

BE IT REMEMBERED, that at a regular term of the Union County Board of Commissioners of the State of Oregon, for the County of Union, sitting for the transaction of County business, begun and held at the Joseph Building Annex in the City of La Grande, in said County and State, on Wednesday of said month and the time fixed by law for holding a regular term of said Court, when were present:

The Honorable Steve McClure, Chairman
John J. Howard, Commissioner
Lorence "Doc" Savage, Commissioner

WHEN, on Wednesday, the _____ day of _____, 1992, among others the following proceedings were had to-wit:

IN THE MATTER OF)
WAY OF NECESSITY REQUEST) COURT ORDER
BY RITA ANDERSON, ET AL) 1992-73

WHEREAS, Union County Board of Commissioners received a Petition to Establish Way of Necessity on October 29, 1991 from Steven N. Thomas, attorney for Rita Anderson, et al. The petition requests the Board to review the Way of Necessity request pursuant to ORS 376.150 et seq. for vehicular access from Palmer Junction County Road to property described as Twp. 2N, Range 39 EWM, Tax Lot 2600. The Petition alleges the property does not have existing public road access; access can be safely obtained from Palmer Junction County Road across property owned by Conifer Pacific, Inc.; and the proposed land area consumed by the access is about one-third of an acre valued at \$250.00.

WHEREAS, Union County has processed the Petition according to procedures in ORS 376.150 et seq. Richard Comstock, Union County Public Works Director, was asked to investigate the Petition and the proposed access road. He submitted a written report according to ORS 376.160 (2). Mr. Comstock's letter dated January 27, 1992 states in part -

(a) "I would recommend moving the current proposed access approximately 500 feet to the north to an existing approach. The reason for this is that the current proposed access to the Palmer Junction Road is located on the crest of a hill plus on a curve. This limits the visibility considerably. The existing approach to the north has much better visibility."

The Board allowed Petitioner's and Respondent's opportunities to submit written evidence and testimony and held a public hearing on April 15, 1992 to accept oral arguments on evidence and testimony already submitted into the record.

WHEREAS, ORS 376.180 identifies the conditions that shall be satisfied for a Way of Necessity.

WHEREAS, property described as Twp. 2N, Range 39 EWM, Tax Lot 2600, owned by Rita Anderson, et al, is identified in two parts - that portion lying east of the Grande Ronde River and Union Pacific Railroad and that portion lying west of the Grande Ronde River and Union Pacific Railroad. Ken Baumberger, Union County Assessor's Office, verified the Union Pacific Railroad has fee title ownership in a 200 foot wide strip of land associated with the railroad tracks. The west portion of Tax Lot 2600 does not join Palmer Junction County Road, nor is there a public or private easement provided for access from Palmer Junction County Road to the west portion of Tax Lot 2600.

FILED
JUN 3 1992

At _____ O'clock _____ M
By R. NELLIE BOGUE, CLERK
By _____ Deputy

WHEREAS, an existing roadway is about 465 feet north along Palmer Junction County Road from the north boundary of the proposed access which is also referred to by the Federal Highway Administration as Station P391+54.92, distance to 54.2, bearing to S36° West. This access is currently gated and extends in a easterly direction about 540 feet over an unimproved surface connecting with a second unimproved roadway extending southerly about 480 feet to the Petitioner's property described as the west portion of Twp. 2N, Range 39 EWM, Tax Lot 2600. The above described unimproved access provides a vehicular route to the southeast quarter of the southwest quarter of Section 13 in Twp. 2N, Range 39 EWM. The above described gate is currently locked and the unimproved access roadway is blocked at the intersection between the first and second access roads by timber harvest slash material, otherwise there are no physical obstructions that would prevent utilization of these road way surfaces. This existing access road with a 30 foot wide right-of-way would include about 0.70 acres. Assuming a land value of \$750.00 per acre the 0.70 acres would be valued at \$525.00;

WHEREAS, all property involved is in an A-4 Timber-Grazing Zone in the Union County Zoning, Partition and Subdivision Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE UNION COUNTY BOARD OF COMMISSIONERS, STATE OF OREGON:

SECTION 1: GRANTING AND ESTABLISHING WAY OF NECESSITY


A Way of Necessity is hereby granted as an exclusive easement across property owned by Conifer Pacific, Inc., described as Twp. 2N, Range 39 EWM, Tax Lot 2600; and granted to the owners, heirs, and assigns of property described as Twp. 2N, Range 39 EWM, Tax Lot 2600 lying west of Union Pacific Railroad right-of-way; more particularly described as a 30 foot wide strip of land beginning about 465 feet north of FHA Station P391+54.92, distance to 54.2, bearing to S36° W, on Palmer Junction County Road which is a gated unimproved roadway extending easterly about 540 feet to the intersection with another unimproved roadway extending southerly about 480 feet to the intersection with property described as Twp. 2N, Range 39 EWM, Tax Lot 2600, in the southeast quarter of the southwest quarter of Section 3; and subject to the following conditions:

- A. The above described Way of Necessity will remain gated at its intersection with Palmer Junction County Road and will be gated at its intersection with Tax Lot 2600 when such property is fenced.
- B. The roadway will not be fenced to allow for unimpeded livestock grazing and timber management practices on the Conifer Pacific, Inc. property.
- C. The road surface may be improved for all-weather access.
- D. The Petitioner is directed to pay costs and reasonable attorneys fees to Conifer Pacific, Inc., which are to be submitted in 30 days and approved by the Union County Board of Commissioners.
- E. Petitioner will compensate Conifer Pacific, Inc., \$525.00 which is the estimated fair market value for the 0.70 acres included within the Way of Necessity.
- F. Petitioner will compensate the County for costs incurred to process the Way of Necessity, estimated at \$353.94.
- G. All fees will be reimbursed within 120 days from the date of this decision.

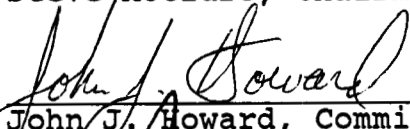
SECTION 2: SUPPORTING FINDINGS OF FACT

1. The above described Way of Necessity is over existing unimproved roadways that extend about 1,020 feet east and south from Palmer Junction County Road. This access has formerly been used for timber management practices and livestock management. The roadway will not be fenced and can only be improved to an all-weather surface which will cause the least possible damage to adjacent land.
2. The existing access from Palmer Junction Road is currently gated and future gating is required where the roadway joins the west portion of Tax Lot 2600, when such property is fenced; also the right-of-way is not permitted to be fenced to allow for unimpeded livestock grazing and timber management on the Conifer Pacific, Inc. property.
3. The existing unimproved access route is recommended by the County Public Works Director as a safer access to Palmer Junction County Road.
4. The Way of Necessity is being granted only as an exclusive easement to the subject property.
5. The subject property is in an A-4 Timber-Grazing Zone which regulates uses according to the Union County Zoning, Partition and Subdivision Ordinance.
6. The Way of Necessity access is described as 30 feet in width.
7. The Union County Roadmaster has recommended the Way of Necessity connection to Palmer Junction County Road.
8. No existing enforceable access to Palmer Junction County Road is available to the subject property.
9. No other easement for access to a public road through other legal action is apparent to the Board of Commissioners.
10. The Petitioner's property, the west portion of Tax Lot 2600, has not been established through subdivision or partition in violation of ORS Chapter 92.
11. The Way of Necessity is not being established over land owned by the State or a political subdivision of the state.
12. The Way of Necessity is not being established for any land which the owner (petitioner) knowing eliminated access to by a public use road through the sale of a portion or all of such land.

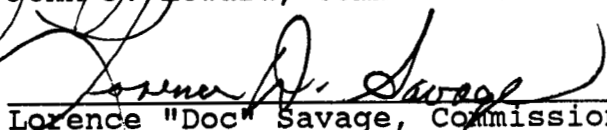
PASSED AND ADOPTED this 6th day of May, 1992, by a vote of the following members of the Union County Board of Commissioners voting therefore.



Steve McClure, Chairman



John J. Howard, Commissioner



Lorence "Doc" Savage, Commissioner