

REVIEWED
LEGAL COUNSEL



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Vacating a Public Right of Way in *
Township 18S, Range 12E, Section 19, *
W.M., in Deschutes County, Oregon * ORDER NO. 2023-003

WHEREAS, proceedings for vacating a public right of way described and depicted in Exhibit "A", 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 right of way filing a petition, the aforementioned Exhibit "A" attached hereto, and upon adoption of Resolution No. 2022-068; and

WHEREAS, said petition contains the acknowledged signatures of owners of more than sixty percent of property abutting said right of way 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 "B" 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, January 4, 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 and depicted in the attached Exhibit "A" is in the public interest.

Section 2. That the property described and depicted in the attached Exhibit "A" 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

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: Unnamed 50' right-of-way adjacent to Great Northern Railroad.

Located in Deschutes Co Tax Assessor's Map Number 182119A, Tax Lot 2200, Deschutes County.

Reason for road vacation request: Improvements to the church facility located on the subject property.

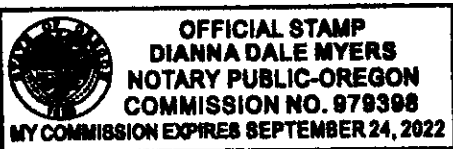
DATED this 21st day of June, 2022.

PRINT NAME	SIGNATURE	ADDRESS	CITY	STATE ZIP
<u>Benjamin Miller</u>	<u>Bjm/MLH</u>	<u>19831 Rockinghorse Rd</u>	<u>Oend</u>	<u>OR 97702</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

STATE OF OREGON)
County of Deschutes) ss.

On this 21 day of June, in the year 2022, before me, a Notary Public, personally appeared Benjamin D. Miller 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
Dianna Dale Myers
Notary Public for Oregon.
My Commission expires: September 24, 2022



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: Unnamed 50' right-of-way
adjacent to Great Northern Railroad.

Located in Tax map 181219C Lot 14400 Deschutes County.

Reason for road vacation request: Improvements to the church
facility located at 19831 Rocking Horse Road, known
as map number 182119A, tax lot 2200

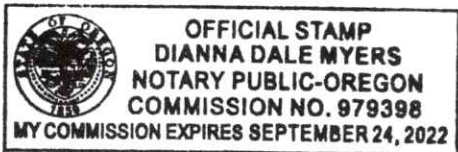
DATED this _____ day of _____, 20_____.

PRINT NAME	SIGNATURE	ADDRESS	CITY	STATE	ZIP
<u>BRYAN STIFF</u>	<u>[Signature]</u>	<u>19772 Buck Canyon Rd</u>	<u>Bend</u>	<u>OR</u>	<u>97702</u>
<u>DONNA STIFF</u>	<u>[Signature]</u>	<u>19772 Buck Canyon Rd</u>	<u>Bend</u>	<u>OR</u>	<u>97702</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

STATE OF OREGON)
County of Deschutes) ss.

On this 22 day of September, in the year 2022 before me, a Notary Public, personally appeared Bryan Stiff and Donna Stiff 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
[Signature]
Notary Public for Oregon.
My Commission expires: September 24, 2022



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: Unnamed 50' right-of-way
adjacent to Great Northern Railroad

Located in Tax map 181219C lot 14200 Deschutes County.

Reason for road vacation request: Improvements to the church
facility located at 19831 Bucking Horse Road, known
as map number 182119A, tax lot 2200

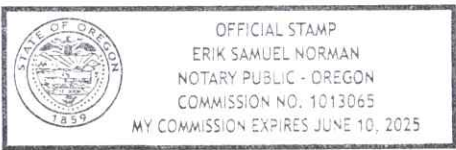
DATED this _____ day of _____, 20____.

PRINT NAME	SIGNATURE	ADDRESS	CITY	STATE	ZIP
<u>Cindy Shonka</u>	<u>Cindy Shonka</u>	<u>19776 Buck Canyon Rd</u>	<u>Bend</u>	<u>OR</u>	<u>97702</u>
<u>Paul J Shonka</u>	<u>Paul J Shonka</u>	<u>19776 Buck Canyon Rd</u>	<u>Bend</u>	<u>OR</u>	<u>97702</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

STATE OF OREGON)
County of Deschutes) ss.

On this 21 day of Sept, in the year 2022, before me, a Notary Public, personally appeared Cindy Shonka & Paul J Shonka 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
[Signature]
Notary Public for Oregon.
My Commission expires: 6-10-25



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: Unnamed 50' right-of-way adjacent to Great Northern Railroad.

Located in Tax Map Number 181219C, Tax Lot 14300, Deschutes County.

Reason for road vacation request: Improvements to the church facility located at 19831 Rocking Horse Road, Known as tax map number 182119A, tax lot 2200

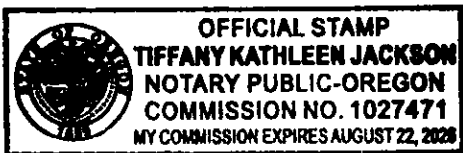
DATED this 30 day of September, 2022.

PRINT NAME	SIGNATURE	ADDRESS	CITY	STATE ZIP
<u>Cherlyn VanDer</u>	<u>[Signature]</u>	<u>19774 Buck Canyon Rd</u>	<u>Bend</u>	<u>97702</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

STATE OF OREGON)
County of Deschutes) ss.

On this 30 day of September, in the year 2022 before me, a Notary Public, personally appeared Cherlyn VanDer 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
[Signature]
Notary Public for Oregon.
My Commission expires: August 22, 2028



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: Unnamed 50' right-of-way
adjacent to Great Northern Railroad.

Located in Tax map 18219C lot 4300 Deschutes County.

Reason for road vacation request: Improvements to the church
facility located at 19831 Rocking Horse Road, known
as map number 182119A, tax lot 2200

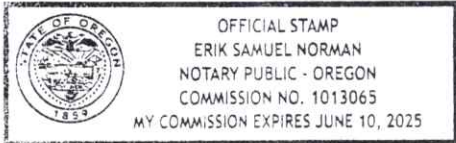
DATED this _____ day of _____, 20_____.

PRINT NAME	SIGNATURE	ADDRESS	CITY	STATE	ZIP
<u>David McNaughton</u>	<u>[Signature]</u>	<u>19774 Buck Canyon Rd.</u>	<u>Bend</u>	<u>OR</u>	<u>97707</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

STATE OF OREGON)
County of Deschutes) ss.

On this 27 day of Sept, in the year 2022, before me, a Notary Public, personally appeared David McNaughton 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
[Signature]
Notary Public for Oregon.
My Commission expires: 6.10.25



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: Unnamed 50' right-of-way
adjacent to Great Northern Railroad

Located in Tax map 181219C Lot 1900 Deschutes County.

Reason for road vacation request: Improvements to the church
facility located at 19831 Rocking Horse Road, known
as map number 182119A, tax lot 2200

DATED this 31 day of August, 2022.

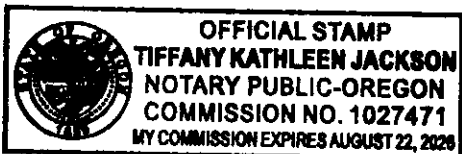
PRINT NAME	SIGNATURE	ADDRESS	CITY	STATE	ZIP
<u>Thomas D. Snell</u>	<u>T. Snell</u>	<u>19825 Rocking Horse Rd Bend</u>	<u>OR</u>	<u>97702</u>	
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

STATE OF OREGON)
County of Deschutes) ss.

On this 31 day of August, in the year 2022, before me, a Notary Public, personally appeared Thomas Snell 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

Tiffany Jackson
Notary Public for Oregon.
My Commission expires: August 22, 2026



VACATION LOSS OF ACCESS CONSENT FORM

I Thomas & Shanna Snell are the owners of Tax Lot 181219C015100 in Deschutes County Oregon. This tax lot is comprised of a portion of Lot 108 of (River Bend Estates). The proposed vacation of (unnamed road) will deprive the following lots within the aforementioned Tax Lot 181219C015100 access to a public road and effectively make these lots land locked:

A portion of Lot 108 of River Bend Estates being tax lot 181219C015100

According to chapter 368.331 of the Oregon Revised Statutes:

"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. [1981 c.153 s.35]"

I hereby give the Deschutes County, Oregon consent to proceed with this road vacation.

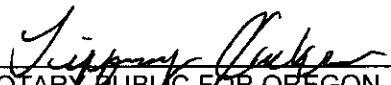
DATED this 31 day of August, 2022

Thomas & Shanna Snell
<Type Property Owners Name>



STATE OF OREGON)
) SS.
County of Deschutes)

The foregoing instrument was acknowledged before me by Thomas Snell
this 31 day of August, 2022


NOTARY PUBLIC FOR OREGON
MY COMMISSION EXPIRES: August, 22, 2026

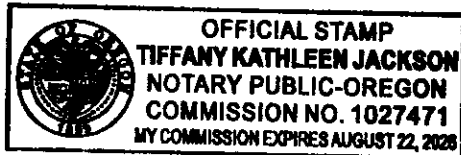


Exhibit A

Right of Way Vacation

That portion of Public Right of Way described in Deed Book 172, Page 616, Deschutes County Deed Records, lying within lots 106, 108, 109, 110, and 111 of River Bend Estates, located in the Southwest One-Quarter of the Northeast One-Quarter, the Northwest One-Quarter of the Southeast One-Quarter, and the Southwest One-Quarter of Section 19, Township 18 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon.

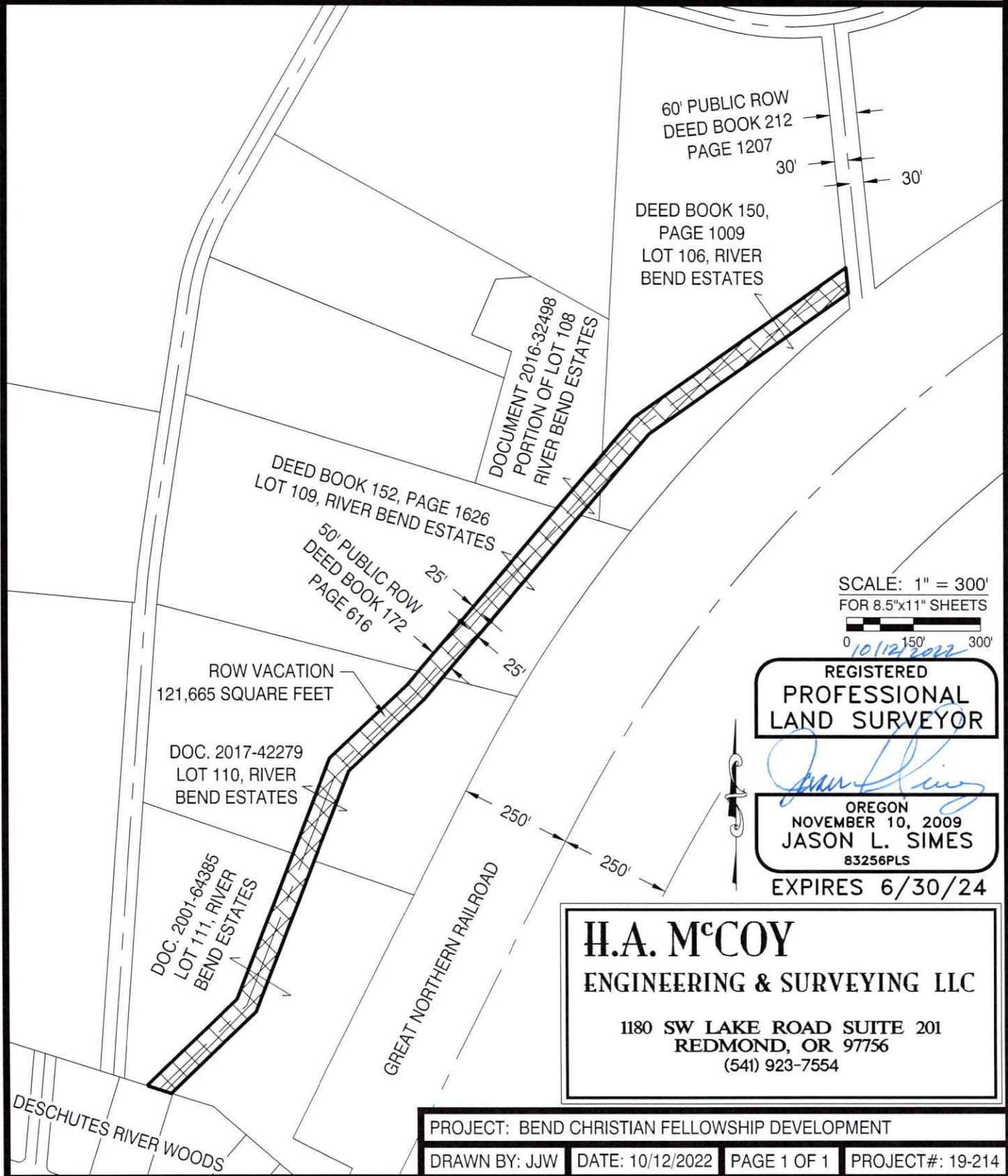
The above described land contains 121,665 square feet, more or less.



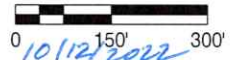
EXHIBIT B

RIGHT OF WAY VACATION

A PORTION OF RIGHT OF WAY DESCRIBED IN DEED BOOK 172, PAGE 616,
LOCATED IN THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER, THE NORTHWEST
ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER, AND THE SOUTHWEST ONE-QUARTER OF SECTION 19,
TOWNSHIP 18 SOUTH, RANGE 12 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON.



SCALE: 1" = 300'
FOR 8.5"x11" SHEETS



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
NOVEMBER 10, 2009
JASON L. SIMES
83256PLS

EXPIRES 6/30/24

H.A. McCOY
ENGINEERING & SURVEYING LLC
1180 SW LAKE ROAD SUITE 201
REDMOND, OR 97756
(541) 923-7554

PROJECT: BEND CHRISTIAN FELLOWSHIP DEVELOPMENT

DRAWN BY: JJW DATE: 10/12/2022 PAGE 1 OF 1 PROJECT#: 19-214



MEMORANDUM

TO: Board of County Commissioners

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

DATE: December 28, 2022

SUBJECT: **Road Official's Report**
Vacation of Unnamed Right of Way in Section 19, Township 18S, Range 12E, W.M.

Background:

Deschutes County Road Department has received a petition to vacate an unimproved, unnamed public right of way within the River Bend Estates subdivision in Section 19 of Township 18S, Range 12E, W.M.. The Petitioners, who are owners of abutting or underlying property to the proposed vacation area, are:

- Benjamin Miller, authorized representative for Bend Christian Fellowship, owner of Tax Lot 2200 on Assessor's Map 18-12-19A (Chief Petitioner);
- Thomas D. Snell, joint owner of Tax Lot 15100 on Assessor's Map 18-12-19C;
- Bryan W. and Donna F. Stiff, owners of Tax Lot 14400 on Assessor's Map 18-12-19C;
- David K. McNaughton and Cherlyn L. Vanover, trustees of the McNaughton-Vanover Living Trust, owner of Tax Lot 14300 on Assessor's Map 18-12-19C; and
- Paul J. and Cindy B. Shonka, owners of Tax Lot 14200 on Assessor's Map 18-12-19C.

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

- Shanna L. Snell, joint owner of Tax Lot 15100 on Assessor's Map 18-12-19C;
- Bryan C. and Cady Zivney, owners of Tax Lot 800 on Assessor's Map 18-12-19CD; and
- William J. and Jessica C. Steed, owners of Tax Lot 900 on Assessor's Map 18-12-19CD.

The subject right of way is 50 ft. wide and was created by dedication deed recorded at the Deschutes County Clerk's Office as Deed No. 1970-1720616. Road Department records do not indicate why the subject deed was recorded and do not indicate that the subject dedication was accepted by the Board of County Commissioners in accordance with ORS 93.808; nonetheless, the portion of the right of way described in Deed No. 1970-1720616 located east of present-day Tax Lot 2200 was vacated by Deschutes County Order No. 90-066. The

Arnold Irrigation District (AID) Main Canal crosses the southern limits of the proposed vacation area within a separate underlying right of way that is not subject to these vacation proceedings. Private outbuildings appear to exist within the proposed vacation area. There are presently no public road improvements and no public utilities within the proposed vacation area except the aforementioned AID facility.

The Petitioners provided the following reason for the proposed vacation:

“Improvements to the church facility located at 19831 Rocking Horse Road, known as map number 181219A, tax lot 2200.”

The vacation of the subject right of way across Tax Lot 2200 would allow for planned site improvements for Bend Christian Fellowship, including new building and parking space; however, vacation of the subject right of way over just Tax Lot 2200 would leave an orphaned right of way over and across the remain underlying properties to the south. As such, the Chief Petitioner has gathered additional abutting property owner signatures as indicated above.

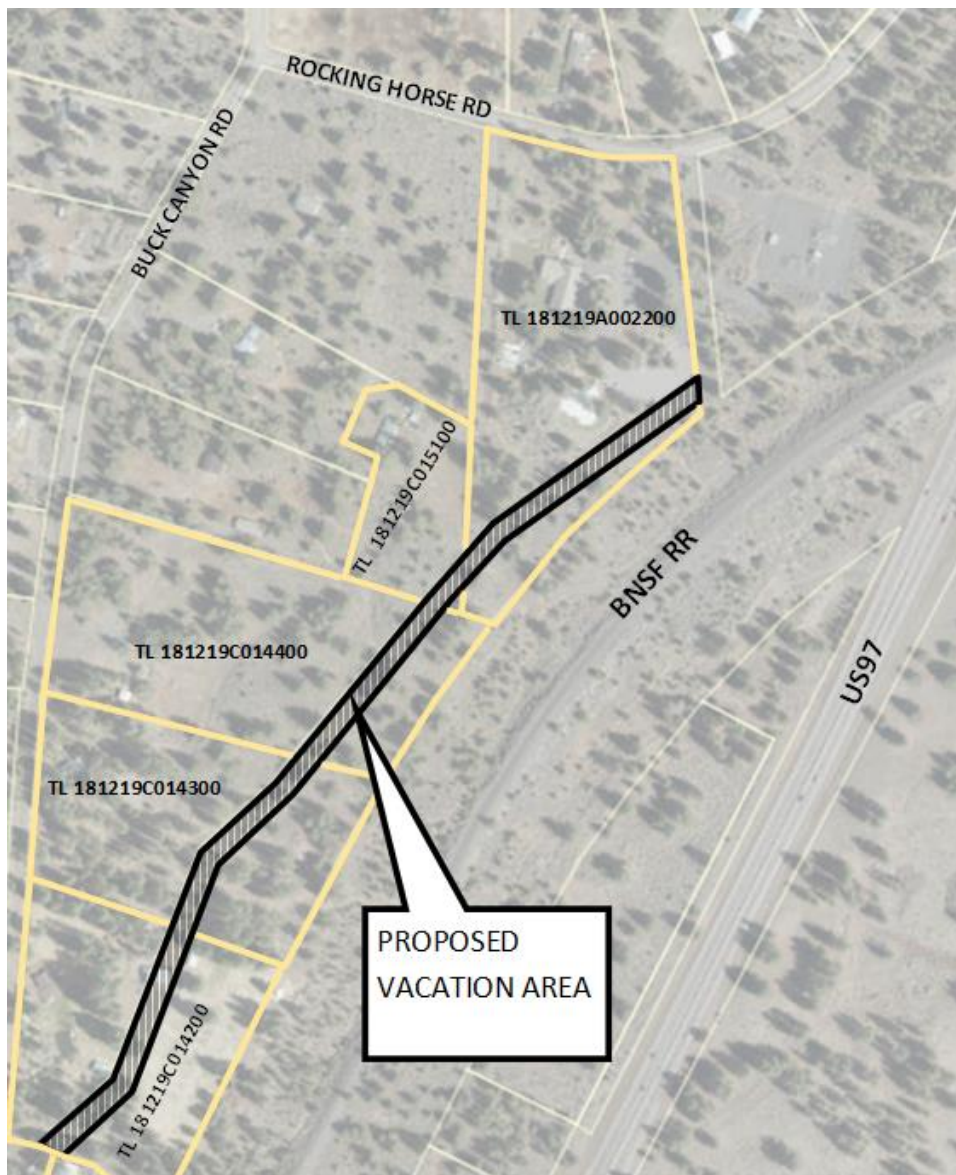


Figure – Aerial Photo of Proposed Vacation Area

A review of Assessor's Tax Maps 18-12-19B and 18-12-19C indicates that the proposed vacation would effectively landlock Tax Lot 15100, 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 the following:

- Thomas D. Snell, joint owner of Tax Lot 15100, is a Petitioner to the proposed vacation.
- The submitted petition included a loss of access consent form signed by Thomas D. Snell.
- Shanna L. Snell, joint owner of Tax Lot 15100 who is not a Petitioner to the proposed vacation and who did not sign a loss of access consent form, was served with notice of the public hearing for the proposed vacation and has not provided comments on the matter to the Department to date.
- Tax Lot 15100 appears to have access to Rocking Horse Road via a driveway access across Tax Lot 2200 (NOTE: It is currently unknown to Road Department staff if this driveway access exists within the boundaries of a recorded easement instrument.)

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:

- Arnold Irrigation District
 - Representative: Steven Johnson, District Manager
 - Service provider does not have existing facilities within the area proposed for vacation
 - **Service provider consents to the proposed vacation**
- Central Oregon Irrigation District
 - Representative: Craig Horrell, District Manager
 - Service provider does not have existing facilities within the area proposed for vacation
 - **Service provider consents to the proposed vacation**
- Roats Water System, Inc.
 - Representative: Michelle Berg, Manager/Shareholder
 - Service provider does not have existing facilities within the area proposed for vacation
 - **Service provider consents to the proposed vacation**
- 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**
- Cascade Natural Gas Corp.
 - Representative: Joshua Aiguar, Operations Manager
 - Service provider does not have existing facilities within the area proposed for vacation
 - **Service provider consents to the proposed vacation**
- CenturyLink
 - Representative: Matthew Reese, ROW Agent II
 - Service provider does not have existing facilities within the area proposed for vacation
 - **Service provider consents to the proposed vacation**
- Pacific Power
 - Representative: Ian Treadway, Operations Manager
 - Service provider does not have existing facilities within the area proposed for vacation
 - **Service provider consents to the proposed vacation**

Road Department staff determined that, when completing their service provider consent forms, the service providers listed above may have only been notified by the Petitioners of the proposed vacation across just Tax Lot 2200; as such, the Department provided notice of the public hearing for the proposed vacation to those service providers listed above identifying the entire proposed vacation area. In response to those notices, the following comments were received:

- Central Oregon Irrigation District
 - Representative: Spencer Stauffer, Land Use Technician
 - Comments: “...Please be advised that Central Oregon Irrigation District (COID) has received Notice of Public Hearing to consider vacation of an unimproved public right of way in Township 18S, Range 12E, Section 19. W.M. (dated November 22, 2022). COID has no facilities or water rights in the vicinity of the proposed vacation. COID has no further comments...”

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 offered to the public by dedication deed recorded at the Deschutes County Clerk’s Office as Deed No. 1970-1720616 (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).
- Except for utilities contained by separate easement instruments, the subject right of way does not contain public utilities and does not contain public road improvements of value to the public.
- 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 proposed vacation as described in proposed Order No. 2023-003 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.