

UMATILLA COUNTY PUBLIC WORKS DEPARTMENT

ROAD STATUS REPORT

NORTH FORK MCKAY CREEK ROAD

COUNTY ROAD NO. 1049

MARCH, 2016

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NORTH FORK MCKAY CREEK ROAD STATUS REPORT

GENERAL

The Umatilla County Board of Commissioners received a gate installation request at their October 21, 2015 Board Meeting from Rod Anderson and other property owners to install a gate across North Fork McKay Creek Road. The Commissioners moved and seconded a motion to have County staff look into the possibility of vacating the road. Research found that the portion of the road from the northerly right-of-way line of County Road No. 1050, McKay Creek Road to the east line of the Umatilla Indian Reservation in Section 1, Township 1 South, Range 33 E.W.M., was never legally established and the County has no legal jurisdiction over the road. A portion of the road is situated on land still owned by the Federal Government (Bureau of Indian Affairs) and a portion of it runs across property owned by Rodney and Roberta Anderson.

HISTORY

In 1908, Road No. 639 was established (see attached documents). It began at a point on the line between Sections 1 and 12, Township 1 South, Range 33 E.W.M. on the south line of the Umatilla Indian Reservation and ran southeasterly for approximately 6 ½ miles to a point on the line between Sections 22 and 27, Township 1 South, Range 34 E.W.M. The road is now a portion of County Road No. 1050, McKay Creek Road, though all of the road from its intersection with the south line of Section 19, Township 1 South, Range 34 E.W.M. was vacated in 1991. Also in 1908, Road No. 640 was established (see attached documents). It began on the line between Section 1, Township 1 South, Range 33 E.W.M., and Section 6, Township 1 South, Range 34 E.W.M. on the east line of the Umatilla Indian Reservation and ran northeasterly and easterly for approximately 3 miles to a point near the center of Section 28. The road is now a portion of County Road No. 1049, North Fork McKay Creek Road.

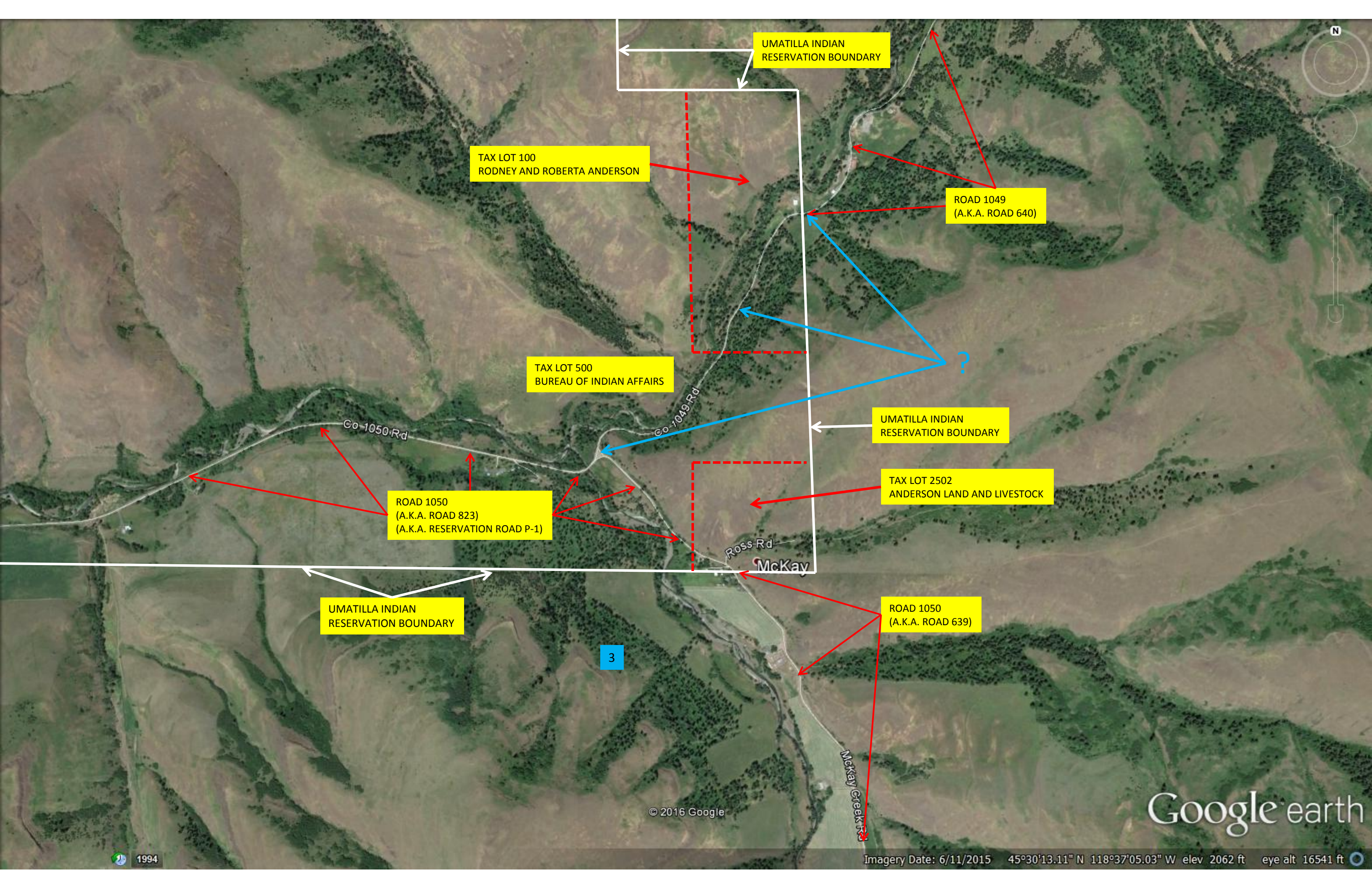
In 1922, Road No. 823 was established from what is now the intersection of the north-south line between Sections 9 and 10 in Township 2 North, Range 33 E.W.M. with Mission road south and southeasterly to a point on the line between Sections 1 and 12, Township 1 South, Range 33 E.W.M. on the south line of the Umatilla Indian Reservation at which point Road No. 639 began (see attached documents). A portion of Road 823 was accepted and improved by the Bureau of Indian Affairs in the 1950's and then transferred back to the County in 1962 (see transfer plat). This portion is also known as Reservation Road P-1, a portion of which includes McKay Creek Road from its intersection with Sumac Road easterly and southeasterly to a point on the south line of the Reservation at the beginning of Road No. 639.

In 1981 Umatilla County received a letter (see attached) from Philip Sanchez, Superintendent for the U. S. D. I. Bureau of Indian Affairs, outlining a number of roads across the Reservation for which rights-of-way were not authorized. County Road No. 1049 was one of them. In 1982 Michele Hallman, Umatilla County Counsel, wrote a letter (see attached) to Congressman Denny Smith indicating that County staff could find no records for Road No. 1049 (among others) and requested he introduce legislation to establish the validity of the roads. This is the last correspondence on file in the road records and no other records have been found.

ISSUES

At some point a right of way will need to be established across the Bureau of Indian Affairs property (Tax Lot #500, Map 1S 33) giving legal access to Tax Lot #100 (Map 1S 33), Tax Lot #1401 (Map

1S 34), and Tax Lots #6100 & #6101 (Map 1N 34). A right of way or easement will also need to be established across Tax Lot #100 (Map 1S 33) to provide access to Tax Lot #1401 (Map 1S 34) and Tax Lots #6100 & #6101 (Map 1N 34). A survey has been done by the Public Works Department to provide descriptions of the road.



UMATILLA INDIAN RESERVATION BOUNDARY

TAX LOT 100
RODNEY AND ROBERTA ANDERSON

ROAD 1049
(A.K.A. ROAD 640)

TAX LOT 500
BUREAU OF INDIAN AFFAIRS

UMATILLA INDIAN RESERVATION BOUNDARY

TAX LOT 2502
ANDERSON LAND AND LIVESTOCK

ROAD 1050
(A.K.A. ROAD 823)
(A.K.A. RESERVATION ROAD P-1)

Ross Rd
McKay

UMATILLA INDIAN RESERVATION BOUNDARY

ROAD 1050
(A.K.A. ROAD 639)

3

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Google earth

1994

Imagery Date: 6/11/2015 45°30'13.11" N 118°37'05.03" W elev 2062 ft eye alt 16541 ft

FIELD NOTES OF ROAD NO. 639

Commencing at a point bet secs 1 & 12 Tp 1 S. R. 33E 11° Dist. West from
the NE corner of Sec. 12 Tp 1 S. R. 33 EWM stone in place I marked R 639 on
W face thence

"	S 40°	E	280 chs	dist	
"	S 43°	E	895 "	1175	
"	S 47°	E	485	1660	
"	S 6°	E	460	2120	
"	S 36°	E	393	2513	
"	S 2°	E	480	2993	
"	S 32°	E	285	3278	
"	S 35°	E	705	3983	
"	S 51°	E	200	4183	
"	S 26°	E	225	4408	
"	S 12°	E	437	4845	
"	S 30°	E	530	5375	
"	S 14°	E	275	5650	
"	S 16°	E	595	6245	
"	S 4½°	E	750	6995	
"	S 8°	E	275	7270	
"	S 26°	E	250	7520	
"	S 20°	E	480	8000	post to right--marked IM.
"	S 20°	E	250		
"	S 21°	W	780	1030	
"	S 3°	W	415	1445	
"	S 13°	E	515	1960	
"	S 16°	30'E	480	2440	
"	S 7°	E	1210	3650	
"	S 2°	W	810	4460	
"	S 15°	E	1150	5610	
"	S 16°	E	490	6100	
"	S 42°	E	275	6375	
"	S 17°	W	155	6530	
"	S 12°	E	445	6975	
"	S 33°	E	1025	8000	a stone in place 2' to right Mark. 2 M.
"	S 42°	30'E	290		
"	S 14°	W	175	465	
"	S 52°	E	700	1165	
"	S 29°	E	900	2065	
"	S 10°	E	1460	3525	
"	S 15°	E	2610	6135	centr sec 32 rds W
"	S 26°	E	460	6595	
"	S 36°	E	405	7000	
"	S 18°	E	690	7690	
"	S 30°	E	310	8000	post to right 20' marked 3 M.
"	S 30°	E	1540 chs Dist		
"	S		320	1860	
"	S 40°	E	460	2320	
"	S 29°	E	700	3020	creek 75 lls wide Course NW
"			1210	3530	
"	S 70°	E	360	3890	
"	S 45°	E	280	4170	
"	S 5°	E	150	4320	
"	S 79°	E	305	4625	
"	N	N	225	4850	
"	N 87°	E	312	5162	
"	N 77°	E	565	5727	
"	S 83°	E	100	5827	creek 75' wide course NW
"			695	6422	
"	S 61°	E	320	6742	
"	S 75°	E	790	7532	
"	N 85°	E	368	7900	
"	N 72°	E	100	8000	Post to right marked 4 M.
"	N 56°	E	410		
"	S 57°	E	180	590	Dist
"	N 84°	E	547	1137	
"	S 65°	E	793	1930	
"	S 76°	E	460	2390	
"	N 82°	E	1640	4030	
"	N 53°	E	550	4580	
"	N 68°	E	150	4730	
"	N 46°	E	580	5310	
"	N 75°	E	590	5900	
"	N 35°	E	400	6300	cross ehannels
"	N 67°	E	595	6895	
"	N 85°	E	185	7080	
"	N 79°	E	920	8000	pine to left marked 5 M.
"	S 44°	E	265 chs		dist cross creek wuns West
"	N 84°	E	680	945	
"	N 59°	E	260	1205	
"	N 47°	E	215	1420	
"	E		200	1620	
"	N 72°	E	255	1875	
"	N 55°	E	405	2280	
"	N 45°	E	160	2440	

Thence	N 64° E	380	2820	
"	"	530	3350	
"	N 64° E	495	3845	Schumann gate
"	N 31° E	175	4020	
"	N 49° E	365	4385	
"	N 31° E	150	4535	
"	N	200	4735	
"	N 51° E	430	5165	cross creek runs NW
"	N 56° E	535	5700	
"	N 81° E	465	6165	
"	N 73° E	625	6790	
"	N 48° E	335	7125	
"	N 66° E	200	7325	cross creek runs SW
"	"	815	7940	
"	S 34° E	60	8000	pine to left marked 6M.
"	S 34° E	215 chs		dist.
"	S 75° E	490	705	
"	S 88° E	1400	2105	
"	S 70° E	455	2555	cross Bousey Creek N
"	S 78° E	360	2915	
"	S 74° E	985	3900	cross Johnson creek NW
"	S 57° E	270	4170	
"	S 74° E	250	4420	
"	S 39° E	200	4620	R. T. a fir 10 inch diameter I marked R T 639.

I hereby certify that the foregoing Field Notes of Road No. 639 as surveyed by me on the 25 and 26 days of January 1908 are correct.

John W Kimbrell
County Surveyor

REPORT OF BOARD OF COUNTY ROAD VIEWERS

IN THE MATTER OF VIEWING, SURVEYING AND LAYING OUT COUNTY ROAD NO. 639. TO THE HONORABLE COUNTY COURT OF THE STATE OF OREGON FOR UMATILLA COUNTY.

WE THE UNDERSIGNED Board of County Road Viewers, heretofore instructed to view, survey and locate Road No. 639 submit the following report: Pursuant to an order of the Honorable County Court, we met at office of County Surveyor in Pendleton, on the 24 day of January 1908. We called to our aid

- L C Rothrock Chainman
- J E Bennett Chainman
- Charles Halloway Flagman
- Elmer Hubbard Marker

who were by the surveyor each duly sworn. We viewed, surveyed and located said Road No. 639 as specified in our order. We find said route practicable and would most respectfully recommend the same be established as a public highway of Umatilla County, Oregon. The cost of construction would be an indefinite amount. The damage to property owners by reason of the location of said road would be nothing.

- John W Kimbrell) Board of County
- L C Rothrock) Road Viewers, of
- J E Bennett) Umatilla County,
-) State of Oregon.

Approved and ordered opened
Feb. 8, 1908
T P Gilliland, County Judge
Horace Walker, County Commissioner.
H B Lee, County Commissioner.

Filed Feb. 3, 1908
Frank Saling, Clerk
By R. T. Brown, Deputy

FIELD NOTES OF ROAD NO. 637.

Commencing at a point 1241 feet East of the center of S¹/₂ Sec. 14, Tp 4 N. R. 28 E set post 30 feet North of Initial Point marked R. 637.

Thence	West	1870	chains	
"	North	2000	"	3870 R. T. Post 40' SW from Terminus marked R. T. No. 637.

I hereby certify that the foregoing Field Notes are correct.

John Kimbrell,
County Surveyor

639

Plat

Township 1 South

T. 1. S. R. 33. E.

T. 1. S. R. 34. E.

12

7

8

13

18

17

24

19

20

25

30

29

R 639

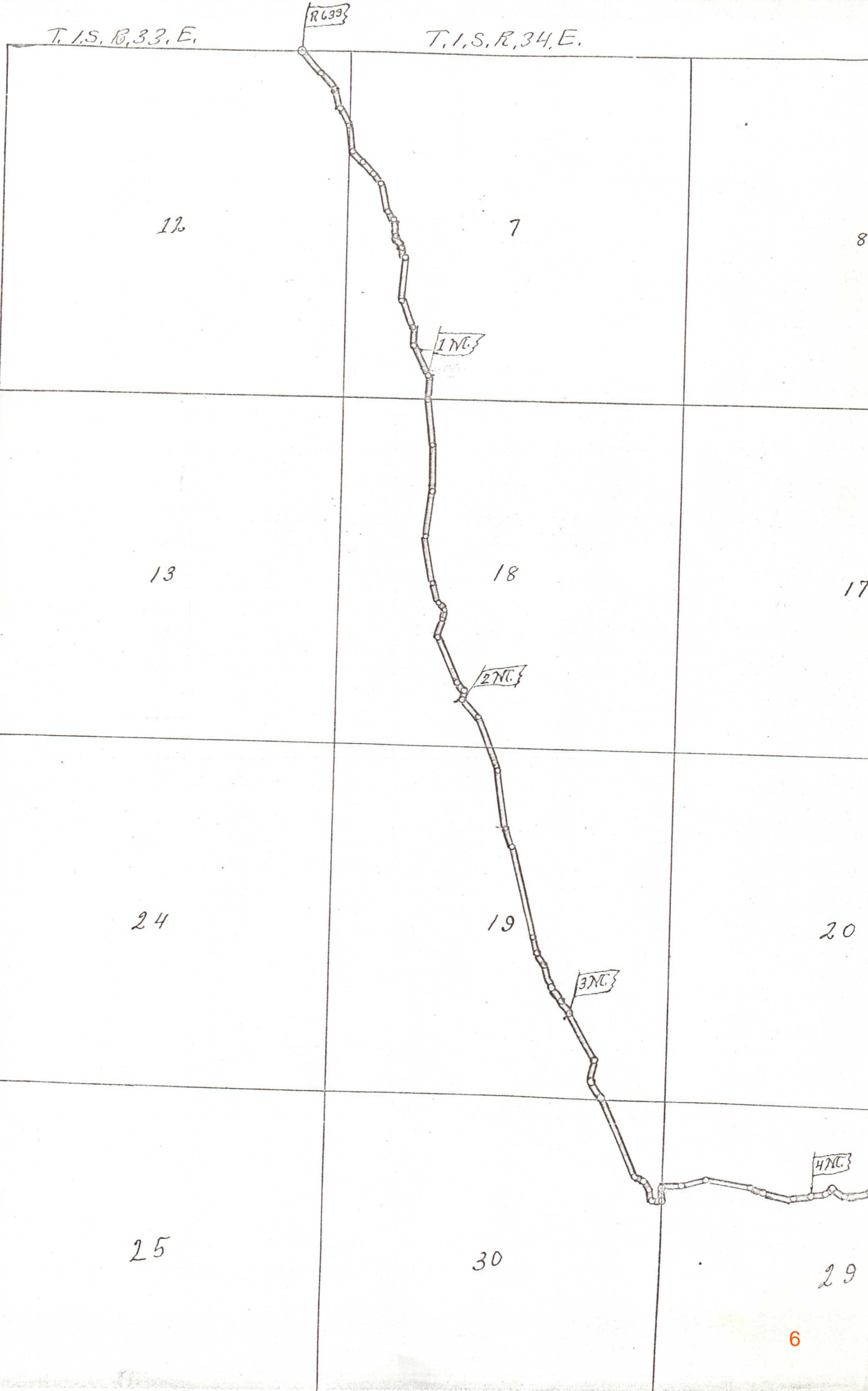
1 N.C.

2 N.C.

3 N.C.

4 N.C.

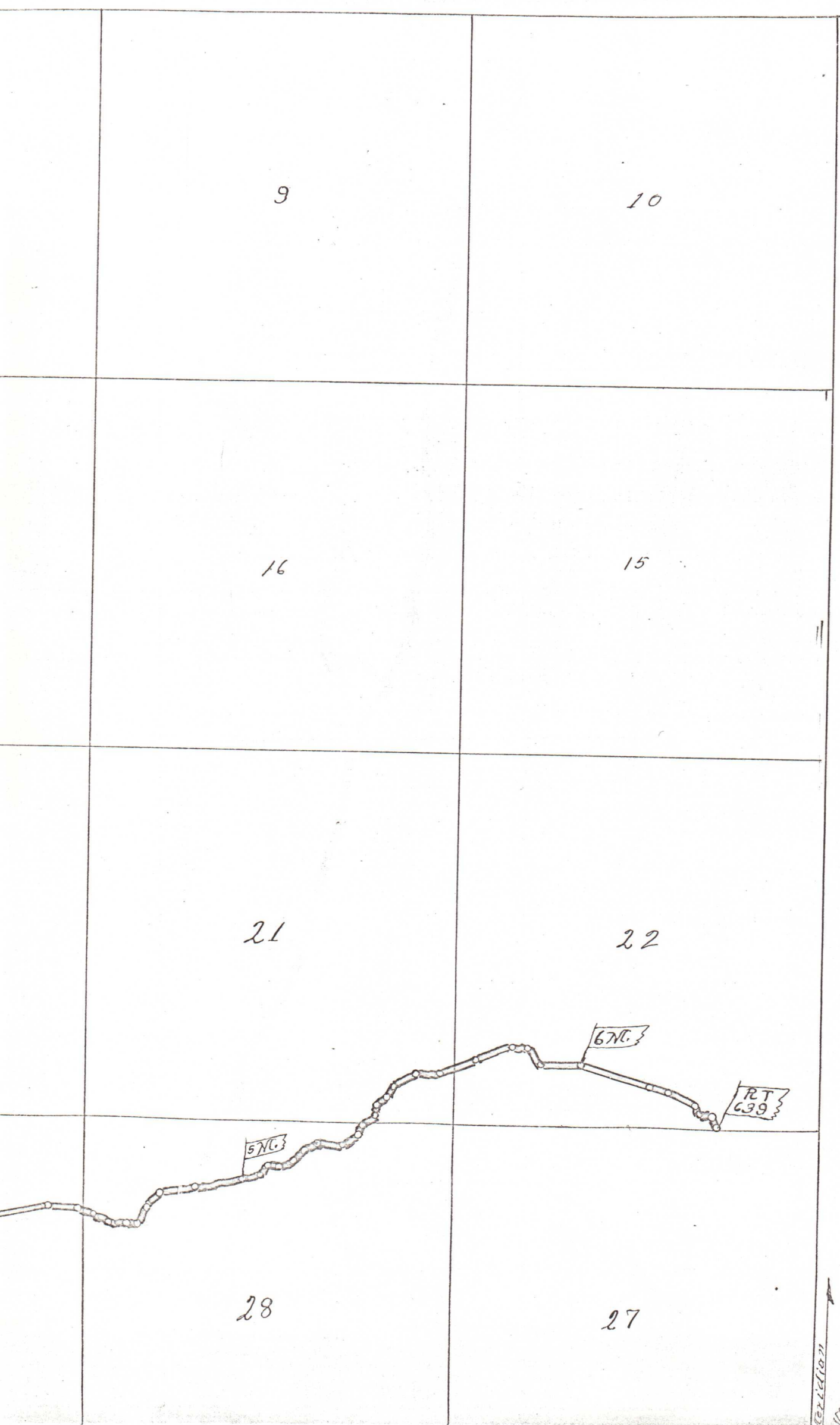
6



Road No 639

639

s 33 and 34 E.W.M.



ROAD NOTICE.

To all persons whom it may concern:

NOTICE IS HEREBY GIVEN that a petition will be presented to the County Court of the State of Oregon for Umatilla County, by the undersigned, who are freeholders ^{and likewise home-holders} in said county and state and who reside in the road district or districts where said road is to be laid out, at the November term, 1907, of said county court, to-wit: on Wednesday, the 6th day of November, 1907, at the hour of opening of said court, praying said court to lay out, locate and establish a county road in said county and state commencing, running and terminating as follows, to-wit: Commencing at a point on the section line between Sections One (1) and Twelve (12), Township One (1) South Range Thirty-three (33) E.W.M., thirteen (13) chains West of the Northeast corner of said Section Twelve (12), being near the McKay post office, so-called, in said county and state, thence continuing in a Southerly or Southeasterly direction up McKay Creek on the most feasible and practicable route for a public road and as nearly as practicable along the present traveled road, through the Northeast corner of said Section Twelve (12) and across the Southwest corner of Section Seven (7), and through Sections Eighteen (18) and Nineteen (19) in Township One (1) South Range Thirty-four (34) E. W. M., and crossing the Northeast corner of Section Thirty (30) in said last named township and range, to a point on the line between Sections Twenty-nine (29) and Thirty (30), said last named township and range, ~~to a point~~ fifty-three and one-third (53-1/3) rods South of the Northwest corner of said Section Twenty-nine (29), thence in an Easterly direction up said McKay Creek on the most practicable and feasible route for a road, still as nearly as possible along the route of the said pres-

ent traveled road, to a point on the line between Sections Twenty-two (22) and Twenty-seven (27), Township One (1) South Range Thirty-four (34) E. W. M. seventeen (17) chains East of the quarter section corner common to said Sections Twenty-two (22) and Twenty-seven (27), said last named point being the termination of said proposed road herein petitioned for and said road to be forty feet in width.

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

the opening county road No. 639
petitioned for by John M Wynn, et al
~~in Section~~

Now on this day this matter coming on regularly to be heard upon the report of the board of county road viewers heretofore instructed at the January 1908 term of this Court to view, survey, stake, lay out and report upon said road No. 639 as follows: Commencing at a point on the section line between sections 1 and 12 township 1 south range 33 ewm 13 chains West of the NE corner said Section 12; thence running in a southerly or South Easterly direction up Mc Kay creek on the most feasible and practicable route for a public road and as nearly as practicable along the present traveled road through the NE corner of said Section 12 and across the SW corner of Section 7, and through sections 18 and 19 in TP/ 1 S. R. 34 EWM. and crossing the NE cor. of Sec. 30, said Tp and Range to a point on the line between Secs. 29 and 30 said Tp. and range 53 1/3 rods South of the NW corner said Sec. 29, thence in an Easterly direction up said Mc Kay creek on the most practicable and feasible route for a road to a point on the line between sections 22 and 27 Township 1 South Range 34 EWM. 17 chains East of the 1/4 section corner common to said Secs. 22 and 27, and to be 40 ft wide as a county road for final hearing, the same having been publicly read on two different days of the same term of court, to-wit: Having been publicly read the 1st time on Feb. 6, 1908 and public^{ly} read the 2nd time on Feb. 8, 1908. Said Board of County Road Viewers having reported favorably and recommended the establishing of said road as a county road, and the plat and field notes being on file and certified to by the surveyor appointed to survey the same, and ~~it~~ appearing to the court that said road would be of sufficient public utility, it is hereby ordered that said report of the board of county road viewers be accepted and the plats and Field notes be recorded in the Record of Plats and Field Notes of Umatilla County

and the Road Supervisor through whose district or districts said road runs be and he is hereby ordered and instructed to open said road for public use.

T. P. Williams County Judge

Charles Walker County Com

County Com

RECORDED IN
INDEXED IN

1 IN THE COUNTY COURT OF THE STATE OF OREGON
2 FOR UMATILLA COUNTY.

3
4
5 In the Matter of the Application)
6 of)
7 Allen Rhodes et al for the Loca-) P E T I T I O N .
8 tion and Establishment of a)
9 County Road.)

10
11 To the Honorable, the above entitled Court:

12
13 We, the undersigned, your petitioners, all of whom
14 are freeholders within Umatilla County, State of Oregon,
15 and who reside in the road district where the hereinafter
16 described road is to be laid out and located, respect-
17 fully petition your honorable body to cause to be laid out,
18 located and established a county road in the County of
19 Umatilla and State of Oregon, commencing, running and ter-
20 minating as follows, towit: Commencing at a point on the
21 line of the Umatilla Indian Reservation, eighty rods South
22 from the Northwest corner of Section Six (6) Township One
23 (1) South Range Thirty-four (34) E. W. M. in said county
24 and state, thence Easterly and Northeasterly across the
25 Oberg premises, socalled, about eighty (80) rods, to a
26 point on the base line between sections Six (6) in Town-
27 ship One (1) South Range Thirty-four (34) E. W. M. and Sec-
28 tion Thirty-one (31) in Township One (1) North Range
29 Thirty-four (34) E.W. M., on present-traveled road, and
30 thence along said present traveled road Northeasterly on the

1 South bank of ~~the~~ North fork of McKay Creek to a point on
 2 said road near the dwelling house on the S. L. Morse place,
 3 so-called, thence still in the same direction over a point
 4 of land and thence again along said South bank of said
 5 creek along the present traveled road in a Northeasterly
 6 direction about two and one-half miles to that point there-
 7 on which is nearest to the center of Section Twenty-eight
 8 (28) Township One (1) North Range Thirty-four (34) E. W. M
 9 said proposed road to be about three and a quarter miles
 10 in length and as near as practicable to traverse the line
 11 of an existing road which is in use but which is not a
 12 county road, said last named point being the termination
 13 of said proposed road herein petitioned for, and said road
 14 to be forty feet in width; and thus will ever pray.

15 Dated September 21st, 1907.

Name.	Name.
<i>Allen Rhodes</i>	<i>David Horne</i>
<i>John W. P. Jones</i>	<i>Joseph Clotkin</i>
<i>Carl A. Oberg</i>	<i>G. F. Dunn</i>
<i>A. D. Hanna Jr.</i>	<i>Willis Pea</i>
<i>J. C. Belton</i>	<i>Ed. Myers</i>
<i>J. A. Hubbard</i>	<i>B. T. Hubbard</i>

640

Field Notes of Board
No. 640

Commencing at a point on Range line 80 rods
South of the NW corner of Sec 6 T18R34E4M
Set Stone at initial point marked B 640

Hence South	154 chains	dit	A 1.
"	N 61° E 500	" 654	A 2
"	N 42° E 400	" 10.54	A 3
"	N 19° E 400	" 14.54	A 4
"	N 1° E 410	" 18.64	A 5-
"	N 21° W 232	" 20.96	A 6
"	N 2° E 210	" 23.06	A 7
"	N 51° E 342	" 26.48	A 8
"	N 75° E 625-	" 32.73	A 9
"	N 40° E 200	" 34.73	E W line bet mark & obry
	910	41.83	A 10
then	N 20° E 925	51.08	A 11
"	N 27° 30' E 525	56.33	A 12
"	N 46° E 325	59.58	A 13
"	N 42° E 10.90	70.48	A 14
"	N 31° E 370	74.18	A 15-
"	N 40° E 320	77.38	A 16
"	N 29° E 262	80.00	Post right marked 1. M. A 17
"	N 60° 30' E 680		A 18
"	N 43° E 680	1360	A 19
"	N 85° E 460	1820	Cross creek NW A 20
"	N 70° E 630	2450	Cross " SB A 21
"	N 27° E 530	2980	Center W 1/2 Sec 32 A 22
"	N 65° E 420	3400	A 23
"	S 84° E 125-	3525	A 24

		3525-		A 24
House	N 76° E	420	3945-	A 25-
"	N 65° E	480	4425-	A 26
"	N 35° E	1180	5605	A 27
"	N 47° E	520	6125-	A 28
"	N 18° E	500	6625-	A 29
"	N 47° E	255	6880	A 30
"	N 53° E	250	7130	A 31
"	N 46° E	850	7980	A 32
"	N 35° 30' E	20	8000	a pine to left, marked 2M
"	N 35° 30' E	690		A 33
"	N 66° E	200	did- 890	A 34
"	N 37° E	650	1540	A 35-
"	N 46° 30' E	880	1920	A 36
"	N 35° E	270	2190	A 37
"	N 47° E	340	2530	A 38
"	N 71° 30' E	655	3185	A 39
"	N 55° E	1040	4225	A 40
"	N 62° E	1000	5225	A 41
"	N 40° E	320	5545	A 42
"	N 29° E	380	5875	A 43
"	N 18° E	250	6125	A 44
"	N 6° E	105-	6230	A 45-
"	N 58° E	250	6480	A 46
"	N 81° E	530	7010	A 47
"	N 50° E	650	7660	A 48
"	N 37° E	340	8000	Pine to right, marked 3M
"	N 49° E	640	RT Pine 20 feet to right	marked RT No 640

I hereby certify that the foregoing field notes of bond 640
 as surveyed by me on the 25th day of Jan 1908

John W. Tombell County Surveyor

In the matter of opening County Road No. 640.

Now on this day this matter coming on regularly to be heard upon the report of the Board of County Road Viewers heretofore instructed at the January 1908 term of this Court to view, survey, stake and lay out and report upon said Road No 640, as follows: Commencing at a point on the line of the Umatilla Indian Reservation 80 rods South from the NW corner Sec. 5, Tp. 1 S R 34 EWM; thence Easterly and North Easterly across the Oberg premises so called about 80 rods to a point on the base line between Secs 5 Tp 1 S. R. 34 EWM., and Sec 21, T. 1 N. R. 34 EWM, on present traveled road; thence along said present traveled road Northeastly on the South Bank of the North fork of Mc Kay creek to a point near the dwelling house on the S. L. Morse place, so-called thence still in the same direction over a point or line and thence again along said South part of said creek along the present traveled road in a North Easterly direction about 2 1/2 miles to that point thereon which is nearest to the center of Section 28, Tp. 1 N. R. 34 EWM and to be 40ft wide as a county road for final hearing. The same having been publicly read on two different days of the same term of Court, to-wit: Having been publicly read the 1st time on Feb. 5, 1908 and publicly read the 2nd time on Feb. 8, 1908 and the Board of County Road Viewers having reported favorably and recommended the establishment of said road as a county road and the plat and field notes being on file and certified to by the surveyor appointed to survey the same, and it appearing to the court that said road would be of sufficient public utility, it is hereby ORDERED that said report be accepted and that the plat and field notes be recorded in the Record or Plats and Field Notes for Umatilla County and that the Road Supervisor through whose District or Districts said road runs be and he is hereby ordered and instructed to open said road for public use. When the damages are paid to Carl Oberg by the petitioners in the sum of \$50.00.

In the matter of opening County Road No. 638 petitioned for by Newton Miller, et al.

Now on this day this matter coming on regularly to be heard upon the report of the Board of County Road Viewers heretofore instructed at the January 1908 term of this Court, to view, survey, stake, lay out and report upon said Road No. 638 as follows:

June 20th 1922

To the Honorable County Court of the State of Oregon, for Umatilla County

WE THE UNDERSIGNED, your petitioners, who are freeholders of said Umatilla County, Oregon, and who reside in the road district, or districts, where said road is to be laid out, respectfully petition your honorable body to cause to be laid out, located, and established a County road in said County and State,

commencing, running and terminating as follows, to-wit: Commencing at a point on the South side of the Old Oregon Trail highway where the North and South section line between Sections 9, and 10, Twp. 2 N. R. 33 East crosses said highway and running thence South 6 and $\frac{3}{4}$ miles, more or less, to the corner of Sections 9, 10, 15 and 16, Twp. 1 N. R. 33 E. W. M.; thence West one mile to the corner of Sections 8, 9, 16 and 17 of the same Twp. and Range; thence South $2 \frac{5}{8}$ miles along the Section line to the top of a hill on the North and South line between Sections 28 and 29; thence following the line of the present road as it is now platted and approved by the United States Government across Sections 28, 29 and 33 of Twp. 1 North, Range 33 E. W. M.; thence across Section 5, Twp. 1 South Range 33 E. W. M. to the East bank of McKay Creek; thence following up McKay Creek along the most practicable and feasible route for a road through Sections 4, 3, 2 and 1 to the corner of Sections 1 and 12 in Twp. 1 South, Range 33 East on the Twp. line between Twps. 33 and 34, E. W. M., and there terminating at the last named point.

said road to be sixty (60) Feet wide.

We respectfully show that there is a public necessity for said road, in that, said road will reach the post office on McKay Creek and will accommodate and it is actually necessary for the accommodation and use of a great number of settlers along said road and for ingress and egress for a large number of settlers residing South of the termination of said road.

And your petitioners will ever pray, etc.

Dated this 17th day of June 1922 A. D.

NAMES

Edm. Wright ✓
J. D. Owen ✓
A. M. Isaac
Thomas Thompson ✓
C. B. Isaac
R. B. Baker ✓
David Home
P. Matayic ✓
E. S. Isaac
Luante Anderson
Guy Horn ✓
John Hendrickson ✓

NAMES

Boyd + Thompson ✓
Storie + Pitner ✓
Robert Thompson ✓
J. R. Thompson ✓
C. G. Amberson ✓
M. E. Anderson ✓

Eight



WESTERN AUTO CO. INC.
 CULP PLAN ASSOCIATED STORE NO. 287
 208 COTTONWOOD AND WATER STS.
 PENDLETON, OREGON

REPORT OF BOARD OF COUNTY ROAD VIEWERS.

In the Matter of the Viewing of the County Road petitioned for by C. M. Wright, et al, commencing at a point on the south side of the Old Oregon Trail, where the N & S. Section line between Sec. 9 - 10 , Tp. 2 N, R. 33 E.W.M crosses said Highway, and known as Road No. 823.

To THE HONORABLE COUNTY COURT OF THE STATE OF OREGON FOR UMATILLA Co.

We the undersigned Board of County Road Viewers heretofore instructed to View the said road; report as follows;

We met at Pendleton , Oregon on the 5th day of Aug. 1922, and the Viewers having Qualified we proceeded to View the said road.

We find that the road is all ready opened and established and has been traveled for a good many years so the cost of opening the road will be nothing and as it has been established and traveled the damages to the owners of the land over which the said road is located will be the sum of nothing.

Therefore we most respectfully recommend that this road be made a Public Highway of Umatilla County , Oregon. as the Public will be benefited in our opinion by making it such.

Arthur E. Perry (Board of County
T. B. Swearingin (Road Viewers for
W. G. Swickard (Umatilla County.



ROAD NOTICE

TO ALL PERSONS WHOM IT MAY CONCERN:

Notice is hereby given that a petition will be presented to the County Court of the State of Oregon, for Umatilla County, by the Undersigned, who are freeholders of said County and State, and reside in the road district or districts of the hereinafter described route for a County road, at the August term, 1922, of said County Court, to-wit: On the 2nd day of Aug 1922 praying said Court to lay out, locate and establish a County road in said County and State, commencing, running and terminating as follows, to-wit: commencing at a point on the South side of the Old Oregon Trail Highway, where the North and South section line between Sections 9, and 10, Twp. 2 Nr. 33 East crosses said Highway and running thence south six and three quarters miles more or less to the corner of sections 9, 10, 15, and sixteen Twp. 1 Nr. 33 E.W.M., thence west one mile to the corner of Sections 8-9-16 and 17, of the same township and range; thence South two and five-eighths miles along the section line to the top of a hill on the north and south line between Sections 28 and 29; thence following the line of the present road as it is now platted and approved by the United States Government across sections 28, 29 and 33 of Twp. 1 Nr. 33 E.W.M.; thence across section 5, Township 1, south range 33 E.W.M. to the east bank of McKay Creek; thence following up McKay Creek along the most practicable and feasible route for a road through sections 4-3-2-1, to the corner of sections 1 and 12 in Township 1 south range 33 East on the township line between townships 33 and 34 E.W.M., and there terminating at the last named point, said road to be 60 feet wide.

Said road to be 60 feet wide.

Dated this 17th day of June 1922.

NAME	NAME
C.M. Wright	P. Motanic
J.D. Owen	E.S. Isaac
A.M. Isaac	Swante Anderson
Thomas Thompson	Roy Horn
C.B. Isaac	John Hendricksen
R.C. Baker	Boyden & Thompson
David Horn	Story & Ritner
Herbert Thompson	
J.R. Thompson	
C.M. Umbarger	
M.H. Umbarger	

IN THE COUNTY COURT OF THE STATE OF OREGON

FOR UMATILLA COUNTY.

Book 10
Page 100
In the Matter of County Road Petitioned
for by C.M. Wright, et al, commencing
at a point on the South side of the Old
Oregon Trail Highway, where the North
and South Section line between sections
9 and 10, Township 2 North, Range 33,
E.W.M. crosses said Highway.

ROAD #823.

Now on this day this matter coming on to be heard upon the report of the board of county road viewers heretofore instructed at the August, 1922 term of this court to view, survey if necessary, and report upon said proposed road petitioned by as commencing at a point on the South side of the Old Oregon Trail Highway where the North and South Section line between section 9 and 10, Township 2 North Range 33, E.W.M., crosses said Highway and running thence South 6 3/4 miles more or less, to the corner of Section 9, 10, 15 and 16, Township 1 North, Range 33 E.W.M., thence west one mile to the corner of Sections 8, 9, 16 and 17 of the same township and range, thence West 2 5/8 miles along the section line to the top of the hill on the North and South line between Sections 28 and 29, thence following the line of the proposed road as it is platted and approved by the U. S. Government, across sections 28 and 29 and 33 of Township 1 North, Range 33 E.W.M., thence across Section 5, Township 1 South Range 33 E.W.M., to the east bank of McKay Creek, thence following up McKay Creek along the most practicable and feasible route for a road through Sections 4, 3, 2, and 1, to the corner of Section 1 and 12, in Township 1 South, Range 33 E.W.M., on the township line between townships 33 and 34, E.W.M., and to be 60 feet wide for a county road for final hearing, the same having been publicly read on two different days of the same term of the Court, to-wit: Having been publicly read the first time on September 6 and publicly read the second time on September 7, 1922; said board of County Road viewers having reported favorably and recommended that said road be established as a county road, and that the damage sustained to the property owners by reason of establishment of said road will be

nothing.

And that the Court being of the opinion that said road will be of sufficient utility,

IT IS THEREFORE HEREBY ORDERED that said report of the board of County Road viewers be approved and that the plat be recorded in the record of proceedings of Umatilla County, and that the Roadmaster be and he is hereby ordered and instructed to open said road for public use.

Dated this 8th day of September, 1922.

J. M. Schanup
County Judge.

G. L. Dunning
County Commissioner.

R. E. Bean
County Commissioner.

UNITED STATES DEPARTMENT OF THE INTERIOR
 BUREAU OF INDIAN AFFAIRS
 ROAD RIGHT OF WAY TRANSFER PLAT
 PROJECT 800(2) MCKAY CREEK ROADS
 13.8 MILES
 UMATILLA INDIAN RESERVATION
 UMATILLA COUNTY OREGON

ENGINEER'S AFFIDAVIT

CERTIFICATION OF UMATILLA COUNTY

STATE OF OREGON
 SS
 COUNTY OF UMATILLA

I, S. P. Cook hereby certify that I am the Judge of the County Court of Umatilla County, Oregon; that I am satisfied as to the accuracy of the survey of the road and of the accuracy of this map on which the survey is represented; that Umatilla County accepts the right-of-way for the road represented on this map pursuant to agreement with the Bureau of Indian Affairs dated June 24, 1955.

I, Lee M. Travis being first duly sworn, states that he is the Supervising Highway Engineer for the Umatilla Indian Agency; that the survey of the road described on this map was made by him or under his direction; that the said survey is 13.8 miles in length and is accurately represented on this map.

Date: Aug. 16 1962

S. P. Cook
 Judge, County Court
W. H. Hayes
 Commissioner
Carl P. Stanton
 Commissioner
 ATTESTED: Jesse M. Bee
 Clerk, County Court

Date: 7/31 1962 Lee M. Travis
 Supervising Highway Engineer

Subscribed and Sworn to Before me this 31st Day of July 1962
Phyllis B. Shaw Residing in State of Oregon
 Notary Public
 My Commission Expires Oct. 6, 1964

APPROVAL OF MAP

"This map composed of 1 sheets, of which this is sheet 1, is approved pursuant to the provisions of the Act of February 5, 1948 (62 Stat. 17; 25 U.S.C. 323-328) and Departmental Regulations 25 CFR 161, as amended, and pursuant to the stipulations of the agreement dated JUNE 1951 between the United States as represented by the Bureau of Indian Affairs and the County as represented by the Board of County Commissioners subject to any prior, valid, existing rights or adverse claims.

Date Approved: 8/20/62

Walter J. Alouie
 acting
 Superintendent, Warm Springs Indian Agency
 Warm Springs, Oregon

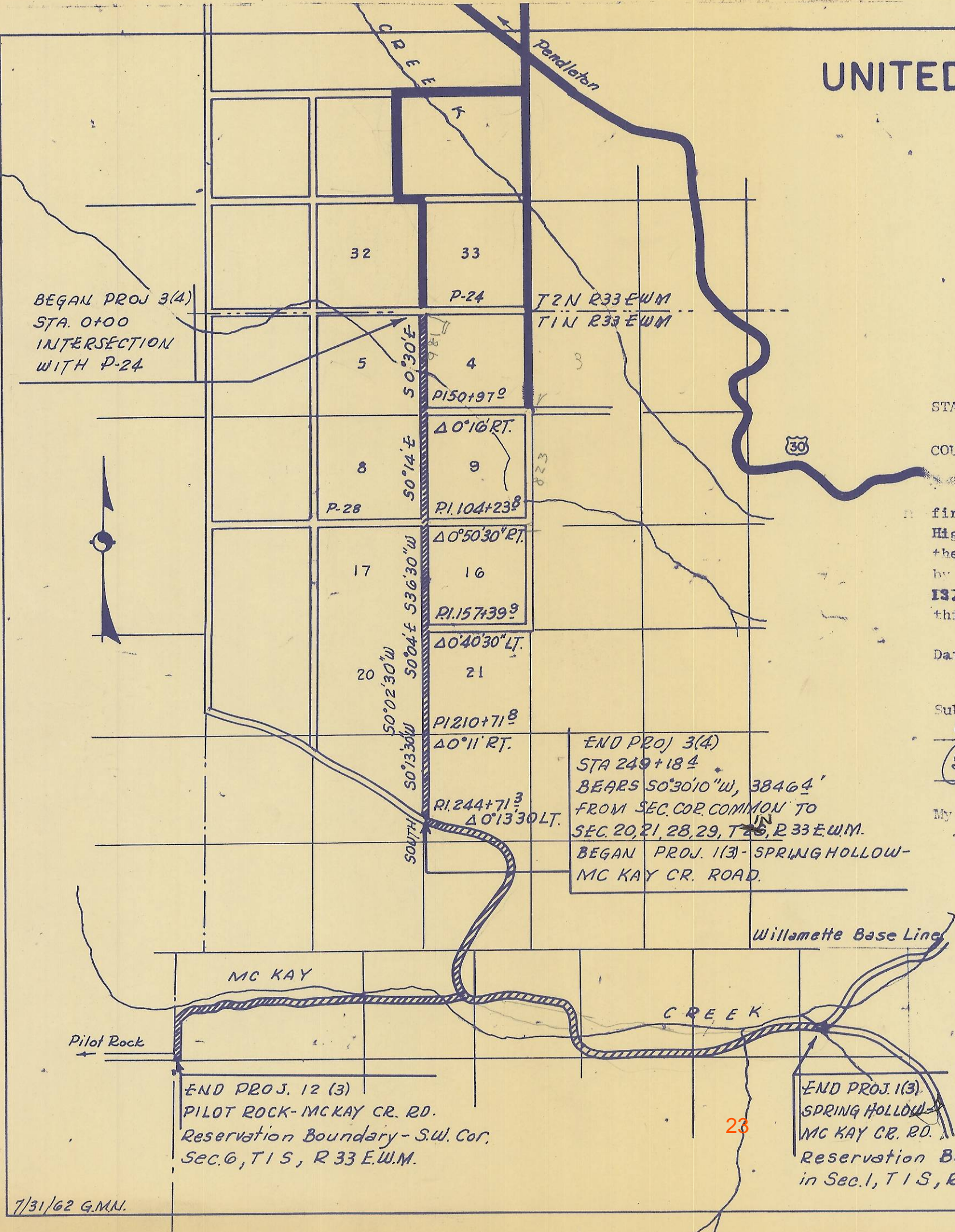
BEGAN PROJ 3(4)
 STA. 0+00
 INTERSECTION
 WITH P-24

END PROJ 3(4)
 STA 249+18.4
 BEARS 50°30'10"W, 3846.4'
 FROM SEC. COR. COMMON TO
 SEC. 20, 21, 28, 29, T2S, R33E, W.M.
 BEGAN PROJ. 1(3) - SPRING HOLLOW-
 MCKAY CR. ROAD.

END PROJ. 1(3)
 SPRING HOLLOW
 MCKAY CR. RD.
 Reservation Boundary
 in Sec. 1, T1S, R33E, W.M

END PROJ. 12(3)
 PILOT ROCK-MCKAY CR. RD.
 Reservation Boundary - S.W. Cor.
 Sec. 6, T1S, R33E, W.M.

7/31/62 G.M.N.



BY "W. L. W." STAMPT
W. L. W.
BOB TENEYOR

IN REPLY REFER TO:
Land Operations



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Umatilla Agency
Post Office Box 520
Pendleton, Oregon 97801

Board of County Commissions
ATTENTION: Bud Draper
Post Office Box 1427
Pendleton, Oregon 97801

MAR 13 1981

Gentlemen:

The Bureau of Indian Affairs has recently been examining the validity and authorization of rights of way on the Umatilla Indian Reservation. It has been determined that various road right of ways exists. (See exhibit 'A' for road numbers as given.) Our records show that these rights of way are not authorized pursuant to appropriate federal statutes. Such unauthorized use, absent any showing of payment or other right, may eventually be determined to constitute trespass.

Before pursuing possible legal action, our counsel has advised us to call this matter to the attention of likely defendants. The purpose of this contact is therefore to determine whether any authority exists for the subject right of way which is not reflected in Bureau of Indian Affairs records. Absent any authority for the right of way, we are directed to refer this case to legal counsel for the Department of the Interior.

We would appreciate your contacting us with any information you may have with regard to this matter. The Agency Claims Coordinator for this effort is Dale Lingle and he can be contacted at ext. 457 276-3811 if you need additional information. In view of the Statute of Limitations (28 U.S.C. 2415), we are advised that documentation of these cases must progress in an expeditious manner. Unless you are able to respond by May 31, 1981, we will have to refer the case to the Office of the Regional Solicitor.

Your assistance is appreciated.

Sincerely,

Philip S. Sweeney
ACTING Superintendent

Enclosure

EXHIBIT 'A'
ROAD NUMBERS
UMATILLA COUNTY

Not Listed
737
675
652
794
751
925
798
927
937
917

<u>New No.</u>	<u>Old No.</u>
666	872, 890 ⁸
692	855
732	912
736	P-25
735	735
735	735
775	868
788	367, 368, Public 825 P-4
825	825 , 825 , 825 , 825
857	857 , 857 , DEED
858	633 5 3 3
911	478
928	828 <i>mistake</i>
932	884-747
934	884, 821
939	NEW
987	371
1021	824, 644
1041	NEW
1049	640
1050	870, 823, 639

865 —

P-1 ←

Also any public right of way that exist within current reservation boundaries.

Petition (if available) — Final Order (need)

MICHELE HALLMAN
ATTORNEY AT LAW
221 SOUTH MAIN, SUITE NO. 3
PENDLETON, OREGON 97801
TELEPHONE (503) 276-1851

February 12, 1982

Congressman Denny Smith
Congress of the United States
1207 Longworth House Office Building
Washington, D.C. 20515

Re: County Roads on the Umatilla Indian Reservation
My File No. 001-017

Dear Congressman Smith:

C
O
P
Y
I am the legal counsel for the Umatilla County Board of Commissioners. On behalf of the commissioners, I have been authorized to contact you regarding the following.

On April 7, 1981 the Umatilla County Board of Commissioners wrote to your office in an attempt to advise you of a problem that had arisen regarding certain County roads which were located on the Umatilla Indian Reservation. Enclosed is a copy of that letter for your reference.

In response to this letter, you contacted the Bureau of Indian Affairs in Washington, D.C. In their letter to you, which was undated but which we received on May 22, 1981, Mr. James H. Stevens, Acting Director of the Office of Trust Responsibilities stated that as part of a national program to uncover third-party damage claims actionable under the statute of limitations (28 USC 2415), the Bureau of Indian Affairs' Umatilla Agency Office undertook research to determine whether roads on the Umatilla reservation were properly acquired. Federal statute, specifically 25 USC 311-328, requires that proper rights-of-way be obtained for all such roads across federal land.

Mr. Stevens wrote further that the only practical manner in which a determination could be made regarding the proper authorization of these rights-of-way was to inventory all rights-of-way and identify those lacking the proper "clearances." Proper "clearances" were to be determined by the Umatilla Agency and the Portland area office's Title Branch. Then, if proper authorization for

Congressman Denny Smith
February 12, 1982
Page Two

the roads still could not be found, County officials were to be contacted to check for any documentation in their possession.

Over the past six months, Umatilla County has conducted an extensive investigation to determine whether there existed proper authorization for the establishment of certain County roads on the Umatilla Indian Reservation which were questioned by the Bureau of Indian Affairs. I enclose a copy of the list of roads originally questioned by the Bureau of Indian Affairs. This list was submitted to the Umatilla County Board of Commissioners by Mr. Philip Sanchez, Acting Superintendent of the Umatilla Agency, and a copy of the cover letter is likewise enclosed for your reference.

After a thorough investigation by the staff of the Umatilla County Road Department, proper authorization could not be found for the following roads on the Umatilla Indian Reservation:

New Nos

- 732
- 735
- 736 Curl-Homly
- 737 Pamburn
- 775 Eagle Creek
- 666
- 788 Crawford Hollow
- 825 Thornhollow
- 857
- 858
- 911 Meacham Creek
- 932 St. Andrews
- 934 Mission-St. Andrews-Frontage
- 939 Received from State
- 1049 North Fork McKay Creek
- 692
- 987 Goad-Peterson

Because the required authorization cannot be found for the above-named roads, Umatilla County would like to avert a possible lawsuit by the Umatilla Indian Reservation against the County for any or all of the following:

- (1) Money damages to compensate tribal members for the unauthorized use of the roads or trespass;

Congressman Denny Smith
February 12, 1982
Page Three

- (2) Ejectment of the County; and
- (3) Any court-imposed requirement that users of the roads must apply to the BIA for rights-of-way to continue using the roads.

Therefore, in order to solve the problem of Umatilla County's lack of authorization for the establishment of the above-named roads, the Umatilla County Board of Commissioners requests that you introduce legislation which would have the following effect:

- (1) The law would bar any claims by the Umatilla Indian Reservation, any enrolled member of the reservation or the United States government for money damages, ejectment or any other remedy based on the County's unlawful use of the above-named roads;
- (2) The legislation would establish the validity of the above-named County roads and would obviate the need for any further, formal procedures to legalize their existence.

I hope that this request for legislation is sufficiently specific to enable your staff to begin work on the proposed bill as soon as possible. If, however, you have a need for further information, please do not hesitate to contact either myself or Mr. Carlos Van Elsberg of the Umatilla County Road Department, P. O. Box 1245, Pendleton, OR 97801 (Telephone 276-2962).

Very truly yours,
MICHELE HALLMAN

Michele Hallman

MH:jjc

Enclosures: cc of Commissioners' Letter
cc of BIA Letter

cc: Mr. Don Murtha
(w/enc) P. O. Box 13089
Salem, OR 97309

Board of Commissioners
P. O. Box 1427
Pendleton, OR 97801

✓ Umatilla County Road Department
P. O. Box 1245
Pendleton, OR 97801