



**Coos County
Planning Department
Lawfully Established Parcel
Determination Application**

Official Use Only

Fee 250⁰⁰
Receipt No. 219342
Check No./Cash 373
Date 7/17/20
Received By JMB
File No. D-20-002

The following application must be completed in full. An application **will not** be processed for a land use request without this information. The County will use these answers in its analysis of the merits of the application. Please submit readable deeds. A signed consent form will be required if the applicant and owner are not the same.

A. PLEASE PRINT OR TYPE (please attach additional sheets, if necessary):

Owner(s): Jolene J. Poppe Telephone: (541) 772-1383
Address: 4618 Cloudcrest Dr.
City: Medford, OR Zip Code: 97504-9050
Email: bill.poppe@frontier.com

Applicant(s): Harvey Wilcox Telephone: (541) 759-4467
Address: 69968 Hwy 101
City: North Bend, OR Zip Code: 97459
Email: h. and K. Wilcox @ Hughes-net

B. PROPERTY INFORMATION:

Township: 23 South Section: 26
Range: 13 West Tax Lot: 3900
Tax Account: 63600 Zoning District: RR-2 & F

C. SUBMISSION REQUIREMENTS:

- Completed application form with appropriate fee
- A copy of the current deed of record
- A copy of each deed being used as evidence to support the application
- A detailed map indicating the relation of the existing property boundary to the discrete parcel boundaries

D. AUTHORIZATION: All areas must be initialed by all owners/applicant prior to the Planning Department accepting any application.

HAW
JGP

I hereby attest that I am authorized to make the application for an administrative review and the statements within this application are true and correct to the best of my knowledge and belief. I affirm that this is a legally created tract, lot or parcel of land. I understand that I have the right to an attorney for verification as to the creation of the subject property. I understand that any action authorized by Coos County may be revoked if it is determined that the action was issued based upon false statements or misrepresentation.

HAW
JGP

ORS 215.416 Permit application; fees; consolidated procedures; hearings; notice; approval criteria; decision without hearing.

(1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

The Coos County Board of Commissioners has adopted a schedule of fees which reflects the average review cost of processing and set-forth that the Planning Department shall charge the actual cost of processing an application. Therefore, upon completion of review of your submitted application/permit a cost evaluation will be done and any balance owed will be billed to the applicant(s) and is due at that time. By signing this form you acknowledge that you are responsible to pay any debt caused by the processing of this application. Furthermore, the Coos County Planning Department reserves the right to determine the appropriate amount of time required to thoroughly complete any type of request and, by signing this page as the applicant and/or owner of the subject property, you agree to pay the amount owed as a result of this review. If the amount is not paid within 30 days of the invoice, or other arrangements have not been made, the Planning Department may chose to revoke this permit or send this debt to a collection agency at your expense.

HAW
JGP

I understand it is the function of the planning office to impartially review my application and to address all issues affecting it regardless of whether the issues promote or hinder the approval of my application. In the event a public hearing is required to consider my application, I agree I bear the burden of proof. I understand that approval is not guaranteed and the applicant(s) bear the burden of proof to demonstrate compliance with the applicable review criteria.

HAW
JGP

As applicant(s) I/we acknowledge that is in my/our desire to submit this application and staff has not encouraged or discouraged the submittal of this application.

HAW
JGP

As the applicant(s) I/we acknowledge, pursuant to CCZLDO Section 6.1.150, a deed describing any recognized lawfully created parcels must be recorded with the County Clerk within one year from the date of final approval from the Planning Department.

E. SIGNATURES:

Harvey Wiley
Applicant(s) Original Signature
6/8/20
Date

Jolene J. Payne
Applicant(s) Original Signature
owner
6-30-20
Date

Applicant(s) Original Signature

Date

Applicant(s) Original Signature

Date

CCZLDO

§ 6.1.125

LAWFULLY CREATED LOTS OR PARCELS:

SECTION 6.1.125 LAWFULLY CREATED LOTS OR PARCELS:

“Lawfully established unit of land” means:

1. The unit of land was created:

- a. Through an approved or pre-ordinance plat;
- b. Through a prior land use decision including a final decision from a higher court. A higher court includes the Land Use Board of Appeals;
- c. In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations at the time it was created.
- d. By a public dedicated road that was held in fee simple creating an interviewing ownership prior to January 1, 1986;
- e. By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations that prohibited the creation.
- f. By the claim of intervening state or federal ownership of navigable streams, meandered lakes or tidewaters. “Navigable-for-title” or “title-navigable” means that ownership of the waterway, including its bed, was passed from the federal government to the state at statehood. If a waterway is navigable-for-title, then it also is generally open to public use for navigation, commerce, recreation, and fisheries.

2. Creation of parcel previously approved but not acted upon (92.178).

- a. The governing body of a county may approve an application requesting formation of one parcel if the county issued a land use decision approving the parcel prior to January 1, 1994, and:
- b. A plat implementing the previous land use decision was not recorded; or
- c. A condition of approval of the previously approved land use decision requiring consolidation of adjacent lots or parcels was not satisfied by a previous owner of the land.
- d. An application under this section is not subject to ORS 215.780.
- e. Approval of an application under this section does not affect the legal status of land that is not the subject of the application.

CCZLDO

§ 6.1.150

APPLICATIONS ESTABLISHING LAWFULLY
CREATED LOTS OR PARCELS

SECTION 6.1.150 APPLICATIONS ESTABLISHING LAWFULLY CREATED LOTS OR PARCELS:

An application to establish a lawfully created unit of land shall be submitted in the case of Section 6.1.125.1.d, e and f and Section 6.1.125.2. This is an administrative land use decision. If County Counsel is required to review information to determine legal status of the unit of land additional fees may be charged.

All notices will be provided in accordance with LDO Section 5.0.

Once it is determined that a lawfully created unit of land exists it shall be separated out on its own deed prior to any reconfiguration such as a property line adjustment. A copy of that deed needs to be provided to the Planning Department showing the process has been completed. If there are more than two lawfully created units of land (discrete parcels) found to exist, a road may be required to provide access. The applicable road standards in Chapter VII will apply.

96 09 1166

SPECIAL WARRANTY DEED

BENJAMIN F. MONSON and MARIE MONSON, Grantors, convey and specially warrant to WILLIAM R. POPPE and JOLENE J. POPPE, husband and wife, Grantees, the following described real property, situated in Coos County, Oregon, free of encumbrances created or suffered by the Grantors, except as specifically set forth herein:

Parcel # 1

The S 1/2 of the NE 1/4 of the NE 1/4 of the SW 1/4; the N 1/2 of the SE 1/4 of the NE 1/4 of the SW 1/4 and all that portion of the SW 1/4 of the NW 1/4 of the SE 1/4 of Section 26, Township 23 South, Range 13 West of the Willamette Meridian, Coos County, Oregon, lying West of the Roosevelt Coast Military Highway, less the Southern Pacific Railroad Company's right of way, and also less the right of way for the relocated Oregon Coast Highway, Coos County, Oregon.

Parcel # 2

Subject to and excepting:

1. Limitations of access, including the terms and provisions thereof, as set forth in deed to State of Oregon, by and through its State Highway Division, recorded June 21, 1952, in Book 219, Page 102, Deed Records of Coos County, Oregon.

2. The rights of fishing, navigation and commerce to the State of Oregon, the Federal Government, and the public in and to that portion thereof lying below the ordinary high water mark of Clear Lake.

The true and actual consideration for this conveyance is the sum of \$55,000.

Until a change is requested, all tax statements are to be sent to the following address: Mr. and Mrs. William R. Poppe
Return to: 7468 Wildwood Drive
North Bend, Oregon 97459

DATED this 4 day of Sept, 1980.

His Benjamin F. Monson
Benjamin F. Monson
Mark

Marie Monson
Marie Monson

2853

~X~101, A
Poppe Deed

and appurtenances thereunto belonging, or in anywise appertaining, and also all its estate, right, title and interest in and to the same, including dower and claim of dower.

TO HAVE AND TO HOLD, The above described and granted premises unto the said L. Dyer and Ella Dyer his wife their heirs and assigns forever. And The Mitchell Construction Company (a Corporation) grantor above named does covenant to and with L. Dyer and Ella Dyer his wife the above-named grantees their heirs and assigns, that it is lawfully seized in fee simple of the above granted premises, that the above granted premises are free from all incumbrances, a certain Mortgage of \$1800.00 and interest in favor of the Equitable Savings & Loan Assn of Portland, Ore and last half 1924 state & county taxes and that it will and its heirs, executors and administrators, shall warrant and forever defend the above premises, and every part and parcel thereof, against the lawful claims and demands of a'l persons whomsoever except as above named mortgage and taxes, and any charges, assessments, liens taxes or other encumbrances levied or created subsequent to April 24th, 1925.

IN WITNESS WHEREOF, the grantor named, has hereunto set its hand and Corporate seal this 27th day of May 1925.
Executed in the Presence of
E. W. McInturff
E. W. Gates
(Corporate Seal)
Mitchell Construction Co.
By C. A. Mitchell, President)Seal(
Attest: V. A. Bilderback, Secretary)Seal(

STATE OF OREGON
County of Coos ss On this 27th day of May 1925, before the undersigned a notary public in and for the State of Oregon, personally appeared C. A. Mitchell, President of the Mitchell Construction Company, a Corporation, and V.A. Bilderback, Secretary of the Mitchell Construction Company (a Corporation) and acknowledged to me that they as officers of said Corporation executed the within instrument for the uses and purposes therein mentioned freely and voluntarily, and that the seal affixed thereto is the Corporate seal of said Corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Marshfield, Coos County, State of Oregon.

E. W. Mc Inturff
Notary Public for Oregon
My commission expires Sept. 23, 1928
(Notarial Seal)
Recorded March 20, 1944, 3:00 P.M.
L. W. Oddy, County Clerk

D-150

Exhibit B
First deed describing
property in 1944

10616- KNOW ALL MEN BY THESE PRESENTS, That I, Melvin D. Thomas and Alice M. Thomas, his wife, in consideration of Ten Dollars, to us paid by Foward R. Berg, do hereby grant, bargain, sell and convey unto said Howard R. Berg, his heirs and assigns, all the following real property with the tenements, hereditaments and appurtenances, situated in the County of Coos and State of Oregon, bounded and described as follows, to-wit:

Parcel #1 The South one half of the Northeast quarter of the Northeast quarter of the Southwest quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$)

The North one half of the Southeast quarter of the Northeast quarter of the Southwest quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$)

All that portion of the Southwest quarter of the Northwest quarter of the Southeast quarter of Section 26, lying West of the Roosevelt Coast Military Highway as now laid out, surveyed constructed and travelled. Parcel #2

All of the above described premises being situate in Section 26, in Township 23 South of Range 13 West of the Willamette Meridian, in Coos County, Oregon, and containing 12 acres more or less.

Excepting however the Southern Pacific Railway right of Way over and across said premises.

exception

TO HAVE AND TO HOLD, the above described and granted premises unto the said Howard R. Berg, his heirs and assigns forever

And I, Melvin D. Thomas and Alide M. Thomas, his wife, the grantors above named do covenant to and with the above named grantees his heirs and assigns that I am lawfully seized in fee simple of the above granted premises, that the above granted premises are free from all incumbrances, and that I will and my heirs, executors and administrators, shall warrant and forever defend the above granted premises, and every part and parcel thereof, against the lawful claims and demands of all persons whomsoever.

WITNESS our hands and seals this 21st day of January, 1944.

Executed in the presence of _____

Melvin D. Thomas)Seal(
Alice M. Thomas)Seal(

STATE OF OREGON,
County of Coos ss BE IT REMEMBERED, That on this 21st day of January A.D. 1944, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Melvin D. Thomas and Alice M. Thomas, husband and wife, who are known to me to be the identical individuals described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

J. E. Axtell
Notary Public for Oregon
My commission Expires 3-7-1947
(Notarial Seal)

Recorded March 20, 1944, 3:00 P.M.
L. W. Oddy, County Clerk

10617- THIS INDENTURE WITNESSETH, That I, Mary Rose, widow and surviving spouse of E. A. Rose, for the consideration of the sum of Ten Dollars, to me paid, have bargained and sold and by these presents do bargain, sell and convey unto J. W. Granger and Edith Granger, husband and wife, their heirs and assigns, the following described premises, to-wit:

Lots Eight (8) and Nine (9), in Block Forty Eight (48) in the town of North Bend, Coos County, Oregon, according to the map and plat thereof on file and of record in the office of the County Clerk of Coos County, Oregon.

It is understood and agreed that Mary Rose, the grantor herein is the same person as Mary Rose one of the grantees in that certain deed from Marguerite I. Colgrove and husband to E. A. Rose and Mary Rose, his wife, dated June 1, 1928 and recorded September 7, 1928, in Book "106" of Deeds, page 65, and one of the grantees in that certain deed from I. S. Smith et ux to E.A. Rose and Mary Rose, husband and wife, dated June 18, 1928 and recorded September 25, 1930, in Book "112" of Deeds, page 43, and that the said E.A. Rose is now deceased and that I hold the title to said premises as survivor of by an estate by the entirety.

This conveyance is made to make more certain and definite the marital status of the said Mary Rose and is given in addition to that certain conveyance heretofore made between the parties hereto which conveyance is recorded in Vol. 150 at page 74 of the Deed Records of Coos County, Oregon, on February 17, 1944.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said J. W. Granger and Edith Granger, husband and wife, heirs and assigns forever.

And the said Mary Rose does hereby covenant to and with the said J. W. Granger and Edith Granger, husband and wife, that I am the owner in fee simple of said premises; that they are free from all incumbrances except back taxes which the grantees assume and agree to pay and that I will warrant and defend the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of

March 1944.

Mrs. Mary Rose)Seal(

Done in the presence of _____

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SECTION 26 T23S R13W W.M.
COOS COUNTY

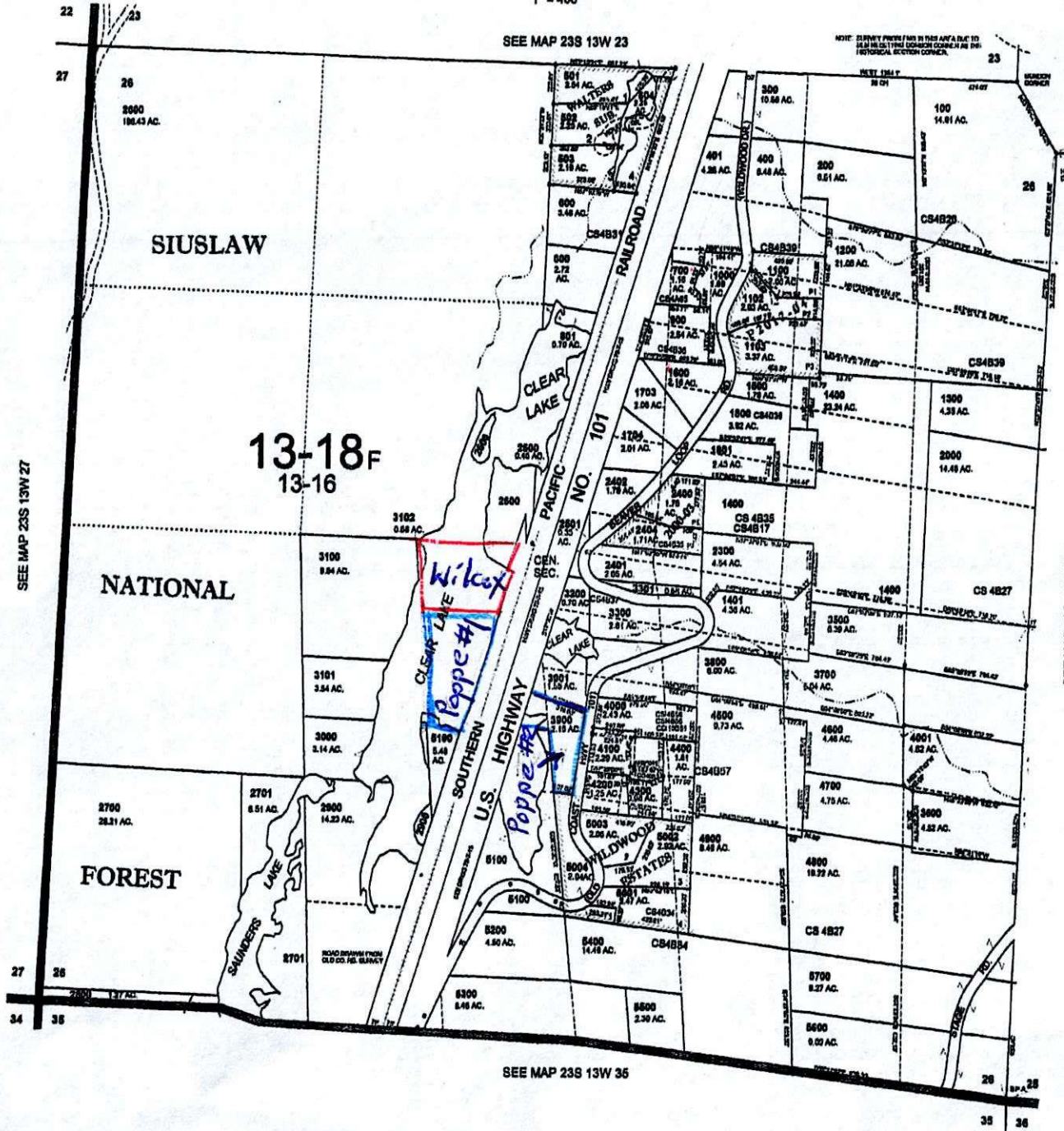
23S 13W 26

1" = 400'

CANCELLED NO.

- 2301
- 1900
- 2100
- 2200
- 3400
- 3401
- 1700
- 2403
- 6101
- 6801
- 5701
- 6800M1
- 5700M1
- 4901
- 5000
- 5701
- 1701
- 1702
- 3601
- 4301
- 4001
- 4002
- 4003
- 500
- 4004
- 1101
- 1201
- 4302

*Map showing
Peppe property*



SEE MAP 23S 13W 27

SEE MAP 23S 13W 25

SEE MAP 23S 13W 35

02-06-2017

23S 13W 26

35 36

The second question concerns the ownership of the bottom of Clear Lake. I called Jacob Taylor at DSL and he informed me that the State does not claim the bottom of the lake. Jolen's and my property only abut below the highwater mark so it is necessary that we own the bottom of Clear Lake for me to make my proposed adjustment. What do I need to submit to show that the State does not claim Clear Lake?

I assume I would need to do the following things to clear up the issue with my and the USFS properties.

- 1) Obtain confirmation that the State does not claim Clear Lake.
- 2) Submit deeds showing that Jolen's property West of the railroad is a discrete parcel.
- 3) Purchase Jolene's property.
- 4) Adjust my property into Jolene's.

If you agree this will work or if you have any questions please give me a call.

Sincerely

Harvey Wilcox
69968 Hwy 101
North Bend, OR 97459
(541) 759-4467
h.andk.wilcox@hughes.net

Michelle Berglund

From: Jill Rolfe
Sent: Sunday, June 07, 2020 12:45 PM
To: h.andk.wilcox@hughes.net; Planning Department
Subject: Re: Wilcox property

Hi Harvey,

Thank you for sending me the explanation. We can reach out to the state for an opinion on the lake but I believe they do not take ownership. <https://www.oregon.gov/dsl/WW/Pages/Waterways.asp>

The Rail Road is an intervening ownership. I think you are the right tract with the correction. If you want to submit a lawful parcel determination to have confirm the Ms. Poppe has two units of land, property line adjustment and template dwelling that sounds like the best course of action.

Have you spoke with Mike about this? I want to make sure we are all on same page. We will not charge you for the template dwelling application.

Thank you,

Jill Rolfe, Planning Director
Coos County Planning
225 N. Adams
250 N. Baxter (Mailing)
Coquille OR 97423
planning@co.coos.or.us
www.co.coos.or.us
541-396-7770

From: h.andk.wilcox@hughes.net <h.andk.wilcox@hughes.net>
Sent: Sunday, June 7, 2020 11:11 AM
To: Planning Department
Subject: Wilcox property

This Message originated outside your organization.

Hi Jill

Sounds like you were not able to open my letter explaining what I wanted. I am still trying to fix the problem the USFS created with my Tax Lot 3102 and their Tax Lot 3100.

Jolene Poppe owns property to the south of my property and she is willing to sell me hers if I can use it to clear up the problem. I propose purchasing her property and merging my property with hers. I have 2 questions about this.

The first question concerns Jolene's property which is described in one deed including portions on the West side of the railroad and Hwy 101 and also portions on the East side of the railroad and Hwy 101. I believe these portions were separated in 1912 by the railroad and again in 1952 by the highway. There is also the problem that the Assessor has not given the portion West of the railroad a Tax Lot number. I assume this is because there is only a tiny bit of dry land, with the rest of the property below Clear lake. Does the railroad and highway divide property?

7/13/20

Jill Rolfe
Planning Director
Coos County Planning Dept.
Coquille, OR 97423

Jill

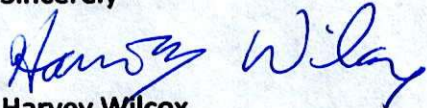
Please see the enclosed lawfully established parcel determination for the 2 parcels described in Jolene Poppe's deed #96 09 1166 (exhibit A).

I have enclosed a copy of deed book #150 pg 299 and 300 (exhibit B) which is the first deed I can find describing the 2 parcels. This deed lists the property conveyed and excepts the railroad which divides the property into 2 parcels (see enclosed map). This deed was recorded on January 21st 1944. The railroad deed was recorded in 1912. The Roosevelt Coast Highway mentioned is now Beaver Loop Rd and the Southern Pacific railroad is now the Coos Bay Rail. These 2 parcels were further divided in 1952 by the relocated Oregon Coast Highway (Hwy 101).

I have enclosed a map showing the 2 parcels and the railroad and highway as intervening ownerships. As per ordinance 6.1.125 1d. and 1e. these 2 parcels were legally separated by the railroad in 1912 and again by the State Highway in 1952.

As I discussed with you by email, the reason for this determination is to see if I can purchase Jolene's parcel west of the railroad and then move my TL 3102 into it thereby clearing up the problem with my TL3102 created by the USFS.

Sincerely



Harvey Wilcox
69968 Hwy 101
North Bend, OR 97459
PH: (541) 759-4467
Email: h.andk.wilcox@hughes.net