

W. 10.a.

AGENDA COVER MEMORANDUM

Memorandum Date: September 17, 2008

Agenda Date: October 1, 2008

TO: Board of County Commissioners

DEPARTMENT: Management Services

PRESENTED BY: Jeff Turk, Property Management Officer 2

SUBJECT: IN THE MATTER OF WHETHER TO ACCEPT A \$25,000 OFFER FROM DAVID AND LINDA COLLIER FOR COUNTY OWNED PROPERTY COMMONLY KNOWN AS BLUE MT. SCHOOL ROAD OR TO RETAIN SAID PROPERTY FOR DEDICATION AS A LOCAL ACCESS ROAD (ASSESSOR'S MAP NO. 21-02-30-00-00700)

1. **PROPOSED MOTION:** No motion is proposed.

2. **AGENDA ITEM SUMMARY:**

David and Linda Collier have submitted an offer of \$25,000 for County property acquired through tax foreclosure (the Collier's own adjoining property). The County property is commonly known as Blue Mt. School Rd. however, it is not a dedicated, public road but a private road. The Bureau of Land Management (BLM) has an easement over the road to provide public access to its lands beyond the terminus of the County's property (BLM lands do not abut the County property).

The County's Transportation Planning Division is not supportive of an outright sale to a private party but would be supportive of a dedication of the private road as a public, Local Access Road (LAR) or a sale of the property with retaining an easement for public use.

The matter is being forwarded to the Board for deliberation as a bona fide offer for the property has been submitted.

3. **BACKGROUND/IMPLICATIONS OF ACTION:**

A. **Board Action and Other History**

The subject parcel was acquired through tax foreclosure in June, 1972. The Assessor's records list it as being 2.6 acres with an assessed value of \$505. The property is zoned RR5.

The subject parcel is likely a “legal lot of record” as it was created prior to 1975 when major land use laws were enacted (no official determination by the Land Management Division has occurred).

The subject parcel, tax lot 700, was originally 60 acres. Portions of it were sold over the years with the final portion sold in 1969 leaving the current configuration that had historically been used as a roadway.

In 1961 the BLM acquired an easement over the subject property. The easement provided the BLM with the right to “maintain, construct and control a roadway” and the right to provide “access for the people of the United States” to BLM lands. The BLM has a similar easement over tax lot 601 (Weyerhaeuser property) which lies between the terminus of the subject property and BLM lands.

The subject parcel had never been dedicated as a public road and remained as private property. The portion of Blue Mt. School Rd. that runs Northerly from its intersection with Blue Mt. School Ln. is a dedicated County road (as is Blue Mt. School Ln.).

In 1965 the County issued a building permit to a property owner along the subject parcel based on a letter from the BLM stating that the people of the United States have the right of ingress and egress over the road for all lawful and proper purposes.

In May, 2002 the County, pursuant to Order No. 02-5-1-10, granted an access easement to the then owner of tax lot 702. The easement was necessary as a title report for tax lot 702 revealed the property had no legal access thus preventing its sale.

Mr. and Mrs. Collier own tax lot 701 (7.19 acres) and tax lot 702 (5.59 acres). Both parcels are zoned RR5.

The Collier’s interest in purchasing the subject are believed to be two fold:

- a) The Collier’s do have an interest in limiting access over the subject parcel as their property, as well as their neighbor’s, has been subject to vandalism, dumping and theft. The Collier’s expectations of their ability to limit access has been tempered by their understanding of the BLM’s rights to allow public access over the subject property per the terms of their easement.
- b) Acquiring the subject property may provide the Collier’s the opportunity to create an additional parcel that would be suitable for placement of a dwelling. Oregon land use law allows lot line adjustments between two legal lots of records. The Colliers could possibly adjust the lot lines between their 7 acre parcel and the subject property adding enough land to the subject property to support a dwelling (the lot line adjustment would not affect the BLM’s easement).

Dave Collier first contacted Property Management in 2007 to inquire about purchasing the subject property. Property Management staff then contacted the County's Transportation Planning Division to see if they approved of a sale or preferred to retain the parcel and dedicate it as a public road. Transportation Planning responded at the time that they were OK with a sale to a private party provided access agreements were secured for other adjoining owners who use Blue Mt. School Rd. In addition, letters were sent to all of the adjoining owners, including Weyerhaeuser, as well as the BLM informing them of Mr. Collier's interest in purchasing the property.

Mr. Collier was agreeable to executing access agreements with other property owners who use the road for access as a condition of a sale. Upon subsequent due diligence on the property by Mr. Collier a sale price of \$25,000 was negotiated. On August 6, 2008 Mr. Collier submitted a formal offer for the subject property together with a \$5,000 deposit and drafts for seven access easements to be executed and recorded upon acceptance of his offer.

Prior to forwarding the matter to the Board, Transportation Planning was again contacted to inform them that a sale of the subject would be presented to the Board. Transportation Planning reconsidered their prior position of supporting a sale to a private party and determined that it would be in the best interest of the public to dedicate Blue Mt. School Rd. as a public road (dedicate as a local access road).

Transportation Planning's position is based on the premise that having the road dedicated would better insure continued public access to BLM lands as ownership of the road by a private party may put them (the private party) in a better position to negotiate with the BLM to limit public access.

B. Policy Issues

Pursuant to LM 21.425 the County shall dispose of County property not otherwise needed for public purposes thereby returning the property to the tax role.

LM 15.405 states that one of the purposes of the County road system is to provide access to recreational lands of the BLM and Forest Service.

ORS 275.225 provides for selling property via private sale without first being offered at a public auction provided the parcel has a real market value of less \$15,000 per the Assessor and is not suitable for placement of a dwelling under current land use regulations.

C. Board Goals

A sale of the property would be consistent with the Board's goals to return surplus property to private ownership and the tax roll.

Retention of the property would also be consistent with enhancing access to public lands.

Financial and/or Resource Considerations

The revenue received from a sale of the subject property would go towards funding the Property Management program.

E. Analysis

The BLM easement provides for the use of the subject parcel as a roadway by the BLM including “the right of access for the people of the United States of America subject to reasonable rules and regulations of the BLM”. The subject parcel would still be subject to the BLM’s rights if it was dedicated as a Local Access Road or sold to a private party.

If the subject parcel was dedicated as a public road it would not necessarily insure continued public access to BLM lands. The County ownership of Blue Mt. School Rd. terminates at property owned by Weyerhaeuser with the BLM easement continuing through Weyerhaeuser’s property to adjoining BLM property. Should the BLM choose to restrict access to its land the public would not have the legal right to cross the private property lying between the terminus of the County ownership and BLM lands.

Dedicating the subject property as a public road could enhance the likelihood of the BLM continuing public access to its lands. It would also remove any additional influence a private owner of the road may have in negotiating with the BLM to limit access.

It may be possible to convey the subject property while retaining an easement for use of the road by the public. This may preserve the buyer’s ability to proceed with a lot line adjustment and provide for access to the public. Additional research is needed to determine if retaining an easement for the public in a deed conveying the subject parcel could be construed as a public road dedication as lot line adjustments cannot be done with public roads. Transportation Planning is agreeable to a sale of the subject parcel provided an easement is retained for public use.

ORS 275.225 provides for selling County property at private sale if the property has a real market value per the Assessor of less than \$15,000 and is unsuitable for the placement of a dwelling under current land use regulations. The subject parcel meets the criteria for a private sale. Notice of a sale was published in the Register-Guard on August 18, 2008. The Board can sell the parcel not less than 15 days from the date of publication.

F. Alternatives/Options

1. Accept the Collier’s offer of \$25,000 and convey the subject parcel free and clear of any additional encumbrances imposed by the County (the BLM easement would remain).
2. Retain the subject parcel and proceed with its dedication as a public road.

3. Sell the property to the Collier's while retaining a public use easement.

V. TIMING/IMPLEMENTATION

No timing issues are present.

VI. RECOMMENDATION

It is recommended that option 3 be pursued – sell the parcel but retain a public use easement..

VII. FOLLOW-UP

County staff will proceed as directed by the Board – either sell the property or proceed with the public road dedication process.

VII. ATTACHMENTS

BLM Easement
1965 BLM Letter
Plat Map



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
District Office
P. O. Box 392
Eugene, Oregon 97401

DEC 13 1965

Mr. and Mrs. Rodger G. Ewing
Route 1 Box 376
Cottage Grove, Oregon

Dear Mr. and Mrs. Ewing:

You have requested a statement from this office pertaining to access to your property located in a portion of Section 30, T. 21 S., R. 2 W., Will. Mer., over the right-of-way purchased by the United States from your predecessors, James E. and Dawn L. Williamson. The right-of-way was acquired pursuant to an access road easement dated June 17, 1961, recorded in the Lane County records on Reel 175-61D by Reception No. 36823 on July 3, 1961.

We hereby state that you, your successors, and the people of the United States generally have the right of ingress and egress over this road in perpetuity for all lawful and proper purposes.

If you should use the right-of-way for the transportation of forest products, we would require that a right-of-way permit be executed which would provide for the payment of a road use fee and for maintenance of the roadway during such timber hauling.

If you desire to construct approach roads to the right-of-way as controlled by the United States, we request that you inform this office of the approach specifications and obtain approval for such approaches from the district manager.

Sincerely yours,

William R. Rinse

Roger Ewing - Section 30, Twp 21S, R2W, W.M. Tax Lot 701
On BLM Road

Dec. 14, 1965

The Consultant explained that Ordinance 1-65 requires that roads over federal land be approved by the Planning Commission before a building permit is issued. The Bureau of Land Management has given its approval of the use of the road for dwelling purposes by letter. It was moved by Johnson, seconded by Petersen that the easement be recognized for building permit purposes. The motion carried unanimously.

36823

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

ACCESS ROAD EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of \$ 2,340.00, receipt of which is hereby acknowledged,

JAMES E. WILLIAMSON and DAWN L. WILLIAMSON, husband and wife,

do hereby grant, bargain, sell, and convey to the UNITED STATES OF AMERICA and its assigns, a perpetual easement and right-of-way, including but not limited to the right and privilege to locate, construct, relocate, maintain, control, and repair a roadway over and across the following described real property situated in the County of Lane, State of Oregon, to wit:

A parcel of land located in that portion of Section 30, Township 21 South, Range 2 West, Willamette Meridian, Lane County, Oregon, more particularly described as follows:

Tract 1:

Beginning at a point on the South line of Section 30, which is 1650.0 feet East of the Southwest corner of Section 30, Township 21 South, Range 2 West of the Willamette Meridian, Lane County, State of Oregon, thence North for a distance of 2670.86 feet to the North line of the Southwest quarter of said Section 30; thence South 89° 21' East along the North line of said Southwest quarter of Section 30 for a distance of 672.70 feet; thence North 12° 09' East for a distance of 233.90 feet; thence North 62° 36' East for a distance of 416.10 feet; thence North 79° 39' East for a distance of 306.80 feet; thence North 47° 56' East for a distance of 346.30 feet; thence South 31° 04' East for a distance of 166.0 feet to the center of the channel of Mosby Creek; thence up the center of Mosby Creek to its intersection with the South line of said Section 30; thence West along the South line of said Section 30 to the place of beginning, all being located in said Section 30, Township 21 South, Range 2 West of the Willamette Meridian, in Lane County, Oregon.



EXCEPT THE FOLLOWING TRACT CONVEYED TO THE OREGON, PACIFIC, AND EASTERN RAILWAY COMPANY: A parcel or tract of land lying in the Southwest quarter of the Northeast quarter (SW¹/₄NE¹/₄), the Southeast quarter of the Northwest quarter (SE¹/₄NW¹/₄), and the East half of the Southwest quarter (E¹/₂SW¹/₄) of Section 30, Township 21 South, Range 2 West of the Willamette Meridian, being a portion of that parcel or tract of land which was conveyed to Jim Bostick by that certain deed recorded in Volume 251, page 587 of the Lane County Record of Deeds. Said parcel or tract being more particularly described as follows: Beginning at the extreme North corner of said Jim Bostick property, said point bearing North 693.12 feet and East 3296.5 feet from the one quarter corner between Section 25, Township 21 South, Range 3 West, Willamette Meridian, and Section 30, Township 21 South, Range 2 West, Willamette Meridian; thence South 47° 56' West for a distance of 346.30 feet to a point; thence South 46° 17' West for a distance of 317.10 feet to the beginning point of a curve to the left having a radius of 607.96 feet; thence along the arc of said curve to the left to its ending point, said point bearing South 31° 07 1/2' West a distance of 340.80 feet from the last described point; thence North 75° 09' West for a distance of 15.0 feet to a point; thence South 14° 51' West for a distance of 237.80 feet to a point; thence South 75° 09' East for a distance of 15.0 feet to a point opposite and 35 feet from Engineer's center line Station 264 + 50; thence South 14° 51' West for a distance of 2150.0 feet to a point opposite and 35 feet Northwesterly from Engineer's centerline Station 286 + 00; thence North 75° 09' West for a distance of 25.0 feet to a point; thence South 14° 51' West for a distance of 340.81 feet to a point on the South line of said Section 30; thence along said section line, North 89° 33' East for a distance of 98.49 feet to a point; thence North 14° 51' East for a distance of 2702.63 feet to the beginning point of a curve to the right having a radius of 537.96 feet; thence along the arc of said curve to the right to its ending point; said point bearing North 31° 07 1/2'

Post-It Fax Note	7671	Date	3-13	# of pages	5
To	John	From	Mike Anderson		
Co.	WPT Co				
Phone #					
Fax #					

East a distance of 301.57 feet from the last described point; thence North $47^{\circ} 24'$ East for a distance of 110.29 feet to a point; thence South $42^{\circ} 36'$ East for a distance of 81.47 feet to a point in the center of Mosby Creek; thence along the centerline of said Mosby Creek the following courses and distances; North $40^{\circ} 58\frac{1}{2}'$ East for a distance of 114.07 feet to a point; thence North $47^{\circ} 02'$ East for a distance of 180.40 feet to a point; thence North $52^{\circ} 59\frac{1}{2}'$ East for a distance of 227.17 feet to a point; thence North $31^{\circ} 04'$ West for a distance of 166.00 feet to the point of beginning, in Lane County, Oregon.

Tract 2:

A parcel or tract of land lying in the Southwest quarter of the Northeast quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 30, Township 21 South, Range 2 West of the Willamette Meridian, and being a portion of that parcel or tract of land which was conveyed by that certain deed to Leslie W. Scott and Grace E. Scott, recorded in Book 358, Page 568 of Lane County, Oregon Deed Records; said parcel or tract of land being more particularly described as follows: Beginning at a point which bears South 1919.24 feet and East 642.92 feet from the one-quarter section corner between Sections 19 and 30 of said township and range; thence South $47^{\circ} 56'$ West for a distance of 346.3 feet to a point; thence South $79^{\circ} 39'$ West for a distance of 86.80 feet to a point on a curve to the left having a radius of 170.98 feet; thence along the arc of said curve to its beginning point, which bears North $55^{\circ} 18' 27''$ East a distance of 43.98 feet from the last described point; thence North $47^{\circ} 56'$ East for a distance of 384.38 feet to a point; thence South $31^{\circ} 04'$ East for a distance of 40.75 feet to the point of beginning, in Lane County, Oregon.

ALSO EXCEPT THE TRACT OF LAND CONVEYED TO Roland M. Guy and Nina B. Guy: said tract being all that portion of the hereinabove described Tract 1 and Tract 2 lying North of the East-West centerline of said Section 30, Township 21 South, Range 2 West of the Willamette Meridian, Lane County, Oregon, lying North and West of the West Right-of-Way line of that certain logging road described herei .

Said parcel being all that portion of said property contained within a strip of land of varying width, being 20 feet to 30 feet on each side of the centerline of the existing road as it is located along a traverse line described as follows:

Beginning at Engineer's Station 0+00, which point lies 732.5 feet North and 3289.0 feet East of the West one-quarter corner of said Section 30; thence South 18° West for a distance of 100.0 feet; thence South 48° West for a distance of 335.9 feet; thence South 63° West for a distance of 110.0 feet; thence South 85° West for a distance of 199.4 feet; thence South $65\frac{1}{2}^{\circ}$ West for a distance of 139.7 feet; thence South $32\frac{1}{2}^{\circ}$ West for a distance of 140.0 feet; thence South $11\frac{1}{2}^{\circ}$ West for a distance of 150.0 feet; thence South 16° West for a distance of 80.0 feet to Engineer's Station 12+55.0; thence South 16° West for a distance of 287.0 feet; thence South $27\frac{1}{2}^{\circ}$ West for a distance of 259.0 feet; thence South 38° West for a distance of 90.0 feet; thence South $56\frac{1}{2}^{\circ}$ West for a distance of 369.7 feet; thence South 60° West for a distance of 339.0 feet; thence South 56° West for a distance of 100.0 feet to Engineer's Station 26+99.7, which point lies 1060.5 feet South and 1518.7 feet East of the West one-quarter corner of said Section 30; which road is more particularly described on Exhibit A, which is attached hereto and made a part hereof.

<u>Station to Station</u>	<u>Width on Right Side of Centerline</u>	<u>Width on Left Side of Centerline</u>
0 + 00 to 12 + 55.0	20 feet	20 feet
12 + 55.0 to 26 + 99.7	30 feet	30 feet

The parcel of land to which this description applies contains 2.8 acres, more or less.

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The rights and privileges herein granted are for the full use as a roadway by the Grantee, its licensees and permittees, including the right of access for the people of the United States generally to lands owned, administered or controlled by the UNITED STATES OF AMERICA for all lawful and proper purposes subject to reasonable rules and regulations of the Bureau of Land Management.

TO HAVE AND TO HOLD said easement and right-of-way unto the UNITED STATES OF AMERICA and its assigns forever.

The Grantors covenant and warrant that they are lawfully seized and possessed of the land aforesaid and have the full right, power and authority to execute this conveyance, and that they will defend the title to the easement and right-of-way conveyed herein and quiet enjoyment thereof against any claims and demands of all persons whomsoever and that said land is free and clear of liens, claims, or encumbrances, including current or past due taxes.

Dated this 17 day of June, 1961.

Accepted subject to approval of
title by the Department of Justice:

Harold C. Lynd
Acting District Manager
Bureau of Land Management

James E. McManis
Deox. L. Williamson

36823

BLM

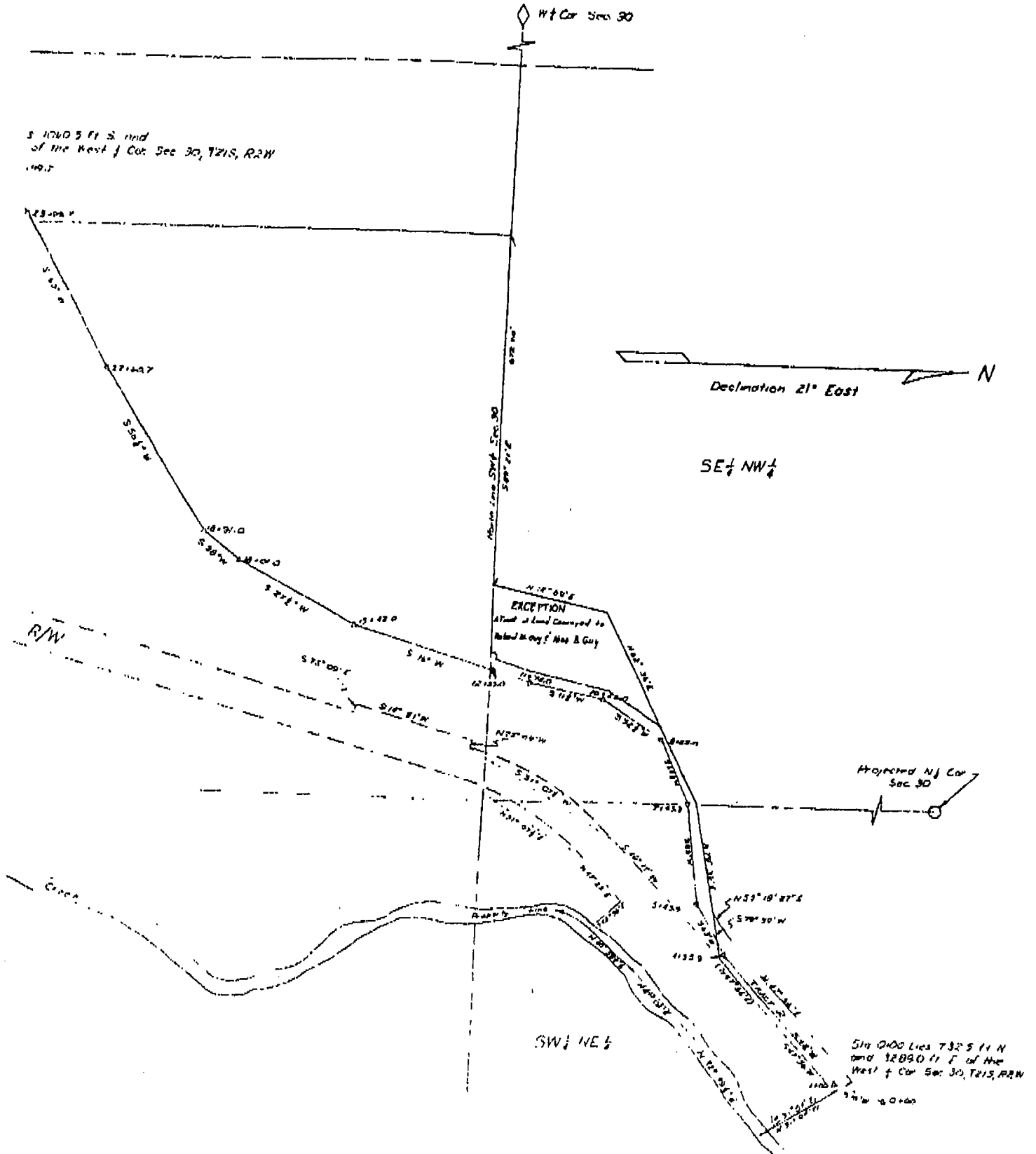
Table E.) EASFMENT RE-E-160

ogenic District Office
D. T. 21 S., R. 2 W. Will Mer.
Lane County, Ore.

idm - 10' 00" Scale 1 in = 100 ft
in 1961 ADS

BLM File No. 21 S 22
Reduced Scale 1" = 200'

Exhibit A



36823

USDI
WILLIAMSON (James E.) EAS
Eugene District
Sec 30 T. 21 S., R. 2 W.
Lane County, O
R/W Width - 40' ad Seal
March 1961
BLM Proj. No. 1
Reduced Scale

JW Cor Sec. 30

Sta 26+99.7 Lies 1060.5 ft S of
1518.7 ft E of the West of C

26+799.7
S 32° W
25+08.7

S 60° W

N 42° 11' W
N 42° 06'

Irregular Tract in Sec. 30, T. 21 S., R. 2 W., Will Mer

S 44° 32' W
N 57° 09' W

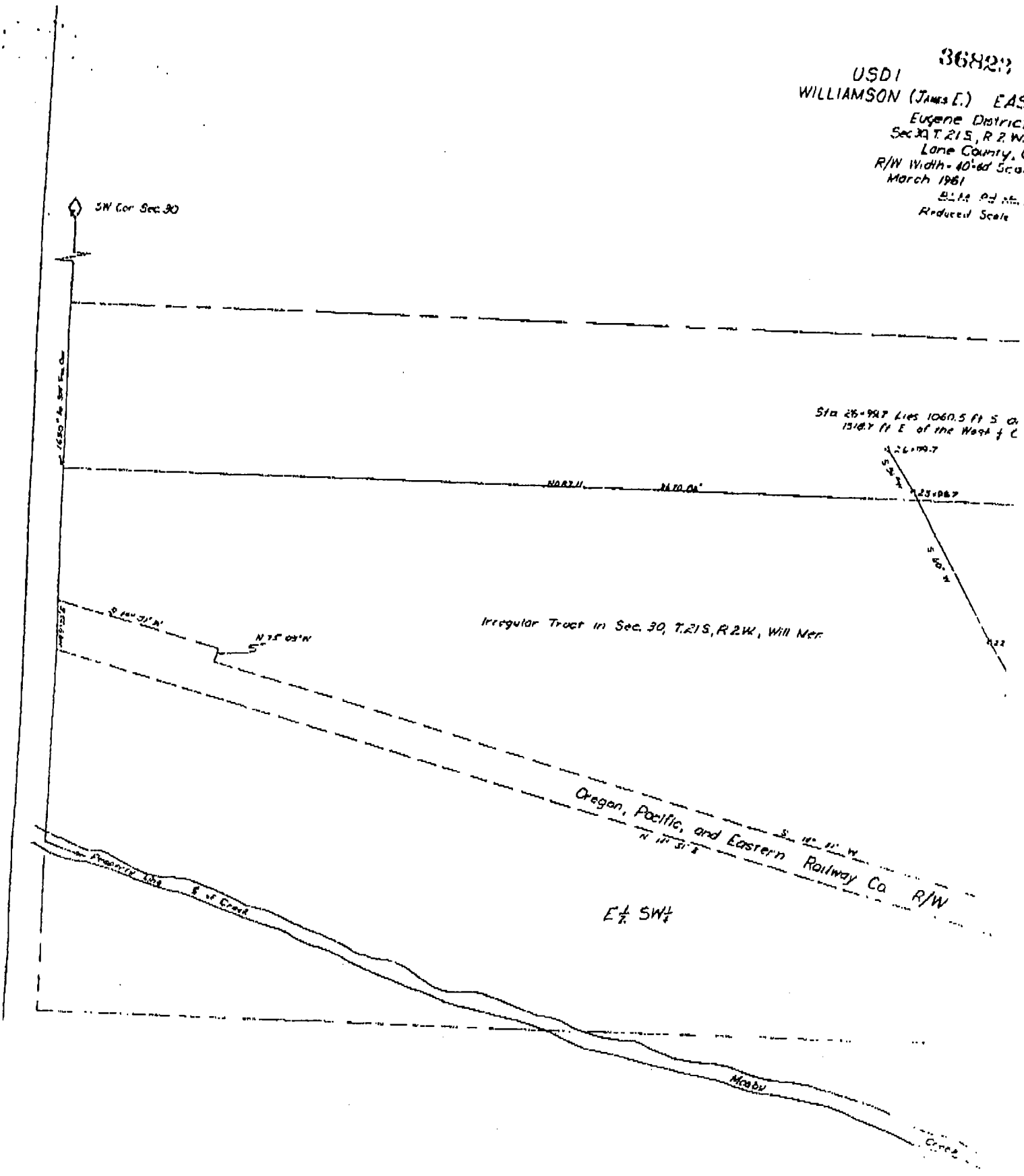
Oregon, Pacific, and Eastern Railway Co R/W
S 10° 11' W
N 77° 51' E

E 1/4 SW 1/4

8' of Creek
E of Creek

Meander

Creek



1300

1000

1000

1000

1000

1000

100

200

100

400

500

400

300

400

300

600

100

301

602



712

802

701



707

BLM

702

700

601

713

709

W



710

802

801

706

800

705

800

2000

1000

500

501

400

301

900

200

703