



RESOLUTION NO. 88-2008
OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

RESOLUTION TO VACATE
A PORTION OF OLD HIGHWAY 49
General Vacation #2008-01

WHEREAS, the Board of Supervisors may initiate a proceeding to vacate and abandon a county street, highway, or road pursuant to Streets and Highways Code section 8320(a)(1) et seq.;

WHEREAS, on June 27, 2000, County entered into a Purchase and Sale Agreement between the County and James R. Kidder as Trustee of the James R. Kidder Trust Established April 17, 1998 whereby the County agreed that in the event the State of California relinquished back to the County a portion of Old Highway 49 superseded by the change in location of said highway, that the County would conduct a hearing to consider whether to vacate a portion of the Old Highway 49 abandoned by the State of California, subject to certain conditions inclusive of reciprocal easements from adjacent parcel owners for the use of the access road as a common commercial driveway;

WHEREAS, on August 16, 2005, the El Dorado County Superior Court entered a Final Order of Condemnation and Judgment in Eminent Domain Proceeding in consolidated action number PC20000299 pursuant to settlement by and between Gloria Winstead Revocable Trust dated May 27, 1999, by its successor Trustee, Neil Winstead, Randy Green and Ginger Lich, and County, whereby the County agreed that upon relinquishment of a portion of Old Highway 49 by the State of California, the County's Department of Transportation would promptly propose to vacate to centerline of pavement a portion of Old Highway 49 subject to reciprocal access to both abutting property owners for acceptable commercial purposes;

WHEREAS, on December 13, 2007, the State of California, by and through the California Transportation Commission relinquishment to the County of El Dorado effective December 21, 2007 a portion of Highway 49 identified in the Relinquishment of Highway Right-of-Way in the County of El Dorado, Road 3-ED-49-PM 11.8/11.9 Request No. 033248 – x and designated as indicated by hatching as "SEGMENT NO. 1 TO BE RELINQUISHED" on that certain highway map recorded on November 1, 2007, in State Highway Map Book No. 3 pages 87 and 88, records of El Dorado County, excepting and reserving to the State of California any and all rights of ingress and egress from the Highway hereby relinquished in and to the adjacent and adjoining State Route 49, except at such points as or may be established by resolution of the California Transportation Commission;

WHEREAS, in accordance with the requirements of Streets and Highways Code section 8320(b) et seq., on April 29, 2008, the Board of Supervisors adopted a Resolution of Intention to Vacate a portion of Highway 49, and established the date for a public hearing on May 20, 2008, and accordance with the requirements of the Streets and Highways Code section 8322(a) et seq., the Clerk of the Board of Supervisors published notices of said public hearing two (2) weeks prior to said hearing; and in accordance with the requirements of Streets and Highways Code section 8323 et seq., Department of Transportation staff posted notices of said hearing and mailed notices of said hearing to all affected property owners and interested parties;

WHEREAS, pursuant to Streets and Highways Code section 8313 et seq., the Planning Commission conducted a Finding of Consistency Hearing on March 13, 2008 to review this application and voted unanimously that the proposed abandonment is consistent with the General Plan in accordance with Government Code section 65402(a) et seq.;

WHEREAS, the Department of Transportation has determined that there are utilities in place within the road and right-of-way to be abandoned and all utility companies that may be impacted by this vacation have been provided written notification of the intention to vacate; and PG&E, AT&T, El Dorado Irrigation District, and Comcast consent to the vacation subject to and on condition that certain reservations and exceptions for Public Utilities Easements pursuant to Streets and Highways Code section 8340 be made;

WHEREAS, the Department of Transportation has reviewed the proposed vacation of Old Highway 49 and has no objection to the said vacation so long as the exceptions and reservations set forth herein are made;

WHEREAS, said hearing was duly held at the time and place specified in said notice, and evidence was taken at such hearing that the portion of the County street or highway, known as Old Highway 49, as shown and depicted on the exhibits hereto proposed for vacation is not necessary for present or prospective public use or useful as a nonmotorized transportation facility.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Board of Supervisors finds that all of the recitations made hereinabove are true and correct.
2. The Board of Supervisors finds that the portion of Old Highway 49 proposed to be vacated, as described in the Exhibits A-1 and A-2 and depicted in the Exhibits B-1 and B-2 which are attached hereto and made a part hereof by this reference, is not necessary for present or prospective public use or useful as a nonmotorized transportation facility, so long as said vacation is subject to and governed by the following reservations and exceptions set forth hereinafter, and subject to and effective upon the granting of reciprocal easements for use as a common driveway by the adjoining property owners as hereinafter set forth:

County hereby excepts and reserves to the State of California any and all rights of ingress to and egress from the Old Highway 49 hereby relinquished in and to the adjacent and adjoining State Route 49, except at such points as are now or may be established by resolution of the California Transportation Commission.

County hereby accepts and reserves for public utilities the permanent easement and rights attendant therefore pursuant to Streets and Highways Code section 8340, including the easement rights as more particularly described hereinbelow.

County reserves and excepts from the vacation the easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove, and renew sanitary sewers and storm drains and appurtenant structures in, upon, over, and across a street or highway proposed to be vacated and, pursuant to any existing franchise or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew, and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment, and fixtures for the operation of gas pipelines, telegraphic and telephone lines, broadcast cable and internet transmission, and for the transportation or distribution of electric energy, and water, and for incidental purposes, including access to protect these works from all hazards in, upon, and over the street or highway proposed to be vacated.

County reserves and excepts from the vacation for the benefit of Pacific Bell Telephone Company, a California Corporation dba AT&T, the permanent easement and the right at any time or from time to time to construct, maintain, operate, replace, remove, renew and enlarge lines of pipe, conduit, cable wires, poles and other convenient structures, equipment and fixtures for the operation of telegraph and telephone lines and other communication facilities, including access and the right to keep the property free from inflammable materials and wood growth, and otherwise protect the same from all hazards, in, upon, over and across property identified as that portion of the State Route 49, El Dorado County, as described in the Exhibits A-1 and A-2 and depicted in the Exhibits B-1 and B-2.

County reserves and excepts from the vacation for the benefit of Pacific Gas and Electric Company, a California Corporation, the permanent easement and the right at any time and from time to time to construct, reconstruct, maintain, operate, replace, remove, repair, renew and enlarge lines of pipes, conduits, cables, wires, poles, electrical conductors, and other equipment, fixtures and appurtenances for the operation of electric, gas, and communication facilities, including access, and also the rights to trim and cut down trees and brush that may be hazard to the facilities; said area shall be kept open and free of buildings, structures and wells of any kind.

The vacation portion of the Old Highway 49 shall be used as an access road for a common driveway and shall not be blocked by adjoining property owners.

The vacation shall be subject to and be effective upon the grant of reciprocal easements by the adjoining property owners to the other. In the event that the adjoining property owners do not grant reciprocal easement rights, this vacation shall be null and void.

The foregoing reservations and exceptions shall be included and reflected in any subsequent proceedings in relation to the vacation including any deed or conveyance of title, in accordance with Streets and Highways Code section 8341.

3. The proposed vacation of the portion of Old Highway 49 is consistent with and not in conflict with the General Plan.
4. Except as set forth in the Reservations and Exceptions set forth hereinabove, the portion of Old Highway 49, described in the Exhibits A-1 and A-2 and depicted in the Exhibits B-1 and B-2, which are attached hereto and made a part hereof by this reference, is hereby ordered vacated and no longer constitutes a public roadway.
5. The Clerk of the Board of Supervisors is directed to record a certified copy of this Resolution in the Office of the El Dorado County Recorder upon evidence of the reciprocal easements being granted by the adjoining property owners.

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PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the _____ day of _____, 2008, by the following vote of said Board:

ATTEST
CINDY KECK
Clerk of the Board of Supervisors

Ayes:
Noes:
Absent:

By _____
Deputy Clerk

Rusty Dupray, Chairman of the Board
Board of Supervisors

I CERTIFY THAT:
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

DATE _____

ATTEST: CINDY KECK, Clerk of the Board of Supervisors of the County of El Dorado, State of California

By _____
Deputy Clerk

EXHIBIT 'A-1'
LEGAL DESCRIPTION

All that real property situated in the northwest quarter of Section 30, Township 10 North, Range 11 East, M.D.M., Townsite of Diamond Springs, County of El Dorado, State of California, being a portion of Old Highway 49, as said highway is shown on the Relinquishment Map recorded in State Mapbook 3, at Pages 87 & 88, and described in Document No. 2007-78421 in the office of the El Dorado County Recorder, and more particularly described as follows:

Beginning at the southeast corner of Parcel 4, as said parcel is shown on the map recorded in Book 45 of Parcel Maps, at Page 141, in the office of the El Dorado County Recorder; **thence from said point of beginning** along the easterly boundary of said parcel North 01°14'30" East (cite North 02°08'56" East) 27.915 meters (91.58 feet); thence leaving said boundary North 89°22'53" East 5.134 meters (16.84 feet) to the centerline of Old State Route 49; thence along said centerline the following 3 courses: 1) South 01°10'20" East 17.905 meters (58.74 feet); 2) South 01°35'25" East 30.738 meters (100.85 feet); 3) South 00°11'29" East 33.955 meters (111.40 feet); thence leaving said centerline North 87°18'47" West 7.313 meters (23.99 feet) to the easterly boundary of Parcel 5 of said map; thence along the easterly boundary of said parcel the following 2 courses: 1) North 00°46'02" East (cite North 01°40'56" East) 5.311 meters (17.42 feet); 2) North 00°11'24" East (cite North 01°06'18" East) 48.964 meters (160.64 feet) to the point of beginning, containing 0.0540 hectares (0.133 acres), more or less.

See attached Exhibit 'B-1', attached hereto and made a part hereof.

The County of El Dorado (hereinafter known as "County") hereby excepts and reserves to the State of California any and all rights of ingress to and egress from the Old Highway 49 hereby relinquished in and to the adjacent and adjoining State Route 49, except at such points as are now or may be established by resolution of the California Transportation Commission;

County hereby excepts and reserves for public utilities the permanent easement and rights attendant therefore pursuant to Streets and Highways Code section 8340, including the easement rights as more particularly described hereinbelow:

County reserves and excepts from the vacation the easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove, and renew sanitary sewers and storm drains and appurtenant structures in, upon, over, and across a street or highway proposed to be vacated and, pursuant to any existing franchise or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew, and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment, and fixtures for the operation of gas pipelines, telegraphic and telephone lines, broadcast cable and internet transmission, and for the transportation or distribution of electric energy and water, and for incidental purposes, including access to protect these works from all hazards in, upon, and over the street or highway proposed to be vacated.

County reserves and excepts from the vacation for the benefit of Pacific Bell Telephone Company, a California Corporation dba AT&T, the permanent easement and the right at any time or from time to time to construct, maintain, operate, replace, remove, renew and enlarge lines of pipe, conduit, cable wires, poles and other convenient structures, equipment and fixtures for the operation of telegraph and telephone lines and other communication facilities, including access and the right to keep the property free from inflammable materials and wood growth, and

otherwise protect the same from all hazards, in, upon, over and across property identified as that portion of the State Route 49, El Dorado County, as shown on the attached Exhibit A.

County reserves and excepts from the vacation for the benefit of Pacific Gas and Electric Company, a California Corporation, the permanent easement and the right at any time and from time to time to construct, reconstruct, maintain, operate, replace, remove, repair, renew and enlarge lines of pipes, conduits, cables, wires, poles, electrical conductors, and other equipment, fixtures and appurtenances for the operation of electric, gas, and communication facilities, including access, and also the rights to trim and cut down trees and brush that may be hazard to the facilities; said area shall be kept open and free of buildings, structures and wells of any kind.

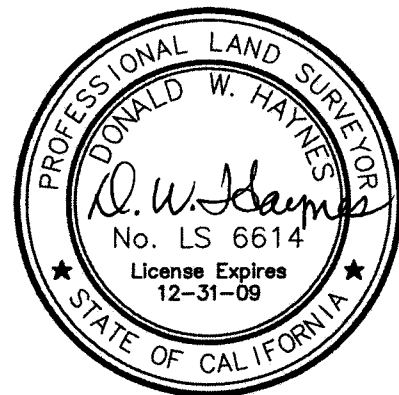
The vacation portion of the Old Highway 49 shall be used as an access road for a common driveway and shall not be blocked by adjoining property owners.

The vacation shall be subject to and be effective upon the grant of reciprocal easements by the adjoining property owners to the other. In the event that the adjoining property owners do not grant reciprocal easement rights, this vacation shall be null and void.

The foregoing reservations and exceptions shall be included reflected in any subsequent proceedings in relation to the vacation including any deed or conveyance of title, in accordance with Streets and Highways Code section 8341.

END OF DESCRIPTION

Note: The basis of bearings for this description is Grid North, California Coordinate System of 1983, Zone II, as defined in Chapter 611, Sections 8801-8819 of the State Resources Code. All distances are metric grid distances. To convert to metric ground distances, multiply all distances by 1.000144.



4-22-08

STATE RTE. 49

CENTERLINE
OLD HWY 49



SCALE = 1:500
METRIC

WINSTEAD TR., et al
POR. PARCEL 4
45-PM-141

N89°22'53"E
5.134m

N01°14'30"E
27.915m

S01°10'20"E
17.905m

POINT OF BEGINNING

PARCEL 4, 45-PM-141
PARCEL 5, 45-PM-141

S01°35'25"E
30.738m

PORTION OF HWY 49
RELINQUISHED TO EL
DORADO COUNTY IN
DOC. No. 2007-78421

POR. OLD STATE RTE. 49

WINSTEAD TR., et al
POR. PARCEL 5
45-PM-141

N00°11'24"E
48.964m

S00°11'29"E
33.955m

N00°46'02"E
5.311m

COUNTY R/W

N87°18'47"W
7.313m

PLEASANT VALLEY ROAD

EXHIBIT 'A-2'
LEGAL DESCRIPTION

All that real property situated in the northwest quarter of Section 30, Township 10 North, Range 11 East, M.D.M., Townsite of Diamond Springs, County of El Dorado, State of California, being a portion of Old Highway 49, as said highway is shown on the Relinquishment Map recorded in State Mapbook 3, at Pages 87 & 88, and described in Document No. 2007-78421 in the office of the El Dorado County Recorder, also being a portion of El Dorado County right-of-way lying southwesterly of Parcel 1, as said parcel is shown on the map recorded in Book 49 of Parcel Maps, at Page 58, in the office of the El Dorado County Recorder, and more particularly described as follows:

Beginning at the northwest corner of Parcel 1, as said parcel is shown on the map recorded in Book 49 of Parcel Maps, at Page 58, in the office of the El Dorado County Recorder; **thence from said point of beginning** South 89°22'53" West 12.639 meters (41.47 feet) to the centerline of Old State Rte. 49; thence along said centerline the following 3 courses: 1) South 01°10'20" East 17.905 meters (58.74 feet); 2) South 01°35'25" East 30.738 meters (100.85 feet); 3) South 00°11'29" East 33.955 meters (111.40 feet); thence leaving said centerline South 87°18'47" East 16.791 meters (55.09 feet) to the westerly boundary of the aforementioned parcel, the beginning of a 14.546 meter (47.72 foot) radius non-tangent curve to the right; thence northwesterly along said curve and boundary an arc distance of 13.539 meters (44.42 feet), through a central angle of 53°19'44", and subtended by a chord which bears North 26°21'45" West 13.055 meters (42.83 feet); thence continuing along said boundary on a non-tangent line North 00°15'48" East (cite North 00°58'18" East) 71.809 meters (235.59 feet) to the point of beginning, containing 0.0980 hectares (0.242 acres), more or less.

See attached Exhibit 'B-2', attached hereto and made a part hereof.

The County of El Dorado (hereinafter known as "County") hereby excepts and reserves to the State of California any and all rights of ingress to and egress from the Old Highway 49 hereby relinquished in and to the adjacent and adjoining State Route 49, except at such points as are now or may be established by resolution of the California Transportation Commission;

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pipe, conduit, cable wires, poles and other convenient structures, equipment and fixtures for the operation of telegraph and telephone lines and other communication facilities, including access and the right to keep the property free from inflammable materials and wood growth, and otherwise protect the same from all hazards, in, upon, over and across property identified as that portion of the State Route 49, El Dorado County, as shown on the attached Exhibit A.

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END OF DESCRIPTION

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4-22-08

CENTERLINE
OLD HWY 49

S89°22'53"W
12.639m

POINT OF BEGINNING

PORTION OF HWY 49
RELINQUISHED TO EL
DORADO COUNTY IN
DOC. No. 2007-78421

17.905m
S01°10'20"E

30.738m
S01°35'25"E

33.955m
S00°11'29"E

POR. OLD STATE RTE. 49

71.809m

N00°15'48"E

KIDDER
49-PM-58(1)

R=14.546m
L=13.539m
Δ=53°19'44"
Ch=N26°21'45"W
13.055m

DIVISION LINE BETWEEN COUNTY
R/W AND FORMER STATE R/W



SCALE = 1:500
METRIC

COUNTY R/W

S87°18'47"E
16.791m

COUNTY R/W

PLEASANT VALLEY ROAD