

No 688

IN THE MATTER OF A
COUNTY ROAD

PETITION OF

Charles S. Johnson
et al

Beginning at *SE Corner of*
Section 1 T4 R 39
town

Petition filed *Nov 5 - 1919*

Affidavit of Posting filed *Nov 5 - 1919*

Bond filed *Nov 5 - 1919*

Order Appointing Viewers and Surveyor
made *November Term 1919*

Page *363* Vol *Dick* Commissioners Journal

Oaths filed I

Viewers Reports filed *Jan 12 1920*

Viewers Reports filed I

Order of Court made I

If the filer of this petition shall be held liable for the cost of this petition

M N U C R S
BUSHONG & CO
OFFICE BANK AND COUNTY SUPPLIES
PORTLAND ORE

Petition for County Road

To the Honorable County Court, for Union County, Oregon:

The undersigned freeholders, of Union County, Oregon, residing in the Road District where the hereinafter described road is proposed to be, respectfully petition your honorable body to lay out, alter and establish a County Road within said county, on the following line or route, to-wit:

Commencing at the southeast corner of section one in Township 4 South of Range 39 E. W. N. ; thence south parallel with range line between Ranges 39 and 40 E. to a point about 40 rods south of southeast corner of the northeast quarter of section 12 said Township and Range to a stake marked A; thence in a southerly direction across irrigation ditch to stake marked B on Range line, thence south on Range line to a point 60 feet north of southeast corner of northeast quarter of southeast quarter said section 12; thence easterly on a curve easterly to intersect subdivision line 60 feet east of said last named subdivision corner, thence east about 53 rods and 4 feet to a point 60 feet west of the line dividing the Baxter tract from the Weaver tract, thence south easterly on a curve to intersect the line between the said Weaver and Baxter tract 60 feet south of the north end of said last named line, thence south on said last named line to intersect the street at the north end of what is commonly known as the Weaver lane, and there terminating, said road to be forty feet in width.

And in duty bound, your petitioners will ever pray, &c.

NAMES:

NAMES:

Chas. Johnson
Maggie Henderson
W. F. Carroll
Fred Miles
John F. Dobbin
E. E. Woodruff
Joseph M. E. Ledy
J. E. Mines
Stent
Hagline W. Horn
Wheeler Hampe
Ralph Hutkinson
James Nelson
Frank R. Wilson
Mary B. Wilson
Walter Vogel
W. L. Evans

In the possession of
Elias J. Johnson
at the Fall County
Court

Filed March 4, 1919
at K. M. O'Connell
County Clerk

BOND OF ROAD PETITIONERS

Know All Men by These Presents, That we, F. K. Wilson *Petitioner*

and Ralph Hutchinson of the County of Union and State of Oregon, are held and firmly bound unto said County of Union in the full sum of ~~ONE~~ ^{TWO} HUNDRED DOLLARS (~~\$100.00~~ ^{\$200.00}) the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators firmly by these presents.

Signed this 4th day of Nov. A. D., 1919

Now, the conditions of the above obligation are such, that whereas, Chas D.

Johnson and others have petitioned the County Court of said County of Union, at the November term, 1919, thereof for a County Road, described

in the petition and notice hereto annexed, as follows: Commencing at South East corner of Section one of T. 39 E. 11 N. Thence parallel with Range line to a point 60 ft. N. of E. corner of NE 1/4 Sec. 17 said T. 39 Range, thence east along a curved to Subdivision line 60 ft. East said last named corner thence east on said Subdivision line to a point 60 ft. West of N. end of line between M. Butler & J. D. Mure, thence on line due south to intersect said Butler Mure line, thence south on said line to intersect the street at North end of what is commonly called Mure's Lane Chas D. Johnson et al

Now, if the above named shall well and truly pay, or cause to be paid, all costs and expenses that may be incurred by reason of the view or review of said road, in case the prayer of the petitioners be not granted or allowed, then that this obligation shall be void, otherwise to remain in full force and virtue.

F. K. Wilson (Seal)
Ralph Hutchinson (Seal)

STATE OF OREGON, } ss.
County of Union

I, Ralph Hutchinson and _____ each for himself, say

I am worth the sum of ~~TWO~~ ^{TWO} HUNDRED DOLLARS, (~~\$200.00~~ ^{\$200.00}) over and above all debts and liabilities and property exempt from execution; that I am a resident householder in said county and State.

Ralph Hutchinson

Subscribed and sworn to before me this 4th day of Nov. A. D., 1919

R. F. Nelson
Notary Public for Or.

In re proposed County
Road petitioned for
by E. H. & Johnson
et al.

Filed Mar 4, 1919
at K. M. O'Connell
County Clerk

..Notice of Road Petition..

TO ALL PERSONS CONCERNED: You and each and all of you, will take notice that the undersigned freeholders, of Union County, Oregon, residing in the road district where the hereinafter described road is proposed to be, will at the next session of the County Court for Union county, Oregon, to wit on Wednesday, the 5th day of *November* A D, 1909, respectfully present to said court a petition praying said court to lay out, alter and establish a County Road within said county on the following line, or route, to wit

Commencing at the southeast corner of section one in Township 4 South of Range 39 E. W. M., thence south parallel with Range line between ranges 39 & 40 E to a point about 40 rods south of southeast corner of the northeast quarter of section 12 said Tp. & range to a stake marked A, thence in a south westerly direction across irrigation ditch to a stake marked B on range line, thence south of Range line to a point 60 feet north of southeast corner of southeast quarter of southeast quarter said section 12, thence westerly on a curve to intersect subdivision line to west east of said last named subdivision corner, thence east about 23 rods and 4 feet to a point 60 feet west of the line dividing the Baxter tract from the Weaver tract, thence southerly on a curve to intersect the line between the said Weaver and Baxter tracts 60 feet south of the north end of said last named line, thence south on said last named line to intersect the street at the north end of what is commonly known as the Weaver lane, and there terminating, said road to be forty feet in width

Dated at *Union* Oregon the *29th* day of *September* 1909

A D 1909

NAME	NAMES
<i>Chas D Johnson</i>	
<i>Maggie H. Johnson</i>	
<i>Wm. G. Johnson</i>	
<i>John P. Johnson</i>	
<i>John Wood</i>	
<i>Joseph W. Johnson</i>	
<i>Ed. E. Johnson</i>	
<i>W. H. Johnson</i>	
<i>Hazel Johnson</i>	
<i>Wm. H. Johnson</i>	
<i>Robert H. Johnson</i>	
<i>James Johnson</i>	
<i>Frank H. Johnson</i>	
<i>Mary B. Johnson</i>	
<i>Walter Johnson</i>	
<i>W. L. Johnson</i>	

Filed Nov 4, 1919
C. H. McCormick
County Clerk

STATE OF OREGON, }
County of Union: } ss.

I, B. F. Nelson

two

being first duly sworn, say that I posted ~~three~~ several notices, of

which the notice hereunto attached is a true and correct copy, in three public places in said county in the vicinity of the proposed road therein described, to-wit: One

on a fence post at the north end of what is commonly known as the Weaver Lane near the South terminus of said Road, so petitioned for by Chas & John. It also was on a Electric light pole at the South end of said Weaver Lane along the Main Highway between Union & La Grande

Thirty days previous to the presentation of the road petition therein mentioned to-wit: On the 29th day of Sept 1919, and that thereafter and thirty days previous to the presentation of said road

petition therein mentioned, to-wit: On the 29th day of Sept, 1919, I posted a true and correct copy of said notice at the place of holding Court for Union County, Oregon, to-wit: On the front of the Court

House door, in the City of La Grande ~~Union~~, in said County and State, and that said notices remained posted thirty days previous to the presentation of said petition as I verily believe.

B. F. Nelson

Subscribed and sworn to before me this 5th day of November 1919.

C. K. McCarried
County Clerk

In re proposed
County Road petition
of Wm. E. Johnson
et al.

Filed Nov 4, 1919
C. H. McCormick
County Clerk

STATE OF OREGON, }
County of Union: } ss.

I, Ralph Hutchinson being first duly sworn, say that I posted ^{one} ~~three several~~ notices, of

which the notice hereunto attached is a true and correct copy, in ^{one} ~~three~~ public places in said county in the vicinity of
the proposed road therein described, to-wit: One on a post about 20

feet south of the O.E. Corcoran of Be 1 26 4 8
Q 39 E.M.M., on the Highway leading
from the Cove Road to Hot Lake, Ore

Thirty days previous to the presentation of the road petition therein mentioned to-wit: On the 29th day
of Sept 1919, and that thereafter and thirty days previous to the presentation of said road

~~petition therein mentioned, to-wit: On the _____ day of _____ 190____, I posted a true and~~

~~correct copy of said notice at the place of holding Court for Union County, Oregon, to-wit: On the front of the Court~~

~~House door, in the City of Union, in said County and State, and that said notices remained posted thirty days previous~~

to the presentation of said petition as I verily believe.

Subscribed and sworn to before me this 4th day of Nov, 1919.

Ralph Hutchinson

B.F. Wilson
Notary Public for Ore

In re proposed
County Road petition
for by Elias Johnson.
et al

Filed Nov 4, 1919
at N. M. O'Connell
County Clerk

BE IT REMEMBERED, That at a regular term of the County Court of the State of Oregon, for the County of Union, sitting for the transaction of County business, begun and held at the Court House in the city of La Grande, in said County and State, on Thursday, the 6th day of November A. D. 1919, Court having by statute been adjourned from the first Wednesday of said month, and the time fixed by law for holding a regular term of said court, for the reason that but one member of the Court appeared on said date, when were present:

The Honorable J. F. Phy, County Judge
C. A. Galloway, Commissioner
W. J. Townley, Commissioner
C. K. McCormick, Clerk
Lee Warnick, Sheriff

WHEN, on Friday, the 7th day of November A. D. 1919, or the 2nd Judicial Day of said term, among others the following proceedings were had, to-wit:

In the matter of the proposed)
County Road petitioned for by)
Chas. D. Johnson, et al.)
-----)

0 - 363

Comes now Chas. D. Johnson, one of the petitioners for the above named proposed County Road, and presents to the court the petition of himself and others, praying for the location and establishment of a county road, described as follows, to-wit:

Commencing at the southeast corner of section one in Township 4 South of Range 39 E.W.M., thence south parallel with range line between ranges 39 and 40 E; to a point about 40 rods south of southeast corner of the northeast quarter of section 12 said Township and Range to a stake marked A, thence in a southerly direction across irrigation ditch to stake marked B on range line, thence south on Range line to a point 60 feet north of southeast corner of northeast quarter of southeast quarter said section 12, thence easterly on a curve easterly to intersect subdivision line 60 feet east of said last named subdivision corner, thence east about 53 rods and 4 feet to a point 60 feet west of the line dividing the Baxter tract from the Weaver tract, thence southerly on a curvex to intersect the line between the said Weaver and

Baxter tract 60 feet south of the north end of said last named line, thence south on said last named line to intersect the street at the north end of what is commonly known as the Weaver lane, and there terminating, said road to be forty feet in width.

And it appearing to the Court that said petition is signed by more than twelve freeholders of this county, residing in the road district where the hereinbefore described road is proposed to be, and that said petition properly specifies the place of beginning, intermediate points and place of termination of said road, and it satisfactorily appearing to the court that notice has been given by advertisement posted at the place of holding County Court, to wit: At the Court House in the city of La Grande, Union County, Oregon, and also in three public places in the vicinity of said proposed road, to wit:- One on a fence post at the North end of what is commonly known as the Weaver lane, near the south terminus of said road, and one on an electric light pole at the South end of said Weaver lane along the main highway between Union and La Grande, and one on a post about 30 feet south of the S.E. corner of Sec. 1, Tp. 4, S. R. 39 E.W.M. on the Highway leading from the Cove Road to Hot Lake, Ore. for more than thirty days immediately prior to the presentation of said petition to this court, notifying all persons concerned that application would be made to this court, at the present session of this court, and that the notices so posted were in due form and duly signed by the petitioners, and that a bond for the cost of this proceeding has been duly given.

It is therefore ORDERED that Roscoe Neal, County Surveyor, and Thos. Brasher and G. E. Hall, constituting the Board of County Road Viewers, be, and they are hereby directed to meet at Union, Oregon, on the 20th day of November, 1919, at the hour of 9 o'clock A. M., or ~~within five days thereafter~~ and proceed to survey, view and lay out said road according to law. *and file report on or before Dec 3, 1919*

(Signed) J.F.Phy, County Judge
C.A.Galloway, Commissioner
W. J. Townley, Commissioner

BE IT REMEMBERED That at a regular term of the County Court of the State of Oregon, for the County of Union, sitting for the transaction of County business, begun and held at the Court House in the City of La Grande, in said County and State, on Wednesday, the 3rd day of December, A. D. 1919, the same being the first Wednesday of said month, and the time fixed by law for holding a regular term of said Court, when were present;

The Honorable J. F. Phy, County Judge
C. A. Galloway, Commissioner
W. J. Townley, Commissioner
C. K. McGernick, Clerk
Lee Warnick, Sheriff

WHEN on Thursday, the 4th day of December, 1919, or the 2nd Judicial Day of said Term, among others the following proceedings were had, to-wit;

In the matter of the proposed
County Road petitioned for by
Chas. D. Johnson et al.

0-372

Now at this time it is ORDERED that this matter be and the same is hereby continued for the term for the report of the Viewers.

(sd) J. F. Phy, County Judge
C. A. Galloway, Commissioner
W. J. Townley, Commissioner

REPORT OF BOARD OF COUNTY ROAD VIEWERS.

TO THE HONORABLE COUNTY COURT FOR UNION COUNTY, OREGON:

The undersigned Board of County Road Viewers, heretofore on the 6th day of November 1919, instructed to view, lay out and alter the proposed county road, of which the survey hereto attached is a true and correct description, as petitioned for by Chas. D. Johnson et al., beg leave to report that on the 20th day of Nov., 1919, in pursuance with said order, we proceeded to view out said proposed road for the whole distance thereof, and that in our opinions said proposed road should be laid out and established as a public highway of Union County, Oregon; that the same is practicable and would add to the convenience of the householders residing in the vicinity thereof. We therefore recommend that said proposed road be laid out and declared a public highway of said county.

We recommend that the following damages be paid:

G.C. Baxter 66 Acres @ 2.00 per Acre. He now has a road serving him.

Proposed road will not take any trees in his orchard.

A.F. Pugh 33 A @ 4.50 per Acre. A.F. Pugh has a road serving him and will

lose a row of fruit trees if road is built

Jas. Wilson has a private road 20' wide on the west and south margin of J.B.

Weaver's tract. This is the only means of reaching Weaver Lane or any road Weaver

has. Mr. Wilson promised the viewers he would deed this private road over

to Weaver. In view of this fact and also because he will have a public road

serving him we recommend that he be awarded no damages

D. J. McCallan
Chas. D. Johnson
J. Hall

Board of County
Road Viewers.

The City of La Grande, Oregon

COMMISSIONERS

H. S. BROWNTON, PRES. J. D. MCKENNON W. D. GRANDY

MANAGER

JOHN COLLIER

December 26, 1919.

To the County Court,
Union County, Oregon.

Gentlemen-

I beg to report that in accordance with your instructions I have surveyed the road petitioned for by Chas. D. Johnson et al terminating at Weaver Lane, and submit herewith description of same:-

Commencing at the southeast corner of section one in Township 4 South of Range 39 E.W.M. thence south along range line between Ranges 39 and 40 E.W.M. 3922 feet to the beginning of a curve the radius of which is 60 feet and the total angle 90 degrees East thence 94.2 feet to the end of said curve, thence east along the center line of the southwest 1/4 of section 7 Township 4 South Range 40 E.W.M. 860.5 feet to the beginning of a curve the radius of which is 60 feet and the total angle 90 degrees south, thence south on a line dividing what is known as the Baxter and Weaver tracts 1247.5 feet to intersect the street at the north end of what is commonly as Weaver Lane, and there terminating, said road to be forty feet wide.

Those present to witness the survey were Thos. Brashar and G.F. Hall.

Respectfully submitted.

D. J. McLeelan

Deputy County Engineer.

Section 1

0.100 % of Proposed Road and Her Lake Road

Range Line & Proposed Roads

Twp 4 S Range 39 E 11 1

Twp 4 S Range 40 E 11 1

Stone Monument
NW Cor SW 1/4
of SW 16 Sec 7
Twp 4 S Range
40 E of R 11

30-220 C

EC 49702

SW Cor Sec 7

900'

End of Proposed Road

Map of Proposed County Road
Terminating at Weaver Lane and North
of Upriver, Oregon
Nov 20 1913

Ordinance

No. _____ Series _____

Entitled

Introduced..... 191

Read First Time..... 191

Read Second Time..... 191

Referred..... 191

Reported back..... 191

Read Third Time..... 191

Passed..... 191

----- Commissioners voting therefor

Took effect..... 191

Recorded Page.....

Book..... of Ordinances

City Recorder.

In the matter of the
Proposed County
Road petitioned for
by Elmer A Johnson
et al

Report of the same

Filed January 3, 1919
at the County Clerk
County Clerk

In the Office of the District Attorney, Union County, Oregon

IN THE MATTER OF THE ROAD PROCEEDINGS)

For the Proposed) Opinion of District Attorney.
Chas. D. Johnson Road, Petitioned for.)

To the Honorable County Court of Union County, Oregon.

Gentlemen:

In compliance with the provisions of the statutes requiring the County Court to submit the proceedings of all proposed roads to the office of the District Attorney, for examination into their legality, before such proposed road may be finally established, I beg to report, - that I have examined into the proceedings submitted to my office, and find that the petition, notices and bond, have all fulfilled the statutory requirements as to time and amount, and were duly considered by the county court, and an order made on the 7th day of November appointing road viewers and requiring them to survey and mark out said proposed road, and filed their report on or before December 3, 1919 but such report was not filed till January 2, 1920, (an evident mistake being made by the clerk in marking the date "1919" in stead of 1920. which can be corrected by him) . The laws of 1917, Chapter 295, require that the Board of Viewers shall filed their report on or before the date ^{set} ~~said~~ by the court for the return- in this case ~~January 2, 1920~~ December 3, 1919. Also, the law requires that ten days elapse between the filing of such report and the next term of the county court at which such report may be considered, Section 1, Chapter 278, Session Laws 1919; then such report shall be read on two different days of such term; and then all claims for damages must be filed before the second reading.

These requirements are jurisdictional, and for the benefit of remonstrators and claimants for damages, and cannot be ignored. In other words, the Commissioners court is without jurisdiction or authority to proceed till the ten days have elapsed, and such proceeding is void.

Inasmuch as it will be necessary to re-proceed, I wish to call attention to the very indefinite location of the southern terminus of the proposed road, the same being described as "the street at the north end of what is commonly ~~called~~ known as the Weaver Lane." The law of 1917 amended the requirements of the petition, and it does not now have to name to intermediate points, but must give the general direction of the proposed road, and must "describe the terminal points". What street is meant, of what town, or what part of the street becomes the terminal point, excepting at the north end of what is known as Weaver lane, does not appear. Possibly Weaver lane is a well known mark. It is much better to tie the termini to a government corner by giving the distance and direction from it if possible, as was done in the beginning of this proposed road.

For the above reasons, I am unable to approve the proceedings.

Dated at La Grande, this 20th day of January, 1920


District Attorney.

STATE OF OREGON }
COUNTY OF UNION } ss.

I, _____, being first duly sworn, say that I am
the _____ named in the above entitled
_____, and that the foregoing _____ is true as I verily believe.

Subscribed and sworn to before me this the _____ day of _____, 191_____

Notary Public for Oregon.

(SEAL)

STATE OF OREGON }
COUNTY OF UNION } ss.

I hereby certify the foregoing to be a true and exact copy of the whole of the original _____
_____ in the above entitled _____ and Court,

Attorney for _____

STATE OF OREGON }
COUNTY OF UNION } ss.

I hereby accept service of a duly certified copy of the foregoing _____
in Union County, Oregon, this _____ day of _____, 19_____

Attorney for _____

STATE OF OREGON }
COUNTY OF UNION } ss.

I hereby certify that I made service of the foregoing _____
on the _____, by depositing a duly certified copy thereof, with postage
thereon prepaid, in the Postoffice at La Grande, Oregon, on the _____ day of _____, 19_____

inclosed in an envelope addressed to _____ Attorney for _____

_____, Oregon.

IN County COURT

FOR _____

UNION COUNTY, OREGON

In the Matter of

Chas. D. Hunter

Plaintiff

VERSUS

Ray

Waver Lane

Defendant

Defendant

Anna K. Smith

FILED Jan. 20 1920

E. K. McCormick & Clerk

By Mattie McMurry, Depy

JNO. S. HODGIN

LA GRANDE, OREGON

Attorney for _____

1 IN THE COUNTY COURT OF THE STATE OF OREGON
2 FOR UNION COUNTY.
3

4 In the Matter of the proposed County
5 Road petitioned for by Chas. D. John-
6 son, and others.

7

8 Comes now J. B. Weaver, a householder and tax-payer of
9 Union County, Oregon, and moves the above entitled court to set
10 aside the order of the court heretofore made and entered in this
11 proceeding on the 8th day of January, 1920, upon the grounds and
12 for the reasons following:-

13 1- That said order and the proceedings upon which it is based
14 are irregular and invalid in that the order of the court made on
15 the 7th day of November, 1919, directed the viewers in the above
16 entitled proceeding to file their report herein on or before the
17 3rd day of December, 1919, but the record shows that such report
18 was in fact not filed until the 2nd day of January, 1920.

19 2- That said order of January 8th, 1920, and the proceedings
20 upon which it is based are invalid in that the report of the
21 viewers herein was publicly read by the court and said order made
22 before the expiration of the ten (10) days provided by statute
23 after the filing of the report of the viewers.

24 3- That the making of such order by the court before the
25 expiration of the ten days allowed by statute after the filing
26 of the report of the viewers, deprived said J. B. Weaver of his
27 right to file a claim for damages, resulting from such road be-
28 ing opened across his premises and destroying bearing fruit trees
29 belonging to him and located on the ground proposed to be taken
30 for such road.

31 4- That said J. B. Weaver has a good claim for damages in
32 this matter which he desires to file and have considered by the

1 court in this matter, which claim, duly verified, he hereto
2 attached.

3 J. B. Weaver
4 *and*
5 Crawford & Eakin
6 Attorneys for J. B. Weaver.

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CRAWFORD & EAKIN
ATTORNEYS AT LAW
LA GRANDE, OREGON

1 IN THE COUNTY COURT OF THE STATE OF OREGON
2 FOR UNION COUNTY.
3

4 In the Matter of the proposed County
5 Road petitioned for by Chas. D. John-
6 son, and others.
7 -----

8 Comes now J. B. Weaver, a householder and tax-payer of
9 Union County, Oregon, and presents to the above entitled court
10 his claim for damages in the above entitled matter. In support
11 of such claim he alleges and shows to the court the following
12 facts:

13 That I am the owner of a tract of land consisting of about
14 twenty-four acres, which the proposed road in the above entitled
15 proceedings will go through and across, being along the North and
16 East side of such land.

17 That said road, if opened and dedicated as indicated by the
18 survey and the report of the viewers and as ordered in the order
19 of the court heretofore made, will remove and destroy mature and
20 bearing fruit trees belonging to me as follows: Prune trees, 29;
21 Winter Apple trees, 22; Cherry trees, 7; and Peach trees 2,
22 making a total of Sixty (60) trees.

23 That each of said trees are now mature and all bearing and
24 produce a valuable crop of fruit each year. That each of said
25 trees are reasonably worth the sum of Six Dollars (\$6.00), or a
26 total aggregate sum of Three Hundred Sixty Dollars (\$360.00).

27 That the viewers herein failed and refused to allow me any
28 damages whatsoever for the loss of such trees, assigning as their
29 reason for so doing, that the proposed road will afford the only
30 means of reaching my said lands, and that the benefit will be
31 equal to the damage sustained. That this statement of the viewers
32 is incorrect, for the reason that there is now and for many years

1 has been a public road and open land to my said lands, which lane
2 and public road does now and for many years past has afforded in-
3 gress and egress to and from my said land, and that said proposed
4 read will not in any way benefit me or my said land.

5 That the land heretofore used as a read and which B. F.
6 and Mary Wilson, his wife, propose to deed to me, in the event
7 the proposed read is opened, is partly alkali and hard-pan and
8 will require at least one year's work and much hard work to re-
9 duce to a state of cultivation, and that all of land so proposed
10 to be deeded to me will require at least one year's work and much
11 labor to put in proper shape for a profitable crop. That all of
12 the land now owned by me and which the proposed road will take, is
13 good land and in a good state of cultivation, and that I will suffer
14 damage in the exchange of such land by reason of the character and
15 condition of the land proposed to be deeded to me.

16 WHEREFORE I respectfully petition that this claim be care-
17 fully considered by the court and that I be allowed the sum of
18 \$360.00 as damages for the destruction of my trees as above set
19 forth, and for such further sum as the court may consider proper
20 and just for the damage sustained in the exchange of good and well
21 cultivated land for the present road-way.

J. B. Weaver

23 STATE OF OREGON.)
24 County of Union.) SS.

25 I, J. B. Weaver, being first duly sworn
26 say that I am the person who signed the foregoing petition and that
27 the same is true as I verily believe.

J. B. Weaver
Robert S. [Signature]
Notary Public for Oregon.

28
29 Subscribed and sworn to before me this 19th day of January,
30 1920.

31
32 My commission expires Jan. 10th, 1921.

CRAWFORD & EAKIN
ATTORNEYS AT LAW
LA GRANDE, OREGON

STATE OF OREGON }
County of Union } ss.

I hereby certify the foregoing to be a true and exact copy of the whole of the original
----- in the within entitled ----- and court

One of Attorneys for -----

STATE OF OREGON }
County of Union } ss.

I hereby accept service of a duly certified copy of the within -----
in Union County, Oregon, this ----- day of ----- 191---

Attorney for -----

IN THE COUNTY COURT OF THE
STATE OF OREGON FOR
UNION COUNTY.

In the Matter of the Proposed
County Road petitioner for by
Chas. D. Johnson, et al.

Motion to set aside order of
court and consider claim for
damages.

Filed

January 21 1930

Ed. K. McCarroll
Clerk

By

Deputy

CRAWFORD & EAKIN

Attorneys for Claimant. J. B. Weaver

La Grande, Oregon

BE IT REMEMBERED That at a regular term of the County Court of the State of Oregon for the County of Union, sitting for the transaction of County business, begun and held at the Court House in the City of La Grande, in said County and State, on Wednesday, the 4th day of February, A. D. 1920, the same being the first Wednesday of said month and the time fixed by law for holding a regular term of said Court, when were present:

The Honorable J. F. Phy, County Judge
C. A. Galloway, Commissioner
W. J. Townley, Commissioner
C. K. McCormick, County Clerk
Lee Warnick, Sheriff

WHEN on Saturday, February 7th, 1920, or the 2nd Judicial Day of said term, among others the following proceedings were had, to-wit:

In the matter of the proposed
County Road petitioned for by
Chas. D. Johnson, et al.

0-401

Now at this time the above entitled matter comes on to be heard for the first reading of the Viewers' Report, and said Report having been publicly read,

It is CONSIDERED AND ORDERED that said matter be and the same is hereby continued until Wednesday, February 11th, 1920.

(Sd) J. F. Phy, County Judge
C. A. Galloway, Commissioner
W. J. Townley, Commissioner

BE IT REMEMBERED That at a regular term of the County Court of the State of Oregon for the County of Union, sitting for the transaction of County business, begun and held at the Court House in the City of La Grande, in said County and State, on Wednesday, the 4th day of February A. D. 1920, the same being the first Wednesday of said month and the time fixed by law for holding a regular term of said Court, when were present:

The Honorable J. F. Phy, County Judge

C. A. Galloway, Commissioner

W. J. Townley, Commissioner

C. K. McGernick, County Clerk

Lee Warnick, Sheriff

WHEN, on Wednesday, the 11th day of February A. D. 1920, or the 5th Judicial Day of said Term, among others the following proceedings were had, to-wit:

In the matter of the proposed
County Road petitioned for by
Chas. D. Johnson, et al.

O-407

Now at this time the above entitled matter came on to be heard for the second reading of the Viewers' report, and said report having been read for the second time,

It is CONSIDERED AND ORDERED that said matter be and the same is hereby continued until February 14th.

(Sd) J. F. Phy, County Judge

C. A. Galloway, Commissioner

W. J. Townley, Commissioner

¹ In the County Court of the State of Oregon for the County of Union

² In the matter of the proposed County

³ read petitioned for by Charles D. Johnson
et-als

⁴ State of Oregon
⁵ Oregon Union County ss.

⁶ I B. F. Wilson being first duly sworn say
tha t I a m one of the gra nters in that certain deed executed by M. B.
Wils on a nd B. F. Wilson conveying to J. B. Weaver a strip twenty feet
in width a long the west side and along the south side of the twenty acre
tra ct; the north end of which is affected by the proposed road above
¹⁰ entitled; tha t the said s trip was purchased from said Weaver by me in
¹¹ 1907 for road way purpos e for a consideration of \$100.00; the fence to
¹² be built a nd ma inta ined by me along said strip for the distance of
¹³ 20 rods; tha t the la nd a long said strip are a ll of excellent quali
¹⁴ ty with the ex ception of a bout 150 feet in lenth a t one pla ce where
¹⁵ a lka li exis ts : tha t a s compared with the s trip to be taken with
¹⁶ off the north end of the 20 acre tra ct; and off the north and east
¹⁷ sides of the five acre tra ct; of the Weaver la nds; by the proposed
¹⁸ road; the strip conta ined in the deed above refferred to and now in the
¹⁹ ha nds of the County Clerk at the disposal of ~~the County~~ the County
²⁰ Court and as re-imbursment to Mr. Weaver in the matter of damages; is
²¹ of fa r more va lue ; not considering fruit trees; than the strip taken
²² by the proposed road; The s trip on the south side of the 20 acre tra ct
²³ to inure to Mr. Wea ver is excellent land and lies immedia tely adja
²⁴ cent to Mr. Wea ver's outlet to the ma in road; there is an a rea on
²⁵ the north of s a id 20 acre tra ct for a distance of 20 rods which was up
²⁶ to two or three yea rs a go set to a growth of willows of s ome 30
²⁷ to 40 yea rs growth; The willows were cut down but the rett system is
²⁸ yet there; a nd by rea s on thereof Mr. Weaver ha s not cultivated the
²⁹ sa me nor pla nted the s a me to anything; that the sa id s trip so deeda
³⁰ to Mr. Wea ver a s a bove mentioned is reasona bly worth \$200.00 per
³¹ acre; which is the going price for such lands in the immediate vicinity.
³²

Tha t I have read over the a ffidavit as made by C. A . Gale and fil
ed herein and the fa cts set forth therein are true as I verily believ

1
2 that by computation of the acreage covered by the fruit trees
3 affected by the said proposed road there is one half acre; there
4 is 20 sq. rods or 1/8 acre that no trees are upon were vacant
5 occur ~~stony~~ but which is in cultivation and susceptible of cultivation;
6 there is 25 sq. rods where willows were removed not in cultivation
7 nor susceptible of cultivation; that the value of the lands covered
8 by fruit trees does not exceed the sum of \$200.00, said lands not
9 exceeding the value of \$400.00 per acre; that the value of the 1/8 acre
10 is the sum of \$25.00, said lands not exceeding in value the sum of
11 \$200.00 per acre; that the 25 sq. rods where willows were removed do
12 not exceed the sum of \$24.00, said lands being worth about \$150.00 per
13 acre. So that the total value of all these lands proposed to be
14 taken for such road purposes does not exceed the sum of \$249.00.
15 The lands decided to Weaver as herein above referred to are of the
16 reasonable value of the sum of ~~XXXXX~~ \$187.00. Deducting this
17 from the total of \$249.00 we have the sum of \$62.00, to be considered
18 as an offset to enhance value of lands and benefits accruing
19 to the lands of Weaver remaining.

B. F. Wilson

20
21 Subscribed and sworn to before me this Feby. 13th. 1920

22
23 Lewis J. Terrall
Notary Public for Oregon
My commission expires Mar. 19-1921

in the County Court
Order of Discharge
for Leonor County

As the matter of the
road put forward for
by Charles Johnson
Shalo

Applicant of
H. P. F. Walker
to Damasco &
J. M. Walker

Filed Dec 14, 1920
at the Court
to Seal

A. F. Walker,
Attorney for Applicant

1 In the County Court of the State of Oregon for the County of Union

2 In the matter of the proposed County
3 Road petitioned for by Charles D. Johnson
4 et-als

5 State of Oregon
6 County of Union s.

7 I C. A. Gale being first duly sworn say that I reside at
8 Union, Oregon, and have so resided for the past 25 years; that
9 during my residence there and ever since old enough to work at any kind
10 of employment I have been engaged in orchard work and the handling of
11 fruit; That I am acquainted with the 20 acre tract and the five acre
12 tract owned by Mr. J. B. Weaver situated in the S W 1/4 of Sec. 7 Tp.
13 42 South of Range, affected by the survey of the above entitled proposed
14 County Road, and have known the same for several years; That in com-
15 pany with B. F. Wilson I did on the 13th. day of Feb'y. 1920 make care-
16 ful examination of and counted the trees upon the said 20 acre and five
17 acre tracts of the said J. B. Weaver affected by said road, and also
18 ascertained and determined the number of trees per acre as planted in the
19 five acre tract and also on the 20 acre tract, and also ascertained
20 and determined that the said trees are planted upon and confined to the
21 acreage extending for a distance of 80 rods along said proposed road
22 and that the other 20 rods of distance contains no trees at all; that upon
23 the said five acre tract there are 19 prunes trees, 21 apples
24 trees, four cherry trees and two peach trees, this orchard being an
25 old orchard and having quite a number of vacancies in the tree rows;
26 that in this five acre orchard the trees mentioned are in bearing or
27 at least old enough and big enough to be in bearing; that in this
28 five acre orchard the trees are set so there are 104 trees to the acre
29 of the whole tract and are set in such way that evidently was the
30 intention to cut out cherries and peaches after a certain period of
31 growth and make of the orchard an apple orchard; ~~and that Mr.~~
32 ~~Weaver intended to set the trees in such way that they would be in bearing~~; that
33 upon the 20 acre tract is set prunes and cherry trees 20 feet apart,
34 making 108 trees to the acre or thereabout; that along the line of
35 of the said proposed road the trees are only set for a distance of 20

1
2 ~~XXXXXX~~ rods; the 20 rods extending from the northwest corner of
this 20 acre orchard east having been up to a few years ago; as
affiant has been informed and believes; set to a heavy growth of
willows and the ground being in such condition by reason thereof as
not susceptible of cultivation at all; that upon this 20 acre tract
7 along the line of said proposed road there are set 9 prune trees
8 and four cherry trees; this part of the orchard being all young trees
9 set out from three to five years ago; a few of which along the lines
10 read here a little fruit the past year; that in this 20 acre orchard
there are five small prune trees which may be transplanted with safety
12 as a fact; and possibly there are more; that the value per acre of
fruit tracts such as described herein runs from \$350.00 per acre to
\$450.00 per acre ~~in the vicinity of Union, Oregon~~
and in the vicinity of ~~these~~ tracts; owing to situation, convenience
character and quality of fruit; and character and thriftiness of
trees; that in my judgment \$400.00 per acre for these orchard tracts
would be the maximum value; that by computation I have determined
that the 54 trees (deducting the small ones which may be transplanted)
covers an area of one half acre; which in my judgment is of the
actual value of not to exceed \$200.00; that such lands of the character
of these tracts without fruit trees; susceptible of cultivation and
cultivated to ordinary crops of cereals vegetables etc. in the vicinity
of these tracts are of the value of \$200.00 per acre and no more;
that as to the value of that portion of the 20 acre tract for the
distance of 20 rods; not planted to trees and from which were cut the
willows as I am advised; I could not determine the value of this
without investigation further as to the character of the willow roots to
be removed; That in my judgment the opening of this proposed road
would be very beneficial to the said five acre tract and to the north
31 north portion of the 20 acre tract above referred to as affording a
more convenient and time-saving outlet to the main highway for the
hauling and delivering of the products therefrom; and would enhance
the value thereof \$_____ to \$_____ per acre.

Subscribed and sworn to before me this 13th day of Feb. 1920

B. F. Wilson
Notary public for Oregon

County Court
State of Oregon
for Multnomah County

In the matter of the
road petitioned for
by Charles Johnson
et al

Cynthia Smith of C. O.
Plaintiff as to Damages
vs. J. B. Moore

Filed Feb 14, 1920
at Multnomah
County Court

J. F. Wilson
Att'y for Plaintiff

1
2 In the County Court of the State of Oregon for the County of Union

3 In the matter of the proposed
4 county road petitioned for by
5 Charles D. Johnson et al

6 In answer to some of the objections made by
7 the Non-District Attorney of Union County as contained in his report
8 upon said proposed road filed herein, I desire to present in behalf
9 of the said petitioners, and call the Court's attention to the
10 provisions of the statute concerning the same and also to certain
11 decisions of the Supreme Court of the State of Oregon, as well as the
12 provisions of the statutes under which such decisions were rendered.

13 And first as to the objection that the termini of the proposed
14 road are not definitely described referring specifically to that
15 described in the petition, as "terminating at the street at the
16 north end of what is commonly known as the Weaver lane"

17 Sec. 6 laws of 1917 at page 589, provides "Such petition must
18 describe the terminal points of such proposed road, the width etc."

19 The old law in reference thereto, Hill Ann. Code sec. 462 and L. O.
20 sec. 6279, and as referred to by the decisions hereinafter re-
21 ferred to, provides, that the petition shall "specify the place of be-
22 ginning, the intermediate points, if any, and the place of termina-
23 tion of said road".

24 As will be seen the statutes of 1917 and the old statute are prac-
25 tically the same.

26 In the case of Nelson vs. Yamhill County, 41 Ore. Rep. page 561
27 the court says, Justice Bean delivering the opinion: "It is suf-
28 ficient if the petition conveys to those interested information of the
29 beginning, intermediate and terminal points, and its general course.

30 When, from the description as given in the petition, these points can
31 be definitely ascertained, it is all the law requires". And fur-
32 ther at page 561-562, same authority, "By commencing at the initial
point and following the calls, the route can be accurately traced, as
it seems to have been carefully surveyed before the petition was filed

PAGE NO.

But if it is not allowable to use the initial point as a call in as-

1
2 certaining the terminus under the doctrine that that is certain
3 which can be made so, xxx the latter point can be ascertained
4 and located by interested parties, and without imposing any unreasona-
5 ble burdens upon them xxx "

6 In the last above case the case of Ames vs. Union County
7 17 Ore. page 600 is cited, in which case, Justice Lord delivering
8 the opinion, the court says at page 601: "And when from the descrip-
9 tion thus given, the road can be definitely ascertained or located
10 from it, the petition is sufficiently certain and specific in this
11 particular xxxxxxxx for all practical purposes, which is all the law
12 requires. It does not contemplate that the petitioners for a highway
13 must first procure the services of a surveyor, in order to state
14 in the petition the route of the proposed road with technical accuracy
15 or precision. It is a practical affair, and may be done by prac-
16 tical business men "

17 And further the court says: page 603: "It will be noted in the
18 description of the road already given that the two termini, the place
19 of beginning and the termination- are definitely fixed, and may easily
20 be ascertained."

21 In the last above case the road was described as "Commencing
22 at what is known as the Clarke cabin, about forty rods west, and
23 about thirty rods north from the southeast corner of section 6 township
24 5 south of range 41 east etc. "

25 In the case of Vedder vs. Marion County 22 Ore. rep. page 264,
26 the petition describes the proposed road as "Commencing at the north
27 west corner of the donation land claim of W. Matham in sec. 25
28 township 5 south of range 1 west, and terminating in the town of
29 Woodburn, etc. etc. " and also asked to have vacated the portion of
30 highway between Shuck's Mill and Woodburn. The court at page 270
31 Justice Strahan delivering the opinion, says "But particular objec-
32 tion is made to that part of the petition relating to the vacation
33 of the county road mentioned, on the ground that the terminal points
34 are not sufficiently specified. The objection is merely technical
35 , but is not sound. The road is clearly identified. It is the pre-
36 sent county road leading from said Shuck's Mill to said town of Woodburn
37 etc. "

38 In the case of Need vs. Need River County, 38 Ore. Rep. page 144,
39 the case of Nelson vs. Yamhill County, above referred to, was cited
40 as the law of the case, and at page 147 thereof the court says:
41 "but the end of the survey is tied to a definite government corner
42 and by retracing the description it is easy to arrive at the starting
43 point, which is thereby made definite. "

44 It can readily be seen from these decisions that much more indef-
45 inite description of terminal points than the one questioned in this
46 proceeding, have been held good by the Supreme Court of this State.

47 The Weaver Lane in this case is just as ascertainable as Shuck's
48 Mill in Vedder vs. Marion County, cited above. In several of these
49 cases it is held applicable to the point involved here, the rule
50 of law "that that is certain which can be made certain." To name
51
52

1
2 The described terminal point in this case " to intersect the
3 street at the north end of what is commonly known as the Weaver lane
4 is definitely known by every person in that vicinity, and would prob-
5 ably give better information to those concerned or whose premises were
6 affected by the proposed road, than it would have done if such point
7 had been tied to a subdivision corner. Such description is just as de-
8 finite as would be a description designating a terminal point as the
9 north end of main street in the town of Union, or as the northeast
10 corner of the Court House Block Town of LaGrande. In this case
11 it is a fact that the surveyor had to inquire of persons to ascertain
12 where the southeast corner of Section 1 Tp. 4 S. R. 39 E. was. Men-
13 doubt also had to inquire of persons to ascertain where the north
14 end of Weaver lane was; but the surveyor by making inquiry was able
15 to locate both points definitely. In this case the terminal point
16 would not have been more definite and certain if it had referred to
17 a section corner as being so many rods distant from the north end of
18 Weaver lane.

19 As to the other point raised by the Honorable District attorney
20 as to the law requiring that ten days shall elapse after the filing
21 of the viewers report before the court can take action, is correct
22 the law having been amended in this regard by the session of the
23 Legislature of 1919.

McKpMcXfHLYX

Respectfully,

25
26 *D. F. McCreary*
27 *Atty for Petitioners*
28
29
30
31
32

De Gene T. Cook
State of Oregon
Polk County

See the water of road
returned for try
Chas. S. Johnson et al

Buy & examine
the water of
of such road

Grand Fee 14, 1930

At McCarney
County Clerk

D. F. Wilson
Myfor Return

BE IT REMEMBERED, That at a regular term of County Court of the State of Oregon, for the County of Union, in probate sitting, begun and held at the Court House in the City of La Grande, in said County and State, on Monday, the-----day of-----A. D., 19--- the same being the first Monday of said month and the time fixed by law for holding a regular term of said Court, when were present:

The Honorable J. F. PHY, County Judge.

C. K. McCORMICK, Clerk.

LEE WARNICK, Sheriff.

WHEN, on ~~Saturday~~-----, the-----~~14th~~-----day of-----~~February~~-----A. D. 192--- or the-----Judicial Day of said term, among others the following proceedings were had, to-wit:

In the matter of the proposed County road petitioned for by Chas. D. Johnson et-als

0-403

Now at this time this matter came on for hearing before the court upon the report of the board of county road viewers heretofore filed on the 2nd. day of January 1920 and also upon the claim for damages of J. B. Weaver, a party affected by the opening of said road, the petitioners appearing by B. F. Wilson of counsel and the said Weaver appearing by Messrs Crawford and Eakin of counsel, and it appearing to the court from said report of board of county road viewers that the said proposed road is practical and would add to the convenience of the house holders residing in the vicinity of said proposed road and recommend that the same be laid out and established as a public highway, and that the county surveyor has filed with the said report a plat of the said proposed road showing the alignment of the proposed road and the general topography adjacent thereto, and showing ties to government corners along the road where available, and it further appearing to the court that the said board of county viewers found that G. Carter would be damaged to the extent of 66/100 of an acre valued at \$200.00 per acre and that A. E. Pugh would be damaged to the extent of 33/100 acres valued at \$450.00 per acre by the opening of the said road, and that J. B. Weaver, claimant herein, by reason of a certain strip of land being deeded to him by Wilson, the said Weaver would not be damaged, and the court further considering the question of damages to said Weaver and based upon affidavits of the said Weaver, C. A. Gale and B. F. Wilson, filed herein, and upon the presentation of the said matter by the respective counsel, finds that the said J. B. Weaver would be damaged to the extent of \$125.00

1
2 ever and have the value of the lands conveyed to him by M. B. and
3 B. F. Wilson; and it further appearing to the court that the said
4 report of board of county road viewers has been on two different days
5 prior hereto at the present term of court, read in open court, and
6 there being no remonstrances filed ~~against~~ against the same and no
7 other claims for damages filed, and the court being satisfied that
8 a said proposed road will be of public utility and that the amount of
9 damages assessed ^{and allowed} are equitable and just. It is therefore
10 considered and ordered that the said report of the board of county
11 road viewers be and the same is hereby approved as herein above mod-
12 ified by the findings of the court as to damages and the said proposed
13 road is hereby established as a county road of Union County Oregon
14 upon the line as prayed for in the petition, the same to be forty
15 feet in width, and the same to be opened and improved and put in
16 condition for public travel as hereinafter directed, the said line of
17 road being as follows: Commencing at the southeast corner of section
18 one in township 4 south of range 39 E. W. M.; thence south parallel
19 with the range line between ranges 39 and 40 E. W. M. to a point
20 about 40 rods south of the southeast corner of the northeast quarter
21 of section 12 said township and range; to ~~the~~ stake marked A;
22 thence in a southerly direction across an irrigation ditch to a stake
23 marked B on range line; thence south on range line to a point 60
24 feet north of southeast corner of northeast quarter of southeast
25 quarter of ~~said~~ section 12; thence easterly on a curve easterly
26 ly to intersect subdivision line 60 feet east of said last described
27 subdivision corner; thence east about 53 rods and 4 feet to a point
28 60 feet west of the line dividing the Baxter tract from the Weaver
29 tract; thence southerly on a curve to intersect the line between the
30 ~~Baxter~~ ~~and~~ ~~Weaver~~ ~~and~~ ~~Baxter~~ ~~tract~~ ~~60~~ ~~feet~~
31 south of the north end of said last named line; thence south on said
32 last named line to intersect the street at the north end of what is
commonly known as the Weaver lane, and there terminating, said road
to be forty feet in width; And it is further ordered that the county
PAGE NO.
surveyors shall forthwith proceed to make final survey of the said

1
2 read a s herein la id out and established; in the manner required by
3 law a nd file x n d x x his report thereof including field notes;
4 a t a nd profile thereof; and the clerk of the court is directed to no
5 tify the county s urveyor of this order; A nd it is further ordered
6 tha t the clerk of this court, sha ll, upon the filing of th said
7 county surveyor's report of find loca tion of the said road, issue
8 county wa rra nts upon the _____ fund of the county to the parties here
9 a n d a fter mentioned a s follows : to A. E. Pugh a warrant in the sum
10 of \$150.00; to G. C. Ba xter a warrant in the sum of \$133.34 and to
11 J. B. Weaver a warra nt in the sum of \$125.00, as da mages herein allow
12 ed to them by the court. Union County to be at no expens e for fencing

13 in connection with the opening of s aid road, said road to be
14 opened & put in condition for public travel upon the
15 filing of the report of (signed) surveyor as last
16 above, referred to, (signed)

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by the County Court
State of Oregon
November 20th 1884

In the matter of
The above named estate
I have for my due
and lawful consideration

Final order approved
my sincere respect
& satisfaction

BE IT REMEMBERED That at a regular term of the County Court of the State of Oregon, for the County of Union, sitting for the transaction of County business, begun and held at the Court House in the City of La Grande, in said County and State, on Wednesday, the 3rd day of March A. D. 1920, the same being the first Wednesday of said month, and the time fixed by law for holding a regular term of said Court, when were present:

The Honorable J. F. Phy, County Judge
C. A. Galloway, Commissioner
W. J. Townley, Commissioner
C. K. McCormick, County Clerk
Lee Warnick, Sheriff

WHEN, on Tuesday, the 9th day of March A. D. 1920, or the 3rd Judicial Day of said term, among others the following proceedings were had, towit:

In the matter of the proposed)
County Road petitioned for by)
Chas. D. Johnson, et al.)
-----)

0 - 411

Now at this time this matter comes on to be heard upon the claim of J. B. Weaver, for damages, which he alleges would accrue to him on account of the opening of the proposed County Road petitioned for by Chas. D. Johnson et al, and after hearing the testimony of the witnesses produced, and the Court being fully advised in the premises,

It is CONSIDERED AND ORDERED that the said J. B. Weaver be and he is hereby allowed damages in the sum of \$200.00 instead of the sum of \$125.00 heretofore allowed on February 14th, and the County Clerk is hereby authorized and directed to draw a warrant on the General Fund of the County in said amount.

(Sd) J. F. Phy, County Judge
C. A. Galloway, Commissioner
W. J. Townley, Commissioner

BE IT REMEMBERED That at a regular term of the County Court of the State of Oregon, for the County of Union, sitting for the transaction of County business, begun and held at the Court House in the City of La Grande, in said County and State, on Wednesday, the 4th day of August A. D. 1920, the same being the first Wednesday of said month and the time fixed by law for holding a regular term of said Court when were present:

The Honorable J. F. Phy, County Judge

C. A. Galloway, Commissioner

W. J. Townley, Commissioner

G. K. McGermick, Clerk

Lee Warnick, Sheriff

WHEN, on Thursday, the 5th day of August A. D. 1920, at or the 2nd Judicial Day of said Term, among others the following proceedings were had, towit:

In the matter of the proposed County Road petitioned for by Chas. D. Johnson et al.

0-463

Now at this time it is ORDERED that this matter be and the same is hereby continued for the term.

(Sd) J. F. Phy, County Judge

C. A. Galloway, Commissioner

W. J. Townley, Commissioner

Street

Water

S

2000



BE IT REMEMBERED, That at a regular term of the County Court of the State of Oregon, for the County of Union, sitting for the transaction of County business, begun and held at the Court House in the City of La Grande, in said County and State, on Wednesday, the 3rd day of November, A. D., 1920, the same being the first Wednesday of said month and the time fixed by law for holding a regular term of said Court, when were present:

The Honorable J. F. Phy, County Judge,
C. A. Galloway, Commissioner,
W. J. Townley, Commissioner,
C. K. McCormick, Clerk,
Lee Warnick, Sheriff.

WHEN, on Tuesday, the 9th day of November, A. D. 1920, or the _____ Judicial Day of said term, among others the following proceedings were had, to-wit:

In the matter of the proposed
County Road petitioned for by
Chas. D. Johnson et al.

0 - 500

Now at this time it appearing to the Court that the above entitled road was by an order of this court duly made and entered on February 14th, 1920 declared to be a public highway of Union County

It is therefore CONSIDERED AND ORDERED that John F. Birney, County Roadmaster be and he is hereby authorized and directed to open said road and place same in proper condition for travel.

(Sd) J. F. Phy, County Judge
C. A. Galloway, Commissioner
W. J. Townley, Commissioner

SECOND JUDICIAL DAY

FRIDAY, NOVEMBER 7th, 1919

In the matter of the proposed County Road petitioned for by Chas. D. Johnson, et al.

Comes now Chas. D. Johnson, one of the petitioners for the above named proposed County Road, and presents to the court the petition of himself and others, praying for the location and establishment of a county road, described as follows, to wit:

Commencing at the southeast corner of section one in Township 4 South of Range 39, E.W.M., thence south parallel with range line between ranges 39 and 40 E., to a point about 40 rods south of southeast corner of the northeast quarter of Section 12 said Township and Range to a stake marked A, thence in a southerly direction across irrigation ditch to stake marked B on range line, thence south on Range line to a point 60 feet north of southeast corner of northeast quarter of southeast quarter said section 12, thence easterly on a curve easterly to intersect subdivision line 60 feet east of said last named subdivision corner, thence east about 53 rods and 4 feet to a point 60 feet west of the line dividing the Baxter tract from the Weaver tract, thence southerly on a curvex to intersect the line between the said Weaver and Baxter tract 60 feet south of the north end of said last named line, thence south on said last named line to intersect the street at the north end of what is commonly known as the Weaver lane, and there terminating, said road to be forty feet in width.

And it appearing to the Court that said petition is signed by more than twelve freeholders of this county, residing in the road district where the hereinbefore described road is proposed to be, and that said petition properly specifies the place of beginning, intermediate points and place of termination of said road, and it satisfactorily appearing to the court that notice has been given by advertisement posted at the place of holding County Court, to wit: At the Court House, in the city of La Grande, Union County, Oregon, and also in three public places in the vicinity of said proposed road, to wit:- One on a fence post at the North end of what is commonly known as the Weaver lane, near the south terminus of said road, and one on an electric light pole at the South end of said Weaver lane along the main highway between Union and La Grande, and one on a post about 30 feet south of the S.E. corner of Sec. 1, Tp. 4, S. R. 39 E.W.M., on the Highway leading from the Cove Road to Hot Lake, Ore. for more than thirty days immediately prior to the presentation of said petition to this court, notifying all persons concerned that application would be made to this court at the present session of this court, and that the notices so posted were in due form and duly signed by the petitioners, and that a bond for the cost of this proceeding has been duly given.

It is therefore ORDERED that Roscoe Neal, County Surveyor, and Thos. Brasher and G. F. Hall, constituting the Board of County Road Viewers, be, and they are hereby directed to meet at Union, Oregon, on the 20th day of November, 1919, at the hour of 9 o'clock A. M. and proceed to survey, view and lay out said road according to law, and file report on or before Dec. 3, 1919.

Thereupon it was ORDERED that Court be now adjourned until Friday, November 21st, 1919, at 10 o'clock A. M.

SECOND JUDICIAL DAY

THURSDAY, DECEMBER 4th, 1919

In the matter of the vacation of a portion of the Union-Hot Lake Valley Road.

Now at this time it is ORDERED that this matter be and the same is hereby continued for the term.

In the matter of the proposed County Road petitioned for by Geo. McDarmel et al.

Now at this time it is ORDERED that this matter be and the same is hereby continued for the term.

In the matter of the proposed County Road petitioned for by J. P. Good et al.

Now at this time it is ORDERED that this matter be and the same is hereby continued for the term.

In the matter of the proposed County Road petitioned for by Chas. D. Johnson et al.

Now at this time it is ORDERED that this matter be and the same is hereby continued for the term for the report of the viewers.

In the matter of Experting the County Records.

Now at this time is presented to the Court the proposal of H. P. Oliver to audit the financial transactions of Union County, covering the period between December 31st, 1918, and December 31st, 1919, inclusive, for the agreed price of \$7.00 per day for each person employed in such audit, provided that the total cost of said audit shall not exceed the sum of \$400.00; and it appearing to the Court that said proposal is satisfactory, and that said H.P. Oliver is a competent person to audit the books of the County,

It is therefore ORDERED that the County Judge be and he is hereby authorized to enter into a contract with said H. P. Oliver for the auditing of the books of the County, said contract to be in terms as set out in said proposal, and including the giving of an undertaking by said H. P. Oliver, in the sum of \$1000.00.

SECOND JUDICIAL DAY

SATURDAY, FEBRUARY 7th, 1920

recovery of rent due or damages for breach of contract.

In witness whereof, the party of the first part has caused these presents to be signed by its City Manager and Recorder, and the party of the second part has caused the same to be signed by the County Clerk of Union County, Oregon, on this the day and year first above written.

Corporate Seal.

City of La Grande, Oregon

County Court Seal.

By J. D. McKemmon, President

By J. E. Stearns, Recorder
of the City of La Grande

C. K. McCormick, County Clerk
of Union County, Oregon

In the matter of the approval
of the bond of the County Road
Master.

Now at this time is presented to the court the bond of John F. Birney, County Road Master in the sum of \$2500.00, and it appearing to the Court that said bond is a surety bond signed by the United States Fidelity & Guaranty Co. and is in all things regular,

It is therefore CONSIDERED AND ORDERED that said bond be and the same is hereby approved

In the matter of a detention room
for juvenile and female prisoners.

Now at this time it appearing to the Court that Union County has no suitable quarters for the detention of juvenile and female prisoners,

It is therefore CONSIDERED AND ORDERED that the Sheriff equip one of the jury rooms in the building used by the County as a Court House with the necessary furniture, and cause such changes to be made in said room as may be necessary for the detention of juvenile and female prisoners.

In the matter of the purchase
of wood for the Court House

Now at this time it is ORDERED that the Clerk of this court be and he is hereby directed to advertise for bids for one hundred cords of 3 foot 8 inches yellow pine and red fir wood one half of each, to be delivered and piled in the basement of the Court House on or before October 1st, 1920.

In the matter of the proposed
County Road petitioned for by
Chas. D. Johnson, et al.

Now at this time the above entitled matter comes on to be heard for the first reading of the Viewers' Report, and said Report having been publicly read,

It is CONSIDERED AND ORDERED that said matter be and the same is hereby continued until Wednesday, February 11th, 1920.

Thereupon it was ORDERED that Court be now adjourned until Wednesday, February 11th, 1920 at 9 o'clock A. M.

THIRD JUDICIAL DAY

WEDNESDAY, FEBRUARY 11th, 1920

Court met pursuant to adjournment.

Present: Same officers as on last Judicial Day.

Due proclamation of the opening of Court having been made, the Journal of the last day's proceedings was read, approved and is here now signed.

[Signature] County Judge

[Signature] Commissioner

[Signature] Commissioner

Thereupon the following proceedings were had, to wit:

In the matter of the proposed County Road petitioned for by Geo. McDannel et al.

Now at this time it is ORDERED that this matter be and the same is hereby continued until Saturday, February 14th, 1920 at 10 o'clock A. M.

In the matter of the proposed County Road petitioned for by Chas. D. Johnson et al.

Now at this time the above entitled matter came on to be heard for the second reading of the Viewers' report, and said report having been read for the second time,

It is CONSIDERED AND ORDERED that said matter be and the same is hereby continued until February 14th.

Thereupon it was ORDERED that Court be now adjourned until Saturday, February 14th, 1920 at 9 o'clock A. M.

FOURTH JUDICIAL DAY

SATURDAY, FEBRUARY 14th, 1920

Court met pursuant to adjournment.

Present: Same officers as on last Judicial Day.

Due proclamation of the opening of Court having been made, the Journal of the last day's proceedings was read, approved and is here ~~now~~ signed.

[Handwritten Signature] County Judge
[Handwritten Signature] Commissioner
[Handwritten Signature] Commissioner

Thereupon the following proceedings were had, to-wit:

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 In the matter of the proposed County Road petitioned for by Chas. D. Johnson, et als

Now at this time this matter came on for hearing before the court upon the report of the Board of County Road Viewers heretofore filed on the 2nd day of January 1920 and also upon the claim for damages of J. B. Weaver, a party affected by the opening of said road, the petitioners appearing by B. F. Wilson of counsel and the said Weaver appearing by Messrs. Crawford and Eakin of counsel, and it appearing to the court from said report of Board of County Road Viewers that the said proposed road is practical and would add to the convenience of the householders residing in the vicinity of said proposed road and recommend that the same be laid out and established as a public highway, and that the County Surveyor has filed with the said report a plat of the said proposed road showing the alignment of the proposed road and the general topography adjacent thereto, and showing ties to government corners along the road where available, and it further appearing to the court that the said Board of County Viewers found that G. C. Baxter would be damaged to the extent of 66/100 of an acre valued at \$200.00 per acre and that A. E. Pugh would be damaged to the extent of 33/100 acres valued at \$450.00 per acre by the opening of the said road, and that J. B. Weaver, claimant herein, by reason of a certain strip of land being deeded to him by Wilson, the said Weaver would not be damaged, and the court further considering the question of damages to said Weaver and based upon affidavits of the said Weaver, C. A. Gale and B. F. Wilson, filed herein, and upon the presentation of the said matter by the respective counsel, finds that the said J. B. Weaver would be damaged to the extent of \$125.00 over and above the value of the lands conveyed to him by M. B. and B. F. Wilson, and it further appearing to the court that the said report of the Board of County Road Viewers has been on two different days prior hereto at the present term of court, read in open court, and there being no remonstrance filed against the same and no other claims for damages filed, and the court being satisfied that said proposed road will be of public utility and that the amount of damages as assessed and allowed are equitable and just.

It is therefore CONSIDERED AND ORDERED that the said report of the board of County Road Viewers be and the same is hereby approved as herein above modified by the findings of the court as to damages and the said proposed road is hereby established as a county road of Union County, Oregon upon the line as prayed for in the petition, the same to be forty feet in width, and the same to be opened and improved and put in condition for public travel

FOURTH JUDICIAL DAY

SATURDAY, FEBRUARY 14th, 1920

as hereinafter directed, the said line of road being as follows:

Commencing at the southeast corner of section one in township 4 South of range 39 E.W.M., thence south parallel with the range line between ranges 39 and 40 E.W.M., to a point about 40 rods south of the southeast corner of the northeast quarter of section 12 said township and range, to a stake marked A, thence in a southerly direction across an irrigation ditch to a stake marked B on range line, thence south on range line to a point 60 feet north of southeast corner of northeast quarter of southeast quarter of said section 12, thence easterly on a curve easterly to intersect subdivision line 60 feet east of said last described subdivision corner, thence east about 53 rods and 4 feet to a point 60 feet west of the line dividing the Baxter tract from the Weaver tract, thence southerly on a curve to intersect the line between the said Weaver and Baxter tract 60 feet south of the north end of said last named line, thence south on said last named line to intersect the street at the north end of what is commonly known as the Weaver lane, and there terminating, said road to be forty feet in width;

And it is further ORDERED that the County Surveyor shall forthwith proceed to make final survey of the said road as herein laid out and established, in the manner required by law and file his report thereof including field notes, plat and profile thereof, and the Clerk of the court is directed to notify the County Surveyor of this order; and it is further ordered that the Clerk of this Court shall, upon the filing of the said County Surveyor's report of final location of the said road, issue county warrants upon the General fund of the county to the parties hereinafter mentioned as follows:- to A. E. Pugh a warrant in the sum of \$150.00; to G. C. Baxter a warrant in the sum of \$133.34 and to J. B. Weaver a warrant in the sum of \$125.00, as damages herein allowed to them by the Court, Union County to be at no expense for fencing in connection with the opening of said road, said road to be opened & put in condition for public travel upon the filing of the report of the Surveyor as last above referred to.

In the matter of the proposed County Road petitioned for by Geo. McDannel et al.

Now at this time it is ORDERED that this matter be and the same is hereby continued until February 18th, 1920 at 9 o'clock A. M.

Thereupon it was ORDERED that Court be now adjourned until Wednesday, February 18th, 1920 at 9 o'clock A.M.

THIRD JUDICIAL DAY

TUESDAY, MARCH 9th, 1920

Court met pursuant to adjournment.

Present: Same officers as on last Judicial Day.

Due proclamation of the opening of Court having been made, the Journal of the last day's proceedings was read, approved and is here now signed.

[Signature] County Judge
[Signature] Commissioner
[Signature] Commissioner

Thereupon the following proceedings were had, to wit:

In the matter of the proposed County Road petitioned for by Chas. D. Johnson et al.

Now at this time this matter comes on to be heard upon the claim of J. B. Weaver for damages, which he alleges would accrue to him on account of the opening of the proposed county road petitioned for by Chas. D. Johnson et al, and after hearing the testimony of the witnesses produced, and the Court being fully advised in the premises,

It is CONSIDERED AND ORDERED that the said J. B. Weaver be and he is hereby allowed damages in the sum of \$200.00 instead of the sum of \$125.00 heretofore allowed on February 14th, and the County Clerk is hereby authorized and directed to draw a warrant on the General Fund of the County in said amount.

Thereupon the Journal of today's proceedings was read, approved and is here now signed, and it was ORDERED that Court be now adjourned for the term.

[Signature] County Judge
[Signature] Commissioner
[Signature] Commissioner

SECOND JUDICIAL DAY

THURSDAY, AUGUST 5th, 1920

In the matter of the proposed County Road petitioned for by Geo. Baxter et al.

Now at this time it is ORDERED that this matter be and the same is hereby continued for the term.

In the matter of the application of James S. Burford for refund of taxes.

Now at this time it is ORDERED that this matter be and the same is hereby referred to the Tax Collector for verification.

In the matter of the proposed County Road petitioned for by Chas. D. Johnson et al.

Now at this time it is ORDERED that this matter be and the same is hereby continued for the term.

In the matter of the application of Wm. Banton for the reissuance of a new warrant for lost warrant.

Now at this time this matter came on for hearing upon the application of Wm. Banton for the reissuance of lost County Warrants No. 2116, 2306 and 2307, Series 1920, in the sum of \$45.00, \$7.50 and \$3.00 respectively, for work on roads, and it appearing to the Court that said County Warrants have been lost or destroyed and have never been presented to the Treasurer for payment, and that said applicant has filed a good and sufficient bond with the Clerk of this court indemnifying the County against any loss which may arise through the presentation of said lost warrants,

It is therefore CONSIDERED AND ORDERED that the County Clerk be and he is hereby directed to draw a warrant on the General Fund of the county in favor of said Wm. Banton, in the sum of \$55.50 in lieu of said lost warrant, and it is FURTHER ORDERED that said County Warrants No. 2116, 2306 and 2307, Series 1920, be and the same are hereby canceled, and the Clerk of this Court is hereby directed to make the necessary entries upon his record in accordance herewith.

In the matter of the claim of G. W. De Lay for indemnity for diseased cattle slaughtered under the provision of Chap. 413, Laws of 1919.

Now at this time is presented to the Court the claim of G. W. De Lay in the sum of \$75.00 as indemnity for one registered cow and one registered heifer slaughtered under the provisions of Chap. 413, Laws of 1919, and it appearing to the court from the certificate of Dr. C.M. Riley, the veterinarian supervising the slaughter that said animal was killed on April 22,

SECOND JUDICIAL DAY

THURSDAY, SEPTEMBER 2nd, 1920

In the matter of the application of the Home Independent Telephone Co. for rebate of taxes.

Now at this time it is ORDERED that this matter be and the same is here now continued for the term.

In the matter of the proposed County Road petitioned for by J. W. Baxter et al.

Now at this time it is ORDERED that this matter be and the same is here now continued for the term.

In the matter of the proposed County Road petitioned for by Chas. D. Johnson et al.

Now at this time it is ORDERED that this matter be and the same is here by continued for the term.

In the matter of the application of James S. Burford for refund of Taxes.

Now at this time it is ORDERED that this matter be and the same is hereby continued for the term.

In the matter of the application of James A. Bugg for cancellation of taxes.

Now at this time this matter came on to be heard upon the application of James A. Bugg for the cancellation of a portion of the taxes levied against the improvements located on Lot 1, Block 47, of Chaplin's Addition to the City of La Grande, Oregon for the year 1918, and it appearing to the court from said petition that the said James A. Bugg was the owner of the above described real property, together with the improvements situated thereon on March 1st, 1918; that on said date said property was assessed by the Assessor of Union County and thereafter taxes were levied upon same; that during the month of May, 1918, the house was burned to such an extent that it could not be used as a dwelling by the petitioner, and that the said petitioner lost the use of said house for the remainder of the year 1918, and it appearing to the Court that it would be just and equitable to cancel a portion of the taxes assessed against said property,

It is therefore CONSIDERED, ORDERED AND ADJUDGED that the said James A. Bugg be and he is hereby relieved from the payment of said taxes to the extent of \$35.55 and the County Clerk is hereby authorized and directed to draw a warrant on the general fund of the county in favor of the Sheriff of Union County for said amount, the same to be applied upon the taxes of the said James A. Bugg as aforesaid.

SECOND JUDICIAL DAY

W EDNESDAY, OCTOBER 13th, 1920

In the matter of the application of James S. Burford for refund of taxes.

Now at this time it is ORDERED that this matter be and the same is hereby continued for the term.

In the matter of the proposed County Road petitioned for by Chas. D. Johnson et al.

Now at this time it is ORDERED that this matter be and the same is hereby continued for the term.

In the matter of the proposed County Road petitioned for by C. C. Cates et al.

Comes now C. C. Cates, one of the petitioners for the above named proposed County Road, and presents to the court the petition of himself and others, praying for the location and establishment of a county road described as follows, to-wit:

Beginning at a post marked "NR" about 50 rods West of the NE corner of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section Thirteen, Township 3 North, Range 39 E.W.M., thence diagonally to the SE corner of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 13; above township and range, thence East one-fourth mile, thence South three-fourth mile to the SE corner of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section twenty four in above township and range, thence in a southeasterly direction a distance of about 1 $\frac{1}{2}$ mile, terminating at County Road leading to Palmer Junction, Oregon, near the NE corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section twenty five, in above township and range, marked by post marked N.R.

And it appearing to the Court that said petition is signed by more than twelve freeholders of this county, residing in the road district where the hereinbefore described road is proposed to be, and that said petition properly specifies the place of beginning, intermediate points and place of termination of said road, and it satisfactorily appearing to the court that notice has been given by advertisement posted at the place of holding County Court, to-wit:- At the Court House in the City of La Grande, Union County, Oregon, and also in three public places in the vicinity of said proposed road, to-wit:- One about fifty rods west of the NE corner of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 13; one at the S.W. corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ Section 24, and one at the intersection of the Palmer Junction road near the N.E. corner of the NE $\frac{1}{4}$ of the S.E. $\frac{1}{2}$ Section 25, all in Township 3, N. Range 39 E.W.M., Union County, Oregon, for more than thirty days immediately prior to the presentation of said petition to this court, notifying all persons concerned that application would be made to this court, at the present session of this court, and that the notices so posted were in due form and duly signed by the petitioners, and that a bond for the cost of this proceeding has been duly given.

It is therefore ORDERED that D. J. McLellan, County Surveyor, and C. E. Moore and J. M.

SECOND JUDICIAL DAY

THURSDAY, NOVEMBER 4th, 1920

In the matter of the proposed County Road petitioned for by Chas. D. Johnson et al

Now at this time it is ORDERED that this matter be and the same is hereby continued until Tuesday, November 9th, 1920.

In the matter of the proposed County Road petitioned for by C. C. Cates et al.

Now at this time it is ORDERED that this matter be and the same is hereby continued for the term.

In the matter of the application of Bertha Moreland for cancellation of lien against certain property.

Now at this time it is ORDERED that this matter be and the same is hereby continued until Tuesday, November 9th, 1920.

In the matter of the Budget for the year 1921.

Now at this time it is ORDERED that this matter be and the same is hereby continued until Tuesday, November 9th, 1920.

In the matter of the cancellation of General Fund Warrant No. 3749 Series 1920.

Now at this time is presented to the Court for cancellation General Fund Warrant No. 3749, Series 1920, in the sum of \$54.00, and it appearing to the Court that said warrant was erroneously issued and should be cancelled,

It is therefore CONSIDERED AND ORDERED that said warrant be and the same is hereby canceled, and the County Clerk is hereby authorized and directed to make the necessary entries upon the books of the county showing the cancellation of said warrants.

In the matter of establishing by Resolution the Warehouse Road.

Now at this time the above entitled matter comes on to be heard upon the Resolution heretofore passed by this Court on August 5th, 1920 declaring its intention to lay out and establish a county road upon the following described line or route, to wit:

Beginning at the Southwest corner of Section 20, Township 3, South Range 39 E.W.M., in Union County, Oregon, the proposed road shall run thence south along the section lines between Sections 29 and 30, and 31 and 32 in said township and range till said section line intersects the Northeast boundary line of the right of way of the Oregon-Washington Railroad and Navigation Company, in the SW $\frac{1}{4}$ of Section 32, in said Township and Range, thence said pro-

THIRD JUDICIAL DAY

TUESDAY, NOVEMBER 9th, 1920

Court met pursuant to adjournment.

Present: Same officers as on last Judicial Day.

Due proclamation of the opening of Court having been made, the Journal of the last day's proceedings was read, approved and is here ~~now~~ signed.

[Signature] County Judge

[Signature] Commissioner

[Signature] Commissioner

Thereupon the following proceedings were had, to-wit:

In the matter of the application of James S. Burford for refund of taxes.

Now at this time it is ORDERED that this matter be and the same is hereby continued for the term.

In the matter of the application of the Home Independent Telephone Co. for refund of taxes paid upon property doubly assessed.

Now at this time the above entitled matter comes on to be heard upon the petition of the Home Independent Telephone Co. for the refund of taxes upon property doubly assessed, and it appearing to the court from said petition that the Home Independent Telephone Co. is the owner of Lots 19 and 20 of Block 102 Chaplin's Addition to the City of La Grande, and that said property has been assessed by both the County Assessor and the State Tax Commission of Oregon for the years 1915 and 1919 inclusive, and that said company has paid taxes for said years on both assessments; that as a matter of equity, Union County should refund to said company its proportion of the taxes paid as a result of the assessment of the above described property by the County Assessor,

It is therefore CONSIDERED AND ORDERED that the County Clerk draw a warrant on the General Fund of the County in the sum of \$135.58 in favor of the said Home Independent Telephone Co. as a refund.

In the matter of the proposed County Road petitioned for by Chas. D. Johnson et al.

Now at this time it appearing to the Court that the above entitled road was by an order of this Court duly made and entered on February 14th, 1920 declared to be a public highway of Union County,

It is therefore CONSIDERED AND ORDERED that John F. Birney, County Roadmaster be and he is hereby authorized and directed to open said road and place same in proper condition for travel.