REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Vacating a Portion of Fryrear Road in Deschutes County, Oregon

ORDER NO. 2022-042

WHEREAS, proceedings for vacating the portion of the right of way for Fryrear 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 Fryrear Road filing a petition, attached hereto as Exhibit "C" and by this reference incorporated herein, and upon adoption of Resolution No. 2022-057; 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 Fryrear 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, October 5, 2022, 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:

- <u>Section 1.</u> That vacation of the property described in the attached Exhibit "A" and depicted in the attached Exhibit "B" is in the public interest.
- <u>Section 2.</u> That the property described in the attached Exhibit "A" and depicted in the attached Exhibit "B" is hereby vacated.
- <u>Section 3</u>. 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.

Dated this day of, 2022.	BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON			
	PATTI ADAIR, Chair			
ATTEST:	ANTHONY DEBONE, Vice Chair			
Recording Secretary	PHIL CHANG, Commissioner			

<u>Section 5.</u> 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.

EXHIBIT A

W.F. Fryrear Road Vacation

All of that certain right-of-way of the W.F. Fryrear Road established by Deschutes County in 1921 lying within the Northeast One-Quarter of the Northeast One-Quarter (NE1/4 NE1/4) and the Southeast One-Quarter of the Northeast One-Quarter (SE1/4 NE1/4) of Section 20, Township 15 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon.

See attached Exhibit B, entitled "W.F. Fryrear Road Vacation", which is made a part hereof.

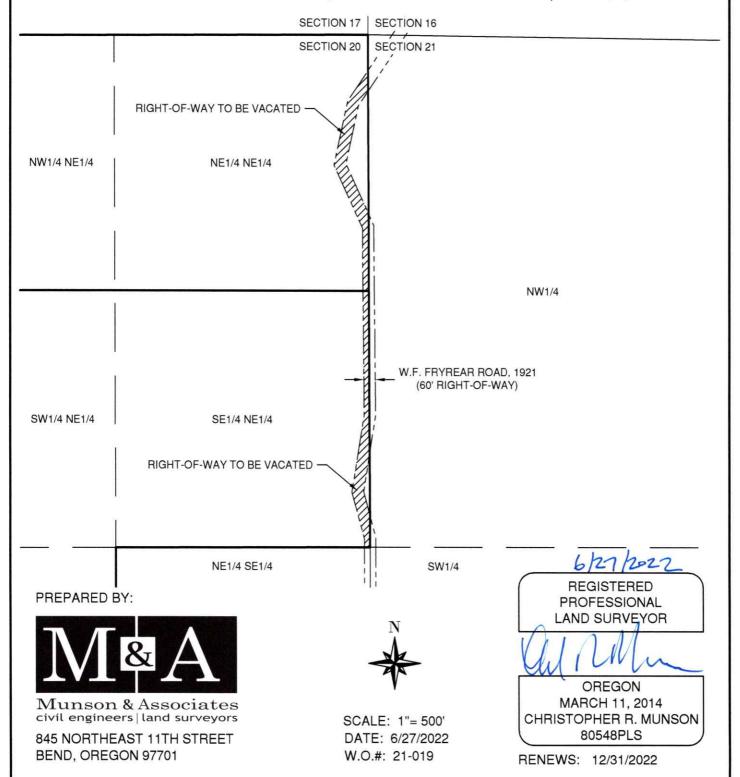
REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
MARCH 11, 2014
CHRISTOPHER R. MUNSON
80548PLS

RENEWS: 12/31/2022

W.F. FRYREAR ROAD VACATION

LOCATED IN A PORTION OF THE NE1/4 NE1/4 AND THE SE1/4 NE1/4 OF SECTION 20, TOWNSHIP 15 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON



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:

All of that certain right-of-way of the W.F. Fryrear Road established by Deschutes County in 1921 lying within the Northeast One-Quarter of the Northeast One-Quarter (NE1/4 NE1/4) and the Southeast One-Quarter of the Northeast One-Quarter (SE1/4 NE1/4) of Section 20, Township 15 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon.

Reason for road vacation request:

NOTARY PUBLIC - OREGON COMMISSION NO. 1012907 MY COMMISSION EXPIRES JUNE 07, 2025

Road was never built or used within right-of-way petitioned to be vacated. Fryrear Road as currently built and used lies entirely within a separate right-of-way outside the area petitioned to be vacated.

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TELEPHONE: 541-548-3910



ROAD DEPARTMENT

MEMORANDUM

TO: Board of County Commissioners

FROM: Cody Smith, County Engineer

DATE: August 17, 2022

SUBJECT: Road Official's Report

Vacation of a Portion of Fryrear Road Rd in Section 20, Township 15S, Range 11E, W.M.

Background:

Deschutes County Road Department has received a petition to vacate an unused portion of the public right of way for Fryrear Road (also identified as "W.F. Fryrear Road" and "the Fryrear Road" in certain public records). Chief Petitioner for the proposed vacation is Eric H. Vetterlein, General Partner, on behalf of Desert Springs Ranch Limited Partnership, owner of Tax Lots 2800 and 2801 on Assessor's Map 15-11-00.

The subject right of way, which is described and depicted in proposed Order No. 2022-042, Exhibits "A" and "B", was established on March 14, 1921 by Deschutes County order recorded as Deschutes County Commissioners Journal Volume 1, Pages 341 and 342, which established a 60-foot wide right of way.

The subject right of way exists across land owned by Desert Springs Ranch Limited Partnership, and portions of the right of way abut federal land managed by the Bureau of Land Management, Prineville District (BLM). No road improvements, utilities, or other improvements existing within the proposed vacation area. The asconstructed Fryrear Road exists to the east of the proposed vacation area across BLM-managed federal lands within a separate right of way granted under BLM Grant No. OR 51362, issued circa December 7, 1995. The BLM is not a petitioner for the proposed vacation.

The Petitioner provided the following reason for the proposed vacation:

"Road was never built or used within right-of-way petitioned to be vacated. Fryrear Road as currently built and used lies entirely within a separate right-of-way outside the area petitioned to be vacated."

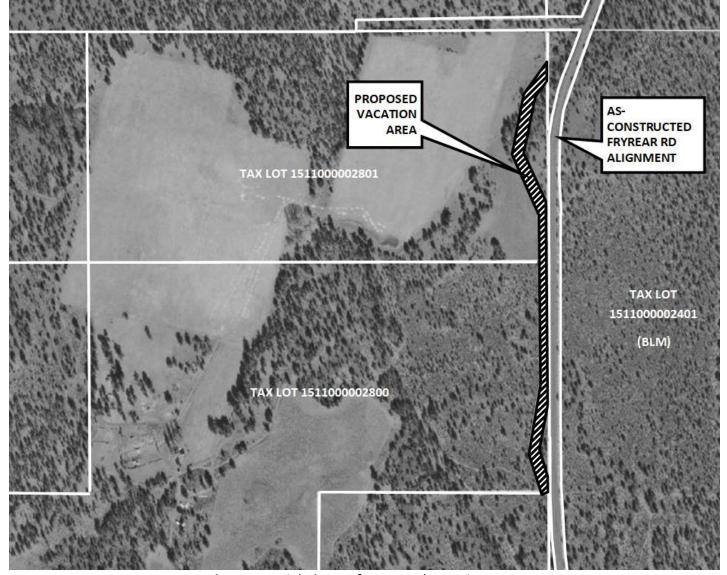


Figure – Aerial Photo of Proposed Vacation Area

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

• Three Sisters Irrigation District

- o Representative: Marc Thalacker, Manager
- Service provider does not have existing facilities within the area proposed for vacation
- Service provider consents to the proposed vacation

Central Electric Cooperative

- o Representative: Parneli Perkins, Land and Right of Way Specialist
- o Service provider does not have existing facilities within the area proposed for vacation
- Service provider consents to 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 subject right of way was established by Deschutes County order in 1921 (Deschutes County Commisioner's Journal Volume 1, Pages 341 and 342) (ORS 368.326).
- No owners of a recorded property right would be deprived of access necessary for the exercise of their property right with the proposed vacation if implemented (ORS 368.331).
- The petitioners, who represent the owners of more than 60 percent of property abutting the subject right of way, have submitted a complete petition and submitted the required fee (ORS 368.341(1)(c); ORS 368.341(3); ORS 368.341(4); ORS368.351).
- The subject right of way does not contain public utilities or existing public road improvements.
- 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 needed for current or future public use.

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 vacation of an unused portion of the right of way of Fryrear Road as described in proposed Order No. 2022-042 subject to the following conditions:

- 1. No opposition to the vacation is reported to the County prior to vacation order presentation to the Board of County Commissioners or during the required public hearing.
- 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.