



Memorandum Date: January 20, 2023  
Order Date: February 7, 2023

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**TO:** Board of County Commissioners

**DEPARTMENT:** Public Works/Engineering and Construction Services/Surveyors

**PRESENTED BY:** Mikeal Jay Blommé, Lane County Surveyor

**AGENDA ITEM TITLE:** ORDER / IN THE MATTER OF THE VACATION OF A PORTION OF ALEXANDER ROAD (E.L. BERKSHIRE ROAD, COUNTY ROAD NO. 776) LOCATED IN SECTIONS 14, 15, 22, AND 23, TOWNSHIP 16 SOUTH, RANGE 9 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON, WITHOUT A PUBLIC HEARING.  
(16-09-14, 15, 22, 23)

**I. MOTION**

TO APPROVE THE ORDER TO VACATE A PORTION OF ALEXANDER ROAD, COUNTY ROAD NO. 776, AS DESCRIBED IN THE ORDER, WITHOUT A PUBLIC HEARING.

**II. AGENDA ITEM SUMMARY**

The Board is being asked to approve the vacation of Alexander Road, as described in the Order and depicted on the map attached as Exhibit "C," at the request of the petitioners.

**III. BACKGROUND / IMPLICATIONS OF ACTION**

**A. Board Action and Other History**

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Mark Casey McLaughlin, signing as a landowner and as co-trustee of the McLaughlin Family Trust, Robin Sue McLaughlin, co-trustee of the McLaughlin Family Trust, and Robert Sanchez, Forest Supervisor for the Siuslaw National Forest, representing 100% ownership of the properties abutting the County Road herein proposed to be vacated, by the authority of ORS 368.351, a vacation without a public hearing.

The petitioners wish to vacate Alexander Road beginning at the southerly property line of the property identified as map and taxlot number 16-09-23-00-00100 and ending at the north line of Section 15, Township 16 South, Range 9 West of the Willamette Meridian.

Alexander Road, County Road No. 776, is located in western Lane County near the community of Deadwood in Sections 14, 15, 22 and 23, Township 16 South, Range 9 West of the Willamette Meridian. The road was established as the E.L. Berkshire Road by petition on May 1, 1915 with a 60-foot right of way width.

According to TransMap, the road is classified as rural local with a graveled surface averaging less than 20 feet in width. There is currently a locked gate approximately 100 feet from its intersection with West Fork Road. The County currently maintains the road past the gate to milepost 0.54, which is the end of County maintenance. Beyond milepost 0.54, the road is unimproved and location of the right of way is undeterminable without the benefit of a survey. There are no bridges or railroad crossings identified in the subject area. The unimproved right of way of the County Road continues in a north and northwesterly direction through Siuslaw National Forest land, ending at the south line of Section 15, Township 16 South, Range 9 West of the Willamette Meridian. The total length of the proposed vacated road is approximately 2.4 miles in length. Petitioners Mark and Casey McLaughlin own tracts of land at the southerly and northerly ends of the road as proposed to be vacated, with the area in between being owned by the Siuslaw National Forest. As mentioned previously, Siuslaw National Forest Supervisor Robert Sanchez is a party to this petition and signed the Petition to Vacate on behalf of the Forest Service.

The petitioners state the purpose of the vacation is to mitigate trespassing and poaching along the County Road. The current end of county maintenance terminates within property in private ownership. The road serves two private parcels, and the petitioners state the road has not been routinely maintained, and estimate it has not been maintained for close to 30 years. Conversations with Road Maintenance Division Staff reveal that the petitioner's statement is not quite accurate. There is limited maintenance activities along the road that mostly comprises of vegetation mitigation on a yearly basis, and ditching and grading activities typically performed on a 2-year cycle.

Beyond the locked gate, there is virtually no traffic other than the landowners, and the occasional poacher that ends up trespassing on private property, due to the uncertain location of the public right of way beyond the end of County maintenance.

Referrals were sent to area landowners, providers, agencies, and utility companies seeking comment regarding this proposal. Agencies and utility providers included Blachly Lane Electric Co-Op, Swisshome-Deadwood Rural Fire Protection District, Lane Council of Governments, Lane ESD, Mapleton School District, Oregon Department of Fish and Wildlife, Western Lane Ambulance, and Lumen/CenturyLink. Blachly Lane Electric Co-Op was the only provider to respond to our referral, and indicated they will require access for the purpose of operating and maintaining their facilities. Petitioners have stated they will retain a public utility easement for this purpose.

Staff from various Lane County Divisions including Transportation Planning, Land Management, Road Maintenance, and Engineering & Construction Services were provided an opportunity to comment on this action. None of the above-mentioned Lane County Divisions has objected to this action.

Our office received no response to our referrals from area landowners.

ORS 368.331 states, "A county governing body shall not vacate public lands under ORS 368.326 to 368.366 if the vacation would deprive an owner of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner". The petitioners, as 100% of the owners abutting this proposed vacation, have consented to this action.

**B. Policy Issues**

Lane Manual 15.030 supplement ORS 368 in allowing for consideration of vacation of rights of way where little need exists for the right of way and where the vacation will not adversely affect orderly development of adjacent property. The rights of way herein considered for vacation as described in the Order are consistent with these categories.

**C. Board Goals**

The vision of Lane County's Strategic Plan, in part, is to create a vibrant community through wise stewardship of its human and natural resources. The vacation of this right of way as described in the Order is consistent with these categories.

**D. Financial and/or Resource Considerations**

Vacation of the described right of way will return a marginal portion of land to the County tax rolls as real property. **The County's costs of processing the vacation will be paid in full by the petitioners.**

**E. Health Implications**

None.

**F. Analysis**

Lane County Staff has determined the vacation of Alexander Road will have no adverse effects on transportation patterns in the area, and is not needed for transportation purposes. If the vacation is approved, ownership of the road shall revert in accordance with ORS 368.366.

**G. Alternatives / Options**

The Board of County Commissioners has the option to:

1. Approve the vacation of Alexander Road, as described in the Order.
2. Deny the vacation.
3. Continue the matter for further consideration.

**IV. RECOMMENDATION**

The Public Works Director's Report recommends the Board support Option Number 1, to approve the vacation of Alexander Road, as described in the Order. The public interest will be served and not prejudiced.

All statutory procedures necessary for a vacation without a public hearing for these proceedings have been complied with, including a report by the Director of Public Works, attached as Exhibit "B," who recommends approval of the vacation as described in the Order.

**V. TIMING / IMPLEMENTATION**

The petitioners respectfully ask the Board to consider this request in a timely manner.

**VI. FOLLOW-UP**

If the Board of County Commissioners approves the Order to Vacate Alexander Road, it shall 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 to Vacate is not approved, an Order to Deny will be presented to the Board at a later regularly scheduled meeting.

**VII. ATTACHMENTS**

Order with Exhibits:

Petition to Vacate – Exhibit "A"

Director's Report – Exhibit "B"

Map – Exhibit "C"

Contact Person: Mikeal (Jay) Blommé, Ext. 6997

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 23-02-07-08

IN THE MATTER OF THE VACATION OF A  
PORTION OF ALEXANDER ROAD (E.L. BERKSHIRE  
ROAD, COUNTY ROAD NO. 776) LOCATED IN  
SECTIONS 14, 15, 22, AND 23, TOWNSHIP 16  
SOUTH, RANGE 9 WEST OF THE WILLAMETTE  
MERIDIAN, IN LANE COUNTY, OREGON, WITHOUT  
A PUBLIC HEARING. (16-09-14, 15, 22, 23)

**WHEREAS** The Surveyor's Office of the Department of Public Works has received a valid petition signed by Mark Casey McLaughlin, signing as a landowner and as co-trustee of the McLaughlin Family Trust, Robin Sue McLaughlin, co-trustee of the McLaughlin Family Trust, and Robert Sanchez, Forest Supervisor for the Siuslaw National Forest, representing 100% ownership of the properties abutting the County Road herein proposed to be vacated, by the authority of ORS 368.351, a vacation without a public hearing, said County Road being more particularly described as follows:

All that portion of the E.L. Berkshire Road (County Road No. 776), commonly known as Alexander Road, beginning at the North line of the Southwest one-quarter of Section 23, Township 16 South, Range 9 West of the Willamette Meridian; thence Northerly and Northwesterly through Sections 23, 22, 14, and 15, ending at the North line of said Section 15, said ending point also being the end of County Road No. 776, all in Lane County, Oregon.

Reserving the rights for any public utility easement of record for the purpose of operating and maintain public utility facilities.

**WHEREAS**, the petition, marked as Exhibit "A," and made a part of this Order, complies with the provisions of ORS 368.351 in that the petitioners are landowners of 100% of the properties abutting the proposed vacation, request the vacation be approved as proposed; and

**WHEREAS**, ORS Chapter 368.351 provides for the vacation of public roads and rights of way without a public hearing; and

**WHEREAS**, the section of Alexander Road, County Road No. 776, herein proposed to be vacated lies entirely outside of any boundary of an incorporated city or town; and

**WHEREAS**, Blachly Lane Electric Co-Op, CenturyLink, and other agencies such as Lane County Land Management, Transportation Planning, Road Maintenance, Lane Council of Governments, Swisshome-Deadwood Rural Fire Protection District, Mapleton School District #32, Oregon Department of Fish and Wildlife, Western Lane Ambulance, and Lane ESD were sent referrals seeking comment on the proposed vacation. The above listed utility companies, agencies and providers either had no objection to the vacation or did not respond to our referral; and

**WHEREAS**, Blachly Lane Electric Co-Op requests access be preserved for the purpose of operating and maintaining their facilities; and

**WHEREAS**, the petitioners have agreed to retain a public utility easement for all public utilities that are located within the area to be vacated; and

**WHEREAS**, ORS 368.331 states, *"A county governing body shall not vacate public lands under ORS 368.326 to 368.366 if the vacation would deprive an owner of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner."* No landowner will lose legal access by approval of this action; and

**WHEREAS**, the public interest will be served by this vacation as Alexander Road is not needed for transportation purposes; and will remove the road right of way from Lane County's jurisdiction; and will return a marginal portion of land to the County tax rolls; 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 and attached as Exhibit "B," and made a part of this Order; and

**WHEREAS**, the petitioners have paid a vacation fee deposit of \$3,400 and will pay actual costs incurred, including recording fees, upon final approval of the vacation; 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 is in the best interest of the public.

**NOW, THEREFORE**, the Board of Commissioners of Lane County **ORDERS** as follows:

1. Alexander Road, County Road No. 776, as described above and depicted on Exhibit "C," is hereby VACATED.
2. Ownership of the vacated right of way shall revert in accordance with ORS 368.366.
3. A public utility easement shall be retained for the purpose of operating, replacing, repairing, maintaining, inspecting, or reconstructing any public utility facility located within the portion of the road to be vacated.
4. This Order be filed with the Lane County Clerk and entered into the records of the Lane County Board of Commissioners Journal of Administration, after which copies are to be forwarded to the County Surveyor and County Assessor for appropriate action.

**ADOPTED** this 7th day of February, 2023.

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Pat Farr, Chair  
Lane County Board of Commissioners

## Exhibit A

### BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON.

IN THE MATTER OF THE VACATION OF A PORTION OF E.L. BERKSHIRE )  
ROAD, COUNTY ROAD NO. 776, LOCATED IN SECTIONS 14, 15, 22, AND ) PETITION TO VACATE  
23, TOWNSHIP 16 SOUTH, RANGE 9 WEST OF THE WILLAMETTE )  
MERIDIAN, IN LANE COUNTY, OREGON. (16-09-14, 15, 22, 23) )

Pursuant to the procedures set forth in ORS Chapter 368, we the undersigned Mark Casey McLaughlin, owner and co-trustee of the McLaughlin Family Trust, Robin Sue McLaughlin, co-trustee of the McLaughlin Family Trust, and Robert Sanchez, Forest Supervisor for the Siuslaw National Forest, as owners of the adjacent real property, hereby petition for the vacation of a portion of County Road No. 776, which area to be vacated is described as follows:

All that portion of the E.L. Berkshire Road (County Road No. 776), commonly known as Alexander Road, beginning at the North line of the Southwest one-quarter of Section 23, Township 16 South, Range 9 West of the Willamette Meridian; thence Northerly and Northwesterly through Sections 23, 22, 14, and 15, ending at the North line of said Section 15, said ending point also being the end of County Road No. 776, all in Lane County, Oregon.

**WHEREAS**, the undersigning petitioners are the owners of 100% of all the real property adjacent to the above described area to be vacated; and

**WHEREAS**, the petitioners allege as follows:

1. The purpose of this vacation request is to eliminate County Road maintenance expense beyond the existing gate and return to County tax roll and reduce trespassing and poaching via County Road. Only two private parcels are served by the County Road, which are both owned by Mark Casey McLaughlin. At least 50% of the road is unable to be traveled on and has not been maintained for close to 30 years. There are multiple creek crossings that are unable to be crossed in current condition. After 10 years of ownership, we have had no traffic beyond the existing locked gate other than the occasional poacher that ends up trespassing on our property due to the fact that the road right of way location is uncertain in most places.
2. There are internet, Phone, and electric utilities located in the area to be vacated. Necessary easements for all existing public and private utilities will be retained or otherwise be provided for in conjunction with 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**, public interest will be served by removing financial burden of maintaining 3/4 miles of road behind a locked gate that only serves as a private driveway for the last 30 years, and will and land to County tax roll; and

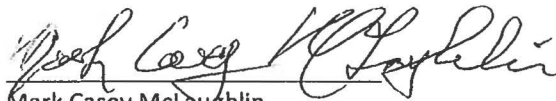
WHEREAS, petitioners, separately and collectively, acknowledge that the filing fee is a deposit and an estimate of the vacation fee, and that we accept responsibility for full payment of Lane County Surveyor's Office and Deeds & Records fees, regardless of whether this vacation is approved or denied; and

WHEREAS, petitioners, separately and collectively, have no objection to Lane County proceeding under the authority of ORS Chapter 368.326, for vacation with or without a public hearing; and

THEREFORE, the petitioners request the Board of Commissioners of Lane County:

1. To set a date to consider the vacation of the above described portion of road, with or without a public hearing pursuant to ORS Chapter 368.
2. Upon review of this matter, to order the vacation of the above described road, and direct that title to the vacated area revert and vest in accordance with ORS 368.366.

PETITIONERS:



Mark Casey McLaughlin  
Owner/co-trustee of McLaughlin Family Trust  
6016 Bridgeview Drive  
Ventura, CA 93003  
(16-09-10-00-00200 & 16-09-23-00-00100)

State of California )  
County of Ventura ) §

Subscribed and sworn to (or affirmed) before me on this \_\_\_\_ day of \_\_\_\_\_, 2022, by Mark Casey McLaughlin, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

**Certificate Attached for  
California Notary Wording**

Notary Public for California

My Commission Expires: \_\_\_\_\_

Robin Sue McLaughlin

Robin Sue McLaughlin  
Co-trustee, McLaughlin Family Trust  
6016 Bridgeview Drive  
Ventura, CA 93003  
(16-09-23-00-00100)

State of California ) §  
County of Ventura ) §

Subscribed and sworn to (or affirmed) before me on this \_\_\_\_ day of \_\_\_\_\_, 2022, by  
Robin Sue McLaughlin, proved to me on the basis of satisfactory evidence to be the person who  
appeared before me.

**Certificate Attached for**  
**California Notary Wording**  
Notary Public for California  
My Commission Expires: \_\_\_\_\_

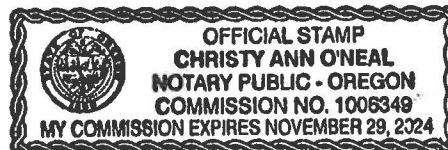
Robert Sanchez

Robert Sanchez, Forest Supervisor  
Siuslaw National Forest  
3200 SW Jefferson Way  
Corvallis, OR 97331  
(16-09-00-00-00100)

State of Oregon) §  
County of Lane ) §

Subscribed and sworn to (or affirmed) before me on this 1 day of Dec, 2022, by  
Robert Sanchez, proved to me on the basis of satisfactory evidence to be the person who appeared  
before me.

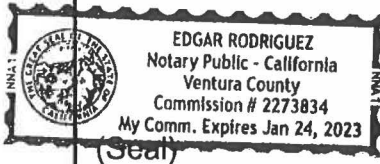
Christy O'Neal Lim Carter  
Notary Public for Oregon  
My Commission Expires: 11/29 2024



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Ventura

Subscribed and sworn to (or affirmed) before me on this 9th  
day of November, 2022 by Robin Sue McLoughlin,  
proved to me on the basis of satisfactory evidence to be the  
person(s) who appeared before me.



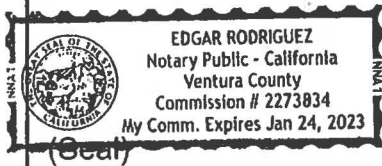
Signature

A handwritten signature in dark ink, appearing to read "Edgar Rodriguez", written over a horizontal line.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Ventura

Subscribed and sworn to (or affirmed) before me on this 9th  
day of November, 2022, by \_\_\_\_\_  
Mark Casey McLoughlin,  
proved to me on the basis of satisfactory evidence to be the  
person(s) who appeared before me.



Signature

A handwritten signature in black ink, appearing to read "Edgar Rodriguez", written over a horizontal line.

EXHIBIT "B"

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

DIRECTOR'S REPORT

IN THE MATTER OF THE VACATION OF A PORTION  
OF ALEXANDER ROAD (E.L. BERKSHIRE ROAD,  
COUNTY ROAD NO. 776), LOCATED IN SECTIONS  
14, 15, 22, AND 23, TOWNSHIP 16 SOUTH, RANGE 9  
WEST OF THE WILLAMETTE MERIDIAN, IN LANE  
COUNTY, OREGON, WITHOUT A PUBLIC HEARING.  
(16-09-14, 15, 22, 23)

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The petitioners wish to vacate Alexander Road beginning at the southerly property line of their property identified as map and taxlot number 16-09-23-00-00100 and ending at the north line of Section 15, Township 16 South, Range 9 West of the Willamette Meridian.

Alexander Road, County Road No. 776, is located in western Lane County near the community of Deadwood in Sections 14, 15, 22 and 23, Township 16 South, Range 9 West of the Willamette Meridian. The road was established as the E.L. Berkshire Road by petition on May 1, 1915 with a 60-foot right of way width.

According to TransMap, the road is classified as rural local with a graveled surface averaging less than 20 feet in width. There is currently a locked gate approximately 100 feet from its intersection with West Fork Road. The County currently maintains the road past the gate to milepost 0.54, which is the end of County maintenance. Beyond milepost 0.54, the road is unimproved and location of the right of way is undeterminable without the benefit of a survey. There are no bridges or railroad crossings identified in the subject area. The unimproved right of way of the County Road continues in a north and northwesterly direction through Siuslaw National Forest land ending at the south line of Section 15, Township 16 South, Range 9 West of the Willamette Meridian. The total length of the proposed vacated road is approximately 2.4 miles in length. Petitioners Mark and Casey McLaughlin own tracts of land at the southerly and northerly ends of the road as proposed to be vacated, with the area in between being owned by the Siuslaw National Forest. As mentioned previously, Siuslaw National Forest Supervisor Robert Sanchez is a party to this petition and signed the Petition to Vacate on behalf of the Forest Service.

The petitioners state the purpose of the vacation is to mitigate trespassing and poaching along the County Road. The current end of County maintenance terminates within property in private ownership. The road serves two private parcels, and the petitioners state the road has not been routinely maintained, and estimate it has not been maintained for close to 30 years. Conversations with Road Maintenance Division Staff reveal that the petitioner's statement is not quite accurate. There is limited maintenance activities along the road that mostly comprises of vegetation mitigation on a yearly basis, and ditching and grading activities typically performed on a 2-year cycle.

EXHIBIT "B"

Beyond the locked gate, there is virtually no traffic other than the landowners, and the occasional poacher that ends up trespassing on private property, due to the uncertain location of the public right of way beyond the end of County maintenance.

The public road easement herein proposed to be vacated lies entirely outside of any boundary of an incorporated city or town.

ORS 368.331 states, "*A county governing body shall not vacate public lands under ORS 368.326 to 368.366 if the vacation would deprive an owner of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner.*" No landowner will lose legal access by approval of this action.

Blachly Lane Electric Co-Op and CenturyLink were sent referrals seeking comment on this proposed vacation. Blachly Lane responded with a request to retain a public utility easement for the purpose of operating and maintaining their facilities.

Staff from various Lane County Divisions including Transportation Planning, Land Management, Road Maintenance, and Engineering & Construction Services were provided an opportunity to comment on this action. None of the above-mentioned Lane County Divisions has objected to this action.

Referrals were sent to area landowners and agencies seeking comment regarding this proposal, including Swisshome-Deadwood Rural Fire Protection District, Lane Council of Governments, Lane ESD, Mapleton School District, Oregon Department of Fish and Wildlife, and Western Lane Ambulance. None of the above-mentioned landowners, agencies and providers have objected to this action.

In summary, it has been determined that Alexander Road as described in the Order and depicted on Exhibit "C," is not needed by the Lane County Transportation System. It has also been concluded the vacation of this road is in the public's best interest, as vacating this road will return unused public right of way back to private ownership, adding a marginal portion of land to the County tax rolls; and have no adverse effects on transportation patterns or recreational activities in the area. It is further recommended the vacation be allowed without a public hearing and a public utility easement be retained for all public utilities that exist within the right of way to be vacated.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Dan Hurley, Director  
Department of Public Works

EXHIBIT "C"

