

**AGENDA COVER MEMO**

ORIGINAL

W126

**DATE:** February 27, 2003  
**TO:** Lane County Board of Commissioners  
**FROM:** K. Robert Ezell, Lane County Surveyor *K.R. Ezell*  
**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 (18-12-34)

**I. MOTION:**

**TO APPROVE THE FINAL ORDER 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 (18-12-34)**

**II. ISSUE:**

To decide whether the vacation of a section of Glenada-Sand Dunes Road, commonly known as South Jetty Road (County Road Number 1330), being 300 feet in length, and encompassing two fee stations for the South Jetty area of the Oregon Dunes National Recreation Area, is in the public interest.

**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 the vacation of a portion of Glenada-Sand Dunes Road, commonly known as South Jetty Road. 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. The Public Works Department could not locate any facility permit for the placement and operation of the noted fee booths in the road 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, after a public hearing, 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, as near as can be determined, has not maintained this particular segment of road 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.

The proposed vacation was included on the agenda for Board of Commissioners on January 21, 2003 as a Consent Calendar item, but the Board requested that a public hearing be held regarding this matter so that the public could be notified and given an opportunity to comment.

The Board approved Resolution and Order Number 03-2-12-4 to set a public hearing on March 19, 2003 to hear and evaluate the merits of whether to vacate a portion of South Jetty Road, as petitioned for.

**B. Analysis:**

The segment of roadway proposed to be vacated, which connects to a segment of county road previously vacated in 1979, 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 allow the Forest Service to continue operating the fee booths in their current location and maintain and use the subject right of way.

The right-of-way proposed for vacation has not been maintained by the County as a county road for an estimated 20 years, and 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. There are utilities within the right of way that provide electricity to the fee stations. If the petition to vacate the segment of road is approved, the Final Order will retain an easement for maintenance of existing utilities within the right of way.

All required legal notices have been provided in accordance with ORS 368.346 and the Board is free to act at this time.

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 described portion of South Jetty Road, as petitioned for.

All statutory procedures necessary for the vacation of the above mentioned portion of South Jetty Road (County Road Number 1330) have been complied with, including providing public notice and a report by the Director of Public Works who supports the approval of the vacation of the road.

E. Timing:

Timing is not known to be critical in this matter.

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

If the Board of County Commissioners approves the Final Order of Vacation it is 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 vacation is denied, an Order to Terminate the Vacation will be presented to the Board at a later regularly scheduled meeting.

**V. ATTACHMENTS:**

Order w/attachments:

Director's Report - Exhibit "A"

Findings of Fact - Exhibit "B"

Affidavit of Posting - Exhibit "C"

Attachment "A" - Vicinity Map

Contact Person: K. Robert Ezell x3626

**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 (18-12-34)	)	
		FINAL
		ORDER NO.

**WHEREAS**, 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:

**WHEREAS, the petitioners have submitted a valid petition that meets the requirements of ORS 368.341(3); 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, without any known facility permits issued for that use by the Lane County Public Works Department; 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 the vacation of said road segment; and

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

**WHEREAS**, all necessary procedures for a vacation have been complied with, pursuant to ORS Chapter 368, including the giving of notice as evidenced by the Affidavit of Posting, Publication and Mailing, labeled as Exhibit "C", attached hereto and made a part hereof by this Order; and

**WHEREAS**, the Director of the Department of Public Works has provided a written report regarding the vacation, as required by ORS 368.346, attached hereto, marked Exhibit "A", and made a part hereof by this Order; and

**WHEREAS**, a public hearing was conducted on this date, as ordered, regarding the road vacation as described above; and

**WHEREAS**, in accordance with the provisions of ORS 368.356, the Board is of the opinion that approving the road vacation as described herein, is in the best interest of the public; now, therefore, it is hereby

**ORDERED**, that the road vacation of the above described portion of Glenada-Sand Dunes Road, commonly known as South Jetty Road (County Road Number 1330) is hereby approved; 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 and in the records for County Surveyor.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2003

\_\_\_\_\_  
Peter Sorenson, Chair  
LANE COUNTY BOARD OF COMMISSIONERS

Attachment "A": Vicinity Map

APPROVED AS TO FORM

Date 3-6-03 lane county

\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

**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 (18-12-34)**

**DIRECTOR'S  
FINAL 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 the vacation of a portion of Glenada-Sand Dunes Road, commonly known as South Jetty Road. 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. The Public Works Department could not locate any facility permit for the placement and operation of the noted fee booths in the road 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, after a public hearing, 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, as near as can be determined, has not maintained this segment of road 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.

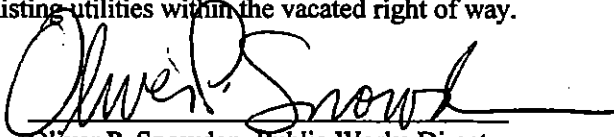
The Surveyors Office notified Qwest Communications, Central Lincoln People's Utility District, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works regarding the vacation. The agencies and the 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 proposed road vacation is in the public's interest, as it will revert back to state-owned property and the Forest Service can maintain, and use the right of way, control parking, and operate the fee stations located within the subject right of way.

Notification of these proceedings has been provided by posting, mail and legal publication by the County Surveyor as required by ORS 368 provisions.

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.

**DATED this** 5<sup>th</sup> **day of** March, 2003

  
Oliver P. Snowden, Public Works Director

**EXHIBIT "B"**  
**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 (18-12-34) )**

**FINDINGS OF FACT**

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 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.

**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.

**Findings of Fact (Impacts and Process of Vacation)**

The Board takes notice and finds as follows:

1. That, the petitioners, own or have an interest in the property abutting the proposed vacation. 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, the County Surveyor has provided legal notice for the public hearing by service, posting, and publication, as required by ORS 368.401 to 368.426.
7. That, pursuant to ORS 368 a county governing body may make a determination about a vacation of property without a public hearing if:
  - (1) The county governing body receives a petition meeting the requirements of ORS 368.341.
  - (2) The county road official files a written report containing a description of the property proposed for vacation and stating that the vacation is in the public interest.
  - (3) The governing body establishes a time and place for a hearing to consider the proposed vacation and shall give notice of said hearing under ORS 368.401 to 368.426.

Items (1), (2) and (3) 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, with public hearing, have been met.



**EXHIBIT "C"**  
**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	)	AFFIDAVIT OF POSTING,
WEST OF U.S. HIGHWAY NUMBER 101 IN THE	)	PUBLICATION
SOUTHWEST QUARTER (SW ¼) OF SECTION 34,	)	AND MAILING
TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE	)	
WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON	)	
(18-12-34)		

I, K. Robert Ezell, Lane County Surveyor, certify as follows:

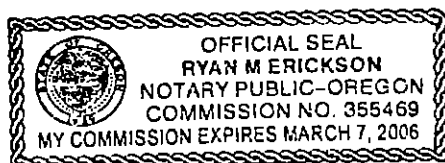
That on the 25th day of February, 2003 I caused to be posted four (4) copies of the Notice of Hearing in the above entitled matter in four places, positioned to be visible to the traveling public, as follows:

1. Posted on a tree located on the North side of South Jetty Road, approximately 6.5 miles West of Hwy. 101.
2. Posted on a carsonite post located at the Fee Pay Booth, on the North side of South Jetty Road approximately .6 miles West of Hwy. 101.
3. Posted on "BUMP" sign post located on the South side of South Jetty Road, approximately .65 miles West of Hwy. 101.
4. Posted on "15 MPH" sign post located on South side of South Jetty Road approximately .7 miles West of Hwy. 101.

The undersigned further certifies that on February 28, 2003 and March 12, 2003 notice is scheduled to run in the Register Guard, and on March 5, 2003 and March 12, 2003, notice is scheduled to run in the Siuslaw News. Also that on February 10, 2003 notice was sent to adjacent owners and various private and public agencies having an interest in these vacation proceedings by Certified Mail.

  
 K. Robert Ezell  
 Lane County Surveyor

Subscribed and sworn to before me this 27<sup>th</sup> day of Feb, 2003.



  
 NOTARY PUBLIC FOR OREGON  
 My Commission Expires:

ATTACHMENT "A"

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

LANE COUNTY



NOT TO  
SCALE

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

