

AGENDA COVER MEMO

DATE: April 18, 2003
TO: Lane County Board of Commissioners
FROM: K. Robert Ezell, Lane County Surveyor *KREz*
DEPARTMENT: Public Works/Land Management Division

AGENDA ITEM TITLE: IN THE MATTER OF DENYING THE PETITION TO VACATE A PORTION OF DUNCAN SLOUGH ROAD (COUNTY ROAD NUMBER 499), LOCATED SOUTH OF BERNHARDT CREEK ROAD NEAR KARNOWSKY CREEK, IN SECTIONS 22 AND 23, TOWNSHIP 18 SOUTH, RANGE 11 WEST OF THE WILLAMETTE MERIDIAN (18-11-22 & 23)

I. MOTION:

TO APPROVE THE ORDER TO DENY THE PETITION TO VACATE A PORTION OF DUNCAN SLOUGH ROAD (COUNTY ROAD NUMBER 499), LOCATED SOUTH OF BERNHARDT CREEK ROAD NEAR KARNOWSKY CREEK, IN SECTIONS 22 AND 23, TOWNSHIP 18 SOUTH, RANGE 11 WEST OF THE WILLAMETTE MERIDIAN (18-11-22 & 23)

II. ISSUE:

On April 9th, 2003 the Board conducted a public hearing on whether to vacate a portion of Duncan Slough Road (County Road Number 499). After the public hearing the Board voted and the motion to vacate the road failed on a 5-0 vote. As a follow up, the issue is to decide whether to approve the Order to Deny the petition to vacate the described portion of Duncan Slough Road located south of Bernhardt Creek Road near Karnowsky Creek.

III. DISCUSSION:

A. Background:

On February 26, 2003 the Board approved the Notice of Hearing and Order Number 03-2-26-10 to conduct a public hearing on April 9, 2003. The Board conducted a public hearing in the matter of the proposed vacation of a portion of Duncan Slough Road (County Road Number 499) located south of Bernhardt Creek Road near Karnowsky Creek, in Sections 22 and 23, Township 18 South, Range 11 West of the Willamette Meridian.

County Road Number 499 was established in 1892 with a 40-foot wide right of way. The portion proposed to be vacated is approximately 1.4 miles in length and located entirely within Siuslaw National Forest lands.

B. Analysis:

The Board listened to the staff report from Bob Ezell, Lane County Surveyor, who gave background information about Duncan Slough Road and explained that the Forest Service had petitioned to vacate this section of roadway, as they are working on a wetlands restoration project in this area and the county road interferes with this project. He also stated that this road is isolated and the only way to access it is by traveling over a private road and land owned by Davidson Industries, and there is a private gate that controls access near Bernhardt Creek Road. He mentioned that the Public Works Director recommends that the road be vacated, and the required public notice for these proceedings had been provided and there had been no known objections to the vacation.

The Chairman of the Board opened up the meeting for public testimony, and there was none, so the public hearing was closed. The Chairman then called upon the Board for questions, comments, and discussion. Ollie Snowden, Lane County Public Works Director, and Johan Hogervorst, Hydrologist for the Siuslaw National Forest, were in attendance to answer questions and make comments.

Ollie Snowden stated that Lane County has no future plans for this road. He mentioned that the Lane County Public Works Department had initiated a vacation of this road about 10 years ago, and the Forest Service objected at that time, but now the Forest Service is coming forward and is requesting the vacation.

Johan Hogervorst, project leader for the Karnowsky Stream restoration, briefly told about the project and explained that the plans were to pull some of the culverts out of the road to allow fish passage. He mentioned that half of the road in this area is non-existent and the other half is in disrepair and has not been maintained for many years.

The question was brought up as to whether the project could be completed if the road remained a county road. It was concluded that they could still restore the wetland if facility permits were obtained from the County to remove the culverts.

Ollie Snowden stated that county road status could be withdrawn from the subject portion of road and downclassified to a local access road. This would relieve the County of the liability of failing to maintain the road, but retain the public status of the road.

The Board, after consideration and deliberation of the record, voted unanimously not to approve the Order to Vacate the subject portion of Duncan Slough Road and directed Bob Ezell to return with an Order to Deny the vacation. The Board also gave directions to have staff prepare an Order and provide public notice to withdraw county road status (but not the public road status) from said portion of road, and present it to the Board at a later regular scheduled meeting.

C. Alternatives/Options:

The Board Order to Deny is a result of the Board voting after the public hearing on April 9th and voting to not approve the vacation.

D. Timing:

Timing is important in this matter. The Order to Deny must be approved before proceeding with an Order to Withdraw County Road Status.

IV. IMPLEMENTATION/FOLLOW-UP:

Upon approving the Order to Deny the vacation of this portion of Duncan Slough Road (County Road Number 499, 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 the Director of Public Works for appropriate action.

V. ATTACHMENTS:

Final Order to Deny Vacation
Vicinity Map - Attachment "A"

Contact Person: K. Robert Ezell x3626

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

FILE NO. 4084

IN THE MATTER OF DENYING THE PETITION)
TO VACATE A PORTION OF DUNCAN SLOUGH)
ROAD (COUNTY ROAD NUMBER 499), LOCATED)
SOUTH OF BERNHARDT CREEK ROAD NEAR)
KARNOWSKY CREEK, IN SECTIONS 22 AND 23,)
TOWNSHIP 18 SOUTH, RANGE 11 WEST OF THE)
WILLAMETTE MERIDIAN (18-11-22 & 23))

ORDER TO DENY
NO.

WHEREAS, this matter now coming before the Board of County Commissioners for Lane County, Oregon, upon valid 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 Duncan Slough Road, County Road Number 499; and

WHEREAS, Duncan Slough Road (County Road Number 499) was established in 1892 with a right-of-way width of 40 feet, 20 feet on each side of centerline. Said portion of right-of-way proposed to be vacated being more particularly described as follows:

"All that portion of Duncan Slough Road (County Road Number 499), being 40 feet wide, from the beginning point of said road as surveyed in 1892, said point being in Section 23, Township 18 South, Range 11 West of the Willamette Meridian, thence northwesterly a distance of 1.4 miles, more or less, to the section line between Section 22 and Section 15, Township 18 South, Range 11 West of the Willamette Meridian, all in Lane County, Oregon."

WHEREAS, the Board of Commissioners has the authority to consider the petition to vacate this portion of Duncan Slough Road under the provisions of ORS 368; and

WHEREAS, The Board of Commissioners conducted a public hearing on April 9, 2003 in accordance with Resolution, Notice of Hearing and Order Number 03-2-26-10, to consider the vacation of the described portion Duncan Slough Road; and

WHEREAS, after consideration and deliberation of the record, which included a report from the Director of the Department of Public Works, staff report from the County Surveyor, and comments from Johan Hogervorst, a representative of the Siuslaw National Forest, the Board voted unanimously to not approve the proposed vacation, now therefore; it is hereby

ORDERED, that the petition to vacate the portion of Duncan Slough Road, County Road Number 499, as described above, is hereby denied on the basis that there was not a majority vote to approve the vacation; and it is further

ORDERED, that this Order be entered into the Lane County Board of Commissioners Journal of Administration, and be further placed in the legal county road files administered by the County Surveyor and the Public Works Department.

DATED this _____ day of _____, 2003

Peter Sorenson, Chair
LANE COUNTY BOARD OF COMMISSIONERS

Attachment: Vicinity Map

Order to Deny Vacation
Portion of County Road Number 499 (Duncan Slough Road)
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APPROVED AS TO FORM
Date 4-25-03 lane county

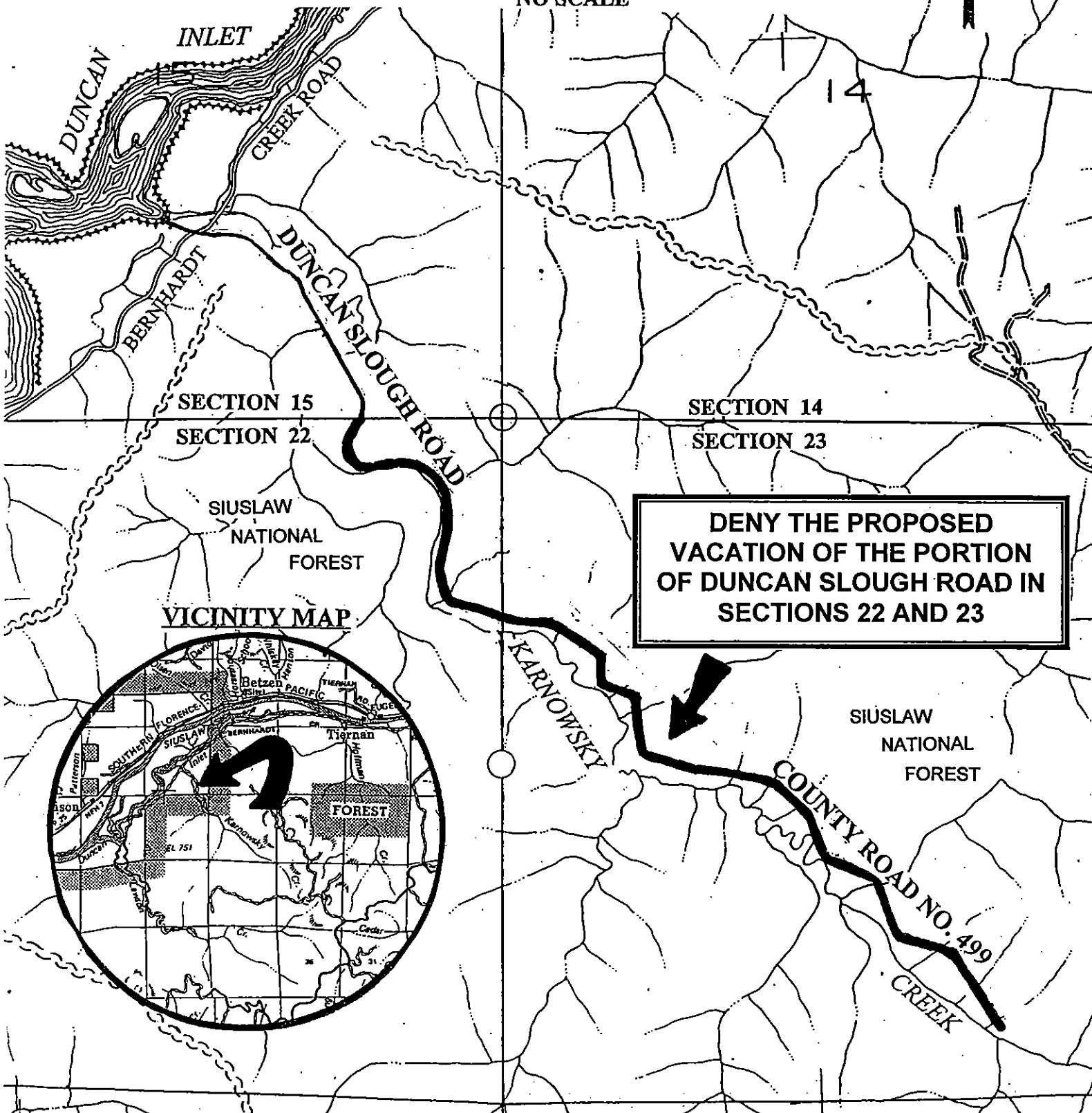
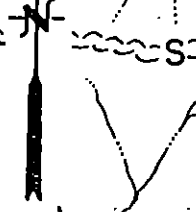
[Signature]

SIUSLAW RIVER

ORIGINAL

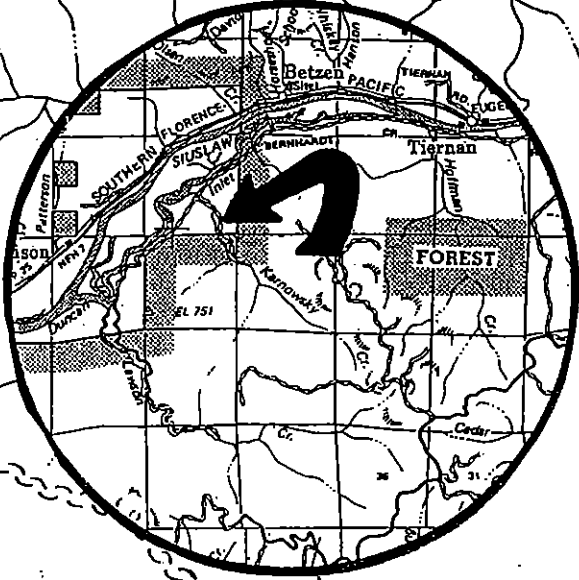
ATTACHMENT "A"

SECTIONS 22 & 23
TOWNSHIP 18 SOUTH, RANGE 11 WEST, W.M.
LANE COUNTY
NO SCALE



**DENY THE PROPOSED
VACATION OF THE PORTION
OF DUNCAN SLOUGH ROAD IN
SECTIONS 22 AND 23**

VICINITY MAP



SIUSLAW NATIONAL FOREST

COUNTY ROAD NO. 499

CREEK