

EQUITY.

No 52

In CIRCUIT COURT  
UNION COUNTY

*L. J. Benson*

*Plaintiff*

vs

*L. J. Buerck*

*Defendant*

*J. H. Crawford*

*Attorney for Plaintiff*

*Attorney for Defendant*

K 281-48 3/2 3700-5T

Dismissed Oct 7, 1903

571

County Road  
petitioned for by  
W. W. Ruddell, et al

Commencing at corner of S. & N. W. 1/4  
Sec 24 T. 29 N. R. 39 E. and  
terminating at S. W. Cor of Sec 16  
in T. 29 N. R. 39 E. W. 1/4



IN THE COUNTY COURT OF UNION COUNTY STATE OF OREGON.

In the Matter of the County Road  
petitioned for by W. W. Randall,  
and others.  
.....

To the County Court of Union County, State of Oregon:

The undersigned, householders, of Union County, State of Oregon, residing in said County, in the vicinity where the hereinafter described road is proposed to be located, hereby petition your Honorable Court to lay out and establish a public highway in Union County, Oregon, as follows, to-wit:- Commencing at a stone set at the Northwest corner of the South half of the Northwest quarter of Section 24, Township 2, South of Range 39, E.W.M. in the center of the County road running North and South along the West line of the said South half of the Northwest quarter of said Section 24, running thence North along the West line of said Section 24, to the Grande Ronde River; thence Northwesterly along the West bank of the Grande Ronde River, and as near the bank of the river as practicable, to the South line of Section 14, Township 2, South of Range 39, E.W.M., thence West along the Section line to the Southwest corner of Section 18, in Township 2, South of Range 39, E. W. M. and there to terminate.

NAMES.

*Mr J. G. ...*  
*F. S. Ladd*  
*James Mop*  
*C. F. Webb*  
*Chas. Clay Co*  
*H. W. ...*  
*A. C. Misco*  
*Wm. A. M. ...*  
*Edw. ...*  
*G. H. ...*

NAMES.

*J. M. ...*  
*William ...*  
*Lee ...*  
*Oliver ...*  
*E. L. ...*  
*Geo. H. ...*  
*W. C. ...*  
*O. N. ...*  
*J. C. ...*  
*W. W. ...*

Jackson Wright  
Mr Buckman  
Thos Wallinger

STATE OF OREGON, }  
COUNTY OF UNION, } ss.

I, \_\_\_\_\_ being first duly sworn,  
depose and say that I am the \_\_\_\_\_  
in the above entitled \_\_\_\_\_ and that the foregoing  
is true as I verily believe \_\_\_\_\_

Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_\_

Notary Public for Oregon.



I, \_\_\_\_\_ do hereby certify that I am  
\_\_\_\_\_ attorney herein; that the foregoing copy of  
\_\_\_\_\_ has been by me carefully compared with the original  
thereof; that it is a correct transcript therefrom and of the whole of such original.

La Grande, Oregon, dated the \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_\_

Attorney for \_\_\_\_\_



Due service of the within \_\_\_\_\_ is hereby accepted in  
\_\_\_\_\_ County, Oregon, this \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_\_  
by receiving a copy thereof, duly certified to as such by \_\_\_\_\_,  
attorney for \_\_\_\_\_

Attorney for \_\_\_\_\_

No. ....

IN THE *County* COURT  
OF THE  
STATE OF OREGON,  
FOR  
UNION COUNTY.

*J. D. Slater*  
*Att. Gen. for*

*W. W. Howard*  
*for*

*Slater*

Filed *May 25*  
190*8*

*J. M. Hammond*  
County Clerk.

By *J. D. Slater*  
Deputy.

J. D. SLATER,

Attorney for *W. W. Howard*

Union Printery, Frank M. Slocum, Manager, Union, Oregon.

State of Oregon)  
                                  :S.S.  
County of Union)

I, W.W. Randall, being duly sworn say, that I posted  
on the 18th day of May, A.D., 1903, ~~the notice of~~ three copies of  
<sup>the notice of</sup> road petition, signed by W.W. Randall and others and hereto attached,  
in the vicinity of the proposed road to wit:--

One at the beginning point of said road, one at the  
terminus of said road, and <sup>on</sup> on the line of said road where the  
said proposed road crosses the public highway leading north and  
south. That each of said copies so posted was so placed that the  
same was in plain view and could be easily seen by the general  
public passing over the public highway.

W. W. Randall

Subscribed and sworn to before me this 25th day of June, A.D., 1903.

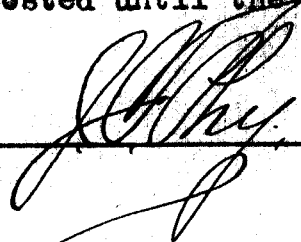
W. W. Miller  
Notary Public for Oregon.

State of Oregon

ss

County of Union.

I, J. F. Phy, being duly sworn, say that on the 23<sup>rd</sup> day of May, A. D. 1903, I posted the hereto attached notice of read petition at the place of holding County Court, in Union County, Oregon, to-wit: upon the front door of the County Court House at Union, Oregon. That said notice was placed where the same could be readily seen by the public and remained so posted until the 2<sup>nd</sup> day of July, A. D. 1903.

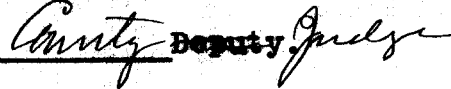


Subscribed and sworn to before me this 2<sup>nd</sup> day of July, 1903.



County Clerk.

By



County Deputy Judge



NOTICE OF ROAD PETITION

TO ALL WHOM IT MAY CONCERN -

Notice is hereby given, that the undersigned, householders, of Union County, State of Oregon, residing in said County, in the vicinity where the hereinafter described road is proposed to be located, will at the regular term of the County Court of Union County, State of Oregon, on the ~~first~~ <sup>fourth</sup> day of ~~October~~ <sup>May</sup>, A. D. 190~~3~~ present to the said County Court of Union County, State of Oregon, a petition praying said Court to lay out and establish a public highway within said County, on the following line or route, to-wit: - Commencing at a stone set at the Northwest corner of the South half of the Northwest quarter of section 24, in Township 2, South of Range 39, E. W. M., in the center of the County Road running North and South along the West line of the said South half of the Northwest quarter of said section 24, running thence North along the West line of said section 24, to the Grande Ronde River, thence Northwesterly along the West bank of the Grande Ronde River, and as near the bank of the river as practicable to the South line of section 14, Township 2, South of Range 39, E. W. M., thence <sup>East</sup> along the Section line to the Southwest corner of section 18, in Township 2, South of Range 39, E. W. M. and there to terminate.

NAMES

NAMES

Chas. L. Conroy  
F. S. Dadd  
James Woods  
B. F. Webb  
Chas. P. Taylor  
N. W. Richardson

A. C. Munn  
Mrs. C. M. Porter  
E. P. Jackson  
B. H. Basset  
J. H. Basset  
Melvin Kern

Lee Humphrey  
Oliver Johnson  
Chas. Green  
Geo. A. Wright  
W. E. Pratt  
J. W. Smith  
W. B. Pringle  
W. W. Randall  
Jackson Wright  
W. B. Richardson  
Thos. A. Young

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

Paul Peterson

for by J. J. [unclear]  
et al,

Filed July 2, 1903

J. J. [unclear]  
Clerk  
By [unclear]

IN THE COUNTY COURT OF UNION COUNTY, OREGON.

In the matter of the )  
road petitioned for by )  
Mrs J. Gangloff, per )  
J.E. Foley et als, commencing )  
in section 24 twp. 2, south )  
of range 39 E.W.M. )

Comes now George Miller protesting against the petition, notice, and location of the road in the above entitled matter, and says:-

That he is the owner of the northeast qr. and other lands in section 23, twp. 2 south of range 39 E.W.M., in Union County, Oregon, and that the foregoing proposed road, if established, would materially injure him, and his said lands: And he says further:

(1) That said petition and notice do not comply with the laws relating to laying out and establishing county roads, (laws 1903, page 262, was in effect ~~June 22~~<sup>May 21<sup>st</sup></sup>, 1903,) in this:

- (a) That the petition is signed by parties claiming to be householders and not freeholders.
- (b) That they do not purport to be residents of the road district or districts wherein the proposed road will be located:
- (c) The petition does not describe or specify the place of beginning, the intermediate points, (or say if there are none) nor the place of termination of said proposed road.

(2) And if under the old law:-

- (a) The petitioners do not say in their notice that the petition will be presented at the next term of the County Court of Union County as required by law.

And the party herein protesting says:-That there are not twelve householders or twelve freeholders either residing in the vicinity of said proposed road or in the district or districts wherein said road is sought to be established, signing said petition or road notice, for that Mrs J. Gangloff does not sign the petition or notice, is not permitted by law to sign by proxy, and at the time of said petition was a resident of California and resides now more than twelve miles from said proposed road, and not in it's vicinity.

That F.S. Ladd resides in La Grande, over twelve miles from said road and not in the vicinity thereof.

That Charles Playle is not a freeholder and he lives  $2\frac{1}{2}$  miles from

said proposed road, and not in it's vicinity.

That J.W.Ruckman is not a freeholder, lives four miles from said proposed road and not in it's vicinity.

That Lee Humphrey is not a freeholder, lives five miles from said proposed road and not in it's vicinity.

That C.L.Green does not live in Union County, or in the vicinity of the proposed road.

That J.W. Randall lives six miles from said proposed road, and not in it's vicinity.

That H.C.Mires is not a freeholder.

That Mrs A.M.Tartar lives at Union, over fourteen miles from said proposed road and not in it's vicinity.

That G.M.Jasper lives six miles from said proposed road and not in it's vicinity.

That C.H.Gassett lives eight miles from said proposed road and not in it's vicinity, and is not a freeholder.

That Melvin Kerns lives six miles from said proposed road, and not in it's vicinity.

That Olin Perrin lives five miles from said proposed road and not in it's vicinity.

That George W.Wright is not a freeholder.

That J.N.Smith lives two miles from said proposed road and not in it's vicinity.

That D.B.Ruckman lives two miles from said road and not in it's vicinity, and is not a freeholder.

(3) That your petitor says that every person in the vicinity of said proposed road, and the public at large have an outlet and a convenient way to travel from and to his and their residences without this proposed road.

(4) That the establishment of this road as proposed would cut your petitioner's farm of over six hundred acres off from running water, and he having purchased said lands respecting it's location along said Grande Ronde River for said water privileges, this

road would separate said land and river to his great and lasting injury.

(5) That by reason of the irregularities as aforesaid, and failure to comply with the law in said petition and notice, the court here has not jurisdiction of such matters sufficiently to establish a legal ~~right~~.

WHEREFORE your petitioner and protestant now prays that the said petition be dismissed and the matter of said proposed road be not further considered.

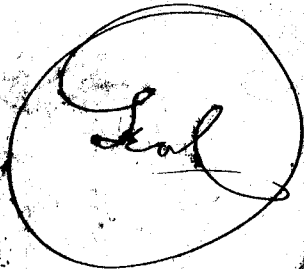
George Miller

Dated at Union, Oregon, this July 1st, 1903.

State of Oregon,

County of Union, SS:-I- - George Miller, being first duly sworn, say that I am the party protesting and that the foregoing my protest is true in all its statements as I verily believe.

Subscribed and sworn to before me on this July 1st, A.D. 1903.



C. H. Finley

Notary Public for Oregon.

Amendment:-And as a further objection and ground of protest, the said George Miller says:- That the notice filed herein, shows that all parties interested were cited to the fact that said petition would be presented to the County Court of Union County, Oregon, on July 1st, 1903, when your petitioner herein appeared on said day and no petition was presented as required by law. That your petitioner now says that such road petition cannot legally be presented after July 1st-1903.

Geo Miller  
by C. H. Finley  
atty.

De County Court  
Harris Co. Oregon

Dear Sirs  
and Gentlemen  
for Henry Klappack  
State

Dated July 21, 1903

*[Signature]*

*[Signature]*

BAKER CITY, OREGON, September 25, 1903.

Judge M. A. Harrison,  
County Judge, Union County,  
Union, Oregon.

My Dear Judge:-

Your favor without date enclosing papers in the road matter of W. W. Randall and others I found in my office on my return from the National Irrigation Congress at Odgen. I made an examination of the papers and submit the following:

The petition and notice came under the law of 1901, as the law of 1903 was not then in effect. Said law of 1903 did not come into effect until May 25, 1903, so that this petition and the proceedings thereunder should be in compliance with the law of 1901. The law of 1903 prescribes that the petition shall be signed by at least 12 householders of the county residing in the vicinity where said road is to be laid out. I find that the petition states that the names attached to the same are householders of Union County, residing in the vicinity where said road is to be laid out, and is therefore on that point in compliance with the law. As to whether they are householders residing in the vicinity of the road is a matter of proof before your honor. I find that the said petition and notice give a sufficiently definite and certain description as to the proposed road- that is to say- that the place of beginning ~~is~~ intermediate to the place of termination, is sufficiently definite and certain as set out in said notice and petition. I find that the law has been complied with in that there is sufficient proof of the posting

BAKER CITY, OREGON,

M. A. H. #2

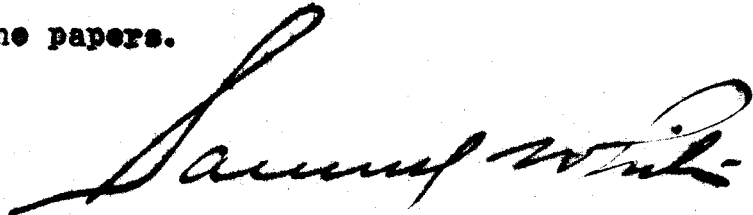
of said notices, and upon the face of the papers they are in all things regular. The only irregularities I discovered are in the matter as to whether the County Court in pursuance of said notice took any steps on the 1st day of July to act upon said petition. If they did then everything is regular. If they did not and the Journal fails to show any action on their part with reference to said petition it is my opinion that the same cannot now be taken up and acted upon, but must be begun anew.

Trusting the above is sufficiently explanatory, I remain,

Dict. S.W.

Very truly yours,

P. S. I return you herein the papers.

A handwritten signature in cursive script, appearing to read "Samuel White". The signature is written in dark ink and is positioned to the right of the typed text "Very truly yours,".