



Deschutes County Board of Commissioners  
1300 NW Wall St., Suite 200, Bend, OR 97701-1960  
(541) 388-6570 - Fax (541) 385-3202 - [www.deschutes.org](http://www.deschutes.org)

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## **AGENDA REQUEST & STAFF REPORT**

**For Board Business Meeting of June 3, 2015**

*Please see directions for completing this document on the next page.*

**DATE:** May 13, 2015

**FROM:** George Kolb, County Engineer                      Road                      541-322-7113

**TITLE OF AGENDA ITEM:**

Consideration of Signature of Order No. 2015-016, Completing Legalization Procedures for a Portion of Tetherow Road

**PUBLIC HEARING ON THIS DATE?** YES

**BACKGROUND AND POLICY IMPLICATIONS:**

On February 3, 2015 a portion of an existing retaining wall gave way on Tetherow Road located on the uphill grade to the east of the bridge across the Deschutes River (see attached photos labeled Exhibit 1). County crews came in for emergency repairs and as a result of clearing the road, the side slope of the road was extended onto private property owned by Platt Properties, LLC. The property owners were notified of the project and the County was given permission to complete the work located on their property with the understanding that a slope easement would be acquired by the County to cover the portion of private property needed for the repair. When the Road Department went to write the legal description for the slope easement, it was determined that the centerline of the existing road does not match the approximate location of the A.J. Warrin (Jordan) Road that was established 3/6/1879, Wasco County CJ "B" PG 499, right of way width 60 feet or the 1892 D.W. Barnett Road that was established 5/5/1892, Crook County CJ 2. PG 28, right of way width 60 feet (see attached maps). In order to write a legal description for the slope easment, the existing centerline of the road will have to be legalized per Oregon Revised Statutes. The proposed legalization will encompass the 0.27 mile segment of the road beginning 75 feet westerly of the east line of the Central Oregon Park and Recreation Districts "Tetherow Crossing Park" and ending at the north property line of Tax Lot 141236D000400 (Platt Properties LLC). The legalization process involves the following:

1. A Resolution (No. 2015-030) is signed by the Board of County Commissioners initiating the legalization proceedings
  - This was completed on April 22, 2015
2. Signature of an Order (No. 2015-024) which:
  - Initiates the survey of a portion of Tetherow Road
  - Requires a written report from the Road Department concerning the legalization.
  - Sets a public hearing before the Board concerning the legalization
  - Causes notice of the legalization to be provided to the public
  - This was completed on April 22, 2015
3. Signature of an Order (Order No. 2015-016) after the public hearing which:
  - Accepts or rejects the Road Departments report
  - Determines the status of the legalization based on public testimony and the Engineer's report.
  - Approves or denies the legalization of a portion of Tetherow Road

4. Filing of the new right-of-way map of this portion of Tetherow Road at the County Surveyor's office. Signature of Order No. 2015-024 caused a portion of Tetherow Road to be surveyed and set the public hearing that is to be held today. The Road Department sent out notification of the legalization to nine (9) property owners by certified mail and received nine (9) receipts back. No adverse comments were received during the comment period by any of the property owners.

Signature of Order No. 2015-016 will finalize the legalization of a portion of Tetherow Road.

**FISCAL IMPLICATIONS:**

None. ORS 368.211 does require compensation to property owners if they have a structure located within the legalization area but there are no structures that will be affected by the legalization.

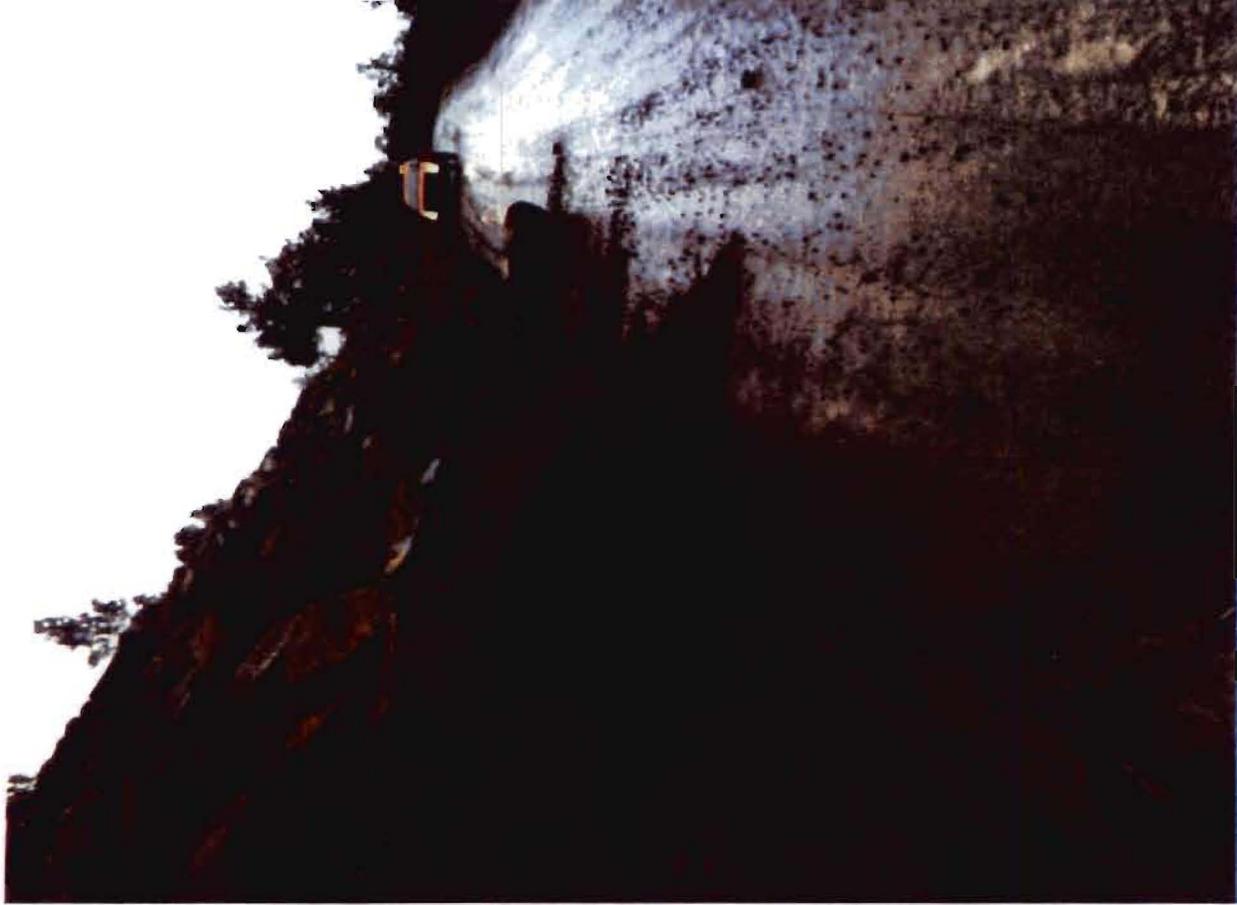
**RECOMMENDATION & ACTION REQUESTED:**

After all testimony is received at the public hearing and the Board of County Commissioners determines it is in the best interest to do so, move approval of Board signature of Order No. 2015-016, legalizing a Portion of Tetherow Road

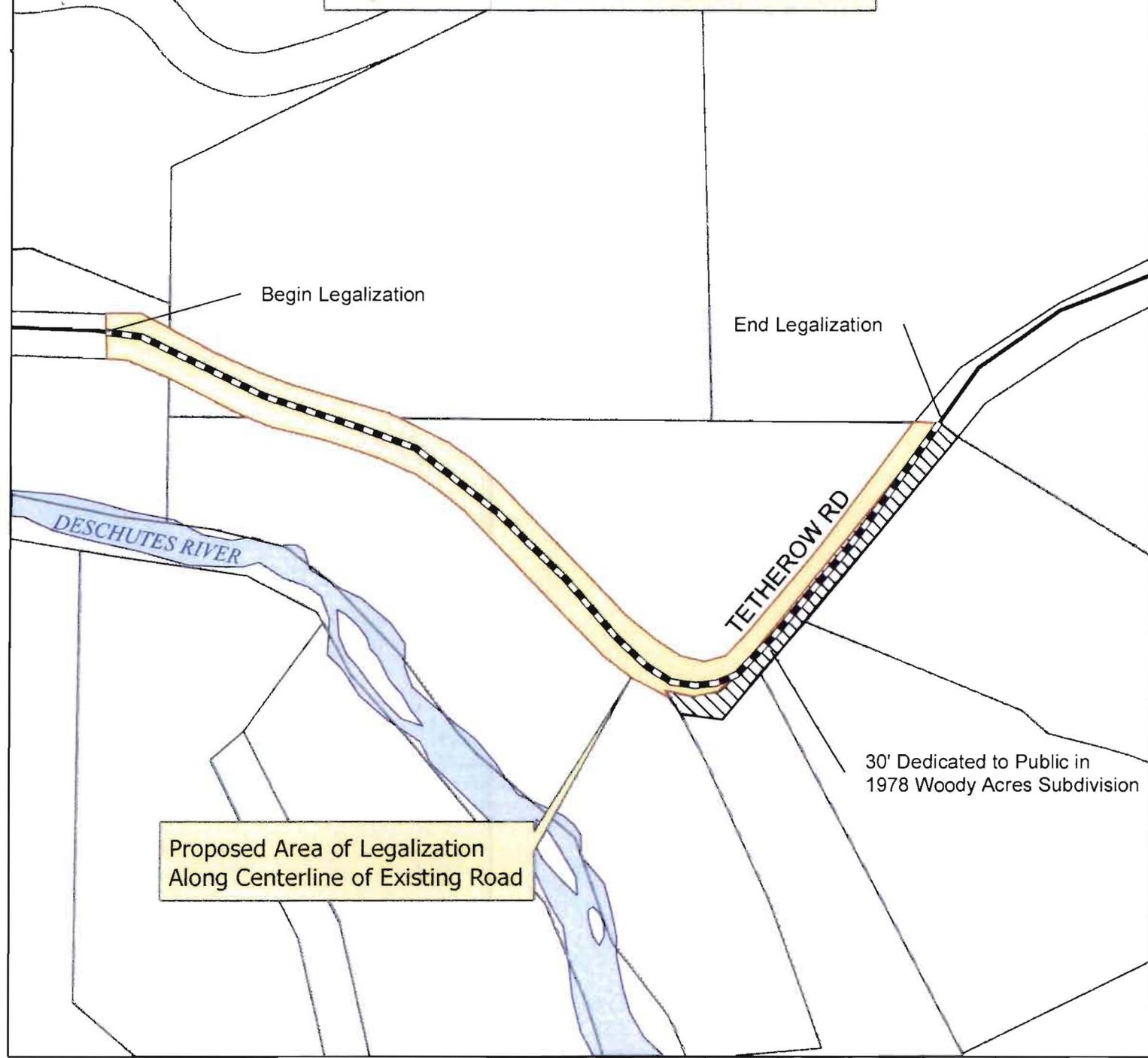
**ATTENDANCE:** George Kolb, County Engineer

**DISTRIBUTION OF DOCUMENTS:**

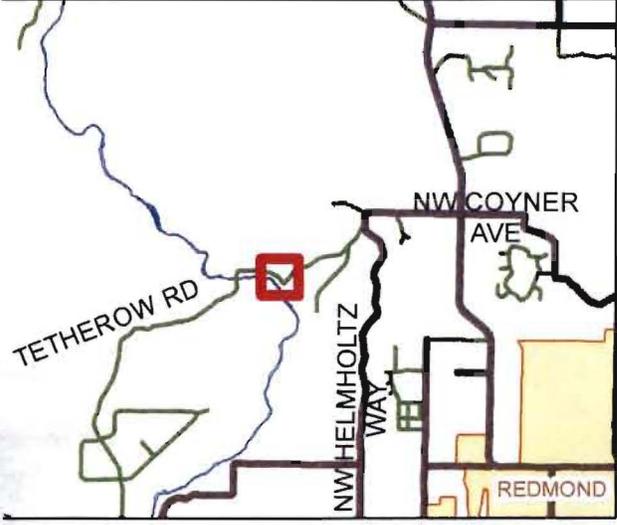
Copy to Sheila Odle (ext. 7148) at the Road Department



# Legalization of a Portion of Tetherow Road



Locator Map



0 200 400 600 800 Feet

### Key

- Legalization CL
- Legalization
- 1978 Woody Acres
- County Routes
- Taxlots
- Deschutes River



Printed:  
March 13, 2014

The information on this map was derived from digital databases on Deschutes County's G.I.S. Care was taken in the creation of this map, but it is provided "as is". Deschutes County cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. There are no warranties, express or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

**John Anderson, GIS Analyst**  
 Phone: (541) 322-7102  
 Email: john.anderson@deschutes.org  
 Address: 61150 SE 27th St  
 Bend, OR 97702

**Road Department**

PROPOSED 2015  
TETHEROW ROAD  
LEGALIZATION  
SECTION 36, T.14 S., R.12 E., W.M.  
DESCHUTES COUNTY, OREGON  
3/13/2015 MJB  
~NOT TO SCALE~

Portion of 1892 D.W. Barnett Road  
and 1879 A.J. Warrin Road to be  
**ABANDONED** in section 36 by this  
legalization.

1892 Barnett Road - THIS  
SECTION OF RIGHT-OF-WAY HAS  
BEEN ACCURATELY RETRACED  
AND DOES NOT NEED TO BE  
LEGALIZED.

**TERMINUS POINT**  
2015 Legalization

**POINT OF BEGINNING**  
2015 Legalization

2015 Legalization  
60 ft. wide Right-of-Way  
except through plat of  
Woody Acres  
Approximately 1400 feet long  
Centered on existing road

30 foot wide public  
right-of-way per 1978 plat of  
"Woody Acres".  
THIS RIGHT-OF-WAY LINE  
REMAINS THE SAME. THE  
LEGALIZATION DOES NOT  
AFFECT THE LOTS IN WOODY  
ACRES

2014 Tetherow Road Legalization

36 1412

TETHEROW ROAD

TETHEROW ROAD

TETHEROW ROAD

EXISTING  
COUNTY AND PUBLIC ROADS  
IN THE VICINITY OF  
TETHEROW GRADE

SECTION 36, T.14 S., R.12 E., W.M.  
DESCHUTES COUNTY, OREGON

3/13/2015 MJB  
~NOT TO SCALE~

Approximate Location of 1892 D.W. Barnett Road  
and 1879 A.J. Warrin Road.

1892 Barnett Road - At this location  
existing Tetherow Road falls within  
1892 Barnett Right-of-Way

TETHEROW ROAD

36 1412

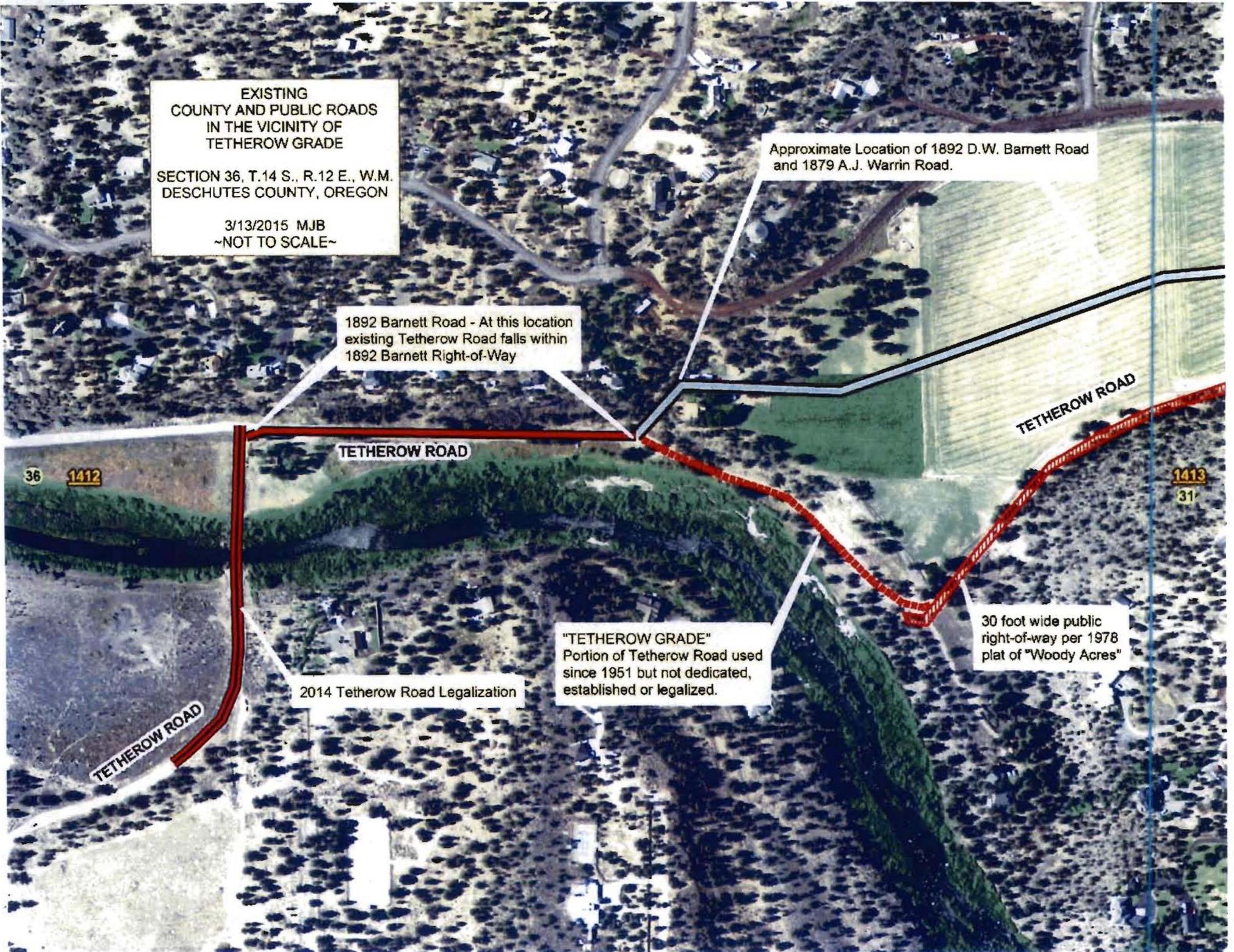
1413  
31

30 foot wide public  
right-of-way per 1978  
plat of "Woody Acres"

"TETHEROW GRADE"  
Portion of Tetherow Road used  
since 1951 but not dedicated,  
established or legalized.

2014 Tetherow Road Legalization

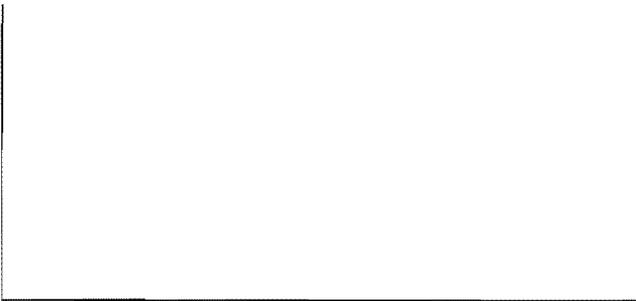
TETHEROW ROAD



REVIEWED  

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LEGAL COUNSEL



For Recording Stamp Only

**BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY,  
OREGON**

An Order Completing Legalization \*  
Procedures for a portion of Tetherow Road in \* **ORDER NO. 2015-016**  
Deschutes County, Oregon \*

WHEREAS, pursuant to ORS 368.201, and by Resolution No. 2015-030, the Board of County Commissioners (Board) initiated the legalization of a portion of Tetherow Road, in Deschutes County, Oregon; and

WHEREAS, pursuant to ORS 368.206, and by Order No. 2015-024, the Board caused a portion of Tetherow Road to be surveyed, caused the county road official to prepare a written report on the proposed legalization, and caused proper notice of the proceedings to be given; and

WHEREAS, a hearing on the matter was held before the Board on Wednesday, June 3, 2015 at 10:00 a.m. in the Deschutes County Commissioner's Hearings Room, Deschutes County Services Center, 1300 NW Wall Street, Bend, Oregon 97701 for the purpose of considering the county road official's report and any information controverting or supporting the proposed legalization; and

WHEREAS, after considering matters presented in the legalization proceeding, the Board has determined that legalization of a portions of Tetherow Road, pursuant to the county road official's report, is in the public interest; now, therefore,

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

Section 1. That the county road official's written report, attached as Exhibit "A" and by this reference incorporated herein, is hereby accepted and approved.

Section 2. That a portion of Tetherow Road in Deschutes County, Oregon, is hereby legalized as described in Exhibit "B", attached hereto and by this reference incorporated herein.

Section 3. That this Order shall be recorded with the Deschutes County Clerk.

Section 4. That the survey of a portion of Tetherow Road, prepared in the course of legalization proceedings, shall be recorded with the County Surveyor.

Section 5. Upon proper recording of this Order and the survey of a portion of Tetherow Road as provided herein, any records showing the location of Tetherow Road in conflict with the location as described herein shall become void.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES, COUNTY, OREGON

\_\_\_\_\_  
ANTHONY DEBONE, CHAIR

ATTEST:

\_\_\_\_\_  
ALAN UNGER, VICE CHAIR

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

\_\_\_\_\_  
TAMMY BANEY, COMMISSIONER



## Road Department

61150 SE 27th St. • Bend, Oregon 97702  
(541) 388-6581 • FAX (541) 388-2719

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### ENGINEER'S REPORT

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**TO:** BOARD OF COUNTY COMMISSIONERS  
**FROM:** GEORGE KOLB, COUNTY ENGINEER  
**SUBJECT:** 2015 LEGALIZATION OF A PORTION OF TETHEROW ROAD  
**DATE:** 5/13/2015

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This report is made pursuant to ORS 368.206 and by order of the Board of County Commissioners, Order No. 2015-024, concerning the investigation by the Road Department Engineer of the proposed legalization of a portion of Tetherow Road.

Background:

Due to the failure of a retaining wall and an ensuing rock slide in early February 2015 on a portion of the steep grade of Tetherow Road 0.4 miles northeast of the Tetherow Bridge, the Road Department will need to perform excavation work on a section of cut slope to stabilize this road hazard. Due to the steepness of the hillside, slope stabilization work will need to be performed 30 feet beyond the center of the road which will necessitate having to procure a construction and slope maintenance easement from Platt Properties LCC, the owners of tax lot 14-12-36D 400.

It has been determined that the existing road does not match the approximate location of the original roads that preceded the modern day Tetherow Road, the A. J. Warrin Road (established 3/6/1879 in Wasco County Commissioners' Journal B, Page 499 with a right of way width of 60 feet) and the D.W. Barnett Road (established 5/5/1892 in Crook County Commissioners' Journal 2, Page 28 with a right of way width of 60 feet). In this area these original roads, now abandoned, apparently traversed the irrigated fields at the top of the rim before dropping down a steep gully to the river.

1951 aerial photo BAY7-H-131 on file at the Road Department shows that by 1951 this segment of the road had been relocated to its current location, dropping down to the river along a steep side hill. Research indicates that no deeds or County actions were executed to create a legal right-of-way along this portion of the road.

A portion of the proposed legalization fronts the subdivision of "Woody Acres". In 1978 this subdivision dedicated 30 feet of right of way for Tetherow Road, likely because they could find no other dedication or establishment information for the road in its post-1951 location. However, the dedication was not centered on the road. The proposed legalization will not create a newer, wider right of way along the lots in the subdivision. Adjacent to Woody Acres it will only create a new right of way line 30 feet from the existing road's centerline on the Platt Properties LCC taxlot across the road from the 1978 plat. The description will be written to except out any of the lots within this subdivision.

In order to fix the as-traveled right of way and write legal descriptions for any construction and slope maintenance easements, the existing centerline of the road will have to be legalized per Oregon Revised Statutes. The proposed legalization will encompass a 0.27 mile segment of the road lying between the east end of "Tetherow Crossing Park" at the bottom of the hill and the north property line of tax lot 14-12-36D 400 at the top of the hill.

Road Location Survey:

Order No. 2054-024, Section 1, directed that this portion of Tetherow Road be surveyed to determine the location and width of the road. The survey and legal description for this legalization is attached to Order 2015-016 as Exhibit "B".

Notification and Compensation for Property Affected by Road Legalization:

The Road Department provided notice of the proceedings for legalization of a portion Tetherow Road, including the June 3, 2015 hearing, by posting and by service to owners of abutting land pursuant to Order No. 2015-024. Nine (9) notices were sent out by certified mail with nine (9) returned to the Road Department. The Road Department received no comments from the public concerning this legalization:

ORS 368.211 provides for compensation for property affected by road legalization. This statute states: "A county governing body shall provide for compensation under this section to any person who has established a structure on real property if the structure encroaches on a road that is the subject of legalization proceedings." The statute further states: "To qualify for compensation under this section, a person must file a claim for damages with the county governing body before the close of the hearing to legalize the road."

From the survey, it appears that there are no structures within the proposed road legalization. To date there have been no claims filed for compensation as a result of this legalization.

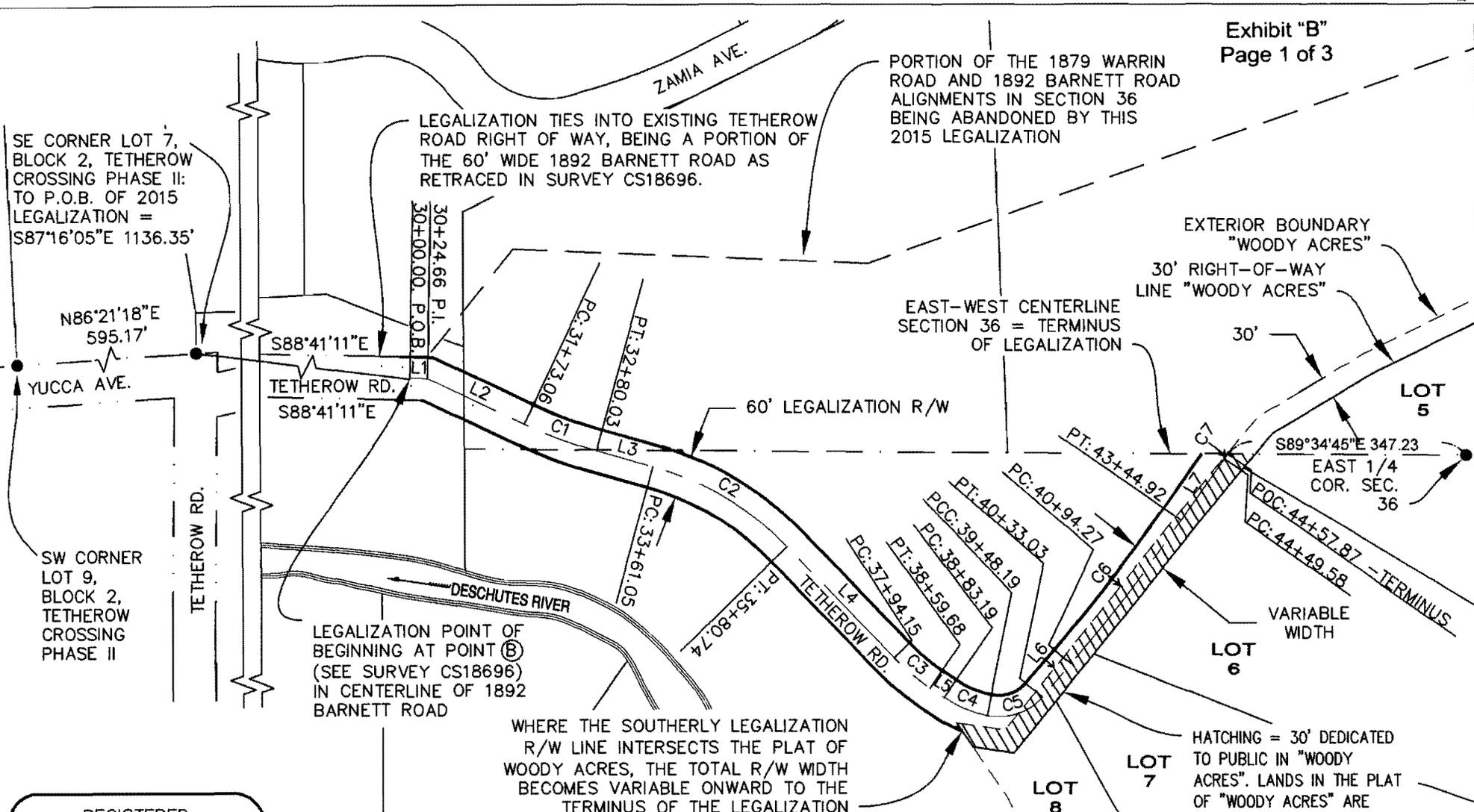
Recommendation:

Contingent upon testimony and findings presented at the public hearing, the County Engineer recommends Board approval and signature of Order 2015-016 legalizing a portion of Tetherow Road as presented in this report.

Under ORS 368.216, when a county governing body legalizes a road, the county governing body shall comply with ORS 368.106 which requires that the county governing body comply with the following:

1. Any order or resolution enacted and deed or other document establishing an interest in the property for public road purposes to be recorded
2. The road right-of-way to be surveyed and monumented.
3. The survey to be prepared in compliance with ORS 209.250
4. The survey to be recorded with the County Surveyor

Upon completion of the legalization procedures, any records showing the location of the road that conflict with the location of the road as described in the order are void. The road exists as shown on the order legalizing the road.



SE CORNER LOT 7,  
BLOCK 2, TETHEROW  
CROSSING PHASE II:  
TO P.O.B. OF 2015  
LEGALIZATION =  
S87°16'05"E 1136.35'

N86°21'18"E  
595.17'

S88°41'11"E  
S88°41'11"E

LEGALIZATION TIES INTO EXISTING TETHEROW  
ROAD RIGHT OF WAY, BEING A PORTION OF  
THE 60' WIDE 1892 BARNETT ROAD AS  
RETRACED IN SURVEY CS18696.

PORTION OF THE 1879 WARRIN  
ROAD AND 1892 BARNETT ROAD  
ALIGNMENTS IN SECTION 36  
BEING ABANDONED BY THIS  
2015 LEGALIZATION

EXTERIOR BOUNDARY  
"WOODY ACRES"  
30' RIGHT-OF-WAY  
LINE "WOODY ACRES"

EAST-WEST CENTERLINE  
SECTION 36 = TERMINUS  
OF LEGALIZATION

60' LEGALIZATION R/W

LEGALIZATION POINT OF  
BEGINNING AT POINT (B)  
(SEE SURVEY CS18696)  
IN CENTERLINE OF 1892  
BARNETT ROAD

WHERE THE SOUTHERLY LEGALIZATION  
R/W LINE INTERSECTS THE PLAT OF  
WOODY ACRES, THE TOTAL R/W WIDTH  
BECOMES VARIABLE ONWARD TO THE  
TERMINUS OF THE LEGALIZATION

HATCHING = 30' DEDICATED  
TO PUBLIC IN "WOODY  
ACRES". LANDS IN THE PLAT  
OF "WOODY ACRES" ARE  
EXCEPTED FROM THIS  
LEGALIZATION

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Michael J. Berry*

OREGON  
JULY 26, 1989  
MICHAEL J. BERRY  
2390  
RENEWAL DATE: 12-31-15

| CURVE TABLE |         |          |         |           |             |         |
|-------------|---------|----------|---------|-----------|-------------|---------|
| CURVE       | LENGTH  | RADIUS   | TAN     | DELTA     | CHORD       |         |
| C1          | 106.97' | 631.87'  | 53.61'  | 9°42'00"  | S69°33'32"E | 106.84' |
| C2          | 219.69' | 413.18'  | 112.51' | 30°27'52" | N59°10'35"W | 217.11' |
| C3          | 65.53'  | 335.12'  | 32.87'  | 11°12'12" | S49°32'45"E | 65.42'  |
| C4          | 65.00'  | 160.00'  | 32.95'  | 23°16'35" | S66°47'08"E | 64.55'  |
| C5          | 84.84'  | 80.00'   | 46.90'  | 60°45'40" | N71°11'45"E | 80.92'  |
| C6          | 250.64' | 2470.37' | 125.43' | 5°48'48"  | N37°54'31"E | 250.54' |
| C7          | 8.29'   | 320.17'  | 4.15'   | 1°29'01"  | S35°44'37"W | 8.29'   |

| LINE TABLE |             |         |
|------------|-------------|---------|
| LINE       | Bearing     | Dist    |
| L1         | S88°41'11"E | 24.66'  |
| L2         | S64°42'32"E | 148.40' |
| L3         | S74°24'31"E | 81.02'  |
| L4         | S43°56'39"E | 213.41' |
| L6         | N40°48'55"E | 61.24'  |
| L7         | N35°00'07"E | 104.67' |

2015 TETHEROW ROAD LEGALIZATION SKETCH

LOCATED IN THE SW1/4 NE1/4, SE1/4 NE1/4 & NE1/4 SE1/4 SEC. 36, T14S, R12E, W.M. DESCHUTES CO., ORE.

DESCHUTES COUNTY ROAD DEPARTMENT  
61150 S.E. 27TH STREET, BEND, OR. 97702

SCALE: 1"=200' DRAWN BY: M.J.B. DATE: 3/4/2015  
FILE: W660 TETHEROW 2015 for BOCC.dwg

REVISIONS:

SHEET  
1 OF 1



**Legal Description for the 2015 Legalization of  
A Portion of Tetherow Road**

A 60.00 foot wide strip of land for roadway and utility purposes located in the Southwest one-quarter of the Northeast one-quarter (SW1/4 NE1/4), the Southeast one-quarter of the Northeast one-quarter (SE1/4 NE1/4) and the Northeast one-quarter of the Southeast one-quarter (NE1/4 SE1/4) of Section 36, Township 14 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon, lying 30.00 feet on either side of the following described centerline:

Commencing at the 5/8" rebar monumenting the Southwest Corner of Lot 9, Block 2, Tetherow Crossing Phase II; thence along the north right-of-way line of Yucca Avenue N86°21'18"E a distance of 595.17 feet to a 5/8" rebar monumenting the Southeast Corner of Lot 7, Block 2, Tetherow Crossing Phase II; thence leaving said Yucca Avenue right-of-way line, S87°16'05"E a distance of 1136.35 feet to a point at the centerline of the 1892 Barnett Road identified as Point "B" on the survey filed at the Deschutes County Surveyor's Office as CS18696 titled "2014 Right-of-Way Map For the Legalization of a Portion of Tetherow Road", said Point "B" being Engineer's Station 30+00.00 and the **Point of Beginning** of this 2015 centerline description; thence S88°41'11"E a distance of 24.66 feet to Engineer's Station 30+24.66 P.I.; thence S64°42'32"E a distance of 148.40 feet to Engineer's Station 31+73.06 P.C.; thence 106.97 feet along the arc of a 631.87 foot radius curve to the left, the long chord of which bears S69°33'32"E a distance of 106.84 feet to Engineer's Station 32+80.03 P.T.; thence S74°24'31"E a distance of 81.02 feet to Engineer's Station 33+61.05 P.C.; thence 219.69 feet along the arc of a 413.18 foot radius curve to the right, the long chord of which bears S59°10'35"E a distance of 217.11 feet to Engineer's Station 35+08.74 P.T.; thence S43°56'39"E a distance of 213.41 feet to Engineer's Station 37+94.15 P.C.; thence 65.53 feet along the arc of a 335.12 foot radius curve to the left, the long chord of which bears S49°32'45"E a distance of 65.42 feet to Engineer's Station 38+59.68 P.T.; thence S55°08'50"E a distance of 23.51 feet to Engineer's Station 38+83.19 P.C.; thence 65.00 feet along the arc of a 160.00 foot radius curve to the left, the long chord of which bears S66°47'08" E a distance of 64.55 feet to Engineer's Station 39+48.19 P.C.C.; thence 84.84 feet along the arc of a 80.00 foot radius compound curve to the left, the long chord of which bears N 71°11'45"E a distance of 80.92 feet to Engineer's Station 40+33.03 P.T.; thence N40°48'55"E a distance of 61.24 feet to Engineer's Station 40+94.27 P.C.; thence 250.64 feet along the arc of a 2470.37 foot radius curve to the left, the long chord of which bears N 37°54'31" E 250.54 feet to Engineer's Station 43+44.92 P.T.; thence N35°00'07"E a distance of 104.67 feet to Engineer's Station 44+49.58 P.C.; thence 8.29 feet along the arc of a 320.17 foot radius curve to the right, the long chord of which bears N35°44'37"E 8.29 feet to Engineer's Station 44+57.87 P.O.C., at the east-west centerline of said Section 36, being the easterly **Terminus Point** of this centerline description, from which the 3" diameter aluminum Deschutes County Surveyors Office cap stamped "L.S. 804" marking the east one-quarter corner of said Section 36 bears S89°34'45"E a distance of 347.23 feet

along said east-west centerline and also from which the 1/2" iron rod marking an angle point in the exterior boundary of the plat of "Woody Acres" at the prolongation of the lot line common to lots 5 and 6 of said plat bears N89°34'45"W 1.31 feet.

The sidelines of said 60.00 foot strip to be extended or shortened to begin at the right-of-way lines of the 1892 Barnett Road segment west of the aforementioned point "B" that bear S88°41'11"E on the aforementioned survey CS18696, and to terminate at the east-west centerline of said Section 36 at said station 44+57.87 P.O.C.

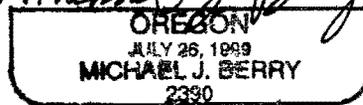
EXCEPTING THEREFROM any portion of said 60.00 foot strip lying within the boundary of the plat of "Woody Acres", the intent being to honor the location of the thirty foot wide dedication in said plat and not create new right-of-way southeasterly beyond the existing Woody Acres right-of-way.

The bearings for this description are based on the Deschutes County Surveyor's Office Central Oregon Coordinate System.

This parcel is depicted on the attached map titled "2015 Tetherow Road Legalization Sketch" which is incorporated herein by this reference.



A handwritten signature in cursive script that reads "Michael J. Berry".



RENEWAL DATE: 12/31/15