

1304

Fifth

Judicial Day, Tuesday January 7th 1902-----189

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

In the matter of the petition of F.B. Clopton :  
 and J.M. Gilliland, for the laying out, locating and est- :  
 ablishing of a Road from the residence of the petiti- :  
 oner J.M. Gilliland on the Southwest Quarter of the :  
 Northeast Quarter of section 8 in Township 2 North, of :  
 Range 32 east of the Willamette Meridian, over and :  
 across what is known as the W.C. McKay Donation Land :  
 Claim, in the East half of the East half of Section 8, :  
 and the West half of the West half of Section 9 in :  
 said Township and Range, and over and across lots 3, 11, :  
 10 and 7 to the Southeast corner of said Lot 7 in said :  
 Section 9, Township and Range aforesaid; thence east :  
 along the section line between lot 8 in section 9 and :  
 Section 16 in said Township and Range, to a point upon :  
 the said line, where the same intersects the public :  
 Road leading from the City of Pendleton to Pilot Rock :  
 in said County and State: said point being 445-1/2 feet :  
 west of the southeast corner of said section 9, and :  
 also the point at which commences County Road Number :  
 430.

ORDER. 430

Now on this day this cause coming on to be heard upon the application of the petitioners above named, appearing by their attorney, James A. Lee, for an order opening up the Road heretofore laid out, located and established by an order of this Court, duly made and entered in the above Court and cause, on the 6th day of May 1899, said road being described as a road thirty (30) feet wide, and commencing at the gate in the door yard of said petitioners, about 400 feet north and 50 feet west from a point on the east side of Lot Number 2 of section 8 in Township 2 North of Range 32 East of the Willamette Meridian, which said point is at a distance of 380 links North and 1550 links east of the center line of section 8; said point also being on the west boundary line of the W.C. McKay donation Land Claim Number 38, now claimed and occupied by C.O. Fanning, and leading from said place of beginning in a southerly direction to the said point on the west boundary line of the W.C. McKay Donation Land Claim: thence running in a southerly direction, following the course of the old road, as it now runs through the W.C. McKay Donation Land Claim; thence following said traveled road in a southeasterly direction, through lot 3, 11 and 10 in section 9 in Township 2 North, of Range 32 East of the Willamette Meridian Now owned by said Mary Kine; thence following said traveled road in a southeasterly direction through Lot 7 in said section 9 and Township 2 North, Range 32 east of the Willamette Meridian Now owned by J.H. Raley, to the southeast corner of said lot 7 in said Section 9 in said Township 2 North, of Range 32 East of the Willamette Meridian; thence in an easterly direction on the section line between lot eight in section 9, which is now owned by E. Welch and section 16; said part of section 16 being now owned by Stephen E. Walker, in said Township and Range, to a point where said section line intersects the County Road leading from the City of Pendleton to Pilot Rock in said County and State, which said road crosses the southeast corner of said lot 8, section 9 in said Township and Range; said point being 445-1/2 feet from the southeast corner of said section 9, and also the point at which commences Road Number 430; and it now appearing to the Court that at said May term of the said County Court, 1899, the said petitioners above named, upon the entry of said order locating and establishing said road as aforesaid paid to the Clerk of this Court the cost of laying out, locating and establishing said road, and of this proceeding, and the damages assessed and awarded to each of the parties across whose land said road passes, to-wit: C.O. Fanning, \$166.00; Mary Kine \$122.00; J.H. Raley, \$88.00; E. Welch \$2.50 and S.E. Walker \$2.50; that thereafter the said parties, across whose land the said road passes, to-wit: C.O. Fanning, Mary Kine, James H. Raley, E. Welch, and S.E. Walker, each and all, appealed to the Circuit Court of the State of Oregon, for Umatilla County, from the assessment of damages awarded to each, as hereinbefore stated, and thereupon the said parties sued out a writ of review in the above entitled cause for the purpose of reviewing the proceedings of this Court, in the laying out, locating and establishing of the road hereinbefore described; that by consideration of the Circuit Court of the state of Oregon for Umatilla County, where the said writ of review was pending, the same was dismissed upon the \_\_\_ day of March A.D. 1900, that thereupon the said parties appealed to the Supreme Court of the State of Oregon from said judgment of the Circuit Court, dismissing said writ of review; that thereafter to-wit on the second day of July 1900, the said Supreme Court sustained the judgment and decision of the said Circuit Court in the dismissal of the said appeal, and thereafter to-wit; on the 16th day of November, 1900, the said Mandate was duly and regularly entered with the judgment thereon, in the Circuit Court of the State of Oregon, for Umatilla County: that thereafter, to-wit: on the 18th day of November 1901, each and all of the said appeals from the assessment of damages in the above entitled cause, were duly and regularly dismissed by the said Circuit Court of the State of Oregon, for Umatilla County: that on the 15th day of Oct, 1901, each and all of said parties above named, in whose favor damages had been assessed, the amount of which said damages had been deposited with the Clerk of this Court, claimed the said damages and received payment of each of their claims from said Clerk of said Court; and the Court being now fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the said Road be, and the same is hereby laid out, located and established as a road of public easement, and a Public County road.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the petitioners open up the said road upon the line hereinbefore described, and remove the fence and obstruction therefrom, to the width of thirty feet, as hereinbefore described, and that said parties across whose land said road passes, their agents, servants and employees, and all persons claiming by, through or under them, or either or any of them, are hereby inhibited, enjoined and restrained from in any manner interfering with the opening up of said road and the removal of all or any of the ob-