

## AGENDA COVER MEMO

**DATE:** January 3, 2003  
**TO:** Lane County Board of Commissioners  
**FROM:** K. Robert Ezell, Lane County Surveyor *KREzell*  
**DEPARTMENT:** Public Works/Land Management Division

**AGENDA ITEM TITLE:** IN THE MATTER OF VACATING A PORTION OF GLENADA-SAND DUNES ROAD, COMMONLY KNOWN AS SOUTH JETTY ROAD (COUNTY ROAD NUMBER 1330) LOCATED APPROXIMATELY .66 MILES WEST OF U.S. HIGHWAY NUMBER 101 IN THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 34, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY OREGON, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (18-12-34)

**I. MOTION:**

**TO VACATE A PORTION OF GLENADA-SAND DUNES ROAD, COMMONLY KNOWN AS SOUTH JETTY ROAD (COUNTY ROAD NUMBER 1330) LOCATED APPROXIMATELY .66 MILES WEST OF U.S. HIGHWAY NUMBER 101 IN THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 34, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY OREGON, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (18-12-34)**

**II. ISSUE:**

To decide whether a portion of South Jetty Road, being 300 feet in length, and encompassing two fee stations for the South Jetty area of the Oregon Dunes National Recreation Area should be vacated, as petitioned for.

**III. DISCUSSION:****A. Background:**

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Michael Carrier, Director of Oregon Parks and Recreation Department, and Gloria D. Brown, Forest Supervisor of the Siuslaw National Forest, requesting, by the authority of ORS 368.351, a vacation without a public hearing. The State of Oregon owns the property adjoining the proposed vacation and the Siuslaw National Forest has an interest in this vacation, as they operate the fee stations within the described right of way.

In 1964, Glenada-Sand Dunes Road was established as County Road Number 1330, now commonly known as South Jetty Road, having a variable width right of way. South Jetty Road provides access to the South Jetty area of the Oregon Dunes National Recreation Area that is operated by the Siuslaw National Forest. The portion of roadway immediately to the west of the subject right of way was vacated in 1979 so that the Forest Service could relocate a portion of the road and establish additional parking. In 1985, the State of Oregon granted an easement to the Siuslaw National Forest for the purpose of road construction and maintenance over the portion of roadway now being proposed for vacation. The subject portion of roadway remained on the records as a county road, even though the county has not maintained this segment for the last 20 years. The petitioners wish to vacate said portion of the South Jetty Road so that the fee stations can remain in their current location and the Forest Service can continue to manage the facilities connected with the operation of the park that lie within the county right of way.

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

**B. Analysis:**

The segment of roadway proposed to be vacated lies within state-owned property and the State has previously granted the Forest Service an easement encompassing the subject right of way. Vacating the proposed portion of right of way will change the county road records to more accurately describe the portions being maintained by the county, and will allow the Forest Service to continue operating the fee booths in their current location and maintain the subject right of way.

The right-of-way proposed for vacation is not needed as part of the Lane County transportation system. No property will be denied legal access as a result of this vacation. It is believed that the public interest will be served, as the petitioners will be able to maintain the right of way, control parking, and operate the fee stations located within the right of way.

If the petition to vacate is approved, the Final Order will retain an easement for maintenance of existing utilities within the right of way.

**C. Alternatives/Options:**

The Board of County Commissioners has the options to:

1. Approve the vacation of a portion of South Jetty Road (County Road Number 1330), as petitioned for.
2. Deny the vacation of a portion of South Jetty Road (County Road Number 1330), as petitioned for.
3. Continue the matter for further consideration.

**D. Recommendations:**

The Public Works Director's Report recommends that the Board support Option Number 1, to approve the vacation of the portion of South Jetty Road, County Road Number 1330, as petitioned for. No property will be denied legal access by this vacation. The vacation is in the public's interest, as the petitioners will be able to maintain the right of way, control parking, and operate the fee stations located within the subject right of way.

All statutory procedures necessary for a vacation without a public hearing of the above mentioned right-of-way have been complied with, including a report by the Director of Public Works who recommends approval of the vacation as described in the petition.

**E. Timing:**

Timing is not critical in this matter.

**IV. IMPLEMENTATION/FOLLOW-UP:**

If the Board of County Commissioners approves the Order of Vacation, the documents are to be forwarded to the Lane County Clerk for filing and recording, after which, copies are to be forwarded to the County Surveyor and County Assessor for appropriate action. If the order is denied, an Order to Deny will be presented to the Board at a later regularly scheduled meeting.

**V. ATTACHMENTS:**

Order w/attachments:

Petition

Director's Report - Exhibit "A"

Findings of Fact - Exhibit "B"

Attachment "A" - Vicinity Map

Contact Person: K. Robert Ezell x3626

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

**FILE NO. 4090**

**IN THE MATTER OF VACATING A PORTION OF )  
GLENADA-SAND DUNES ROAD, COMMONLY )  
KNOWN AS SOUTH JETTY ROAD (COUNTY ROAD )  
NUMBER 1330) LOCATED APPROXIMATELY .66 MILES )  
WEST OF U.S. HIGHWAY NUMBER 101 IN THE )  
SOUTHWEST QUARTER (SW 1/4) OF SECTION 34, )  
TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE )  
WILLAMETTE MERIDIAN, IN LANE COUNTY )  
OREGON, WITHOUT A PUBLIC HEARING, AND )  
ADOPTING FINDINGS OF FACT (18-12-34) )**

**ORDER NO.**

**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 Glenada-Sand Dunes Road, commonly known as South Jetty Road (County Road Number 1330). South Jetty Road begins at the westerly right-of-way of U.S. Highway Number 101, and runs westerly to the South Jetty area of the Oregon Dunes National Recreation Area. The portion proposed to be vacated is described below:

The westerly 300 feet of the unvacated portion of Glenada-Sand Dunes Road, commonly known as South Jetty Road (County Road Number 1330) lying within the Southeast one-quarter of the Southwest one-quarter (SE ¼ SW ¼ ) of Section 34, Township 18 South, Range 12 West of the Willamette Meridian, Lane County, Oregon, and being a portion of that property granted to Lane County as an easement for a road right of way over State of Oregon public lands, recorded on Reel 131-59D, Recorder's Reception Number 64542, Lane County, Oregon Deed Records; 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, or have an interest in the subject property, 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**, the described portion of right of way lies within state-owned property and the State has granted an easement to the Siuslaw National Forest that encompasses the subject right of way for the purpose of constructing, improving, operating, and maintaining the roadway; and

**WHEREAS**, there are two fee stations operated by the Siuslaw National Forest located within the subject right of way; and

**WHEREAS**, Qwest Communications, Central Lincoln People's Utility District, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works were notified by mail regarding the proposed vacation and either had no objections or did not reply to the referral; and

**WHEREAS**, no property will be denied legal vehicle access by this vacation; and

**WHEREAS**, a utility easement will be reserved for repair and maintenance of any existing utilities within the vacated right-of-way; 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 Glenada-Sand Dunes Road, commonly known as South Jetty Road (County Road Number 1330) is hereby vacated; and it is further

**ORDERED**, that a utility easement is hereby reserved for repair and maintenance of any existing utilities within the vacated right-of-way; 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 \_\_\_\_\_ day of \_\_\_\_\_, 2003

\_\_\_\_\_  
Chair  
LANE COUNTY BOARD OF COMMISSIONERS

Attachment "A": Vicinity Map

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

FILE NO.

IN THE MATTER OF THE VACATION OF A )  
 PORTION OF GLENADA-SAND DUNES ROAD, )  
 COMMONLY KNOWN AS SOUTH JETTY ROAD, )  
 (COUNTY ROAD NUMBER 1330) LOCATED IN )  
 SECTION 34, TOWNSHIP 18 SOUTH, RANGE 12 ) PETITION TO VACATE  
 WEST OF THE WILLAMETTE MERIDIAN IN )  
 LANE COUNTY, OREGON. )

**PURSUANT** to the procedures set forth in ORS Chapter 368, we the undersigned State of Oregon, owners of the adjacent real property, and the United States Department of Agriculture, having an interest in the property, hereby petition for the vacation of a portion of South Jetty Road (County Road Number 1330). The area to be vacated is described as follows:

"The westerly 300 feet of the unvacated portion of South Jetty Road (County Road Number 1330) lying within the Southeast one-quarter of the Southwest one-quarter (SE ¼ SW ¼) of Section 34, Township 18 South, Range 12 West of the Willamette Meridian, Lane County, Oregon, and being a portion of that property granted to Lane County as an easement for a road right-of-way over State of Oregon public lands, recorded on Reel 131-59D, Recorder's Reception No. 64542, Lane County, Oregon Deed Records"

**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 petition is to vacate the described portion of the County Road public right-of-way lying within state-owned property that provides access into the South Jetty area of the Oregon Dunes National Recreation Area. The State of Oregon has previously granted easements to the Siuslaw National Forest for the purpose of road construction and maintenance over said portion of County Road.
2. A portion of the existing road appears to be outside of the established County right-of-way.
3. There are two fee stations within the county right-of-way that are currently being operated by the Siuslaw National Forest and vehicles park in the road right-of-way.
4. An easement will be retained for maintenance of existing utilities within the right-of-way.

**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 the vacation of the above described area, and

**WHEREAS**, the petitioners have no objection to Lane County proceeding under the authority of ORS Chapter 368.326, for vacation without a hearing, and

**THEREFORE**, the petitioners are requesting an Order from the Board of Commissioners for Lane County as follows:

1. Setting dates to consider the 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 portion of road, and direct that title to the vacated area revert and vest in accordance with ORS 368.366.

DATED this 4<sup>th</sup> day of OCTOBER, 2002.

**PETITIONERS:**

Michael Carrier  
State of Oregon

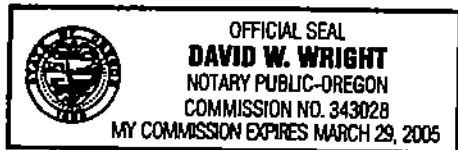
MAP #: 18-12-34 Tax Lot 300

ADDR: ~~State Land Board~~ Oregon Parks & Recreation Dept.  
Salem, OR 97310 1115 COMMERCIAL ST SE  
SALEM, OR 97301-1002

STATE OF OREGON )  
COUNTY OF LANE ) ss.

The foregoing instrument was acknowledged before me this day of October 4, 2002,

by Michael Carrier on behalf of the State of Oregon.



David W. Wright  
Notary Public for Oregon  
My Commission expires: 3-29-05

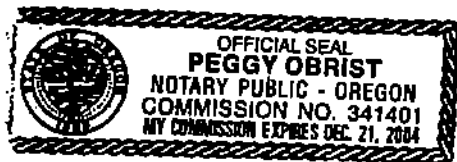
Maria D. Brown

United States Department of Agriculture

ADDR: Siuslaw National Forest  
4077 SW Research Way  
Corvallis, OR 97333

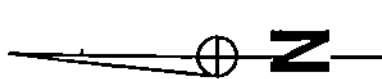
STATE OF OREGON )  
COUNTY OF LANE ) ss.

The foregoing instrument was acknowledged before me this day of 7<sup>th</sup> of Aug., 2002,  
by Maria D. Brown, on behalf of the United States Department of Agriculture.



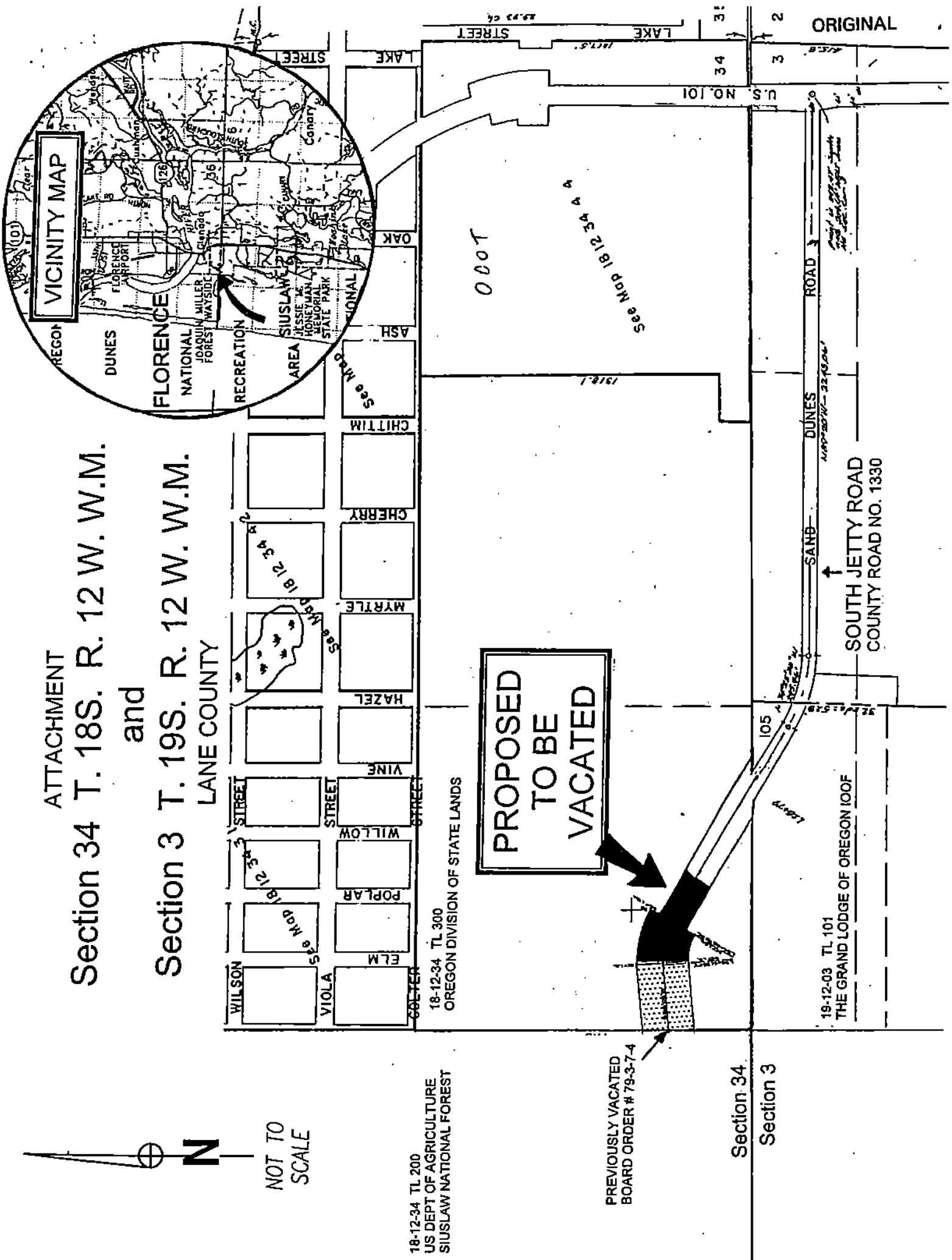
Peggy Obrist  
Notary Public for Oregon  
My Commission expires: 12/21/04





NOT TO  
SCALE

ATTACHMENT  
Section 34 T. 18S. R. 12 W. W.M.  
and  
Section 3 T. 19S. R. 12 W. W.M.  
LANE COUNTY



18-12-34 TL 200  
US DEPT OF AGRICULTURE  
SIUSLAW NATIONAL FOREST

PREVIOUSLY VACATED  
BOARD ORDER # 79-3-7-4

Section 34.

Section 3

19-12-03 TL 101  
THE GRAND LODGE OF OREGON IOOF

SOUTH JETTY ROAD  
COUNTY ROAD NO. 1330

DUNES ROAD

LAND 200-10-22-13-0-1

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

FILE NO. 4090

IN THE MATTER OF VACATING A PORTION OF )  
 GLENADA-SAND DUNES ROAD, COMMONLY )  
 KNOWN AS SOUTH JETTY ROAD (COUNTY ROAD )  
 NUMBER 1330) LOCATED APPROXIMATELY .66 MILES )  
 WEST OF U.S. HIGHWAY NUMBER 101 IN THE )  
 SOUTHWEST QUARTER (SW 1/4) OF SECTION 34, )  
 TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE )  
 WILLAMETTE MERIDIAN, IN LANE COUNTY )  
 OREGON, WITHOUT A PUBLIC HEARING, AND )  
 ADOPTING FINDINGS OF FACT (18-12-34) )

**DIRECTOR'S REPORT**

The Surveyor's Office of the Department of Public Works has received a valid petition, signed by the Director of Oregon Parks and Recreation Department and the Forest Supervisor of the Siuslaw National Forest, requesting by the authority of ORS 368.351, a vacation without a public hearing. The State of Oregon owns the property adjoining the proposed vacation and the Siuslaw National Forest has an interest in this vacation, as they operate the fee stations that lie within said right of way.

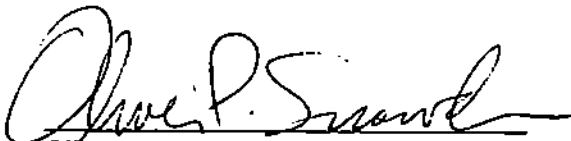
County Road Number 1330 was established as Glenada-Sand Dunes Road in 1964, having a variable width right of way. The road is now commonly known as South Jetty Road and provides access to the South Jetty area of the Oregon Dunes National Recreation Area that is operated by the Siuslaw National Forest. The portion of roadway immediately to the west of the subject right of way was vacated in 1979 so that the Forest Service could relocate a portion of the road and establish additional parking. In 1985, the State of Oregon granted an easement to the Siuslaw National Forest for the purpose of road construction and maintenance over the portion of roadway now being proposed for vacation. The subject portion of roadway remained on the records as a county road, even though the county has not maintained this segment for the last 20 years. The petitioners wish to vacate said portion of the South Jetty Road so that the fee stations can remain in their current location and the Forest Service can continue to manage the facilities connected with the operation of the park that currently lie within the county right of way.

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

The subject portion of South Jetty Road is not needed as part of the Lane County Transportation System and no property will be denied legal access by this vacation. It is concluded that this vacation is in the public's interest, as it will revert back to state-owned property and the Forest Service can maintain the right of way, control parking, and operate the fee stations located within the subject right of way.

It is therefore recommended that the portion of South Jetty Road, County Road Number 1330, as described in the Order, be vacated as petitioned for, and that a utility easement be reserved for any existing utilities within the vacated right of way. It is further recommended that the vacation be allowed without a public hearing.

DATED this 6<sup>th</sup> day of January, 2003

  
 Oliver P. Snowden, Public Work Director

**FILE NO. 4090**

IN THE MATTER OF VACATING A PORTION OF )  
 GLENADA-SAND DUNES ROAD, COMMONLY )  
 KNOWN AS SOUTH JETTY ROAD (COUNTY ROAD )  
 NUMBER 1330) LOCATED APPROXIMATELY .66 MILES )  
 WEST OF U.S. HIGHWAY NUMBER 101 IN THE ) FINDINGS OF FACT  
 SOUTHWEST QUARTER (SW 1/4) OF SECTION 34, )  
 TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE )  
 WILLAMETTE MERIDIAN, IN LANE COUNTY )  
 OREGON, WITHOUT A PUBLIC HEARING, AND )  
 ADOPTING FINDINGS OF FACT (18-12-34) )

The Department of Public Works has received a valid petition, signed by the Director of the State of Oregon Parks and Recreation Department, the sole owner of 100% of the property abutting the proposed vacation, and the Forest Supervisor of the Siuslaw National Forest, having an interest in the subject property, requesting that a portion of South Jetty Road, as described in the Order, be vacated as petitioned for. The petitioners wish to vacate the described segment of right-of-way in order to allow the Forest Service to maintain the right of way and continue to operate the two fee booths that are within the county right of way. The State has previously granted an easement to the Siuslaw National Forest for this purpose.

**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.

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, 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 18-12-34.
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, Central Lincoln People's Utility District, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works were notified by mail regarding the proposed vacation and either had no objection or did not respond to the referral.
4. That, vacating the portion of South Jetty Road, as described in the Order, will not deny any landowners legal road access to a public road.
5. That, a utility easement is reserved by the Vacation Order for repair and maintenance of any existing utilities within the vacated right-of-way.
6. 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.

ATTACHMENT "A"

Section 34 T. 18S. R. 12W. W.M.

LANE COUNTY

NOT TO  
SCALE



18-12-34 TL 200  
US DEPT OF AGRICULTURE  
SIUSLAH NATIONAL FOREST

PREVIOUSLY VACATED  
BOARD ORDER # 79-3-7-4

PROPOSED  
TO BE  
VACATED

18-12-34 TL 300  
OREGON DIVISION OF STATE LANDS

Section 34  
Section 3

19-12-03 TL 101  
THE GRAND LODGE OF OREGON IOOF

SOUTH JETTY ROAD  
COUNTY ROAD NO. 1330

