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Fee: NO FEE

BEFORE THE KLAMATH COUNTY BOARD OF COMMISSIONERS

IN THE MATTER OF FILE NUMBER LP 30-13

FINAL ORDER

WHEREAS, Tru-Line Surveying Inc. for the Misco Family Trust, applicants, appealed a condition of approval, regarding roadway improvements, on an administrative approval of a 2-parcel re-plat of Parcel 3 of Minor Land Partition 33-88, an 8.27 acre parcel within a Low Density Residential (RL) Zone (Map No. R-3909-005A0-00400-000); and

WHEREAS, the Klamath County Planning Department provided proper notice of a public hearing to be held on May 7, 2014 before the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners conducted the public hearing on May 7, 2013 to hear the appeal and closed the public hearing and continued the meeting until May 22, 2014 for deliberation; and

WHEREAS, based on testimony and evidence entered at the public hearing and consideration of the whole record, the Board of County Commissioners found the condition of approval and the administrative approval to be correct.

NOW THEREFORE, THE KLAMATH COUNTY BOARD OF COMMISSIONERS HEREBY ORDERS that the appeal of the administrative approval of LP 30-13 is **DENIED**, based on the findings of fact and conclusions of law in attached Exhibit A.

Dated this 22nd day of MAY, 2014

FOR THE BOARD OF COMMISSIONERS

Chairman

Commissioner

Commissioner

County Counsel

Approved as to form

NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days following the date of the mailing of this order. Contact LUBA for information as how to file this appeal (LUBA by phone 1-503-373-1265 or mail at 550 Capitol Street NE, Suite 235, Salem, Oregon 97301-2552). Failure to do so in a timely manner may affect your rights.

EXHIBIT A

Findings of Fact and Conclusions of Law

1. The proposed land partition is the third in a series of partitions which include Major Land Partition 69-83 and Minor Land Partition 33-88. With the approval of LP 30-13, a total of 6 parcels will have been created.
2. It was a requirement of Minor Land Partition 33-88 that the roadway be constructed 24 feet in width with 4 foot gravel shoulders and adequate drainage, however, the roadway was never completed as required and now measures less than 24 feet in places and has minimal drainage capability.
3. Article 45.030 of the Klamath County Land Development Code states that "*No partition shall be approved within a subdivision, planned unit development, or previously approved partition unless the standards of Article 71 are met. The review body may waive requirements of Article 71 upon a finding that adequate access exists and relevant road standards are met.*"

It is found that the proposed partition is within a previously approved partition so the standards of Article 71 are required and the roadway improvement (Condition No. 5 of the original Final Order) is consistent with the Article 71 requirements.

It is found that the access is not adequate as it was never brought up to the previously required standard of 24 feet in width with 4 foot gravel shoulders and adequate drainage.