



Oregon

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May 15, 2015

Honorable Chris Edwards
Chair Senate Environment and Natural Resources Committee
900 Court Street NE, S-411
Salem, Oregon 97301

Chair Edwards:

On Wednesday, May 13, 2015, the Oregon Parks and Recreation Department (OPRD) offered testimony on HB 2034. During the hearing, members of the committee asked for information regarding existing access to Bowers Rock State Park, specifically whether or not OPRD had an easement into the property. I am including in this correspondence the property files and analysis that the agency maintains in relationship to the easement. This includes a 1993 correspondence between the Oregon Department of Justice and a neighboring property owner that provides legal analysis on the existence of the easement.

The documents included here are scans of old originals and somewhat difficult to read. A summary of the pertinent contents was created by our property staff and is outlined below.

... OPRD owns a portion of Tract No. 10, Tract No. 11 and Tract No. 12 of Bryant's Tracts Subdivision (see NOTE on 1977 Boundary Map attached).

This road goes back to a 1917 Deed. In 1917, Bryant platted the property without the access road. He then (under a separate document) deeded various Tracts to his family members, giving all Tracts the right of access over this road (the road continued through the parcels the State acquired as well). All of the subsequent deeds for these properties within "Bryant's Tracts" seem to refer back to this 1917 Deed.

In May 1973, the State acquired 53.37 acres currently identified as Tax Lot 301 from Kleinke (see attached Maps). The description in the deed is:

*Tract No. 12, BRYANT'S TRACTS, situated in
Township 11 South, Range 4 West, W.M., State of Oregon.*

Together with all appurtenant rights of ingress and egress.

Kleinke acquired this property from Vernon and Ruby Smith July 1968. That deed, which was for Tract No. 12 and Tract No. 13, Bryant's Tracts, states:

"Together with a right of way for ingress and egress in common with the grantees and their assigns in said Deed of record on page 122, Volume 112, in said county, being 15 feet on each side of the following described line, to-wit: Beginning at Southwest corner of Tract No. 7 in said above described Bryant's Tracts and running thence Westerly along the North boundary line of Tract No. 13 in said

tracts to the Northwest corner of said Tract No. 13, thence South 75 1/4° West to a point which is 15 feet North distant from the South boundary line of Tract No. 11 in said tracts, thence West parallel to and at a distance of 15 feet from the south boundary line of said Tract No. 11 to the East boundary line of tract No. 12, and all of said tracts above mentioned being the same as shown and designated in the plat of said Bryant's Tracts....".

This clearly defines the right of way that we have to the Kleinke property.

This 1968 deed to Kleinke excepts out that portion of this right of way that runs through these two Tracts - "Except a right-of-way over said premises described in Deed executed July 5(?), 1917, and recorded in Volume 112, page 122, Deed Records."

In June 1973, the State acquired 151 acres currently identified as Tax Lot 200, 204, 205 and 206 (see attached maps). The property was deeded to the State under a Warranty Deed from William and Paulette Lang, Heyman-Campbell Farms (consisting of A. C. Heyman, Ludwig Heyman, Ruella Heyman, Malcolm Campbell and Inez Campbell) along with two Quit Claim Deeds, one from Orvilla Hutcheson and one from Albany Sand and Gravel Co. As per the appraisal done at that time, there was an old house and barn on the property (unused for some time) and a gravel and sand stockpile operation at this site (equipment from this was acquired as part of this ODOT acquisition).

All of these deeds and the title policy have the same description:

A parcel of land lying in Sections 2 and 11, Township 11 South, Range 4 West, Willamette Meridian, Linn County, Oregon and being that property described in those deeds to Heyman - Campbell Farms, recorded in Book 218, page 664; Book 218, page 665 and in Book 218, Page 666 of Linn County Record of Deeds."

Tract II in the deed recorded in Book 218, Page 666 clearly defines the road right of way.

The agency believes that this provides access into the property. Additionally, as mentioned in the hearing, access to the property also exists from the Willamette River.

I would be happy to answer any additional questions. Please feel free to contact me at (503) 986-0735 or mg.devereux@oregon.gov.

Sincerely,



MG Devereux
Deputy Director

Enclosures