

W.9.F.3

ORIGINAL

AGENDA COVER MEMO

DATE: June 27, 2003
TO: Lane County Board of Commissioners
FROM: William D. Robinson, Interim Lane County Surveyor *WDR*
DEPARTMENT: Public Works - Land Management Division

AGENDA ITEM TITLE: IN THE MATTER OF INITIATING PROCEEDINGS TO WITHDRAW COUNTY ROAD STATUS (BUT NOT THE PUBLIC ROAD STATUS) FROM DUNCAN SLOUGH ROAD (COUNTY ROAD NUMBER 499), LOCATED OFF BERNHARDT CREEK ROAD NEAR KARNOWSKY CREEK, IN SECTIONS 15, 22 AND 23, TOWNSHIP 18 SOUTH, RANGE 11 WEST OF THE WILLAMETTE MERIDIAN (18-11-15, 22 & 23)

I. MOTION:

TO APPROVE THE RESOLUTION, NOTICE OF HEARING AND ORDER SETTING AN AGENDA DATE OF SEPTEMBER 10, 2003, AT 1:30 P.M. TO CONSIDER THE PROPOSED WITHDRAWAL OF COUNTY ROAD STATUS (BUT NOT PUBLIC ROAD STATUS) FROM DUNCAN SLOUGH ROAD (COUNTY ROAD NUMBER 499) LOCATED OFF BERNHARDT CREEK ROAD NEAR KARNOWSKY CREEK, IN SECTIONS 15, 22 AND 23, TOWNSHIP 18 SOUTH, RANGE 11 WEST OF THE WILLAMETTE MERIDIAN (18-11-15, 22 & 23)

II. ISSUE OR PROBLEM:

To decide whether to initiate proceedings, which could lead to the withdrawal of County Road status (but not the public road status) of Duncan Slough Road (County Road Number 499) being 40 feet wide and approximately 1.8 miles in length, if such withdrawal is found to be in the public interest.

III. DISCUSSION:

A. Background

The Surveyor's Office of the Department of Public Works has received a request from the Lane County Board of Commissioners to reduce the road status of Duncan Slough Road from county road to public road.

County Road Number 499 was established in 1892, with a right-of-way width of 40 feet, to provide an outlet for the Karnowsky homestead. The roadway runs southeasterly from Bernhardt Creek Road. Bernhardt Creek Road is a private road at this location. Duncan Slough Road runs along the

bottomlands of Karnowsky Creek through Sections 15, 22, and into Section 23 in Township 18 South, Range 11 West of the Willamette Meridian. The right of way is bounded by National Forest land and private timberlands.

Originally the Forest Supervisor of the Siuslaw National Forest submitted a petition requesting that the portion of Duncan Slough Road that runs through Sections 22 and 23 be vacated, as they are working on a wetlands restoration project in and around the roadway. The Board of Commissioners held a public hearing, and after consideration and deliberation of the record, the Board voted unanimously not to approve the Order to Vacate the road and directed staff to return with an Order to Deny the vacation. This Order was approved by the Board on May 7, 2003 (Order to Deny #03-5-7-9).

The Board also gave directions to have staff prepare an Order and provide public notice to withdraw county road status (but not the public road status) from said road, and present it to the Board at a later regular scheduled meeting.

B. Analysis

Duncan Slough Road (County Road Number 499) is not currently maintained by the county, and is not connected to a legal county road. The road is in disrepair and does not serve any residences. County maintenance of Bernhardt Creek Road ends approximately one mile east of its intersection with Duncan Slough Road and is considered to be a private road west of that point. The road is gated just south of its intersection with Bernhardt Creek Road, and the public must travel over a private road to access Duncan Slough Road. If the order to withdraw county road status is approved, Duncan Slough Road will be reclassified as a public road, and access will remain unchanged. Reducing the status of right-of-way will relieve the County of the responsibility to maintain the road, yet retain the public status of the road.

The public interest will be served if the road status is changed, as this road is not an integral part of the county road system and withdrawing county road status will relieve the county of any potential future maintenance to the road.

ORS 368.026 states that a governing body may initiate proceedings to withdraw county road status by having the county road official prepare a report stating reasons for the proposed withdrawal and the effects the proposed withdrawal may have on land abutting the county road proposed to be withdrawn. The Preliminary Director's Report addresses these issues.

The provisions of LM 15.410(7) limit the categories of roads to be considered for withdrawal and provide specific guidelines for Board consideration at the time of the public hearing. Duncan Slough Road falls into the following categories of LM 15.410 (7): (a) Dead-end roads which serve four, or fewer, permanent residences; (b) Roads within National Forest boundaries, within Bureau of Land Management ownership areas, or adjacent to resource land areas under single ownership; and (c) Roads that are undeveloped right-of-ways, are dirt roads, or are not currently maintained by County forces.

The proceedings for withdrawal of county road status, which are proposed to withdraw county road status (but not the public road status) require a public hearing. The setting of a public hearing date of September 10, 2003, will allow the Board of Commissioners to hear and evaluate reasons for the proposal for withdrawal of county road status. It will also provide an opportunity for any comments from the public, affected property owners, and outside agencies.

C. Alternatives/Options

1. Set the Public Hearing date as proposed by the Public Works Director to consider the withdrawal of county road status (but not the public road status) of Duncan Slough Road, as described.
2. Set any later Public Hearing date as the Board may wish.
3. Refuse to set a date, either postponing the matter or refusing to initiate proceedings to withdraw the county road status of Duncan Slough Road.

D. Recommendation

The Public Works Director reports that it is advisable to set a public hearing date at this time, thus commencing procedures to withdraw county road status, yet retain the public road status, from Duncan Slough Road. The date proposed will allow appropriate time for the provision of public notice of the hearing.

E. Timing

Timing is not critical in this matter.

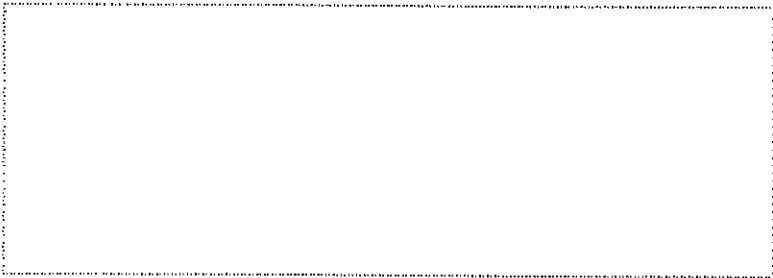
IV. IMPLEMENTATION/FOLLOW-UP:

If the Board of County Commissioners approves the Resolution and Order setting a date for a public hearing for the proposed withdrawal of county road status, it is to be forwarded to the Lane County Clerk for filing and recording, after which, copies are to be forwarded to the County Surveyor who will provide public notice of the proposed action. If the Board wishes to postpone the matter or terminate proceedings an Order to Postpone or Terminate will be presented to the Board at a later regularly scheduled meeting.

V. ATTACHMENTS:

Resolution, Notice of Hearing and Order
Director's Preliminary Report
Map

Contact Person: Bill Robinson, X-4198



IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

FILE NO. 4084

IN THE MATTER OF INITIATING PROCEEDINGS TO)	
WITHDRAW COUNTY ROAD STATUS (BUT NOT THE)	
PUBLIC ROAD STATUS) FROM DUNCAN SLOUGH ROAD)	RESOLUTION, NOTICE
(COUNTY ROAD NUMBER 499), LOCATED OFF)	OF HEARING
BERNHARDT CREEK ROAD NEAR KARNOWSKY)	AND ORDER NO.
CREEK, IN SECTIONS 15, 22, AND 23, TOWNSHIP 18)	
SOUTH, RANGE 11 WEST OF THE WILLAMETTE)	
MERIDIAN (18-11-15, 22 & 23))	

THIS MATTER now coming before the Board of County Commissioners for Lane County, Oregon, it appearing that Duncan Slough Road is no longer needed as part of the County's road system; and

WHEREAS, the County Surveyor has reviewed the Commissioner's Journal and road records and it is concluded that Duncan Slough Road was established as County Road Number 499 in 1892; and

WHEREAS, Duncan Slough Road is not currently being maintained by the county and is not connected to a legal county road; and

WHEREAS, Duncan Slough Road is bounded by National Forest Land and private timberlands, and the Forest Service is working on a wetlands restoration project in and around the roadbed; and

WHEREAS, Duncan Slough Road is gated just south of its intersection with Bernhardt Creek Road, and the public must travel over a private road to access the subject right of way; and

WHEREAS, if Duncan Slough Road is reduced in status from county road to public road, access to the road and the National Forest Land will remain unchanged; and

WHEREAS, ORS 368.026 states that a governing body may initiate proceedings by having the county road official prepare a report stating reasons for the proposed withdrawal and the effects the proposed withdrawal may have on land abutting the county road proposed to be withdrawn, and a Preliminary Director's Report has been prepared to address these issues; and

WHEREAS, this road meets the following criteria for withdrawal of County Road status as specified in LM 15.410(7): (a) Dead-end roads which serve four, or fewer, permanent residences; (b) Roads within National Forest boundaries, within Bureau of Land Management ownership areas, or adjacent to resource land areas under single ownership; and (c) Roads that are undeveloped right-of-ways, are dirt roads, or are not currently maintained by County forces; and

WHEREAS, Oregon Revised Statutes, Chapter 368, requires a public hearing to consider the withdrawal of county road status (but not the public road status) from a county road and the Board deems it appropriate to conduct a public hearing to decide whether to withdraw the county road status from Duncan Slough Road. The Public Works Director has prepared a Preliminary Report recommending that proceedings be initiated to consider withdrawal of county road status from Duncan Slough Road, as described below and depicted on Exhibit "A", attached hereto and made a part hereof by these proceedings; and NOW, THEREFORE, IT IS HEREBY

RESOLVED, that in accordance with Oregon Revised Statutes, Chapter 368, proceedings be undertaken to withdraw the county road status (but not the public road status) of Duncan Slough Road, being more particularly described as follows:

All that portion of Duncan Slough Road (County Road Number 499) being 40 feet wide, from the beginning point of said road as surveyed in 1892, said point being in Section 23, Township 18 South, Range 11 West of the Willamette Meridian, thence northwesterly a distance of 1.8 miles, more or less, to the southeast margin of Bernhardt Creek Road in Section 15, Township 18 South, Range 11 West of the Willamette Meridian, all in Lane County, Oregon, now, therefore, it is hereby

ORDERED, that September 10, 2003 be established as the date for conducting a public hearing regarding the proposed withdrawal of county road status (but not the public road status) from Duncan Slough Road, and that the said hearing be held at 1:30 p.m. in Lane County Courthouse, 125 E. 8th Avenue, in Eugene, Lane County Oregon; and it is further

ORDERED, that the Director of the Lane County Department of Public Works cause the Lane County Surveyor to examine the portion of road proposed to be withdrawn from county road status (but not the public road status) and that the Director provide a written Final Report, as required by ORS 368.026, of his findings which are to be incorporated into the Final Order; and it is further

ORDERED, that notice of the public hearing be provided by service in accordance with ORS Chapter 368.401 to 368.426.

Inquiries regarding these proceedings may be directed to Bill Robinson, Interim Lane County Surveyor, Public Service Building, 125 East 8th Avenue, Eugene, Oregon 97401, telephone (541) 682-4195.

Dated this ____ day of _____, 2003.

Peter Sorenson, Chair
Lane County Board of Commissioners

Attachment: Map

APPROVED AS TO FORM

Date 7-7-03 lane county


OFFICE OF LEGAL COUNSEL

EXHIBIT "A"
IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

FILE NO. 4084

IN THE MATTER OF INITIATING PROCEEDINGS TO)	
WITHDRAW COUNTY ROAD STATUS (BUT NOT THE)	
PUBLIC ROAD STATUS) FROM DUNCAN SLOUGH)	
ROAD (COUNTY ROAD NUMBER 499), LOCATED OFF)	PRELIMINARY
BERNARDT CREEK ROAD NEAR KARNOWSKY)	DIRECTOR'S REPORT
CREEK, IN SECTIONS 15, 22, AND 23, TOWNSHIP 18)	
SOUTH, RANGE 11 WEST OF THE WILLAMETTE)	
MERIDIAN (18-11-15, 22 & 23))	

It is recommended that proceedings be initiated for consideration of withdrawal of county road status (but not the public road status) of Duncan Slough Road (County Road Number 499), as this road is no longer needed as part of the county's road system.

County Road Number 499 was established in 1892 to provide an outlet for the Karnowsky homestead. The right of way is 40-feet wide and runs southeasterly from Bernhardt Creek Road along the bottomlands of Karnowsky Creek through Sections 15, 22, and into Section 23 in Township 18 South, Range 11 West of the Willamette Meridian. The subject right of way is bounded by National Forest land and private timberlands.

The Forest Supervisor of the Siuslaw National Forest originally submitted a petition requesting that a portion of Duncan Slough Road be vacated, as they are working on a wetlands restoration project in and around the roadbed. The Board of Commissioners held a public hearing, and after consideration and deliberation of the record, the Board voted unanimously not to approve the Order to Vacate the subject portion of Duncan Slough Road and directed staff to return with an Order to Deny the vacation. This Order was approved by the Board on May 7, 2003. The Board also gave directions to have staff prepare an Order and provide public notice to withdraw county road status (but not the public road status) from said road, and present it to the Board at a later regular scheduled meeting.

Consideration of withdrawal of county road status of Duncan Slough Road would be within the guidelines of LM 15.410 (7)(a) Dead-end roads which serve four, or fewer, permanent residences; (b) Roads within National Forest boundaries, within Bureau of Land Management ownership areas, or adjacent to resource land areas under single ownership; and (c) Roads that are undeveloped right-of-ways, are dirt roads, or are not currently maintained by County forces.

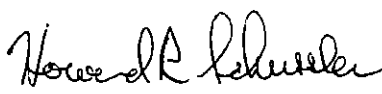
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Reducing the status of this road will relieve the County of the responsibility to maintain the road, yet retain the public status of the road. It will also allow the Forest Service to continue the wetlands restoration project in the area. The public interest will be served if the road status is changed, as this portion of road is not an integral part of the county road system and withdrawing county road status will relieve the county of any potential future maintenance to the road.

It is recommended that the Resolution be approved and a date be set for conducting a public hearing by the Board of County Commissioners.

A final report will be provided prior to the public hearing as required by ORS 368.026.

DATED this 27th day of June, 2003


for Oliver P. Snowden, Public Works Director

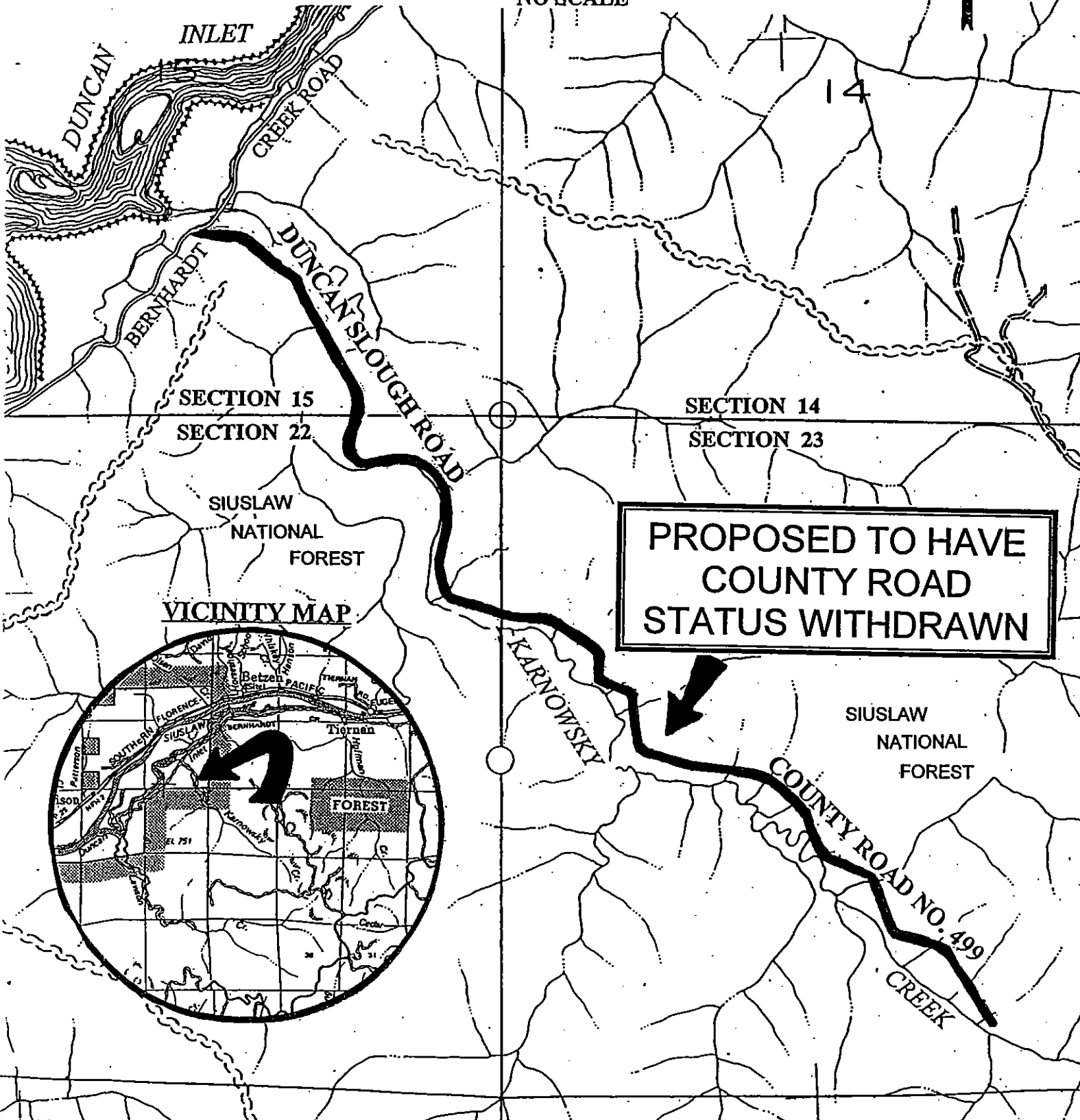
SIUSLAW RIVER

ATTACHMENT "A"

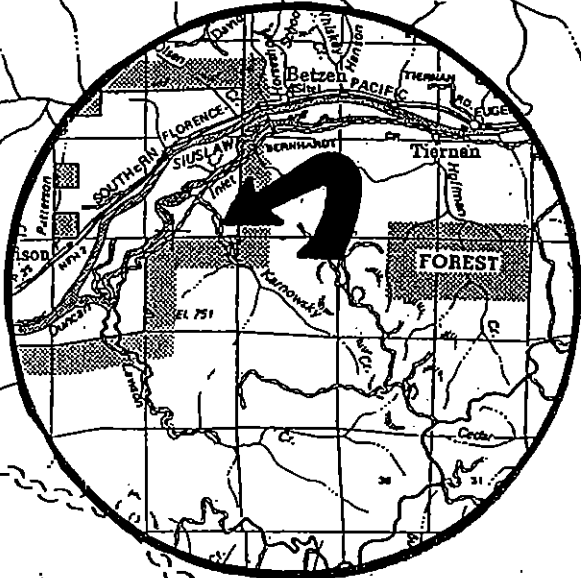
SECTIONS 15, 22 & 23
TOWNSHIP 18 SOUTH, RANGE 11 WEST, W.M.

LANE COUNTY

NO SCALE



VICINITY MAP



PROPOSED TO HAVE
COUNTY ROAD
STATUS WITHDRAWN

SIUSLAW
NATIONAL
FOREST

COUNTY ROAD NO. 499
CREEK