



COUNTY OF HUMBOLDT

Legislation Text

File #: 22-1574, Version: 1

To: Board of Supervisors

From: Public Works

Agenda Section: Time Certain Matter

SUBJECT:

11:30 AM - Resolution to Summarily Vacate a Portion of Fisher Road (4G070) South of State Highway 36 in Hydesville

RECOMMENDATION(S):

That the Board of Supervisors:

1. Adopt the Resolution in Attachment 2 to summarily vacate a portion of Fisher Road (4G070) south of State Highway 36 in Hydesville pursuant to Streets and Highways Code section 8334;
2. Approve the filing of the Notice of Exemption / CEQA Determination Form (Attachment 8) by Public Works;
3. Accept and execute the easement deed for a turnout on Fisher Road (Attachment 4);
4. Execute the consent for recordation for the irrevocable dedication of a non-public vehicular ingress/egress easement (Attachment 5);
5. Execute the consent for recordation for the irrevocable dedication of a public, non-vehicular access easement (Attachment 6); and
6. Direct the Clerk of the Board to record, via Department of Public Works Land Use Division in the office of the County Recorder, a certified copy of the resolution, easement deed and both irrevocable dedications.

SOURCE OF FUNDING:

Road Division (1200-325 and 1200-322)

DISCUSSION:

Your Board met on Nov. 8, 2022, to consider a resolution to vacate a portion of Fisher Road in Hydesville. After the agenda had been published to the public, it came to light that the county-maintained portion of Fisher Road proposed for vacation connects to the Northwest Pacific Railroad right of way which is part of the Carlotta Branch section of the Great Redwood Trail project (Attachment 10). The subject of using Fisher Road as a connection to the future trail became a point of interest. Discussion and concerns about the Great Redwood Trail Agency's need to utilize Fisher Road for both trail maintenance and public access resulted in this item being continued to the Dec. 20, 2022, meeting.

Since that time two things have happened:

1. On Dec. 7, 2022, Public Works had a video conference meeting with the Great Redwood Trail Agency (Agency) staff to discuss the proposed vacation and understand the concerns of the Agency's staff. The county then received a follow-up letter (Attachment 12) dated Dec. 13, 2022, from Agency staff indicating that their Board will be meeting on Dec. 19, 2022, and intend to discuss the proposed vacation. Due to the date of the Agency's Board meeting occurring after the due date for this agenda item, it is not possible to include any correspondence or discussion from the Agency's Board. Supplemental information will be provided at the Board of Supervisors meeting regarding the Agency's Dec. 19, 2022, Board meeting. Agency staff indicated a desire to maintain access from Fisher Road to the future Great Redwood Trail.
2. Public Works has received a large quantity of correspondence in regards to the vacation. This correspondence is included in Attachment 11. A majority of the correspondence opposing the vacation cites the loss of public access to the Van Duzen River. There may be some confusion by some members of the public as to what public access to the Van Duzen River exists. The staff report from the Nov. 8, 2022, meeting contains a thorough discussion on the nature of the Fisher Road right of way and should be referred to on this issue. To summarize that discussion:
 - Fisher Road was washed out around 2019, when the river moved to the north and eroded the bank. The action of the river physically eliminated all practical access to the river. However, it has come to the attention of Public Works that some members of the public have not been deterred and are scaling the near-vertical cliff to access the river bar. See Attachment 9 for pictures of current condition of Fisher Road at the Van Duzen River.
 - Fisher Road once extended across the Van Duzen River. The alignment of Fisher Road crossing the river is well documented on various maps.
 - Fisher Road has historically been utilized by the public to fish and others seeking access to the Van Duzen River. This is well documented in the comments received (Attachment 11).
 - Research of records indicates that there is no deeded right of way for the majority of Fisher Road lying south of State Hwy 36. Therefore, the public's right to use the portion of Fisher Road without a deeded right of way is either by a claim of implied common law dedication or by a claim of prescription.
 - Research indicates that no claim of implied common law dedication or prescription for a right of way across the Patton's property has been perfected by a recorded judgement into a legal right of way.
 - Research indicates that the county has never maintained the entirety of Fisher Road; nor to the Van Duzen River.
 - Research indicates the county only maintains that portion of the Fisher Road from State Hwy 36 (on the north) to concrete barrier (on the south). The remainder of the road is not maintained by the county.
 - It is not uncommon for public roads to end and then continue on as "private" roads.

- On behalf of the public, the county asserts an implied common law dedication only for that portion of Fisher Road that is in the county-maintained road system that does not have a deeded right of way. Because the county is maintaining a public road, the county is obligated to perfect a public right of way for what it is maintaining.
- The county is not obligated to assert an implied common law dedication for the remainder of Fisher Road beyond where the county maintained road ends.
- After Fisher Road washed out, the public began trespassing across the Patton's property to seek access the Van Duzen River.
- Neither the county or the Patton's are obligated to restore a traversable access to the Van Duzen River that was washed out; nor provide a bypass road in an alternate location. Public Works cannot spend Road Fund dollars improving roads that are not in the county-maintained road system.
- Restoration of a road to the Van Duzen River in the same alignment as the existing road would either require additional right of way for cut slopes or would require retaining walls (Attachment 9). Establishing a bypass road in an alternate location would require the purchase of a right of way. Either project would require extensive permitting as well as finding a funding source to construct and maintain the improvements. Public Works does not recommend adding this segment to the county-maintained road system due to the frequent and expensive maintenance needs that this road segment will require.

There are five (5) options that Public Works has evaluated. The options are listed in order of preference by the applicant:

OPTION 1: Vacate Fisher Road as originally proposed.

The advantages and disadvantages of this option are:

- This option is supported by the applicant and is their number one (preferred) option.
- Public Works does not support this option as the Great Redwood Trail Agency is requesting that access to the future trail be provided on Fisher Road.
- This option would eliminate Fisher Road serving as a potential on/off point for the future Great Redwood Trail. Fisher Road is approximately two (2) miles east of River Bar Road (a county-maintained road) railroad crossing and one (1) mile west of State Hwy 36 (Caltrans maintained road) railroad crossing. If Fisher Road were to be vacated and no easement for trail access reserved, it would mean that there would be a three (3) mile stretch from the River Bar Road railroad crossing to the State Highway 36 railroad crossing without any alternate public on/off access points. Considering the spacing of existing public road crossings (on/off points) along the entirety of the Great Redwood Trail, a three (3) mile gap is short.
- The Fisher Road / State Hwy 36 intersection would not be impacted with additional traffic seeking Great Redwood Trail access via Fisher Road. Public access to the Great Redwood Trail along Fisher Road is problematic because the road is not developed with a parking lane and there would be no place for the public to park when accessing the trail. In addition, the intersection of State Highway 36 and Fisher Road is not ideal as the

intersection is near a curve where a passing lane ends. This means vehicles approaching the intersection are often traveling at a high rate of speed from using the passing lane and have reduced sight distance due to the curve.

- Due to lack of pedestrian facilities along State Highway 36, the Fisher Road connection to the Great Redwood Trail would be primarily used by the Fisher Road residents. The applicants are already permitting residents to access the river beyond the end of the county road. The applicants have indicated their intent to allow Fisher Road residents to access the river if the vacation is approved. At some point the applicants or their successors could restrict access.

Board Actions to approve this option:

1. Adopt the Resolution in Attachment 2 to summarily vacate a portion of Fisher Road (4G070) south of State Highway 36 in Hydesville pursuant to Streets and Highways Code section 8334.
2. Approve the filing of the Notice of Exemption / CEQA Determination Form (Attachment 8) by Public Works.
3. Accept and execute the easement deed for a turnout on Fisher Road (Attachment 4)
4. Direct the Clerk of the Board to record, via Department of Public Works Land Use Division in the office of the County Recorder, a certified copy of the resolution and easement deed for the turnaround.
5. Direct Public Works to return to the applicant the irrevocable dedications (Attachments 5 and 6).

OPTION 2: Vacate Fisher Road as originally proposed and receive from the applicant the dedication of an irrevocable non-public ingress and egress easement for maintenance and emergency access on Fisher Road north of the Northwest Pacific Railroad right of way.

The advantages and disadvantages of this option are:

- The applicants are agreeable to granting the irrevocable dedication. This is the applicants' second preferred option.
- Public Works supports this option as it balances the goals and needs of both the applicants and the Great Redwood Trail; however, this option eliminates public access to the future Great Redwood Trail from Fisher Road.
- This option would eliminate Fisher Road serving as a potential on/off point for the future Great Redwood Trail. Fisher Road is approximately two (2) miles east of River Bar Road (a county-maintained road) railroad crossing and one (1) mile west of State Highway 36 (Caltrans maintained road) railroad crossing. If Fisher Road were to be vacated and no easement for trail access reserved, it would mean that there would be a three (3) mile stretch from the River Bar Road Railroad crossing to the State Highway 36 Railroad crossing without any alternate public on/off access points. Considering the spacing of existing public road crossings (on/off points) along the entirety of the Great Redwood Trail, a three (3) mile gap is short.
- The irrevocable dedication would be made to the county and include language to allow

the dedications to be transferred to the Great Redwood Trail Agency.

- The Fisher Road / State Highway 36 intersection would not be impacted with additional traffic seeking Great Redwood Trail access via Fisher Road. Public access to the future Great Redwood Trail along Fisher Road is problematic because the road is not developed with a parking lane and there would be no place for the public to park when accessing the trail. In addition, the intersection of State Highway 36 and Fisher Road is not ideal as the intersection is near a curve where a passing lane ends. This means vehicles approaching the intersection are often traveling at a high rate of speed from using the passing lane and have reduced sight distance due to the curve.
- The future acceptance of the irrevocable dedication by the county would then commit the General Fund to maintain the access pursuant to Civil Code Section 845; unless the county transfers the dedications to Great Redwood Trail Agency who would then assume maintenance responsibility.
- The irrevocable dedication may expire before the Great Redwood Trail Agency requests that the county accept and transfer the dedication.

Board Actions to approve this option:

1. Adopt the Resolution in Attachment 2 to summarily vacate a portion of Fisher Road (4G070) south of State Highway 36 in Hydesville pursuant to Streets and Highways Code section 8334.
2. Approve the filing of the Notice of Exemption / CEQA Determination Form (Attachment 8) by Public Works.
3. Accept and execute the easement deed for a turnout on Fisher Road (Attachment 4).
4. Execute the consent for recordation for the irrevocable dedication of a non-public ingress/egress easement over the road that was vacated for maintenance of the Great Redwood Trail Carlotta Branch (Attachment 5).
5. Direct the Clerk of the Board to record, via Department of Public Works Land Use Division in the office of the County Recorder, a certified copy of the resolution, easement deed and irrevocable dedication.
6. Direct Public Works to return to the applicant the irrevocable dedication of a non-vehicular public access to the future Great Redwood Trail Carlotta Branch (Attachment 6).

OPTION 3: Vacate Fisher Road as originally proposed and receive from the applicant an irrevocable dedication for 1) a non-vehicular public access on Fisher Road north of the Northwest Pacific Railroad right of way; and 2) a non-public ingress and egress easement for maintenance and emergency access on Fisher Road north of the Northwest Pacific Railroad right of way.

The advantages and disadvantages of this option are:

- The applicants may be agreeable to granting the irrevocable dedications; however, it is not their preferred option. This is the applicants' third preferred option.
- Public Works supports this option as it balances the goals and needs of both the applicants and the Great Redwood Trail.

- The irrevocable dedications would be made to the county and include language to allow the dedications to be transferred to Great Redwood Trail.
- This option would solve the applicant's concerns in the short term until such time as the irrevocable dedication for public access is accepted. Once the irrevocable dedication for public access is accepted, then the applicants are concerned that the problems associated with public access on Fisher Road will return.
- Public access to the future Great Redwood Trail along Fisher Road is problematic because the road is not developed with a parking lane and there would be no place for the public to park when accessing the trail. In addition, the intersection of State Highway 36 and Fisher Road is not ideal as the intersection is near a curve where a passing lane ends. This means vehicles approaching the intersection are often traveling at a high rate of speed from using the passing lane and have reduced sight distance due to the curve.
- The future acceptance of the irrevocable dedication by the county would then commit the General Fund to maintain the access pursuant to Civil Code Section 845; unless the County transfers the dedications to Great Redwood Trail Agency who would then assume maintenance responsibility.
- The irrevocable dedication may expire before the Great Redwood Trail Agency requests that the county accept and transfer the dedication.

Board Actions to approve this option:

1. Adopt the Resolution in Attachment 2 to summarily vacate a portion of Fisher Road (4G070) south of State Highway 36 in Hydesville pursuant to Streets and Highways Code section 8334.
2. Approve the filing of the Notice of Exemption / CEQA Determination Form (Attachment 8) by Public Works.
3. Accept and execute the easement deed for a turnout on Fisher Road (Attachment 4).
4. Execute the consent for recordation for the irrevocable dedication of a non-public vehicular ingress/egress easement (Attachment 5).
5. Execute the consent for recordation for the irrevocable dedication of a public, non-vehicular access easement (Attachment 6).
6. Direct the Clerk of the Board to record, via Department of Public Works Land Use Division in the office of the County Recorder, a certified copy of the resolution, easement deed and both irrevocable dedications.

OPTION 4: Vacate Fisher Road as originally proposed and reserve 1) a non-vehicular public access on Fisher Road north of the Northwest Pacific Railroad right of way; and 2) a non-public ingress and egress easement for maintenance and emergency access on Fisher Road north of the Northwest Pacific Railroad right of way.

The advantages and disadvantages of this option are:

- This option is not supported by the applicant as it would permit uncontrolled public access; which is the primary reason that the applicant applied for the vacation.
- This option is not recommended by Public Works as the reservation of the easement

would then commit the General Fund to maintain the access pursuant to Civil Code 845 as the road would no longer be in the county-maintained road system. Additionally, Public Works is concerned about impacts to the State Hwy 36 / Fisher Road intersection.

- Public access to the Great Redwood Trail along Fisher Road is problematic because the road is not developed with a parking lane and there would be no place for the public to park when accessing the trail. In addition, the intersection of State Highway 36 and Fisher Road is not ideal as the intersection is near a curve where a passing lane ends. This means vehicles approaching the intersection are often traveling at a high rate of speed from using the passing lane and have reduced sight distance due to the curve.
- The reservation of a public access easement would commit the General Fund to maintain the access pursuant to Civil Code Section 845.
- The right of way that the county has is imperfect. Therefore, any reservation of an easement would also be imperfect. In the future it may be necessary to perfect the right of way in court so that a judgement can be recorded to legally establish the easement.

Board Actions to approve this option:

1. Adopt the Resolution in Attachment 3 to summarily vacate a portion of Fisher Road (4G070) south of State Highway 36 in Hydesville pursuant to Streets and Highways Code section 8334.
2. Approve the filing of the Notice of Exemption / CEQA Determination Form (Attachment 8) by Public Works.
3. Accept and execute the easement deed for a turnout on Fisher Road (Attachment 4).
4. Direct the Clerk of the Board to record, via Department of Public Works Land Use Division in the office of the County Recorder, a certified copy of the resolution and the easement deed.
5. Direct Public Works to return to the applicant both irrevocable dedications (Attachments 5 and 6).

OPTION 5: Deny the vacation.

The advantages and disadvantages of this option are:

- This option is not supported by the applicant as it would permit uncontrolled public access; which is the primary reason that the applicant applied for the vacation.
- Public Works does not support this option as the portion of Fisher Road proposed for vacation is essentially a county-maintained driveway for the property owner due to the segment accessing the river being washed out. Segments of roads such as this should not be included the county-maintained road system as it commits the public to fund the ongoing maintenance of road that serves as a driveway.
- This option preserves full-access (vehicular and non-vehicular) access to the future Great Redwood Trail.
- Public access to the future Great Redwood Trail along Fisher Road is problematic because the road is not developed with a parking lane and there would be no place for the public to park when accessing the trail. In addition, the intersection of State Highway 36

and Fisher Road is not ideal as the intersection is near a curve where a passing lane ends. This means vehicles approaching the intersection are often traveling at a high rate of speed from using the passing lane and have reduced sight distance due to the curve.

Board Actions to approve this option:

1. Deny the vacation.
2. Direct Public Works to return to the applicant the easement deed (Attachment 4) and both irrevocable dedications (Attachments 5 and 6).

FINANCIAL IMPACT:

The petitioners of the vacation paid the required vacation fee; therefore, no costs were incurred to cover staff time associated with the vacation. The funding to cover staff time related to the proposed vacation has been included in the approved fiscal year 2022-23 Road Fund budget units 1200-325 and 1200-322.

The reservation of a public access easement, or future acceptance of an irrevocable dedication, will commit the General Fund to maintain the access pursuant to Civil Code Section 845. The cost is directly proportional to the level of maintenance that will be provided.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by providing for and maintaining infrastructure .

OTHER AGENCY INVOLVEMENT:

Great Redwood Trail Agency

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Options are discussed above.

ATTACHMENTS:

1. Staff Report from 11/08/2022 Agenda Item (File No. 22-1290)
2. Resolution to Summarily Vacate a Portion of Fisher Road (4G070) south of State Highway 36 in Hydesville (Options 1, 2, and 3)
3. Resolution to Summarily Vacate a Portion of Fisher Road (4G070) south of State Highway 36 in Hydesville (Option 4)
4. Easement deed from Patton to county for the newly constructed turnout on Fisher Road
5. Irrevocable Offer of Dedication for non-public, vehicular ingress/egress easement
6. Irrevocable Offer of Dedication for public, non-vehicular access easement
7. Exemption from Planning Commission Report for Acquisitions, Dispositions and Abandonments Pursuant to Government Code Section 65402(a)
8. Notice of Exemption / CEQA Determination Form
9. Public Works diagrams and pictures

10. Great Redwood Trail Agency map showing the Great Redwood Trail Carlotta Branch near Fisher Road (Excerpt; page 20 only)
11. Public Comment
12. Great Redwood Trail Agency correspondence dated Dec. 13, 2022

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: 11/08/2022

File No.: 22-1290