

REVIEWED  
LEGAL COUNSEL



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Vacating a Portion of Schibel Road \* ORDER NO. 2023-017  
in Deschutes County, Oregon \*

WHEREAS, proceedings for vacating the portion of the right of way for Schibel Road described in Exhibit "A" and depicted in Exhibit "B", attached hereto and by this reference incorporated herein, were initiated by the Board of County Commissioners pursuant to ORS 368.341 upon the owners of property abutting said portion of Schibel Road filing a petition, attached hereto as Exhibit "C" and by this reference incorporated herein; and

WHEREAS, said petition contains the acknowledged signatures of owners of more than sixty percent of property abutting said portion of the right of way for Schibel Road and indicates said owners' approval of vacation; and

WHEREAS, upon request by the Board of County Commissioners, the County Engineer, on behalf of the County Road Official, has prepared and filed with the Board a written report, attached hereto as Exhibit "D" and by this reference incorporated herein, concerning the proposed vacation pursuant to ORS 368.346(1); and

WHEREAS, said report contains the County Engineer's assessment that the proposed vacation is in the public interest; and

WHEREAS, a hearing before the Board of County Commissioners was held on Wednesday, August 9, 2023, and continued to Wednesday, August 16, 2023, in the Barnes and Sawyer Rooms of the Deschutes County Services Center, 1300 NW Wall Street, Bend, Oregon 97701, for consideration of the matter; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, HEREBY ORDERS as follows:

Section 1. That vacation of the property described in the attached Exhibit "A" and depicted in the attached Exhibit "B" is in the public interest.

Section 2. That the property described in the attached Exhibit "A" and depicted in the attached Exhibit "B" is hereby vacated.

Section 3. That the property vacated in Section 2 herein shall vest with the rightful owner or owners holding title according to law in accordance with ORS 368.366(1)(c).

Section 4. That the Deschutes County Surveyor is directed to mark the plat as provided in ORS 271.230.

Section 5. That this Order shall be recorded with the Deschutes County Clerk, and that copies shall be filed with the Deschutes County Surveyor and County Assessor.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
ANTHONY DEBONE, Chair

ATTEST:

\_\_\_\_\_  
PATTI ADAIR, Vice Chair

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
PHIL CHANG, Commissioner

**EXHIBIT A**  
**SCHIBEL ROAD – VACATION**

A STRIP OF LAND BEING 60.00 FEET WIDE, 30.00 FEET ON EACH SIDE OF CENTERLINE (WHEN MEASURED AT RIGHT ANGLES) LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER (SE 1/4, SW 1/4, NW 1/4) AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER (NW 1/4, SW 1/4), ALL IN SECTION 5, TOWNSHIP 17 SOUTH, RANGE 12 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, THE CENTERLINE OF WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FROM WHICH THE CENTER WEST ONE-SIXTEENTH CORNER OF SAID SECTION 5 BEARS NORTH 34°42'51" EAST, 51.73 FEET, THENCE NORTH 00°43'51" WEST, 161.76 FEET; THENCE SOUTH 88°32'18" WEST, 76.94 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A 300.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 16°54'37", AN ARC LENGTH OF 88.54 FEET (THE CHORD OF WHICH BEARS SOUTH 80°05'00" WEST, 88.22 FEET); THENCE SOUTH 71°37'41" WEST, 39.52 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A 110.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 65°21'54", AN ARC LENGTH OF 125.49 FEET (THE CHORD OF WHICH BEARS NORTH 75°41'22" WEST, 118.80 FEET); THENCE NORTH 43°00'25" WEST, 81.60 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A 140.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 80°07'12", AN ARC LENGTH OF 195.77 FEET (THE CHORD OF WHICH BEARS NORTH 02°56'49" WEST, 180.21 FEET); THENCE NORTH 37°06'47" EAST, 125.37 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A 300.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 27°17'49", AN ARC LENGTH OF 142.93 FEET (THE CHORD OF WHICH BEARS NORTH 50°45'42" EAST, 141.58 FEET); THENCE NORTH 64°24'36" EAST, 40.87 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A 150.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 48°27'11", AN ARC LENGTH OF 126.85 FEET (THE CHORD OF WHICH BEARS NORTH 40°11'00" EAST, 123.10 FEET) TO A POINT ON THE ONE-SIXTYFORTH LINE AND THE TERMINUS OF THIS CENTERLINE DESCRIPTION, THE SIDELINES ARE TO BE LENGTHENED OR SHORTENED TO TERMINATE AT SAID ONE-SIXTYFORTH LINE AND AT THE SOUTH LINE OF TAX LOT 171205B001800.

TOGETHER WITH THE FOLLOWING DESCRIBED STRIP OF LAND BEING 60.00 FEET WIDE, 30.00 FEET ON EACH SIDE OF CENTERLINE (WHEN MEASURED AT RIGHT ANGLES) WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH-SOUTH CENTERLINE OF THE NORTHWEST QUARTER OF SAID SECTION 5 FROM WHICH THE CENTER WEST ONE-SIXTEENTH CORNER BEARS SOUTH 00°43'51" EAST, 536.04 FEET, THENCE NORTH 83°16'31" WEST, 147.04 FEET TO THE SIDELINE OF THE ABOVE DESCRIBED STRIP OF LAND AND THE TERMINUS OF THIS CENTERLINE DESCRIPTION, THE SIDELINES ARE TO BE LENGTHENED OR SHORTENED TO TERMINATE AT SAID SIDELINE OF THE ABOVE DESCRIBED STRIP OF LAND AND AT SAID NORTH-SOUTH CENTERLINE OF THE NORTHWEST QUARTER.

THIS LEGAL DESCRIPTION AND EXHIBIT MAP ARE BASED ON COUNTY SURVEY NO. 11789.



# 'EXHIBIT B' SCHIBEL ROAD VACATION

LOCATED IN THE SW 1/4, NW 1/4 AND THE NW 1/4,  
SW 1/4 OF SECTION 5, T. 17 S., R. 12 E., W. M.

S-N 1/64 LINE N89°58'42"W 795.52'

102.86'

HOLLYHOCK 1994 LIVING TRUST  
64245 SCHIBEL ROAD  
TAX LOT 171205B001901

PORTION OF SCHIBEL ROAD  
TO BE VACATED

JEFF AND KATHY GATES  
64227 SCHIBEL ROAD  
TAX LOT 171205B001800

LEGAL DESCRIPTION AND EXHIBIT MAP  
ARE BASED ON COUNTY SURVEY NO. 11789

N-S CENTERLINE OF NW 1/4  
S00°43'51"E 536.04'

N00°43'51"W  
161.76'

CW 1/16 CORNER  
SECTION 5  
T17S, R12E, W.M.



SCALE 1" = 100'

E-W CENTER 1/4 LINE

P.O.B. OF 60' WIDE  
EASEMENT BEARS  
S34°42'51"W, 51.73'  
FROM CW 1/16 CORNER

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Brian W. Reeves*

OREGON  
JULY 19, 1994  
BRIAN W. REEVES  
2677

RENEWAL DATE: 12-31-2024

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	BEARING	CHORD
C1	88.54'	300.00'	16°54'37"	S80°05'00"W	88.22'
C2	125.49'	110.00'	65°21'54"	N75°41'22"W	118.80'
C3	195.77'	140.00'	80°07'12"	N02°56'49"W	180.21'
C4	142.93'	300.00'	27°17'49"	N50°45'42"E	141.58'
C5	126.85'	150.00'	48°27'11"	N40°11'00"E	123.10'

PETITION FOR VACATION OF A PUBLIC ROAD

TO: THE DESCHUTES COUNTY BOARD OF COMMISSIONERS

We, the undersigned (holding recorded interest or abutting the proposed property or owning improvements constructed on the proposed property for vacation), respectfully request the following described road be vacated.

Description of road to be vacated: See Attached Survey

Located in Schibel Rd Bend, Deschutes County.

Reason for road vacation request: \_\_\_\_\_

DATED this 29 day of July, 2022.

PRINT NAME	SIGNATURE	ADDRESS	CITY	STATE	ZIP
<u>Hollyhock Living Trust</u>	<u>Marlene Wheeler</u>	<u>64245 Schibel</u>	<u>Bend</u>	<u>OR</u>	<u>97703</u>
<u>TERRY RENNIE TRUST</u>	<u>[Signature]</u>	<u>64245 Schibel</u>	<u>Bend</u>	<u>OR</u>	<u>97703</u>
<u>Hollyhock Survivor's TRUST</u>	<u>Marlene Wheeler</u>	<u>64225 Schibel</u>	<u>Bend</u>	<u>OR</u>	<u>97703</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

STATE OF OREGON )  
County of Deschutes ) ss.

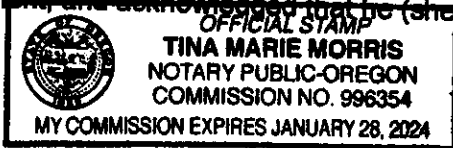
On this 29 day of July, in the year 2022, before me, a Notary Public, personally appeared Marlene Wheeler Rennie personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged that he (she, they) executed it.

WITNESS my hand and official seal  
Tina Marie Morris  
Notary Public for Oregon.  
My Commission expires: 01/28/2024



STATE OF OREGON )  
County of Deschutes ) ss.

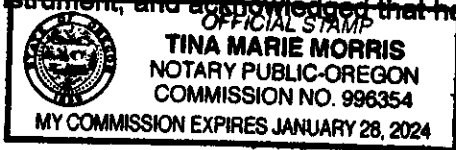
On this 29th day of JULY, in the year 2022, before me, a Notary Public, personally appeared TERRY A. Rennie personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged that he (she, they) executed it.



WITNESS my hand and official seal  
Tina Marie Morris  
Notary Public for Oregon.  
My Commission expires: 01/28/2024

STATE OF OREGON )  
County of Deschutes ) ss.

On this 29th day of JULY, in the year 2022, before me, a Notary Public, personally appeared Marlene Wheeler Rennie personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged that he (she, they) executed it.



WITNESS my hand and official seal  
Tina Marie Morris  
Notary Public for Oregon.  
My Commission expires: 01/28/2024

STATE OF OREGON )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me, a Notary Public, personally appeared \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged that he (she, they) executed it.

WITNESS my hand and official seal  
\_\_\_\_\_  
Notary Public for Oregon.  
My Commission expires: \_\_\_\_\_

I CERTIFY THAT THIS IS THE TRUE AND ORIGINAL PETITION CIRCULATED BY ME.

SIGNATURE \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

PETITION FOR VACATION OF A PUBLIC ROAD

TO: THE DESCHUTES COUNTY BOARD OF COMMISSIONERS

We, the undersigned (holding recorded interest or abutting the proposed property or owning improvements constructed on the proposed property for vacation), respectfully request the following described road be vacated.

Description of road to be vacated: See attached

Located in \_\_\_\_\_, Deschutes County.

Reason for road vacation request: See attached

DATED this 29 day of July, 2022.

Table with 5 columns: PRINT NAME, SIGNATURE, ADDRESS, CITY, STATE ZIP. Rows include Kathryn Gates, Trustee and Jeffrey Gates, Trustee.

STATE OF OREGON )
County of Deschutes ) ss.

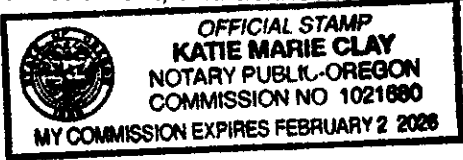
On this 29 day of July, in the year 2022 before me, a Notary Public, personally appeared Kathryn Gates, Trustee of the Jeffrey & Kathryn Gates Rev LIV Trust, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged that he (she, they) executed it.

WITNESS my hand and official seal
Notary Public for Oregon.
My Commission expires: 2/2/2026



STATE OF OREGON )  
County of Deschutes ) ss.

On this 29 day of July, in the year 2020, before me, a Notary Public, personally appeared Jeffrey Gates, Trustee of the Jeffrey & Kathryn Gates Rev LIV Trust, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged that he (she, they) executed it.



WITNESS my hand and official seal  
\_\_\_\_\_  
Notary Public for Oregon.  
My Commission expires: 2/2/2026

STATE OF OREGON )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me, a Notary Public, personally appeared \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged that he (she, they) executed it.

WITNESS my hand and official seal  
\_\_\_\_\_  
Notary Public for Oregon.  
My Commission expires: \_\_\_\_\_

STATE OF OREGON )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me, a Notary Public, personally appeared \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged that he (she, they) executed it.

WITNESS my hand and official seal  
\_\_\_\_\_  
Notary Public for Oregon.  
My Commission expires: \_\_\_\_\_

I CERTIFY THAT THIS IS THE TRUE AND ORIGINAL PETITION CIRCULATED BY ME.

Kathryn J. Gates  
SIGNATURE  
64227 Schibel Rd  
ADDRESS  
TELEPHONE: 541-815-9608



## Reason for Vacating the southern portion of Schibel Rd

### 1-Invalid Dedication due to Restrictions and Reservations-

Septic was installed & permitted by Deschutes County in 1980, repaired and permitted by Deschutes County in 1991.

The Deed of Dedication was accepted in 1994 by Deschutes County. The 60foot width encroaches upon the septic system, that was approved by Deschutes County.

2-Reduces property values of the 3 tax lots requesting this Vacation, which is 75% of the owners.

3-Decades old trees and landscaping would be lost.

4-Since 1994, the county has never used, improved, nor plowed this road to our knowledge. Not once that we know of has the county plowed the snow during the major snowstorms of 2017 & 2019.

5-The southern portion of the road that is requested to be vacated has not been used by the general public and has only been used as access and a driveway for tax lots 1800 and 1901.

6-Traffic will increase, and no traffic study has been done that we know of.

7-Safety of the young children living on Schibel Road is a concern of the parents and neighbors

8-It is not in the General Public's best interest.

9-Induced to sign the dedication under false pretenses. We were told we could remove the southern portion of the dedication with a "single item deletion"

10-Tax lot 100 to the south will not suffer loss of access as the site address of 64145 Old Bend Redmond Hwy is permitted, approved and installed.

**VACATION LOSS OF ACCESS CONSENT FORM**

We, the undersigned, are the owners of Tax Lot 171205B001901 in Deschutes County, Oregon. The proposed road vacation of a portion of Schibel Road will deprive us of access to a public road necessary for the exercise of our recorded property right.

According to Oregon Revised Statutes 368.331:

*368.331 Limitation on use of vacation proceedings to eliminate access. 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.*

We hereby give the Board of County Commissioners of Deschutes County, Oregon consent to proceed with the proposed road vacation of a portion of Schibel Road.

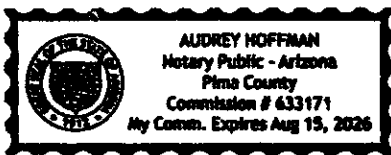
DATED this 27 day of FEBRUARY, 2023.

Marlene Wheeler  
Marlene S Wheeler, Owner as Trustee  
Hollyhock 1994 Living Trust,

Terry A Rennie, Owner

STATE OF ~~OREGON~~ <sup>AH</sup> ARIZONA )  
County of ~~Deschutes~~ <sup>AH</sup> PIMA ) SS.

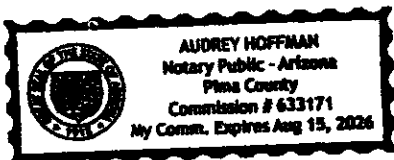
The foregoing instrument was acknowledged before me by Marlene S. Wheeler this 27 day of FEBRUARY, 2023.



Terry A Rennie  
NOTARY PUBLIC FOR ~~OREGON~~ <sup>AH</sup> ARIZONA  
MY COMMISSION EXPIRES: 08/15/26

STATE OF ~~OREGON~~ <sup>AH</sup> ARIZONA )  
County of ~~Deschutes~~ <sup>AH</sup> PIMA ) SS.

The foregoing instrument was acknowledged before me by Terry A. Rennie this 27 day of FEBRUARY, 2023.



Terry A Rennie  
NOTARY PUBLIC FOR ~~OREGON~~ <sup>AH</sup> ARIZONA  
MY COMMISSION EXPIRES: 08/15/26



MEMORANDUM

TO: Board of County Commissioners

FROM: Cody Smith, County Engineer/Assistant Road Department Director

DATE: July 14, 2023

SUBJECT: **Road Official's Report**  
**Vacation of a Portion of Schibel Road in Section 05, Township 17S, Range 12E, W.M.**

**Background:**

Deschutes County Road Department has received a petition to vacate a portion of Schibel Road in Section 05 of Township 17S, Range 12E, W.M.. The Petitioners, who are owners of abutting or underlying property to the proposed vacation area, are:

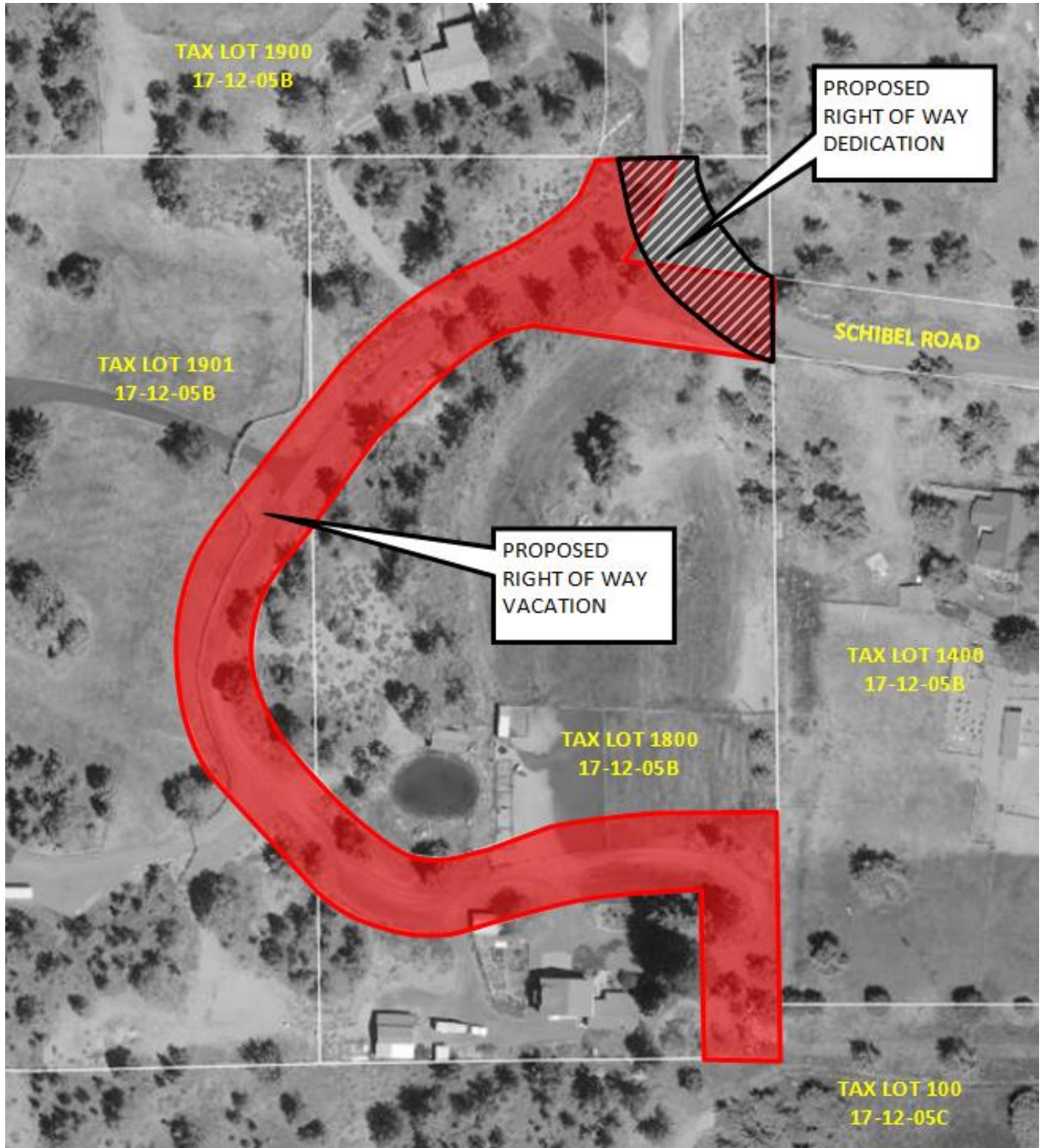
- Jeffrey and Kathryn Gates, owners of Tax Lot 1800 on Assessor's Map 17-12-05B (Chief Petitioner);
- Marlene Wheeler Rennie, owner of Tax Lot 1901 and joint owner of Tax Lot 1400 on Assessor's Map 17-12-05B; and
- Terry A. Rennie, joint owner of Tax Lot 1400 on Assessor's Map 17-12-05B.

The following individuals are owners of abutting or underlying property to the proposed vacation area who are not Petitioners to the proposed vacation:

- Carl Elwyn Owens III, owner of Tax Lot 1900 on Assessor's Map 17-12-05B; and
- John Kevin O'Leary, owner of Tax Lot 100 on Assessor's Map 17-12-05C.

Schibel Road is a local access road that is not maintained by Deschutes County. From Old Bend Redmond Highway, Schibel Road proceeds west; approximately 1,240 ft. west of Old Bend Redmond Highway (within the boundaries of Tax Lot 1800), Schibel Road branches into two alignments, one alignment bearing north and one alignment bearing southwest. The northerly alignment across Tax Lot 1800 presently does not coincide with the established right of way. The subject right of way proposed for vacation includes the entirety of the right of way lying within the boundaries of Tax Lots 1800 and 1901, which includes the intersection of the two aforementioned alignments and the southwest alignment. The owners of Tax Lot 1800 have agreed to dedicate a new public right of way across their property to coincide with the existing as-travelled alignment of Schibel Road for the north alignment. The subject right of way proposed for vacation is 60 feet wide and was

created by dedication deed recorded at the Deschutes County Clerk's Office as Deed No. 1994-46818. Most of the length of Schibel Road within the proposed vacation is paved at varying widths; Road Department staff understand that the road improvements were funded and constructed by current or previous owners of the underlying properties and that the improvements were not funded by the County. There are presently public utilities within the proposed vacation area consisting of facilities owned and operated by Central Electric Cooperative.



**Figure – Aerial Photo of Proposed Vacation Area**

The Petitioners provided the following reasons (in bold italics) for the proposed vacation; Road Department staff responses to the reasons provided by the Petitioners are also given below:

1. ***Invalid Dedication due to Restrictions and Reservations –Septic was installed & permitted by Deschutes County in 1980, repaired and permitted by Deschutes County in 1991. The Deed of Dedication was accepted in 1994 by Deschutes County. The 60 foot width encroaches upon the septic system that was approved by Deschutes County.*** Road Department staff assert that the dedication of the subject portion of Schibel Road was valid, as Deed No. 1994-46818 includes valid offer of the dedication by the owners of the underlying property at the time of dedication and acceptance by the County governing body at the time of dedication. Based on a review of Community Development Department property records for Tax Lot 1800 on Assessor’s Map 17-12-05B, it does appear that a portion of the disposal field and reserve area for the subject property’s onsite wastewater system may exist within the proposed vacation area. Additionally, an outbuilding and a portion of a livestock corral also appear to exist within the proposed vacation area. Road Department staff note that, while this situation encumbers both the public right of way and the underlying property, it does not invalidate the public road dedication.
2. ***Reduces property values of the 3 tax lots requesting this Vacation, which is 75% of the owners.*** Road Department staff will not address this statement as it is not verifiable or indicative of a necessity to vacate the public’s interest in a property.
3. ***Decades old trees and landscaping would be lost.*** Road Department staff will not address this statement as it is not verifiable or indicative of a necessity to vacate the public’s interest in a property.
4. ***Since 1994, the county has never used, improved, nor plowed this road to our knowledge. Not once that we know of has the county plowed the snow during the major snowstorms of 2017 & 2019.*** Road Department records indicate that no County-funded maintenance or improvement of the subject portion of Schibel Road has ever occurred; however, Road Department staff note that County-funded maintenance of a local access road is forbidden under state law and that absence of County-funded maintenance is not indicative of a necessity to vacate the public’s interest in a property.
5. ***The southern portion of the road that is requested to be vacated has not been used by the general public and has only been used as access and a driveway for tax lots 1800 and 1901.*** John Kevin O’Leary, owner of Tax Lot 100 on Assessor’s Map 17-12-05C, has indicated to Road Department staff that he has interest in using it for future access. Nonetheless, Road Department staff believe that, generally, the subject right of way has only been used to access Tax Lots 1800 and 1901 as indicated by the Petitioners. The primary access to Tax Lot 100 on Assessor’s Map 17-12-05C is from Old Bend Redmond Highway.
6. ***Traffic will increase, and no traffic study has been done that we know of.*** Road Department staff will not address this statement as it is not verifiable or indicative of a necessity to vacate the public’s interest in a property.

7. ***Safety of the young children living on Schibel Road is a concern of the parents and neighbors.*** Road Department staff will not address this statement as it is not verifiable or indicative of a necessity to vacate the public's interest in a property.
8. ***It is not in the General Public's best interest.*** The Board of County Commissioners will make this determination.
9. ***Induced to sign dedication under false pretenses. We were told we could remove the southern portion of the dedication with a "single item deletion."*** Current Road Department staff have no knowledge of the requirements or circumstances under which the subject right of way was dedicated in 1994. Road Department staff note that Jeffrey and Kathryn Gates, Chief Petitioners and owners of Tax Lot 1800 on Assessor's Map 17-12-05B, were partial grantors for the 1994 dedication deed.
10. ***Tax lot 100 to the south will not suffer loss of access as the site address of 64145 Old Bend Redmond Hwy is permitted, approved and installed.*** As indicated above, the primary access to Tax Lot 100 on Assessor's Map 17-12-05C is from Old Bend Redmond Highway.

A review of Assessor's Tax Map 17-12-05B indicates that the proposed vacation would effectively landlock Tax Lot 1901, potentially depriving the owners of that property of access necessary for the exercise of their property right. In regards to this matter, Road Department staff note that the submitted petition included a loss of access consent form signed by the property owners.

The Petitioners submitted completed service provider consent forms from those providers serving within or adjacent to the proposed vacation area; those service providers and their responses are listed below:

- Avion Water Company, Inc.
  - Representative: Mike Heffernan, Engineering Department
  - Service provider does not have existing facilities within the area proposed for vacation
  - **Service provider consents to the proposed vacation**
- Central Electric Cooperative
  - Representative: Parneli Perkins, Land and ROW Specialist
  - Service provider does have existing facilities within the area proposed for vacation
  - **Service provider consents to the proposed vacation but requests that an easement for utilities be granted within the proposed vacation area.** Service provider emailed Road Department staff on June 12, 2023 indicating that easement documents had been secured and that their organization was supportive of the proposed vacation.

#### **Findings:**

Based upon the submitted petition materials, responses to service provider notices, and the Road Department's research of the subject right of way, the Road Department makes the following findings:

- The proposed vacation area was dedicated to the public by dedication deed recorded at the Deschutes County Clerk's Office as Deed No. 1994-46818 (ORS 368.326).
- Owners of a recorded property right that would potentially be deprived of access necessary for the exercise of that property right with the proposed vacation have consented to the proposed vacation (ORS 368.331).

- The Petitioners, who represent the owners of more than sixty (60) percent of property abutting the subject right of way, have submitted complete petitions and submitted the required fee (ORS 368.341(1)(c); ORS 368.341(3); ORS 368.341(4); ORS368.351).
- As the petition for vacation does not include acknowledged signatures of owners of 100 percent of property abutting the proposed vacation area, the vacation proceedings are subject to a public hearing (ORS 368.346).
- The subject right of way does not appear to be necessary for current or future public use.
- The subject right of way appears to coincide with onsite wastewater system components, an outbuilding, and other private property improvements for Tax Lot 1800 on Assessor’s Map 17-12-05B.

**Recommendation:**

**Based on the above findings, the Road Department has determined that the proposed vacation is in the public interest.** The Road Department recommends that the Board of County Commissioners approve the proposed vacation with adoption of Order No. 2023-017 subject to the following conditions:

1. Prior to vacation of the subject right of way, the owners of Tax Lot 1800 on Assessor’s Map 17-12-05B shall execute a dedication deed to coincide with the existing as-travelled north alignment of Schibel Road.
2. The vacated property shall vest with the rightful owner or owners holding title according to law in accordance with ORS 368.366(1)(c).

This report is made pursuant to ORS 368.326 through 368.366, concerning the vacation of county property.