaret R. Haas, husband and wife, by that certain Warranty Deed recorded on Reel 284-D, Recorder's Reception Number 42317, Lane County Oregon, Deed Records, said parcel being described as follows:

Beginning at the intersection of the West line of Lot 10 of Oldfield's McKenzie River Lake Side Home Tracts with the Northerly right of way of County Road Number 1101 (Leaburg Dam Road), said intersection point being North 80°01'45" East, 48.78 feet from a 5/8 inch iron rod on the Northerly right of way of said County Road Number 1101 set by Lane County Surveyor's Office and recorded on County Survey File Number 28141, said iron rod being North 1594.91 feet and East 1945.65 feet from the West one-quarter (W ¼) Corner of Section 32, Township 16 South, Range 2 East of the Willamette Meridian; from the point of beginning run thence North 73°24'00" East, 185.50 feet to the East line of the West one-half of a parcel of land described as Tract 1 as recorded on Reel 284-D, Recorder's Reception Number 42317; thence along said East line South 1°28'00" East, 13.81 feet to the existing Northerly right of way of said County Road Number 1101; thence along said existing Northerly right of way South 77°35'26" West, 182.39 feet to the Point of Beginning, in Lane County, Oregon.

It being the intent herein to acquire additional right of way for County Road Number 1101 (Leaburg Dam Road) where said road abuts the GRANTOR'S property

There is no consideration for this dedication.

Said parcel being forever dedicated to the use of the public for road purposes and granting a public road easement.

Dated this _____ day of _____, 2002.

ATTACHMENT 2

Margaret R. Haas

STATE OF OREGON)
COUNTY OF LANE) ss.

On _____, 2002, personally appeared the above named
Margaret R. Haas, and acknowledged the foregoing instrument to be a voluntary act before me.

Notary Public for Oregon
My Commission expires: _____

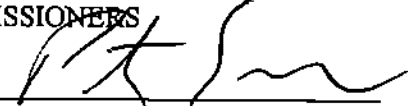
DEPARTMENT OF PUBLIC WORKS
LAND MANAGEMENT DIVISION

The Board of Commissioners
hereby accepts and approves for
for recording this dedication
as described herein.

Approved _____, 2002

LANE COUNTY BOARD OF
COMMISSIONERS

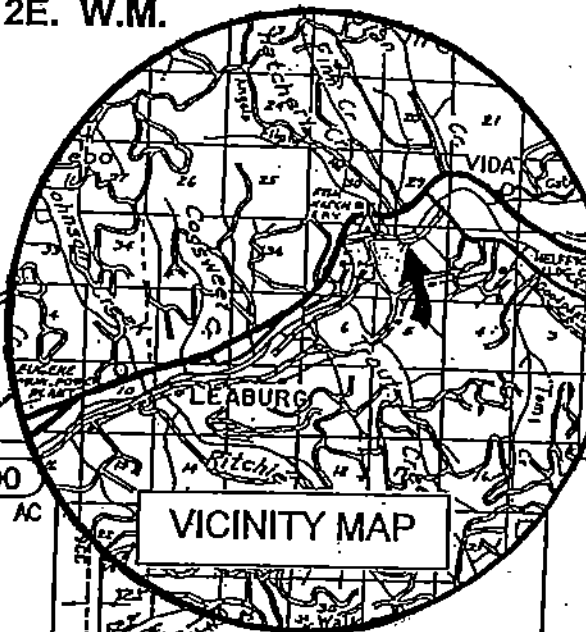
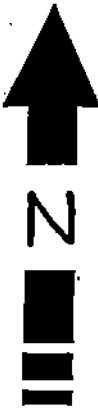
By _____
For Jeffrey Towery, Interim Director

By  _____
Chair

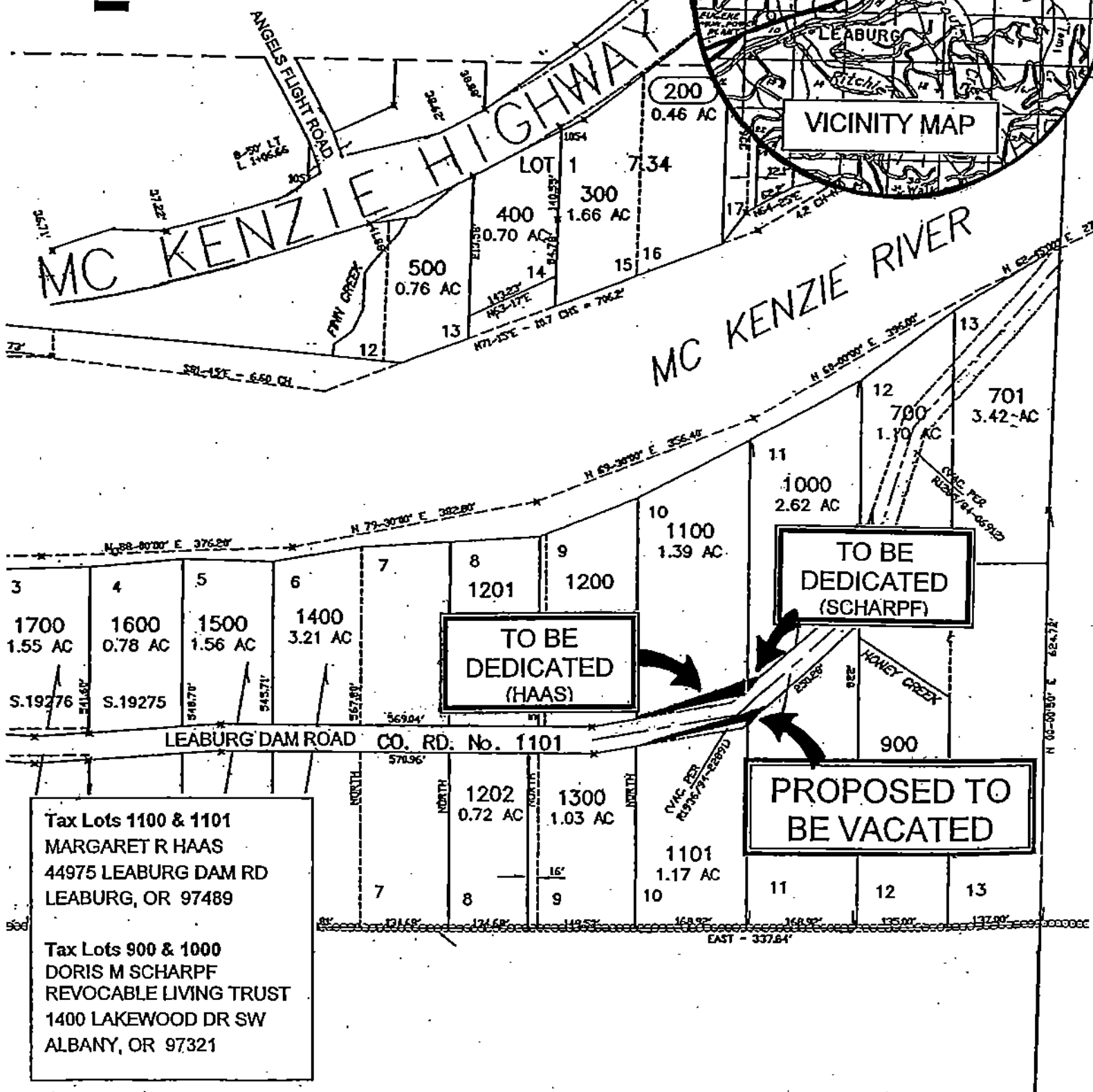
ATTACHMENT "A"

NW 1/4 Section 32 T. 16S. R. 2E. W.M.
LANE COUNTY

NO SCALE



VICINITY MAP



TO BE DEDICATED
(HAAS)

TO BE DEDICATED
(SCHARPF)

PROPOSED TO BE VACATED

Tax Lots 1100 & 1101
MARGARET R HAAS
44975 LEABURG DAM RD
LEABURG, OR 97489

Tax Lots 900 & 1000
DORIS M SCHARPF
REVOCABLE LIVING TRUST
1400 LAKEWOOD DR SW
ALBANY, OR 97321