

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

FILE NO. 3967

BOOK 158 PAGE 1140

IN THE MATTER OF THE VACATION OF A )  
PORTION OF COUNTY ROAD NUMBER 288 )  
(GOWDYVILLE ROAD) BEING IN SECTION 30, )  
TOWNSHIP 20 SOUTH, RANGE 4 WEST OF )  
THE WILLAMETTE MERIDIAN, AND TO )  
ADOPT FINDINGS OF FACT )

FINAL ORDER NO. 96-12-11-12

9683447

DEC. 16 1996 \*PFUND 10.00

WHEREAS, this matter now coming before the Board of County Commissioners of Lane County, Oregon, upon the Resolution, Notice of Hearing and Order No. 96-10-30-16 for the vacation of a portion of County Road Number 288 (Gowdyville Road); said portion of road being more particularly described as all that portion of County Road Number 288 which lies outside of the realigned right-of-way for County Road Number 288 as accepted by the Lane County Board of Commissioners and recorded on Reel 2203-R, Recorder's Reception Number 9654018 and which also lies between Engineer's Centerline Station L 30+00.00 BOP and L 40+22.68 PT as surveyed by Lane County Department of Public Works in 1995; and

WHEREAS, the Department of Public Works has initiated the vacation process for the above described portion of Gowdyville Road and the Director of Public Works has provided a written report in support of the proposed vacation, as required by ORS 368.346, attached hereto, marked Exhibit "A" and made a part hereof by this Order; and

WHEREAS, all necessary procedures for a road vacation have been completed pursuant to ORS Chapter 368, including the Giving of Notice as evidenced by Exhibit "C", attached hereto and made a part hereof by this Order; and

WHEREAS, the Board considered the proposed vacation on December 11, 1996 in accordance with provisions of ORS Chapter 368; and

WHEREAS, the Board is of the opinion that approving the vacation is in the best interest of the public, and that no property owner will be denied access by these proceedings; it is hereby

ORDERED, that all of the County Road as described above is hereby vacated and that in support of this action the Board hereby adopts the Findings of Fact, as set forth in Exhibit "B", attached hereto and made a part hereof by this Order; and it is further

ORDERED, that the portion of the County Road herein vacated by these proceedings shall vest in accordance with Oregon Law; and it is further

ORDERED, that this Order be entered into the Lane County Board of Commissioners Journal of Administration, the Road Index Books administered by the Lane County Surveyor, and be further recorded in the Lane County, Oregon Deed Records.

DATED this 11th day of December, 1996

*Bill Green, Sr.*  
Chair

LANE COUNTY BOARD OF COMMISSIONERS

FILED

DEC 16 1996

COUNTY CLERK  
BY *Derm O'Bois*

Att "A": Vicinity Map

VACATION - FINAL ORDER  
County Road Number 288 (Gowdyville Road)

After recording return to  
Lane County Surveyors

Date 12-3-96 Lane county

*Stephen J. Vanhook*  
OFFICE OF LEGAL COUNSEL

EXHIBIT "A"

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

FILE NO. 3967

IN THE MATTER OF THE VACATION OF A )  
 PORTION OF COUNTY ROAD NUMBER 288 )  
 (GOWDYVILLE ROAD) BEING IN SECTION 30, ) DIRECTOR'S REPORT  
 TOWNSHIP 20 SOUTH, RANGE 4 WEST OF )  
 THE WILLAMETTE MERIDIAN, AND TO )  
 ADOPT FINDINGS OF FACT )

County Road Number 288 (Gowdyville Road) was established in 1873 with a statutory right-of-way width of 60 feet. The portion of roadway proposed for vacation is the established right-of-way which lies outside a realigned portion of County Road Number 288. The Department of Public Works surveyed the realigned roadway in 1995. The excess right-of-way proposed for vacation lies between Engineer's Centerline Station L 30+00.00 BOP and L 40+22.68 PT as surveyed in 1995. The request for an improved alignment was initiated by abutting landowners who also requested the old right-of-way be vacated. Subsequently, the additional required right-of-way was dedicated by the abutting landowners, accepted by the Lane County Board of Commissioners, and recorded on Reel 2203-R, Recorder's Reception Number 9654018 in the Lane County, Oregon Deed Records. The new alignment has provided for a safer roadway and additional area between the right-of-way and the landowner's home. The portion of right-of-way proposed for vacation by the County is not now, nor in the future will it be, needed in the County's road system.

The Department of Public Works has initiated, and is resolved to, the vacation of this portion of Gowdyville Road. All legal criteria for proceeding with the vacation have been met and no landowner will be denied legal access as a result of the vacation.

Various public and private agencies have been notified of the proposed vacation and either had no objection or did not respond to the referral.

It is recommended that a portion of County Road Number 288 (Gowdyville Road), as described in the Final Order, be vacated as proposed.

DATED this 26th day of NOVEMBER, 1996.

*J. Craig Star*  
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 FOR John E. Goodson, Director  
 Department of Public Works

EXHIBIT "B"

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

FILE NO. 3967

IN THE MATTER OF THE VACATION OF A )  
 PORTION OF COUNTY ROAD NUMBER 288 )  
 (GOWDYVILLE ROAD) BEING IN SECTION 30, ) FINDINGS OF FACT  
 TOWNSHIP 20 SOUTH, RANGE 4 WEST OF )  
 THE WILLAMETTE MERIDIAN, AND TO )  
 ADOPT FINDINGS OF FACT )

County Road Number 288 (Gowdyville Road) was established in 1873 with a statutory right-of-way width of 60 feet. The portion of Gowdyville Road proposed for vacation is all that portion of the established right-of-way which lies outside the new right-of-way for the improved alignment as dedicated on Reel 2203-R, Recorder's Reception Number 2203 and which lies between Engineer's Centerline Station L 30+00.00 BOP and Engineer's Centerline Station L 40+22.68 PT as surveyed by Lane County in 1995. The portion of roadway being proposed for vacation is not now, nor in the future will it be, needed in the County road system. The request for an improved alignment was initiated by abutting landowners who have dedicated land for the new alignment and, in return, the old right-of-way was proposed to be vacated.

**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 a public road 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 streets and roads.

**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, Lane County Department of Public Works has initiated vacation proceedings by resolution for a portion of County Road Number 288 (Gowdyville Road), said portion of roadway runs through tax lot 500 of assessor's map 20-04-30.
2. That, the previously identified property is outside any city limits and therefore under the jurisdiction of Lane County.
3. That, the Lorane Rural Fire Protection District, Emerald Peoples Utility District, Northwest Natural Gas Company and US West Communications along with various other agencies and the Lane County offices have been contacted and either had no objection to the vacation or have not responded to the referral.
4. That, the right-of-way proposed for vacation lies outside of a realignment of a portion of Gowdyville Road, said realignment being surveyed by Lane County Department of Public Works in 1995.
5. That, additional right-of-way required for the realignment has been dedicated by the abutting landowners who also requested the excess right-of-way be vacated. The dedication of right-of-way was accepted by the Lane County Board of Commissioners.
6. That, the Lane County Department of Public Works does not perceive of any existing or future use for the portion of excess right-of-way created by the realignment and it is no longer needed as part of the county road system.
7. That, pursuant to ORS 368.341 and 368.346, a county governing body may make a determination about a vacation of property with a public hearing if:
  - (1) The county governing body adopts a resolution meeting the requirements of ORS 368.341.
  - (1) 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.
  - (2) The governing body shall establish a time and place for a hearing to consider the proposed vacation and shall give notice of said hearing under ORS 368.401 and 368.426.

Items (1), (2) and (3) are in compliance.

**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.

EXHIBIT 'C'

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

FILE NO. 3967

IN THE MATTER OF THE VACATION OF A	)	
PORTION OF COUNTY ROAD NUMBER 288	)	AFFIDAVIT OF POSTING
(GOWDYVILLE ROAD) BEING IN SECTION 30,	)	PUBLICATION &
TOWNSHIP 20 SOUTH, RANGE 4 WEST OF	)	MAILING
THE WILLAMETTE MERIDIAN, AND TO	)	
ADOPT FINDINGS OF FACT	)	

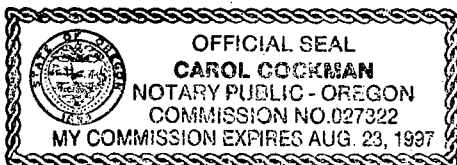
I, K. Robert Ezell, Lane County Surveyor, certify as follows:  
that on the 15th day of November, 1996, I caused to be posted three (3) copies of the Notice of Hearing in the above entitled matter in three places, positioned to be visible to the traveling public, as follows:

1. Posted on 36" Fir tree located 6/10th of a mile (more or less), East of intersection of Territorial Road and Gowdyville Road.
2. Posted on the Power Pole Numbered 305101 located 7/10ths of a mile (more or less) East of intersection of Territorial Road and Gowdyville Road.
3. Posted on the fence post located 8/10ths of a mile (more or less) East of intersection of Territorial Road and Gowdyville Road, 15 feet (more or less) East of the bridge across a small creek.

The undersigned further certifies that on November 21, 1996 and December 2, 1996 notice is scheduled to run in the Register Guard, and that on November 21, 1996 notice was sent to the adjoining landowners.

*K. Robert Ezell*  
 \_\_\_\_\_  
 K. Robert Ezell  
 Lane County Surveyor

Subscribed and sworn to before me this 26<sup>th</sup> day of November, 1996



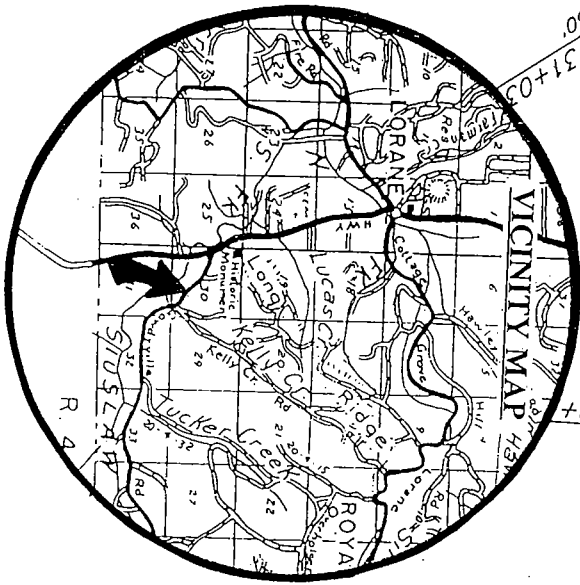
*Carol Cockman*  
 \_\_\_\_\_  
 NOTARY PUBLIC FOR OREGON  
 My Commission Expires: August 23, 1997

ORIGINAL

9683447

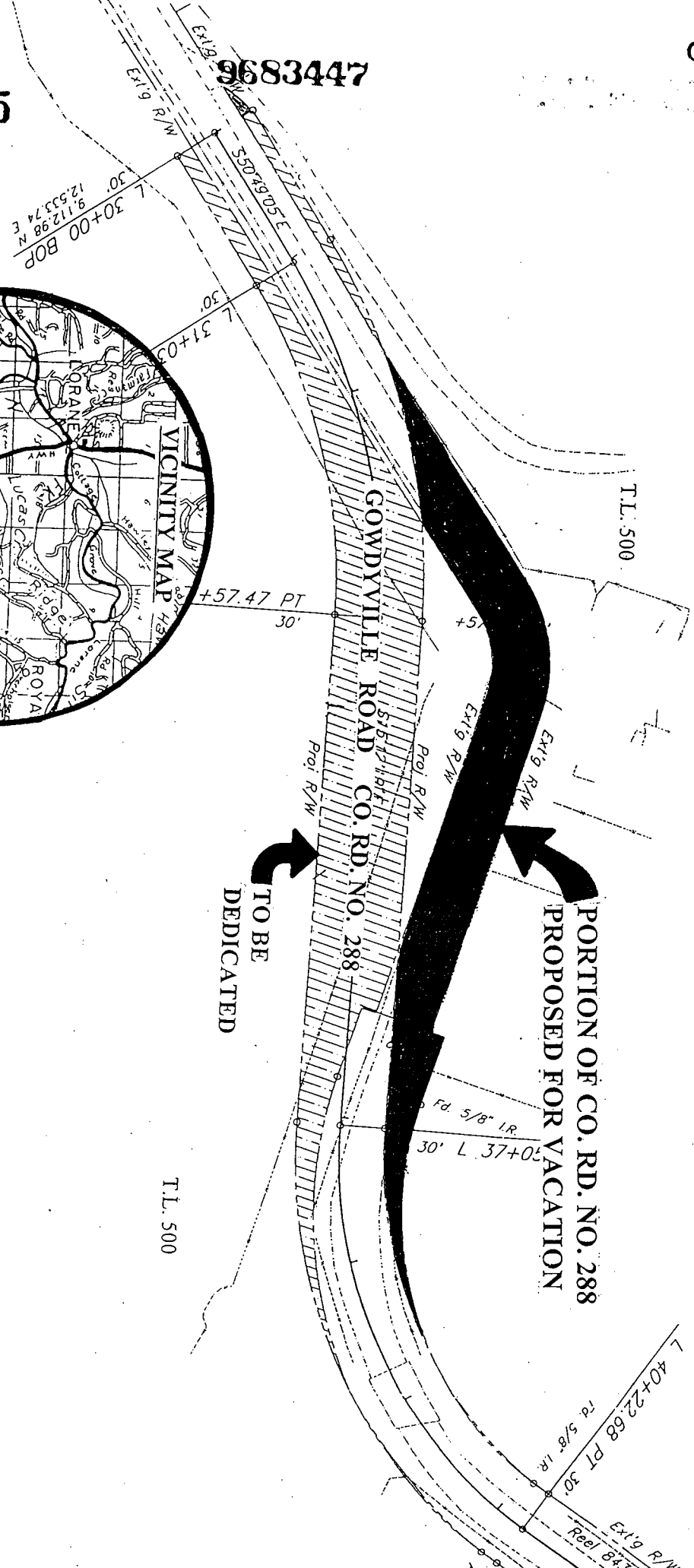
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ATTACHMENT "A"  
SECTION 30, T. 20 S., R 4 W., W.M.  
LANE COUNTY  
NO SCALE



TO BE DEDICATED

PORTION OF CO. RD. NO. 288 PROPOSED FOR VACATION



\*\*\*\*\*  
PROP DESCR: 20 04 30 00-00500  
NAME ADDR: BREMER JOE T TE  
ETAL  
28305 GORDVILLE RD  
LORANE OR 97451  
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