

OREGON MILITARY WAGON ROAD.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

IN RESPONSE TO

A resolution of the House calling for information in relation to lands patented to the Oregon Central Military Wagon Road Company, the Willamette Valley and Cascade Mountain, and The Dalles Military Wagon Road Company.

MARCH 18, 1886.—Referred to the Committee on the Public Lands and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, March 12, 1886.

SIR: I have the honor to acknowledge the receipt of the resolution passed by the House of Representatives on the 8th ultimo, requesting the Secretary of the Interior to inform the House how much of the lands granted to the State of Oregon and by said State to the Oregon Central Military Wagon Road Company, the Willamette Valley and Cascade Mountain Wagon Road Company, and The Dalles Military Wagon Road Company, have been patented to each of said companies, how much to each remains unpatented, and whether the Department of the Interior has entered into investigation as to the compliance of said companies with the conditions of the respective acts of Congress, and what action, if any, has been adopted as to the suspension of any further patents; also, to inform the House what evidence the Department has as to the construction of said roads; and also, what evidence the Department has as to the construction upon which any patents may have issued by virtue of said grants.

The resolution was referred to the Commissioner of the General Land Office for report, a copy of which, dated 12th instant, with the papers therein referred to, I transmit herewith, and which will afford the information called for in the resolution.

Very respectfully,

H. L. MULDROW,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., March 12, 1886.

SIR: I am in receipt, through reference by the Department on the 9th ultimo, for report, of a resolution of the House of Representatives passed the 8th ultimo, requesting the Secretary of the Interior to inform the House how much of the lands granted to the State of Oregon and by said State to the Oregon Central Military Wagon Road Company, the Willamette Valley and Cascade Mountain Wagon Road Company, and The Dalles Military Wagon Road Company, have been patented to each of said companies, how much to each remains unpatented, and whether the Department of the Interior has entered into any investigation as to the compliance of said companies with the conditions of the respective acts of Congress, and what action, if any, has been adopted as to the suspension of any further patents. Also to inform the House what evidence the Department has as to the construction of said roads; and also what evidence the Department has as to construction upon which any patents may have issued by virtue of said grants.

In reply I have the honor to submit the following:

OREGON CENTRAL MILITARY ROAD.

The act of Congress approved July 2, 1864 (13 Stat., 355), granted to the State of Oregon, to aid in the construction of a military wagon road from Eugene City, by way of the Middle Fork of the Willamette River, to the eastern boundary of said State, alternate sections of public lands, designated by odd numbers, for three sections in width on each side of said road.

By act of the legislature of the State approved October 24, 1866, the grant in question was conferred upon the Oregon Central Military Road Company.

By act of Congress approved December 26, 1866 (14 Stat., 374), the State was authorized to select from the odd-numbered sections within 6 miles of said road a quantity of land equal to the lands reserved from the operation of the act of 1864.

By act of Congress approved March 3, 1869 (15 Stat., 340), the time for completing the road was extended to July 2, 1872.

The act of Congress approved June 18, 1874 (18 Stat., 80), authorized the issue of patents to the State of Oregon for all lands granted to said State in aid of the construction of wagon roads, as fast as the several roads should be completed and the lands selected, unless the State had transferred its interest to any corporation or corporations, in which case the patents were to issue to such corporation or corporations.

(1) The grant to the Oregon Central Military Road is estimated at about 720,000 acres, of which 361,327.43 acres have been certified to the State, and 40,913.24 patented to the company, leaving about 679,087 acres which have not been patented, and about 317,760 acres which have neither been certified nor patented.

(2) The records of this office do not show that any formal investigation has been ordered for the purpose of ascertaining whether or not said company properly constructed its road in accordance with the terms of the granting act. It appears, however, that on May 30, 1882, Mr. R. P. Ankeny, special agent of this office, then, and for about two years prior thereto, engaged in the investigation of swamp-land selections in that portion of Oregon, submitted a report of an investigation of said

road, which he stated he had made under instructions (verbal) given by the Commissioner of this office in 1880.

In the body of his report (copy herewith marked A) Mr. Ankeny deals largely with the character of the country through which the road passes, but says very little of importance about its construction or condition. He states, however, in conclusion, that he found no especial violation or evasion of the law of Oregon regulating the construction of highways; but, on the contrary, that its requirements were favorably exceeded over the Cascade Mountains.

With respect to the present condition of the road, he states that portions of it have been abandoned, the location of settlements and the development of the country having brought other routes into use.

(3) The evidence of the construction of said road consists:

(a) Of the certificate of the governor of Oregon, dated July 27, 1866, under the seal of the State, to the effect that he had passed over and carefully examined the first 50 miles of said road, and that said 50 miles were completed in accordance with the requirements of the act of July 2, 1864, and of the laws of Oregon. (Copy herewith, marked B.)

(b) Of the certificate of the governor of Oregon, dated November 26, 1867, under the seal of the State, that said road had been carefully inspected from the point to which it had already been approved to Crescent Lake, a distance of 42.50 miles, and found to be well and faithfully built, and fully up to the requirements of the law. (Copy herewith, marked C.)

(c) Of the certificate of the governor of Oregon, dated January 12, 1870, under the seal of the State, that said road, extending from Eugene City to the eastern boundary of the State, had been completed as required by the act of Congress and of the legislature of Oregon. (Copy herewith, marked D.)

(4) These certificates formed the evidence of construction upon which patents were issued to the road company.

WILLAMETTE VALLEY AND CASCADE MOUNTAIN WAGON ROAD.

The act of July 5, 1866 (14 Stat., 89), granted to the State of Oregon, to aid in the construction of a military wagon road from Albany, Oreg., by way of Canyon City, to the eastern boundary of the State, alternate sections, designated by odd numbers, three sections per mile, to be selected within 6 miles of said road.

By act of its legislature, approved October 24, 1866 (Laws of Oregon, 1866, p. 58), the State conferred said grant upon the Willamette Valley and Cascade Mountain Wagon Road Company.

By act approved July 15, 1870 (16 Stat., 363), Congress authorized the construction of the road by way of Camp Harney, instead of Canyon City.

(1) The length of the road, according to the certificates of the governor of Oregon, is 448.7 miles. At three sections per mile the grant would amount to 861,504 acres, of which 548,749.53 acres have been patented to the company, leaving 312,754.47 acres unpatented.

(2) Complaints having been made that said road had not been properly constructed, this office, by letter dated April 27, 1880, submitted the matter to the Department for determination as to whether or not an investigation should be ordered. (Copy of said letter herewith, marked E.)

No formal reply to said letter was ever made, but, after consultation with the then Secretary, this office, by letter dated August 16, 1880 (copy

herewith, marked F), directed Mr. W. F. Prosser, special agent, to make a careful examination of the entire line of said road from its initial point at Albany to the eastern boundary of the State.

Mr. Prosser was instructed to ascertain the present condition of the road with reference to its fitness for regular use as a wagon road, in whole or in part, its general graduation and width, the location of any and all bridges, and the absence of bridges when they were necessary and practicable. He was further instructed to inform himself, by intercourse with the people or in any way, as to the previous condition of the road, and whether or not it had ever been such a road as contemplated by the statute.

In his report, dated October 30, 1880, Mr. Prosser states that the company, with the consent of the county authorities, appropriated an old county road extending from Albany to a point about 4 miles east of Sweet Home, a distance of about 36 miles; that from the point last named to Cache Creek, about 60 miles, a passable road, except for lack of many necessary bridges, was constructed, and that from Cache Creek to the eastern boundary of the State, more than 350 miles, the company took advantage of the open character of the country and simply made a wagon track. He states that in all the distance between the points last named not a single bridge was built, and only grading sufficient to admit of the passage of a lightly loaded wagon.

Referring to the mode of construction he states that between Sweet Home and Cache Creek the work consisted in grading a track sufficiently wide for a single wagon to pass, with occasional turnouts where the ground was favorable, and that from Cache Creek to the eastern boundary of the State construction consisted simply of a party of men, most of whom were on horseback, going through the country with a wagon at the rate of 10 or 15 miles per day, blazing trees when passing through the open timber, doing a little grading in difficult places, and finding fording places in the streams.

Mr. Prosser's statement relative to the rapidity with which the road was constructed appears, at least so far as a portion thereof is concerned, to be borne out by the certificate of the governor of the State. For instance, the map of a section of 80 miles of said road shows that the survey thereof was commenced May 18 and completed May 28, 1871; and the certificate of the governor that said section had been examined and found completed in accordance with the granting act is dated June 24, 1871, just thirty-eight days, including Sundays, from the commencement of the survey.

With reference to the present condition of the road, Mr. Prosser states that from Albany to Sweet Home there is a fair country road, which, however, is kept up by Linn County; that from Sweet Home to Cache Creek it is in fair condition for a mountain road, except for lack of bridges, and that from Cache Creek to the South Fork of the Malheur River the road generally is in bad condition, without bridges, and in many places almost impassable for loaded wagons, and that at a point near the South Fork of the Malheur River, about 100 miles west of the eastern terminus, he lost all trace of the road and was obliged to return to Albany. (Copy of said report herewith, marked G, accompanying affidavits marked G 1 to G 9, inclusive.)

By letter dated December 4, 1880 (copy herewith, marked H), Mr. Prosser's report and accompanying affidavits were submitted to the Department with a recommendation that the attention of Congress be called to the matter with a view to the forfeiture of the grant or the enforcement of a full compliance with its terms.

The matter was duly laid before Congress by the then Secretary of the Interior, and on February 21, 1881, the Committee on Military Affairs of the House of Representatives, to whom the question was referred in the House, reported that the title could not be forfeited or annulled, and reinvested in the United States, except by a judicial proceeding, and that the same had become a vested right which Congress could not impair or take away. (See Report 332, Forty-sixth Congress, third session.)

(3) The evidence of the construction of said road possessed by this office consists: (a) Of the certificate of the secretary of state and acting governor of Oregon, dated April 11, 1868, under the seal of the State, that 180 miles of said road, extending from Albany in the direction of Canyon City, had been completed as required by the act of Congress approved July 5, 1866, and of the legislature of the State of Oregon. (Copy herewith, marked L.) (b) Of the certificate of the governor of Oregon, dated September 8, 1870, under seal, that said road had been examined and accepted from the one hundred and fifty-third mile post to the two hundred and ninetieth mile post, at Camp Harney. (Copy herewith, marked K.) (c) Of the certificate of the governor of Oregon, dated January 9, 1871, under seal, that said road had been examined and accepted, and that the same had been completed according to the act of Congress from the two hundred and ninetieth to the three hundred and sixty-eighth mile. (Copy herewith, marked L.) (d) Of the certificate of the governor of Oregon, dated June 24, 1871, under seal, that said road had been examined and accepted, and that the same had been completed according to the act of Congress from the three hundred and sixty-eighth to the four hundred and forty-eight $\frac{7}{10}$ mile, at the eastern boundary of the State. (Copy herewith, marked M.)

(4) The evidence of construction upon which patents issued to said company consisted of the certificates above mentioned.

DALLES MILITARY ROAD.

The act of Congress approved February 25, 1867 (14 Stat., 409), granted to the State of Oregon to aid in the construction of a military wagon road from Dalles City, by way of Camp Watson, Canyon City, and Morimon or Humboldt Basin, to a point on Snake River, opposite Fort Boise, Idaho, alternate sections of public lands, designated by odd numbers, to the extent of three sections in width on each side of said road, with the right to select from the alternate odd-numbered sections within 10 miles of the road an additional amount of land equal to the amount reserved from the operation of the grant.

By act of its legislature approved October 20, 1868 (Laws of Oregon, 1868, p. 3), the State of Oregon conferred said grant upon the Dalles Military Road Company.

(1) The grant to said road is estimated at about 576,000 acres, of which 126,910.23 acres have been patented to the company, leaving about 449,090 acres unpatented.

(2) As early as June, 1869, complaint was made that said company had located its road upon a road originally opened by immigrants, and afterwards kept up and improved by the settlers living along the line thereof; that said road followed all the curves, angles, and grades of the original immigrant road.

No investigation in the matter of the construction of the road in question has been ordered or made by this office; hence I am unable to furnish any definite information respecting its construction or present condition.

I will state, however, that the certificates indorsed upon the map of constructed road shows that the survey thereof was commenced April 22 and completed May 17, 1869. The road was accepted by the governor as completed June 23, 1869. It appears, therefore, according to the certificate, that the entire road, 330 miles in length, was surveyed, constructed, examined, and accepted by the governor within a period of sixty-three days.

The evidence of construction of said road, and the evidence of construction upon which patent issued to the road company, consists of the certificate of the governor of Oregon, dated June 23, 1869, under the seal of the State, that he had made a careful examination of said road after its completion, and that the same was built in all respects as required by law. (Copy of certificate herewith, marked N.)

Referring to that portion of the resolution which asks what action, if any, has been adopted as to the suspension of patents, I have to state that no patents have been issued to either of the companies named since July 15, 1884.

The resolution is herewith returned.

I am, sir, very respectfully, your obedient servant,
WM. A. J. SPARKS,
Commissioner.

Hon. L. Q. C. LAMAR,
Secretary of the Interior.

A.

REPORT ON THE OREGON CENTRAL MILITARY WAGON ROAD.

SIR: I have the honor to report to the Department that on the 30th of May, 1880, I was summoned from Florida, where I was on special duty, to Washington. On reporting to the Commissioner I was directed to inform myself on the questions pertaining to the claims of the State of Oregon for "swamp lands."

In preparing lists and plats, and making myself familiar in the records bearing on my special duty, my attention was called to pending contests for lands under special grants, protests by citizens and settlers, against the transfer of certain lands for the "benefit and use of the Willamette and Cascade Military Wagon Road Company, and the Oregon Central Military Wagon Road Company."

The assertion was made that these companies had not constructed their roads in accordance with the law and specifications regulating the building of public highways in the State of Oregon; therefore, the companies had forfeited their rights to lands claimed as earned, &c.

I was informed that a special agent would be sent to examine and make report on the Willamette and Cascade military road, and the instructions being prepared for this agent, when deemed as sufficient for my guidance in making examination of the Oregon Central military road, viz, "Examine as to practicability of the road in relation to travel as a highway, the location of bridges, the neglect to build bridges where needed, and by intercourse with the people and your own observations learn the previous history and its present condition; learn whether it was, and now is, such a road as was contemplated by the statutes." These observations and inquiries were to be carried by notes made from time to time, as my special duty and travels carried me east along the line of this road from Eugene City to the eastern boundary of the State, over Lane, Lake, Grant, and Baker Counties, so as to be prepared at any time when called on to be able to make a report on the entire road, or any portion thereof, in aid of the officers of the Department to determine or not to issue further lists or patents for lands to the company or to the State for the use of the land company.

HISTORY OF THE ROAD.

To recite in detail the history of the road and motives for construction would be out of place in this report, more interesting than useful. Briefly, Eastern Oregon was an Indian country; Western Oregon was a white man's country, who coveted

the former for a stock range; the Klamaths and other equally warlike tribes resisted encroachment; the whites gradually gained a foothold, but, widely scattered among the aborigines, they were in constant danger. There was no road direct into the Willamette Valley for retreat or supplies or for aid in event of uprising by the Indians, or to conquest the coveted "bunch grass country."

The people on the other side of the Cascades were too poor to build and construct a highway over the mountains and across the State wherein nature had builded barriers as difficult as in any other part of the territory of the United States. Equal in difficulties "and an extension of the Sierras" that engrossed the attention of the Government and statesmanship of the days of war, when Mr. Lincoln, the wise head of the nation, was fostering every measure and means that would protect every portion of the territory belonging to the people and "tie with iron bonds the West with East to the shores of the Pacific."

The Congress was appealed to for aid, and by an act (copy and amendments herewith, and made part of this report), dated July 5, 1864, gave lands from contiguous domain, made practicable by the right to sell "earned lands on completion of each 10 miles of road."

On arrival in Oregon, and conferences and adjustment of orders with the governor and other officials, State and Federal, I went to Eugene City; there contracted wagon transportation for my personal effects, camp and other necessities, and on the 12th of September, 1880, started, horseback, *en route* over the Oregon Central Military Wagon Road for the Little or Lower Klamath Lake, where I was to begin my "investigations of swamp lands."

THE CHARACTER OF THE COUNTRY AND LOCATION OF THE ROAD.

East of Eugene City, for about 16 miles, the road is in the valley of the Willamette River, and presents no obstacle worthy of special mention to the building of a good wagon road. The crossings at the Coos Fork and the East Branch of the Willamette River, 8 and 16 miles east of Eugene City, were supplied by ferries for high stage, and the naturally good fordings in low water were deemed sufficient, and met the demands of travel when the road was located.

From this point the road begins the passage through and over the Cascade Mountains to the foot of the same, at Klamath Marsh, about 160 miles.

The portion between the crossing of the Willamette to the Middle Fork of the Deschutes River (township 24 south, range 7 east), about 100 miles, was, and is, the most expensive. It is a difficult country to describe and put in limited words of an official report. The entire distance is densely timbered with fir, black and yellow cedar, sugar, and a species of yellow pine—gigantic, all of immense growth, with an undergrowth of smaller corrifera and vine maple, often dense and difficult, especially in the lower levels and near the river and in protected places in higher grounds.

The road line follows the windings of the Middle Branch of the Willamette River on the north bank to the summit of the Cascades, the direction being southeast, but tortuously around the base of Diamond Peak: The storm center of the Willamette and Deschutes, always snow-crowned, with a glittering cap, guarding a rugged divide, steep and difficult up the west side and down a mountain stream boundary lined to the inviting shores of Crescent Lake (township 24 south, range 6 east). This 100 miles was the most expensive and difficult of location and construction and permanency. It was the key point to the "control and conquest of Eastern Oregon."

The grading was carried through most tenacious and difficult material, in addition to the surface obstructions of timber and logs and brush, up steep, around jutting headlands closing down to the river bank, crossing named and unnamed tributary streams and brooks, all formidable enough to require bridging. I enumerated eight bridges of consequence and many smaller ones on the west slope.

From Crescent Lake (township 24 south, range 6 east) southwest 60 miles the road seeks the slopes of the ridges into the valleys, over rolling hills, on easy grade. The fir-cedar and tangle of the west slope is here represented by open pine wood on the higher grounds, the aspen and willow, frost painted, lining the banks of the water-courses. From the marsh to the west line of Grant County, 160 miles, the country is made up of mountain spurs, detached buttes, ridges, rock-crested rolling foot-hills, with winding valleys between; the higher lands timbered often densely, particularly on north slopes; the southern slopes sparsely with juniper. The valley lands produce a luxuriant growth of wild clover and other native grasses fit for hay. These are the coveted lands for winter pasture when the snow has driven the herds from the bunch-grass ranges of the mountains. The road after crossing the marsh follows the plain south until the intersection of the Sprague River Valley (township 35, range 9 east) turns east and follows the river to its head. No better line could be selected to penetrate into the country beyond. One bridge (township 36 south, range 9 east), of about 20 feet space and several smaller ones were constructed in the valley of the Sprague River, and all that were necessary in a distance of 100 miles

eastward from the marsh. The road, after leaving Sprague River for a distance of 6 miles, unavoidably crosses "The Devil's Garden," the base being volcanic ashes, with surface thickly strewn with bowlder trap. A few scattering juniper and rabbit brush add only to the misery of the traveler in his climbing through the rolling rock. Neglect and indifference has not improved the way since it was cleared by the builders. The succeeding 20 miles over the divide into Drew Valley is on excellent ground and easy grades. The altitude is high enough to hold the snow-fall, and it accumulates during the winter to a depth of 6 to 8 feet. Reaching the Drew Creek, it is followed over the natural meadows of this most beautiful vale to the steep divide, pine-crowned, skillfully surmounted by zigzag turnings.

Then for many miles the roadway leads through sage-brush plains into Goose Lake Valley, and across it to the foot of Warner Cañon. It would have required wide detours and search to find bad ground for a road. A wagon can safely be driven in any direction, and small streams were bridged with poles, long since appropriated by campers.

From the base of Warner Mountain (township 38 south, range 20 east) to the terminal points of the road is a country of totally different character from that which is behind in our description. The distance via the road line is 240 miles, as estimated. It is a table-land of great altitude, ash plains and lava flow intermingling with alkali flats, with ponds of brackish water unfit to use, bald mountains, and foot-hills. Occasionally the country is cut across by the ragged spur of rock ridge, and again gashed by river rock-cañons down deep below the surface of the country. In these are found the limited water of the country. Wide detours are compelled by these cañons. These and the scarcity of water and fuel makes it a dangerous country for the ignorant traveler. The timber has disappeared from the mountain slopes and cañons, save in a few notable places, viz, around Warner Lake and Stein Mountain, an occasional juniper is to be found amid the rock, in sheltered coves. This is a bunch-grass country; but for it much of this vast region would be a total waste. The snow-fall is heavy, but a strong mineral rock and earth melts it almost as soon as it is deposited. This gives an abundance of water. In the winter the preserved grass, saved by lack of summer water for stock, is the winter resort for cattle and other stock. The ranchers north and south drive to the desert. I might add that this country extends from the Deschutes River on the west to the borders of East Oregon, averaging about 125 miles in width. Stockmen claim that this is the most valuable range in the West, for here is a pasture that cannot be taken by the farmer and agriculturist.

The road from the Warner Cañon to Camp Three Forks, at the east terminus, is over the military trail pioneered by General Crook, who followed the hostile Indians over their trail into the fastness of the Blue Mountains. He made this trail famous and enduring, for it is the only route that supplies living water for a long distance on either side; hence the best location for a road.

CONCLUSIONS.

This road was constructed and lands earned under the law of Oregon, act of 1862, regulating highways, requiring a "roadway 30 feet clear of timber, 16 feet in center of this 30 feet for track, where the cut is 6 feet or more, the track to be 10 feet wide in narrow places, sidings 16 feet wide every quarter of a mile."

I carried this law in memorandum and found no especial violation or evasion of its requirements. On the contrary, it was exceeded favorably over the Cascades where there was an inducement to avoid expenses. Thereafter it was easy of fulfillment. When I heard adverse complaints of the manner of construction I would ask what the law required, and for location of the place where the road was not up to specifications. I seldom found a complainant who could repeat the law or point out the place.

These discontented persons represented the "tender foots" of the border, who had made their way into this country by this and other highways long after their building, who think it is their right to regulate all affairs in the country of their choosing; especially in their view it is the duty of the Government to give them homesteads wherever there is vacant land, regardless of former disposal.

The pioneers or old settlers, without exception as I recall, approved a grant, and in many cases said: "Signed a petition for it; it was good work; it's a good road even now. We drive our stock to the Willamette for sale; bring back herds of young stock; send our teams over for supplies; our friends visit us; we go over to see them. Long ago when we were few and the Indians were plenty, and all was threatening, we had no place of retreat or to go to for safety, nor was there a way for help to reach us in case of war, when this grant was asked by us, and the people of the Willamette Valley, sanctioned by the governor and urged by Nesmith, the friend of Lincoln, who approved, and Congress approved and gave the land, the construction went on with enthusiasm. The road was well built, the bridges were good; we used the road when it was new, and it was the only good road in this part of this country. It was popular

with all; it served a good purpose; we did not value the land, for land was plenty, without an outlet it was nearly valueless; we desired a way out and in, and we got it. When the road was built and accepted by the governor and General Applegate we approved. We all thought we were doing the right thing then and believe we did now."

The preservation of this highway now is a matter for the counties through which it passes. Portions of it is abandoned. The location of settlements and development of the country has brought other routes into use.

The roadway, a strip 60 feet wide, is private property, and as such will have to be sustained by toll. It is doubtful if the limited travel would keep it in good condition, particularly over the Cascades, where it can be used only for a few months in the summer—"after 1st of June to 1st of November. Thereafter it is blocked by snow, often averaging 20 feet in depth on the summit."

The lands earned by the construction were sold by the company to the Oregon-California Land Company for valuable consideration and bona fide purchase.

In conclusion, I must say that after passing over the road, and with a prejudice against it gained from rumors, traveling hither and thither along and across it for nearly two years, mingling freely with the settlers and hearing their views, publicly and privately expressed, with and without knowledge of my mission as a reporter on the merits of the road and the questions involved regarding the land grant, I cannot fail in justice and good faith to facts gleaned from all sources and my personal observation to declare that there is no good and sufficient reason why the lands retained should not be transferred in accordance with the law.

Respectfully submitted by your obedient servant,

R. V. ANKENY,
Special Agent.

Hon. N. C. MCFARLAND,
Commissioner General Land Office, Washington, D. C.

B.

STATE OF OREGON, EXECUTIVE DEPARTMENT,
Salem, July 27, 1866.

SIR: I hereby certify that in accordance with an act of Congress approved July 2, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the southern or eastern boundary of said State," and in accordance with the act of the legislative assembly of the State of Oregon, approved October 24, 1864, entitled "An act donating certain lands to the Oregon Central Military Road Company," I have passed over and carefully examined the first 50 miles of the Oregon Central Military Road, beginning at Eugene City and extending eastward and towards the southern or eastern boundary of the State of Oregon.

And I further certify that the first continuous 50 miles of said road beginning at Eugene City are completed in accordance with the requirements of said act of Congress and the laws of Oregon.

In witness whereof I have hereunto set my hand and caused the great seal of the State of Oregon to be affixed.

ADDISON C. GIBBS,
Governor of Oregon.

By the governor:
[SEAL.]

SAMUEL E. MAY,
Secretary of State.

THE SECRETARY OF THE INTERIOR.

C.

STATE OF OREGON, EXECUTIVE OFFICE,
Salem, November 26, 1867.

To all to whom these presents shall come, greeting:

This certifies that the section of the Central Military Road extending from the point to which it has already been approved, to Crescent Lake in the valley of the Deschutes, being 42½ miles, more or less, having been carefully inspected and found

to be well and faithfully built and fully up to the requirements of the law, therefore the same is approved and received.

In witness whereof I have hereunto signed my name and caused the seal of the State of Oregon to be affixed, the day and the year first above written.

GEO. L. WOODS.

Attest.

[SEAL.]

SAMUEL E. MAY,
Secretary of State.

D.

STATE OF OREGON:

I, George L. Woods, governor of the State of Oregon, do hereby certify that this plat or map of the Oregon Central Military Road, has been duly filed in my office by the said Oregon Central Military Road Company, and shows that portion of the said road commencing at Eugene City, Oreg., and ending at the eastern boundary of the State, which has been completed as required by the act of Congress approved July 2, 1864, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State," and the act of the legislative assembly of the State of Oregon, approved October 24, 1864, entitled "An act donating certain lands to the Oregon Central Military Road Company," granting lands to said company.

In testimony whereof I have hereunto set my hand and caused the great seal of the State to be affixed.

Done at Salem on this the 12th day of January, A. D. 1870.

GEO. L. WOODS,
Governor.

By the governor:

[SEAL.]

SAMUEL E. MAY,
Secretary of State.

E.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 27, 1880.

SIR: By act of Congress approved July 5, 1866, entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of said State" (14 Stat., 89), there was granted, by section 1, "alternate sections of public lands designated by odd numbers, three sections per mile, to be selected within six miles of said road: *Provided*, That the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatever." There were reserved from the operation of the grant any and all lands theretofore reserved to the United States, except as to the right of way.

Section 2 provided that the lands granted should be disposed of by the legislature of the State "for the purpose aforesaid, and for no other; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charge upon the transportation of any property, troops, or mails of the United States."

Section 3 enacted "that said road shall be constructed with such width, graduation, and bridges as to permit of its regular use as a wagon road, and in such other special manner as the State of Oregon may prescribe."

Section 4 provided that when 10 miles of the road should be completed, not exceeding thirty sections might be sold, coterminous to such completed road; and when the governor of the State should certify to the Secretary of the Interior that any 10 continuous miles of said road were completed, then another quantity not more than thirty sections, coterminous, might be sold, and so on, from time to time, until completion of the road; "and if said road is not completed within five years, no further sales shall be made, and the land remaining unsold shall revert to the United States."

The act did not in any manner provide for the certification or patenting of the lands granted by the United States.

By act of Congress approved June 18, 1874 (18 Stats., p. 80), after reciting that grants of land had been made to Oregon to aid in the construction of wagon roads, without provision for the issuing of patents, it was provided:

"That in all cases when the roads in the aid of the construction of which said lands were granted are shown by the certificate of the governor of the State of Oregon, as in said acts provided, to have been constructed and completed, patents for said lands shall issue in due form to the State of Oregon as fast as the same shall, under said

grants, be selected and certified, unless the State of Oregon shall by public act have transferred its interests in said lands to any corporation or corporations, in which case the patents shall issue from the General Land Office to such corporation or corporations upon their payment of the necessary expenses thereof: *Provided*, That this shall not be construed to revive any land grant already expired, nor to create any new rights of any kind except to provide for issuing patents for lands to which the State is already entitled."

There are on file in this office four duly executed maps, showing the line of the Willamette Valley and Cascade Mountain Military Wagon road as surveyed, located, adopted, and constructed, viz:

(1) From Albany to the one hundred and fifty-third mile, sworn by the surveyor and certified by the president, under the seal of the company, February 18, 1868, and by the secretary of state as acting governor February 20 and April 11, 1868.

(2) From the one hundred and fifty-third to the two hundred and ninetieth mile, sworn by the surveyor July 23, certified by the president July 25, and by the governor September 8, 1870.

(3) From the two hundred and ninetieth to the three hundred and sixty-eighth mile, sworn by the surveyor January 6, 1871, certified by the president December 10, 1870, and by the governor January 9, 1871.

(4) From the three hundred and sixty-eighth to the four hundred and forty-eight and seven-tenths mile, the eastern boundary of the State and the terminus of the road, sworn by the surveyor, and certified by the president and by the governor June 24, 1871.

The affidavits and the certificates of the president on each map are in the usual form, and the certificate of the governor in each instance is to the effect that the portions of the road shown had been completed in accordance with the act of Congress making the grant; and with an act of the legislative assembly of Oregon, approved October 24, 1866, entitled "An act donating lands to the Willamette Valley and Cascade Mountain Wagon Road Company," and that said road, so completed, had been examined and accepted.

Thus the formal legal evidence of the survey, location, adoption, construction, and completion of the road, and of its acceptance by the State, in accordance with the granting act and with the legislation of the State, seems to be full and complete. Upon that evidence the odd sections within 6 miles of the road have been withdrawn for the benefit of the grant, and they so remain. Upon regular selections made there were patented to the State for the use and benefit of the company named, June 19, 1876, 107,893.01 acres of land.

There are now pending lists of selections by the company to the amount of 446,600.73 acres of land, and I am urged to immediately prepare lists for approval by you, and thereupon to issue patents to the company direct.

The grant amounts to more than 860,000 acres, and there can probably be found within the limits nearly the entire quantity free from conflict.

August 20, 1878, there was referred to this office from the Department a communication from Elisha Barnes, dated Prineville, Wasco County, Oregon, March 17, 1878, herewith inclosed. He asserts that the company has not constructed the road in accordance with State laws; that the only work ever done on the road was such as, in places, made it barely possible to pass over it with lightly loaded vehicles in summer and autumn, at times of low water; that "from Smith's Rock to the eastern boundary of the State, a distance of about 300 miles, there has been no attempt to open or construct a road by the above-named company or any one else." He asks an investigation as to the manner in which the work on the road has been done, and asserts that hundreds of citizens will testify to the truth of his allegations.

Appended to his letter is a certificate signed by three other persons to the substantial truth of his assertions.

I also inclose a copy of a letter to Mr. Barnes, in reply, dated October 2, 1879.

I am well aware how little weight should ordinarily be given to unsworn allegations of this character, but, taking into consideration the magnitude of the grant, the remote location of the road and the lands, and the meager information in my possession, aside from the certificates on the maps, as above set forth, after full consideration, I deem it my duty to submit the matter for your determination, whether or not any investigation is called for in the premises, and for your instructions as to whether or not, without further inquiry, I shall prepare from the selections on file clear lists for your approval, to be followed by patents to the company in due course.

I have to add that should an investigation on the ground be deemed advisable, I am not aware of any provision of law by which the money necessary to meet the expense could be paid.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. C. SCHURZ,
Secretary of the Interior.

F.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., August 16, 1880.

SIR: By act of Congress approved July 5, 1866 (14 Stat., 89), there was granted to the State of Oregon certain lands to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of the State. Section 3 of said act provided "that said road shall be constructed with such width, graduation, and bridges as to permit of its regular use as a wagon road," &c.

There are on file in this office papers and maps presented by the Willamette Valley and Cascade Mountain Wagon Road Company, the grantee of the State, to show its compliance with law and the construction of the entire road, covering a distance of 448.7 miles. It is claimed that the road was completed in 1871.

By a letter on file from Elisha Barnes, of Prineville, Wasco County, Oregon, dated March 17, 1878, it was asserted that the company had not constructed the road in accordance with law; that the only work ever done on the road was such as in places made it barely possible to pass over it with lightly loaded vehicles in summer and autumn at times of low water; that "from Smith's Rock to the eastern boundary of the State, a distance of about 300 miles, there has been no attempt to open or construct a road by the above-named company or anyone else." He asserts that hundreds of citizens will testify to the truth of his allegations.

Bearing in mind the requirements of section 3 of the act of Congress herein referred to, you will proceed to make a careful personal examination on the ground of the entire line of route, from the initial point at Albany to the eastern boundary of the State. You will ascertain the present condition of the road with reference to its fitness for "regular use as a wagon road," in whole or in part, its general graduation and width, the location of any and all bridges on the line, and the absence of bridges where they are necessary and practicable.

You will use every possible means, by intercourse with the people or in any way, to inform yourself what has been the previous condition of the road, and whether or not it has ever been such a road as was contemplated by the statute.

During your examination you should make full and complete notes of all facts learned and information acquired, locating particular portions of the line as exactly as possible.

When you have completed your examination and inquiries, you will make a report in writing to this office, setting out fully and in detail the result of the same, and stating your opinion as to whether or not the road has been constructed in the prescribed manner.

Of course, in such an investigation, much must be left to your judgment and discretion which would not be embraced in instructions from this distance, but, in proceeding, you must keep in mind that the object in view is to determine whether or not the lands granted have been lawfully earned.

For your information I inclose a copy of the granting act.

You will forward your accounts for compensation for your service, at \$5 per diem, for the time employed, and actual traveling and other necessary expenses incurred, the same to be verified under oath, setting forth the time actually and necessarily employed, and to be accompanied by vouchers for expenses incurred whenever practicable.

During the time you are employed on this work you will be paid from another appropriation than the one from which you are now paid as special agent to prevent trespasses upon the timber on the public lands, and will therefore keep an accurate account of time and necessary expenses while making the examination.

Payment of your per diem and expenses will be made out of the moneys appropriated by act of Congress approved June 16, 1880, for contingent expenses of local land offices.

Very respectfully,

M. E. N. HOWELL,
Acting Commissioner.

Hon. W. F. PROSSER,
Seattle, Wash.

G.

SEATTLE, WASH., October 30, 1880.

SIR: I have the honor very respectfully to submit the following report in answer to your letter of instructions of August 16 last past, directing me to make an examination of the Willamette Valley and Cascade Mountain wagon road, from Albany, Oreg., to the line which separates Oregon from the Territory of Idaho, a distance of

448.70 miles. In obedience thereto I left Seattle, Wash., on the morning of September 16, and arrived in Albany on the 20th following. During the next three days I obtained such information as I could in relation to the road, its history, and construction. Finding that I should probably have some difficulty in going over the line of the road I engaged Mr. Jason Wheeler, of Albany, Oreg., to accompany me with a spring wagon drawn by two horses. Mr. Wheeler had been a leading stockholder and director of the company which built this road and was one of the first settlers of Willamette Valley. He had superintended the location and construction of the road (as far as the work of construction was carried on) from Albany to Fort Harney, a distance of 293½ miles, and, being familiar with the country through which the road passes, I deemed it important to secure his services. It had also been arranged that Milton Hale, an old resident of the vicinity of Albany and a stockholder and director of the original company which built this road and received the land grant, should go with us, but before our preparations were completed for traveling Mr. Hale declined to go, for the reason, as he stated, that his private business would not permit him to leave home for the time which would be required by the journey.

This I regretted, because Mr. Hale was the only man I could find who knew anything of the line of the road from Fort Harney to the Oregon State line, a distance of about 155 miles. Mr. Hale also stated that, as far as he knew, there had never been but one wagon through or over that portion of the road, unless within the past one or two years; and it would therefore be difficult to follow. I was quite anxious that he should go with us, but no inducement that I could offer seemed sufficient to secure his services. However, Mr. Wheeler and I determined to go alone. The lateness of the season, with the possibility of snow-storms blockading the road—not unusual in October—made it desirable that no time should be lost either in going or returning. Camp equipage and provisions were procured, as it would be necessary to camp out occasionally where there are no settlements, and our preparations being completed we left Albany on the morning of the 24th of September, and on the fourteenth day of our travel, or on the 7th of October, about 12 m., after traveling about 34½ miles, we reached the last trace of the road which we could discover, and as we could follow it no further we were reluctantly compelled to return to Albany by the same way we had gone out. We arrived at Albany on the evening of October 19, having traveled twenty-six days consecutively. But for the lateness of the season I should have devoted more time to inquiries amongst the citizens along the line of the road as to its original construction and present condition, but the material facts in connection therewith are presented here, with affidavits of a few reliable and respectable citizens—as I am informed—which will, I presume, be sufficient to establish the general character of the road and to secure a full comprehension of the questions at issue. I shall make my statements as brief as possible.

HISTORY OF THE ROAD.

In the years 1863 and 1864 the citizens of Linn County, Oregon, including Albany, chiefly farmers and stock-raisers, desiring to secure direct communication with Eastern Oregon as a range for their surplus cattle, sheep, and horses, organized a joint stock company, called the Willamette Valley and Cascade Mountain Wagon Road Company, to build a road across or through the Cascade Mountains. The capital stock was fixed at \$30,000, much of which was soon subscribed, and the work of building the road was commenced. A county road already existed from Albany in the desired direction to Willey Creek, a point about 4 miles east of Sweet Home, or 36 miles east of Albany. However, in consideration of some improvements to be made, and more especially the keeping up of a bridge across Willey Creek, the county turned over the 2 miles next to the mountains to the road company, and the company established a toll-gate about 2 miles east of Sweet Home, or 34½ miles east of Albany, and at this toll-gate the road properly begins. The distances given in this report are approximate only, there being no means of ascertaining them other than from the statements of persons living on the line of the road or otherwise familiar with it. The company claims to have done some work by way of improving the road between the toll-gate and Albany, but I apprehend this work never amounted to much, and it is still kept up by the county of Linn. The stockholders in this company included nearly all the leading men of Linn County. Finding that the expenditure of considerable money and labor would be necessary to secure even a passable road across the mountains, the suggestion was made that a land grant should be obtained from Congress to assist in its construction.

When the company was first organized and the work of building the road was commenced, no idea of such a grant was entertained, and the company proceeded for a time upon the supposition that the road could be built from their own resources and without any aid from other and outside parties or from the Government. In the mean time their subscriptions of money and labor were exhausted, and in the year 1866 a land grant was obtained. This enabled them to increase their capital stock,

restored their credit, and they were enabled to construct a passable road over the mountains. This road, however, was destitute of bridges in many places where they were needed, and was only a tolerable road late in the season, when the streams were low and when the surplus snow had disappeared from the mountains.

In the construction of this portion of the road most of their additional subscriptions were exhausted, and most of the five years allowed them by the act of Congress making the grant had expired. It should be stated here, perhaps, that but little land under this grant has ever been sold, either by the original company or the present one, and that little is on the west side of the Cascade Mountains. I am told that no land whatever has been sold east of the mountains, except 200 acres at Camp Polk, and it is said that this 200 acres did not belong to the road company. In order, however, to secure the land grant, the company, having exhausted its means in making a road across the mountains, took advantage of the open character of the country and simply made a wagon track from Cache Creek; a point about 14 miles west of Camp Polk, to the eastern boundary of the State, and upon this they secured the grant. In all that distance, more than 350 miles, they did not build a single bridge, and occasionally only a little grading, just sufficient to admit of the passage of a lightly loaded wagon. In fact, they did not build a bridge from Canyon Creek, where it empties into the Santiam River, to the State line, with the exception of bridges over two small streams some 68 or 70 miles east of Albany. From Canyon Creek to the State line is over 400 miles. There are some three or four culverts made of poles which should perhaps be mentioned, but all the larger streams, creeks, gullies, rivers, and water channels from Canyon Creek eastward were left without bridges, except the few mentioned, for that entire distance.

In regard to grading it is safe to say that from Cache Creek, as above mentioned, to the Idaho line, the company did not do to exceed \$500 worth in that entire distance of over 350 miles. An average of \$5 per mile would cover the cost of locating the line and constructing, as far as any constructing was done, the road, in its entire length, east of the Cascade Mountains. The country was then unsettled and almost entirely occupied by Indians, many of whom were hostile. A road having been constructed across the mountains, the object of the stockholders generally was accomplished, and it was difficult to raise money for any expenditure beyond the mountains. The location of this 350 miles east of the mountains was chiefly made and its acceptance secured in 1869 and 1870. In 1871 the limitation of time made by the act of Congress expired. In 1872 the present owners of the road purchased, at a large advance upon the original cost, all the stock of the original stockholders, and they are now and have since that time been in possession of the property. They seem to have made the purchase without investigating closely either the character of the lands, the condition of the road, or the terms upon which these lands were obtained. It is claimed by Mr. Wheeler above mentioned that about \$75,000 were expended upon the entire line of the road by the original company. Others state the amount at much less.

Milton Hale, also above mentioned, states that from \$40,000 to \$60,000 were so expended. He thinks possibly \$45,000. This amount, or whatever sum was actually expended, was almost entirely used in the construction of the road from or between the toll-gate, 2 miles east of Sweet Home, and Cache Creek, the point above mentioned, about 14 miles west of Camp Polk. I am told by the attorney for the present company, Mr. Fehheimer, of Portland, that the present owners of the road paid \$160,000 for the stock of the original owners in 1872. For a majority of this stock they paid \$400 per share, the par value being \$100. Part of the original stock was paid up in services along the line of the road as guards, guides, hunters, laborers, teamsters, &c., by the stockholders.

The present company claim to have expended much more than the amount of the tolls collected in repairing and improving the road. The tolls taken in at the toll-gate above mentioned range, I am informed, from \$1,800 to \$3,000 per annum. They have built a bridge within the past three years across the Des Chutes River. This is a toll bridge, but since its erection it has been in charge of a dissipated man, who could give no information as to the amount of travel or toll collected, and who has never made any settlement or accounted in any way for moneys collected to the road company. He was the former owner of the ferry at this point, and also of some land on the roadside of the river where the bridge is located. A controversy has been going on ever since its construction between the keeper of the bridge and the company. The repairs and improvements made by this company are almost entirely confined to that part of the road which passes through the mountains and west of the Des Chutes River. No work has been done by the present owners since 1872 between Smith's Rock, the point where the road strikes Crooked River, and the eastern boundary of the State. No attention whatever has been paid to that part of the road. A little work has been done, but it is scarcely worth mentioning, between the Des Chutes and Crooked River.

CHARACTER OF THE COUNTRY THROUGH WHICH THE ROAD PASSES.

From Albany eastward for 32½ miles the road runs through the Willamette Valley. From thence to Cache Creek, a distance of about 60 miles, the road runs through and over the Cascade Mountains. Much of this section of the country is heavily timbered, principally with fir. The road follows up the Santiam River about 28 miles, thence up a long ridge and over a divide, thence down a small stream to Fish Lake. It is upon this part of the road that most of the work has been done (that is, between the toll-gate and Fish Lake), a distance of about 44 miles. The grading most of the way, however, has not been difficult. It has been done at a cost of about \$2 to \$3 per rod.

A bridge over Willey Creek, a small bridge at Lower Soda Springs, a bridge over Canyon Creek, and two small bridges over little mountain streams are all the bridges worth mentioning. There were formerly seven fords of the Santiam River, but these, by grading the road on the south side of the river, have been reduced to three. Bridges are needed over these badly. Also over Soda Fork, Elk Creek, Rocky Creek, near the last crossing of the Santiam over Snow Creek, and over a large number of small mountain streams without names.

From Fish Lake to Cache Creek, 16 miles, the road passes over a dividing ridge by following a long slope from the lake eastward; thence from the top of the divide by a gentle descent to Cache Creek. From this point to the eastern boundary of the State the country is made up of a succession of high table-lands, varied with ridges, peaks, and back-bones, between which are deep river beds, cañons, long ravines, and water channels and courses, many of which are dry during the greater part of the year.

This entire country is one of great altitude and dryness, and is generally covered with sage brush and bunch grass, with a sparse growth of juniper. There are occasionally valleys of rich arable land, covered with a luxuriant growth of wild meadow and other grasses. The only timber through which the road passes is a strip about 14 miles wide, between Cache Creek and Camp Polk; another, 10 or 12 miles wide, between the Upper Oshold and the North Fork of Crooked River, and still another of about the same extent between Buck Creek and Silver Creek. This timber is usually a species of yellow pine, without any undergrowth to speak of, and grows so sparsely that a wagon can usually be driven anywhere through it. Men on horse-back travel in any and all directions, and cattle range over this entire country.

By the exercise of a little discretion a wagon can be driven almost anywhere also. Usually, or often, the sage brush is not too high to be driven over, or, if occasionally too high, by breaking the topmost branches the wagon may be driven over the remainder. By choosing a suitable place for descending into the valleys or in seasons of low water for fording the streams, a wagon may be driven in almost any direction, and, if more wagons follow in the same track, a road is soon tramped out. Such is the character of the country through which the line of this road passes for about 350 miles.

MODE OF CONSTRUCTION.

As before stated, from Albany to Sweet Home, and for about 4 miles beyond, a country road had already been made before this enterprise was commenced. It is claimed by the directors of the original company that they were authorized or permitted, by the county authorities, to "lay" their road and grant upon the county road. A toll-gate was erected about 2 miles east of Sweet Home, because the location was a favorable one to control all traveling over the mountains. Two miles east of the toll-gate the actual work of beginning the new road was commenced. This work consisted in grading a track sufficiently wide for a single wagon to pass, with occasional turnouts, where the ground was favorable. Where it passes through timber the trees are cut out, usually with only sufficient width for a single wagon track. With the exception of the bridges already mentioned, there are no bridges on the entire line. The result is that the road is only passable for a few months in the year. During the present season of 1880 the first wagons passed over the road on the 18th of July. Usually the road is closed for the winter between the 1st and the 15th of November. Last year the road was closed about the 12th of November. It is claimed that the snow on the mountains kept the road closed until the 18th of July, but the melting of the snow kept up the streams and made them impassable as long as there was a supply of snow in the mountains. The consequence of this was that many people had to take a long and circuitous route by the way of The Dalles to reach their destination east of the mountains on the line of this road. The settlers in Harney Lake Valley and Silver Creek Valley informed me that Silvies River and Silver Creek were both impassable until the 1st of August for the same reason, and therefore they were obliged to take other and troublesome routes to reach their depots of supplies.

From Cache Creek to the eastern boundary of the State the process of construction was very simple. It consisted simply of a party of men, most of whom were on horse-

back, going through the country with a wagon at the rate of 10 or 15 miles a day, blazing trees when passing through the open timber, doing a little grading in different spots, breaking down the sage brush where it was too high for a wagon to pass over, finding fordable places in the streams, and putting stakes in the ground which were supposed to be 1 mile apart. In order to avoid bridging streams and grading hillsides long detours were frequently made, which lengthen the line of the road very materially and increase the cost and labor of travel. For example, as may be seen by the map in going from Cache Creek to Camp Polk, a long detour is made to avoid bridging Half Ration Creek, which seems to be the only object in passing around the head of that stream. A short distance below the point marked Cache Creek, on the accompanying map, a new road, called a county road, has been laid out, which is traveled considerably, and which is said to be 7 miles nearer to the point where both roads strike Crooked River. This road crosses the Des Chutes by a ferry, a short distance (a few miles) above the bridge of the Willamette Valley and Cascade Mountain Road. There are many other places where similar detours are made, apparently to avoid bridging or a small amount of grading. In rocky spots of ground the more troublesome of the loose stones were thrown aside. In this way a track was made, barely passable for an empty or a lightly loaded wagon from Cache Creek to Camp Harney, a distance of about 200 miles. At Camp Harney the parties locating the line of this road from that point to the State line under the direction of Milton Hale above mentioned, simply followed an old military road leading from Camp Harney to Winnemucca, which had been before, and is yet, traveled considerably between those points, and, without doing any work on it to speak of, traveled over it until they reached the point near the mouth of Crane Creek, where this old road turns south in the direction of Juniper Lake. Here they left that road, turned off, or rather, as will be seen by the map, continued on in an easterly direction, through the sage brush, and over the table-lands lying between the Malheur and Owyhee Rivers, and having, as they claim, taken a wagon through to the mouth of the Malheur River, they returned to Albany. I am informed that no leveling instruments or scientific methods have ever been used in the construction of any part of the road. Usually the location of the line was determined by men on horseback, who went before the wagon from one prominent point to another.

The location appears to have been made with two objects in view. First, to get through as speedily as possible with the least amount of work. Second, to secure as much good land as possible between the terminal points. Mr. Milton Hale, of Albany, who at first agreed to go with me, but subsequently declined, was the man who superintended the location of the line between Fort Harney and the State line. This portion of the line has never, I am told, been visited by any member or representative of the company which now owns the road, nor has any work been done on it since they purchased it in 1872.

PRESENT CONDITION OF THE ROAD.

As before stated, I left Albany on the 24th of September, in company with Mr. Jason Wheeler. We traveled in a two-horse hack, with camp equipage and a supply of provisions for use in places where no houses could be reached. Our load on starting was 600 pounds. We averaged about 25 miles a day and 3 miles an hour on going eastward; something more on our return. The road from Albany to the toll-gate, 2 miles east of Sweet Home, is a fair country road, and is kept up by Linn County. From that point to Cache Creek it is in fair condition for a mountain road, excepting the lack of bridges and the cutting of timber, before mentioned. There are places, too, where drainage is much needed. There is no drainage of any consequence, a few spots excepted, on the entire line of road. Along the Santiam River there are in the aggregate some 5 or 6 miles where the road passes through heavy timber, and where there are many mud-holes needing to be filled and drained out on the upper side of the road, in addition to the timber which should be cut on each side.

The fords of the Santiam and the other streams mentioned are troublesome, and in seasons of high water are dangerous. The descent on the east side of the Cascade Mountains is much less than on the western. But little grading has been done between the summit of the mountains and Cache Creek. From Cache Creek to Camp Polk still less. From Camp Polk to Crooked River the road runs through a sage-brush country, with occasional spots of rocky ground, and here the worst of the loose rocks have simply been thrown aside. In two or three places a little grading has been done, not exceeding \$100 worth in 30 miles. The line of the road originally followed up the valleys of Crooked River and Ochoco Creek for about 25 miles, but since that location was made the country has been settled, the valleys have been fenced up, and the road—made by the citizens and kept up by the county—now follows along the base of the hills generally, and the citizens of Prineville and the vicinity have built bridges over Crooked River and Ochoco Creek near the town.

The road follows up the Ochoco, but after it leaves the main valley and turns to the southeast it is much of the way, to the north fork of Crooked River, very bad indeed.

There are twenty-five small bridges or culverts needed within about 4 miles on the Upper Ochoco. A little grading has been done there and on other streams followed and crossed before the north fork is reached, but in many places it is still almost impassable for loaded wagons; and it is said that the citizens have done, as a matter of necessity, the little work which has been done on that part of the road. There was not done by the original company to exceed \$50 worth of work on this 30 miles. Going up the hill from the crossing of the north fork of Crooked River there has been done probably \$100 worth of grading, but this part of the road is still in very bad condition. The slopes are so steep from the upper side of the road to the lower that it is almost impossible to keep a wagon from turning over or sliding down into the gulch below. Much of the little grading which has been done here has also been done by the citizens, in order to make the road passable even for light loads.

After the top of the hill is reached there is no more grading or work of any kind to be noticed, with the exception of the removal of some loose stones in strong places, for about 50 miles. I should mention that because the crossing of Beaver Creek was dangerous and there being no bridge there, the settlers were obliged to change the line of the road for a distance of about 15 miles, and a portion of this detour is very rough and rocky, though these citizens have done some work on it which makes it barely passable. At Buck Creek there is also a piece of grading; about 60 rods, costing possibly \$100; thence to Silver Creek, much of the road rocky, rough, in occasional places, steep—almost an outrage that people should be compelled to go over such a road even with empty wagons.

Between Buck Creek and Silver Creek the road passes through a skirt of timber for some 10 or 12 miles. Within a few miles, in this timber, I counted twenty-nine trees which had fallen into the road or across it since it was first located, and which still lie on the ground where they fell. The travelers or wagons are compelled to make their way round them or remove them themselves. Silver Creek and Silvies River are both streams having narrow channels and steep banks, and in seasons of high water the fords are impassable. The fords are bad in low water on account of the steep banks.

From Silver Creek to Camp Curry to Camp Harney the road is fairly good in the valleys, were it not for the numberless gullies that need bridging or filling. Long detours are often made to avoid places where bridging or grading is needed. The citizens have built a bridge across Silvies River, about a mile above the ford, by which this line of road crosses that stream. A bridge is much needed over Silver Creek and over Harney Creek, or the stream which runs down by Fort Harney. In going from the latter place to Crane Creek the settlers have been obliged to go up Cow Creek some three-fourths of a mile above the old fort and build a bridge. They have also been obliged to bridge Crane Creek. Portions of the road between Camp Harney and Crane Creek are also very rocky. When I reached Crane Creek I stopped for a night, going and returning, with Mr. J. F. Burns, a stock-raiser, who has about 6,000 head of cattle ranging between the headwaters of Crane Creek and the Owyhee River; in the identical section of country through which this road is supposed to run. He has been riding over it constantly for the past six years, and never saw, discovered, or suspected the existence of a road between the South Fork of the Malheur and the Owyhee River, or the Cottonwood Branch of the Malheur. He only heard, a few months ago for the first time, that such a road had ever been projected. Hiring horses from him, in order that our own team might rest for a day, and engaging him to accompany us, we rode down Crane Creek to the point where the road turns south to Winnemucca, and here all trace of our line of road disappeared. No appearance of a road was to be perceived; but after making a careful examination on foot of the places where a wagon might cross we discovered some evidences, such as the removal of loose stones, &c., which led us to believe, comparing them with the map and following the general direction indicated on it, that we had found the place where the locating party, with their wagon, had crossed the South Fork of the Malheur River. Continuing our search, and following through the sage brush the direction they were most likely to take and the most available opening, through a long hollow or ravine, which led to the high table-lands to the eastward, we came upon a little grading about a mile east of the stream last mentioned, which was the last trace we could or did discover of the line of the road we were in search of. This grading was not more than two days' work for one man. Mr. Burns had never before seen even this.

As it was impossible to follow any remaining traces which might have been left by this locating party ten or eleven years ago in the bunch grass and sage brush we reluctantly turned back, and retraced our steps by the way of Fort Harney and Prineville to Albany. It is, perhaps, proper to mention in this place that I did not find any one at work on the road going out, repairing or otherwise improving it along its entire length or as far as I traveled it. On my return I found some three or four men at work on the Santiam River. I should also mention that the mail is carried

from Eugene City to Camp Polk by another road which has been constructed up the McKenzie River, and much of the travel from the Willamette Valley to Eastern Oregon goes that way. The mail has never been carried by the Willamette Valley and Cascade Mountain Wagon Road since its first construction over the mountains.

CONCLUSIONS.

As before stated, almost all the labor and money expended upon this road, either by the original builders or by the present company, have been devoted to the construction and improvement of that part of it which lies between the toll-gate, 2 miles east of Sweet Home on the western side of the mountains, and Cache Creek on the eastern, a distance of about 60 miles. Even here, as a matter of law and fact, they cannot be said to have complied with the act of Congress making the grant of land. The want of bridges across the streams already referred to is a serious inconvenience to those who are obliged to travel this road. Aside from this, the road is a fair one for a mountainous region, and in the dry season of the year teams of four horses can draw from 2,500 to 3,000 pounds by careful driving in the day-time, when obstacles, short turns, &c., may be guarded against. There are grades, however, which should be reduced, places where the road should be widened, more turnouts made, and timber cut away on both sides. There are several miles of the road near Big Lake especially where there is much dead timber standing in immediate proximity to the road, to the imminent danger of passing travelers. It would require an expenditure of probably \$20,000, including bridges, to put this part of the road in good condition. Upon this division of the road I am not able to see where, or how, more than \$40,000 were expended by the company which originally built the road and received the grant of land.

Upon the entire line of road, from Albany to the State line, I cannot see where \$50,000 were expended, probably not more than \$45,000. The part of the road lying between Albany and the toll-gate, about 34 miles, having been built and kept up by the county of Linn, cannot properly be claimed by the company, nor the lands for that division honestly earned. From Cache Creek eastward to the State line it is very manifest that the terms of the grant have not been complied with; no road has been made worthy of the name, and therefore neither the original company nor the present owners are entitled to hold any land whatever for that portion of the line.

A liberal construction of the act of Congress might give them the lands adjoining the road between Albany and Cache Creek, provided the improvements herein suggested were made, but neither in law nor in equity can they be considered to have earned any land whatever east of the last-named point. Possibly, in view of all the facts and circumstances herein detailed or connected therewith, they might be allowed the lands they claim between Albany and Camp Polk, or even, by a stretch of liberality, between Albany and the Des Schutes River, but certainly I can see no possible claim that can be just to anything beyond or east of that river. It is one of the chief causes of complaint amongst the settlers in all the region east of the mountains that they are unable to purchase the lands of the road company, or to make any contracts with reference thereto in all that wide extent of territory lying between the Cascade Mountains and the Idaho line.

To this the company replies, first, that they have a right to do as they please with their own property; second, that the reason why they have not sold any land hitherto was because they had bonded their entire property for sale until the 1st of January next, when, if it is not sold, they will thereafter be prepared to sell in any desired quantity and at a reasonable price. All this might be plausible enough if the road had been built according to law, but when it is considered that there is no such road provided for the convenience of the settlers and the land is nevertheless withdrawn from the market, settlers having still to make roads for themselves, &c., it will be seen very readily that they have some reason to complain. These complaints would be more numerous and pressing but for the fact that this region is essentially a stock country, and the teaming required is only or chiefly the supplies of provisions obtained once or twice a year.

Most of the citizens east of the mountains complain bitterly of the road, its construction, and management. West of the mountains, in Albany and its vicinity, the leading citizens were stockholders in the original company. These men secured their primary object, which was a road across the mountains and subsequently sold their stock at a large advance upon its original cost. They are, therefore, naturally unwilling that the matter should be disturbed. The present company claim to be innocent purchasers; that the contract for the land was finally closed by the Government in 1874, when the act of Congress was passed relating to patents therefor, and that those who now complain are without a remedy. Believing, however, as I do, after a careful examination of the subject, that the act of Congress making the grant has not been complied with; that the road has not been constructed as it should have been, at least from Cache Creek to the Idaho line, a distance of about 350 miles

I deem it my duty to recommend that such legal measures be taken as will determine the rights of all concerned, and when that is done I believe that the lands now held by the company east of Cache Creek, or at least of Camp Polk, will be restored, as I believe they should be, to the public domain. Such a course might result in hardship to the present company as innocent purchasers, but justice to the Government, to the settlers along the line of the road, and to future beneficiaries of a similar character, demands that such a fraud as that which has been perpetrated in this case should be severely punished, and with as much promptness as is possible under the circumstances. Attention is invited to the accompanying affidavits of old and respectable citizens on or near the line of the road east of the mountains. More of the same character were not deemed necessary.

I have the honor to be, very respectfully,

WM. F. PROSSER,
Special Agent General Land Office.

General JAMES A. WILLIAMSON,
Commissioner of the General Land Office, Washington, D. C.

(Indorsed :) The duplicate of this report, sent to the Secretary of the Interior with letter of December 4, 1880. SMITH.

G 1.

STATE OF OREGON, *County of Wasco, ss:*

I, L. Vanderpool, being first duly sworn, do depose and say: I am a resident of Wasco County, Oregon, post-office, Prineville; by occupation a practicing physician, and of the age of forty-nine years; that I have resided in Wasco County, and close along the line of survey of what is known as Willamette Valley and Cascade Mountain Military Wagon Road, ever since April, 1869, and during said time I have been intimately acquainted, owing to my business, with line of said survey for a distance of 200 miles, and I know that the western end of said road for 60 miles is a tolerable country road for a new country; this said section of the road was claimed to have been finished by said road company, and toll collected thereon in 1866 or 1867, and to my knowledge for ten years afterwards said road was hardly passable with a light middle track two-horse wagon, and drawn by two good 1,400-pound horses, with a load of 1,000 pounds, without adding extra team or unladen a part of said load; many places along said road the hills were so steep, I think they would be from 30 to 45 degrees up, and so filled with stumps of trees and rocks, many of the stumps measuring from 8 inches to 2 feet high and from 4 to 6 inches in diameter. Many of the rocks that lay in the track where the wagon wheels had to run would weigh 200 pounds, and of a rounded shape, which made it impossible for the most expert teamster, where he was used to bad roads all the time, to drive at any place along line of said section of said road for a distance of 300 yards without coming in contact with from 50 to 300 yards of said roads filled with stumps and boulders as aforesaid, and at the same time in many places the water being allowed to run along said road without any culverts, so as to cause it to become worked up with mud among the roots of the stumps to such a depth that the traveler is compelled to fill up with wood, bark, and rocks to raise the track where the wheel runs to a considerable height, until the axle of the wagon will pass over the stump before he can pass up.

Until about three years ago the road passed up the Santiam River, and until lately it crossed the river seven times. The Santiam is a stream of from 75 to 125 feet wide at the crossings, and a swift mountain stream, the bottom covered with large boulders from the size of a man's head to that of a whisky barrel, and the latter size so numerous as to resist the efforts of the strength of the stoutest teams. Sometimes one would drive across one of these crossings all right, but if you got through without breaking the wagon, or one of the team's legs you would congratulate yourself as being in luck. At most of these crossings was only dug down a very little wider than the wagon, and so steep that the driver would not want to stay on the wagon to pull up, but could not walk beside the wagon by reason of the narrow grades. These crossings remained in this condition for over eight years, and some of them are so yet.

From Fish Lake to the eastern boundary of the State, a distance of — miles, on none of the streams is there a bridge, though the line of survey crosses quite a number that are frequently impassable during each year by reason of high water, and are at all times difficult and dangerous to cross with stock, though it is my understanding that the charter granted to the said road company requires that all the streams shall be bridged in a good and substantial manner. This is not done, yet toll is collected for traveling the same.

In many places the timber is not cleared out wide enough for the wagon and driver to travel side by side. Once in traveling the road I came very nigh losing my life by

being caught between my wagon and some trees standing beside the road, which ought to have been cut. The hill was so steep that I had to walk and drive. I had a team of four good horses and a load of 1,600 pounds on a small wagon, and it was all I could do to get along. It was a good natural place to build a road, but none was made. This was in the Cascade Mountains on the western section of the road. East of the Des Chutes River all the work I know of being done consisted of throwing out some rocks on the line of survey for a distance of 10 miles, and again on Veasey Creek, some 25 miles further along, a tree was cut down and some dirt thrown against it. At the crossing of Crooked River there was done work to the amount of \$1. The line of survey crosses numberless hills and streams that should be graded, but from personal inspection I know they never were worked in any manner by the road company, or by any person or persons in their employ. The country along the said line of survey has been settled by settlers, and they have, for their own convenience and wants, built and now travel roads from one point to another, and in many places these roads run along or near to the line of the road company's survey, and these are the only roads that ever were built along the said line, and none of the work necessary to open them was ever contributed or done by the road company, or by any person or persons in their employ.

The actual cost of the road, as built by the road company for the first 10 miles east of Cache Creek, did not exceed \$10 per mile. East of that from 3 to 4, not over \$4 per mile and most of this went for expenses of surveying; in fact, this being all the work that was ever done. Often when the streams were up I have been unable to visit patients that live along the line of survey of the road, because the streams were not bridged, and so was impassable.

The country through which this road survey passes is covered with sage brush and rocks; this sage is a stubby bush, growing from 1 to 6 feet high, and is from 1 to 6 inches in diameter; but along the streams and wet places none of this brush grows, and the road company in surveying and laying out their road wound around the edge of these wet places where there was no brush, but when they were compelled to leave these open places; they never cut any brush, and from the nature of and growth of these brush a wagon cannot be driven over them. In numberless places the line of survey crosses wet and marshy places, that during certain seasons of the year are impassable, and as none of these places was ever drained or bridged, the travel have been compelled to leave the line of survey sometime as far as a quarter of a mile to get around such places.

Dr. L. VANDERPOOL.

Subscribed and sworn to before me this 23d day of October, 1880.

[SEAL.]

GEO. W. BARNES,
Notary Public.

G 2.

STATE OF OREGON, *County of Wasco, ss:*

I, E. G. Conant, being first duly sworn, do depose and say: I am a resident of Wasco County, Oregon; post-office, Prineville; by occupation, a stock-raiser, and of the age, forty-eight years; and that I have resided in Wasco County and near to the line of survey of what is known as Willamette Valley and Cascade Mountain Road ever since November, 1869; that during said time I have frequently examined the said line of survey, and from a personal knowledge of the said line of survey and country, I know that no road has ever been built or attempted to be built by the Willamette Valley and Cascade Mountain Road Company, or by any person or persons in their employ, east of the Des Chutes River; that the line of survey of said road running through what is known as the Ochoco Valley has been fenced ever since 1870, and at no time was it possible for travelers with any kind of wagons to travel the said line of supposed road; and, further, I know that at no time since my first acquaintance with the said line of survey has any of the streams been bridged, though the said line of survey crosses several that are frequently, during each year, impassable by reason of high water; and, further, that no grading has ever been done by the said company on any hills that the line crosses; that the country through which the said line passes has been settled up, and that the settlers have built and now travel a road from point to point for their own convenience, and that in some places this road so built follows the line of survey of the said company, and that this road is the only one that now is or ever was along said line of survey, and that no part of it was ever built by work done by the road company, or by persons in their employ.

E. G. CONANT.

Subscribed and sworn to before me this 21st day of October, 1880.

[SEAL.]

GEO. W. BARNES,
Notary Public.

G 3.

STATE OF OREGON, *County of Wasco, ss :*

I, Joseph E. Dunstan, being first duly sworn, do depose and say : I am a resident of Wasco County, Oregon ; that I have been acquainted with the road known as the Willamette Valley and Cascade Mountain Road for the last nine years ; my first acquaintance was as chain-bearer on the section of road from Camp Harney east ; there was ten of us in the crowd ; James Warner was the surveyor ; we started at in Harney and went east to the farther edge of Harney Valley, and then went east to Crain Creek ; the road we surveyed has never been traveled, and, with the exception of a small portion, can't be traveled ; all the work that ever was done was done by us on a place we got into and couldn't get out ; the travel now goes on an old Government road ; this was received by the governor's agent as the company's road ; the survey we made was very careless ; we sometimes staked it and sometimes did not. I have traveled the line of survey from Albany to Camp Harney twice or three times, and I know from personal inspection that no work has been done from the Des Chutes River to Camp Harney by the road company since I first worked as mentioned above. I know that when the road was received that the road would not permit all kinds of wagons to pass over it ; perhaps a light wagon with no load could have by some help on bad places went over. I further know that no bridges have ever been made by the company on any of the streams east of the Des Chutes River ; the line of survey crosses several streams that are frequently impassable during each year by reason of high water.

JOSEPH E. DUNDAR.

Subscribed and sworn to before me this 14th day of October, 1880, and I further certify that the above-named deponent is a person to whose affidavit full faith and credit should be given.

[SEAL.]

GEO. W. BARNES,
Notary Public.

G 4.

STATE OF OREGON, *County of Wasco, ss :*

I, William Smith, being first duly sworn, do depose and say : I have been a resident of Wasco County, Oregon, for twelve years last past ; that during that time I have lived in the vicinity and near to the line of survey of what is known as the "Willamette Valley and Cascade Mountain Road" ; that I have been acquainted by personal inspection with the said road from Albany, Linn County, Oregon, to James Miller's place, in the Ochoco, in Wasco County, a distance of something near 150 miles, for the last fifteen years.

My first acquaintance was as a work hand. I worked on the road in the Cascade Mountain. We just made a road bed through the mountains ; we never cut any trees outside of the road-bed : the road-bed averaged, as we built it, from 5 to 7 feet. As to turnout, we didn't make no great sight of them. When we came to a good convenient place, easy to build, we built one ; when we didn't, we let them go. I consider the road where I worked a very good passway, but all kinds of wagons could not travel it, though I once drove a team of oxen over it. All the work done east of the Des Chutes River that I know of or have heard of consists of the work we did by surveying the road from Des Chutes to Bridge Creek ; we measured the road with a rope, and did not stake it ; we had no surveyor, and consequently no field-notes were taken of the survey. I know that no road was ever built east of the Des Chutes ; I know the road as surveyed along the Crooked River and Ochoco Creeks, a distance of 24 miles, has been fenced up for the last ten years ; during that time has not been traveled or in a condition to be traveled that distance.

WILLIAM SMITH.

Subscribed and sworn to before me this 5th day of October, 1880, and I further certify that I am personally acquainted with the above-named deponent, and that he is a person to whose affidavit full faith and credit should be given.

[SEAL.]

GEO. W. BARNES,
Notary Public.

G 5.

STATE OF OREGON, *County of Wasco, ss :*

I, T. B. James, being first duly sworn, do depose and say : I am a resident of Wasco County, Oregon ; post-office address, Prineville ; occupation, a farmer and stock-raiser ; age, forty-three ; that I have lived in the neighborhood and near to the line

of survey of what is known as the "Willamette Valley and Cascade Mountain Road" since 1869; that from a frequent personal examination of said line of supposed road I know that no road was ever built by the Willamette Valley and Cascade Mountain Road Company, or by any person or persons in their employ east of the Des Chutes River, in Wasco County; that on the line of said survey west of the said Des Chutes River, the said company has done some work and built a road through the Cascade Mountain, but that at no time for ten years after the said road was claimed to have been finished and received by the governor could all kind of teams or wagons travel said road with a load; that the said road was full of stumps and rocks so high that the axles of wagons would catch on them, and travelers would have to build up on each side with logs to enable the wagons to pass over such obstruction; that the road-bed built through the said mountains was so narrow that wagons could barely travel it, and that outside this narrow bed no trees were ever cut or cleared out, and frequently passing wagons would strike trees standing beside the road; that none of the streams on said road were ever bridged by the said company, with the single exception of Canyon Creek, in the Cascade Mountains, though the said line crosses several streams that are frequently impassable during each year by reason of high water, and at all times unhandy to cross with stock; that no work ever was done through the Ochow Valley on the said road, and that in many places the said line has been fenced up and utterly impassable for the last ten years.

T. B. JAMES.

Subscribed and sworn to before me this 25th day of October, 1880.

[SEAL.]

GEO. W. BARNES,
Notary Public.

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G 6.

STATE OF OREGON, *County of Wasco, ss:*

I, Alexander Hodges, being first duly sworn, do depose and say: I am a resident of Primeville, Wasco County, Oregon; occupation a farmer and stock raiser; age, fifty-nine years; that I have lived in the neighborhood and near to the line of survey of what is known as the Willamette Valley and Cascade Mountain Wagon Road since April, 1869; that from a frequent personal examination of said line of survey and a thorough knowledge of the surrounding country, I know that no road was ever built or even attempted to be built by the Willamette Valley and Cascade Mountain Road Company, or by any person or persons in their employ east of the Deschutes River to Harney Lake, that being as far as I have traveled the same.

West of the said Deschutes River the said company have worked some and built a road; but that since said road was claimed to have been completed and received by the governor, and for ten years afterwards, the said road could not at no time be traveled by heavy wagons with a load; that for that said time the road was so filled up with rocks and stumps that passing wagons would strike them, and travelers would have to build up on eachside of the obstructions so as to enable the wagons to pass over; that no trees were ever cut outside of the road through the said Cascade Mountains, and that said road was so narrow that wagons could barely travel over it, and would very often strike trees standing beside the road bed; that none of the streams along the said line has ever been bridged by said company or by any person or persons in their employ, with the single exception of Canyon Creek in the Cascade Mountains, though said line crosses quite a number of streams that are frequently, during each year, impassable by reason of high water, and are at all times unhandy and unsafe to cross with stock.

East of the Deschutes River the said company has never done any work beyond surveying and staking the said line; that no grade was ever built on any of the hills, and that in many places for miles the said line of survey has been fenced up for the last ten years, and during that time has not and could not have been traveled; that the country along the said line has been settled up and the settlers for their own convenience and necessities have been compelled to build roads; that in many places the roads so built have followed along or near to the line of the said company's survey, and that these roads are the only ones ever built thereon, and that none of the work done in building the same was ever done by the said road company or by any person or persons in their employ; that the line of survey of said road from the Deschutes River east has never been opened and no road has ever been built thereon, and that the same could now or ever could have been traveled.

A. HODGES.

Subscribed and sworn before me, this 24th day of October, 1880.

[SEAL.]

GEO. W. BARNES,
Notary Public.

G 7.

STATE OF OREGON, *County of Wasco, ss :*

I, P. P. Davis, being first duly sworn, do depose and say, that I have been a resident of Wasco County, Oregon, for nine years last past; that during that time I have resided in the vicinity and near to the line of survey of what is known as the "Willamette and Cascade Mountain Road," and that from a personal knowledge of the country and a frequent personal examination of the line of survey of said supposed road, I know that no road whatever has ever been built or constructed, or even attempted to be built or constructed, by the Willamette Valley and Cascade Mountain Road Company, or by any person or persons in their behalf, from the Deschutes River east to Lost Creek, a distance of 70 miles, this being all of said line of survey that I am personally acquainted with; and further, I know that none of the streams along said line of survey east of the Deschutes River have ever been bridged by said company, or by any person or persons in their behalf, or at all, though said line crosses several streams that are frequently impassable during each year by reason of high waters; and, further, I know that none of the hills along said line have ever been graded or worked at all, and that they at all times are impassable for teams with heavy loads, and that the only work ever done on said line has been done by travelers who attempted to travel said line, and were compelled to work to get along.

P. P. DAVIS.

Subscribed and sworn to before me this 2d day of October, 1880; and I further certify that I am personally acquainted with the above-named affiant, and that he is over the age of twenty-one, and a person to whose affidavit full faith and credit should be given.

[SEAL.]

GEO. W. BARNES,
Notary Public.

G 8.

STATE OF OREGON, *County of Wasco, ss :*

I, J. H. Snodderly, being first duly sworn according to law, do depose and say: I have been a resident of Wasco County, Oregon, for eleven years last past; that during that time I have resided near to the line of survey of what is known as the "Willamette Valley and Cascade Mountain Road"; that from a personal knowledge of the country and a frequent personal examination of the line of survey of said supposed road, I know that no road whatever has ever been built or constructed or attempted to be built or constructed by the Willamette Valley and Cascade Mountain Road Company, or their successors, or by any person or persons in their behalf from Carmichel's ranch on Crooked River, to Lost Creek, a distance of some 60 miles, this being all of said line of survey that I am personally acquainted with; and further, I know that none of the streams along said line of survey have ever been bridged by said company, or by any person or persons in their behalf, or at the east of the Deschutes River, though said line crosses several streams that are frequently impassable during each year; and further that from the said Carmichel's ranch to James Miller's, a distance of 45 miles, the said line of survey has been fenced up for the last ten years, and has not been traveled at all for that period.

J. H. SNODDERLY.

Subscribed and sworn to before me this 2d day of October, A. D. 1880, and I hereby certify that I am personally acquainted with the above-named affiant, and know him to be a man to whose affidavit full faith and credit should be given.

[SEAL.]

GEO. W. BARNES,
Notary Public.

G 9.

STATE OF OREGON, *County of Wasco, ss :*

I, A. B. Webdell, being first duly sworn, do depose and say: I am a resident of Wasco County, Oregon; that I have lived in the vicinity and near to the line of survey of what is known as the "Willamette Valley and Cascade Mountain Road" for the last eleven years; that during that time I have been acquainted by frequent personal inspection with the said road from Albany, Linn County, to the Divide at the head of Buck Creek, in Grant County, a distance of about 225 miles, and I know that no road has ever been built by the Willamette Valley and Cascade Mountain Road

Company from Carmichel's on Crooked River east, or even pretended to be built; that the only work ever done by the said company, or by any person or persons in their employ east of Carmichel's was done on Johnny Toms Creek, which consisted of cutting down a tree and scraping a few rock against on a steep point at that place; this all the work I ever saw done, and I have traveled the said line of survey frequently every year since 1869; I further know that since the said road was received by the governor the said road company has never done any work east of the said Carmichel's, but that since that time the country through which the line of survey passes has been settled up by settlers, and that these settlers, for their own convenience, have been compelled to build a road to enable them to go from one settlement to another for supplies, and so forth; that this road, so built, has in some places followed the line of survey of the company's road, but in many and most of places does not, and that this is all the road that ever has been built, by any person or persons, and that the Willamette Valley and Cascade Mountain Road Company never aided or built this road in particular; and further, I was once informed by some soldiers who were conveying Government supplies that they attempted to travel this Willamette Valley and Cascade Mountain Company's Road after it had been received accepted by the governor as completed, that they had to dig trenches along the side of the hills for the upper wheels of their wagons to run into to enable them to get along at all.

A. B. WEBDELL.

Subscribed and sworn to before me, this 6th day of October, 1880.

GEO. W. BARNES,
Notary Public.

H.

[Inclosures.]

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., December 4, 1880.

SIR: By letter dated April 27 last I had the honor to report to you the status of the grant by act of Congress approved July 5, 1866 (14 Stat., 89), to the State of Oregon of lands to aid in the construction of a military road from Albany to the eastern boundary of the State, and I submitted the question whether or not, in view of stated allegations of want of good faith and failure to comply with the terms of the grant, an investigation was desirable before taking action looking to the certification and patenting of a large quantity of land embraced in pending lists of selections duly presented by the Willamette Valley and Cascade Mountain Military Wagon Road Company, now the beneficiary under the grant.

By reference to the report referred to it will be seen that there is on file in this office the full and complete written evidence that the laws had been fully complied with, upon which, in the absence of any allegations to the contrary, the lands claimed would have been certified and patented as a matter of course.

I have received no written reply to my communication to you above referred to, but after consultation and full consideration I deemed it my duty to order an investigation.

Accordingly, by letter of August 16, 1880, to Mr. W. F. Prosser, special agent, then on duty in Washington Territory, I directed him to make an examination of the road in the field and a full investigation of the whole matter and report the result. A copy of my instructions to him is herewith.

Under date of the 9th ultimo the special agent transmitted his report, the duplicate of which is herewith submitted, together with the accompanying depositions.

It will not be necessary to recapitulate in this letter the history, pretended construction, and present condition of the road as stated in the report and depositions. It would seem that the so-called road for much the greater portion of its line of route has been from the beginning the merest pretense; without graduations or bridges, and practically unfit for use, except under the most favorable circumstances and in certain localities; that there was no actual "construction" of a road, but merely the marking out of a trail, the cutting of a little timber, and the removal of a few loose stones.

The act of July 5, 1866, making the grant, in section 3 provided "That said road shall be constructed with such width, graduation, and bridges as to permit of its regular use as a wagon road," &c.; and section 4 provided "And if said road is not completed within five years no further sales shall be made, and the land remaining unsold shall revert to the United States."

It is true that the entire line of road was accepted by the State, and by the State authorities formally certified to the Department as fully completed in accordance

with law, and that the proofs were accepted by the Department and the lands withdrawn for the benefit of the grant; also that there have been already patented to the State, for the benefit of the grant, more than 100,000 acres of land, all based upon said proofs and in the absence of any evidence of a want of good faith. But in view of the report herewith presented, I do not see how it could be maintained that the Government is bound in the face of apparent fraud by its acceptance of the stated proofs; at any rate, so far as the lands remaining unpatented are concerned.

I am fully convinced that the pending lists of selections, to the amount of more than 446,000 acres, should not be certified or patented without further legislation. In my opinion the attention of Congress should be called to the matter, with a view to the forfeiture of the grant or the enforcement of a full compliance with its terms.

I submit the question for your consideration, and for such action as you may deem proper. In the mean time the lists mentioned will remain suspended.

The papers submitted are as follows:

- A—Copy of instructions to W. F. Prosser.
- B—Report of Special Agent Prosser.
- C—Copy of act of Congress making the grant.
- D—Copy of act of Oregon legislature conferring the grant.
- E—Affidavit of L. Vanterpool.
- F—Affidavit of William Smith.
- G—Affidavit of Joseph E. Dundan.
- H—Affidavit of P. P. Davis.
- K—Affidavit of P. H. Snodderly.
- L—Affidavit of A. B. Webdell.
- M—Affidavit of A. Hodges.
- N—Affidavit of T. B. James.
- O—Affidavit of E. G. Conant.
- P—Map of Oregon showing the line of the road.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. C. SCHURZ,
Secretary of the Interior.

I.

ADDITIONAL CERTIFICATE.

STATE OF OREGON, SECRETARY'S OFFICE,
Salem, April 11, 1868.

I, Samuel E. May, acting governor of the State of Oregon, do hereby certify that this plat or map of the Willamette Valley and Cascade Mountain Military Wagon Road has been duly filed in my office by the said Willamette Valley and Cascade Mountain Military Wagon Road Company, and shows that portion of the said road, commencing and ending as designated on the map, has been completed as required by the act of Congress approved July 5, 1866, and the act of the legislative assembly of the State of Oregon, approved October 24, 1866, entitled "An act donating lands to the Willamette Valley and Cascade Mountain Wagon Road Company," granting lands to the said road company.

In testimony whereof I have hereunto set my hand and affixed the seal of the State aforesaid the day and year above written.

[SEAL.]

SAMUEL E. MAY,
Secretary of State and Acting Governor.

K.

STATE OF OREGON, EXECUTIVE DEPARTMENT.

To all to whom these presents shall come, greeting:

I, George L. Woods, governor of Oregon, do hereby certify that this plat or map of the Willamette Valley and Cascade Mountain Military Wagon Road has been filed in my office by the Willamette Valley and Cascade Mountain Military Wagon Road Company, and shows, in connection with the public surveys, the location of route of the extension of said road as actually surveyed from the 153d mile-post east from the city of Albany, Oreg., extending fourteen sections to Camp Harney in the line of

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said road, as definitely fixed in compliance with the act of Congress approved July 5, 1866, entitled "An act donating lands to the State of Oregon to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of said State;" and with the act of the legislative assembly of the State of Oregon, approved October 24, 1866, entitled "An act donating lands to the Willamette Valley and Cascade Mountain Military Wagon Road Company," granting certain lands to the company herein mentioned, and that said "extension" of said road by my direction has been examined and accepted from the 153d mile-stake near Deschute's meridian in section 6, in township 15 south, range 18 east, to Camp Harney, and embracing the 29th section inclusive.

In testimony whereof I hereunto set my hand and cause the seal of the State of Oregon to be affixed. Done at Salem on this the 6th day of September, A. D. 1870.

GEO. L. WOODS,
Governor of Oregon.

By the governor.
[SEAL.]

SAMUEL E. MAY,
Secretary of State.

L.

STATE OF OREGON, EXECUTIVE DEPARTMENT.

To all whom these presents shall come greeting :

I, L. F. Grover, governor of Oregon, do hereby certify that this plat or map of the Willamette Valley and Cascade Mountain Military Road has been filed in my office by the Willamette Valley and Cascade Mountain Military Road Company, and shows, in connection with the public surveys, the location of route as actually surveyed of the said Willamette Valley and Cascade Mountain Military Road, from Albany, extending from the twenty-ninth section to the thirty-sixth and eight-tenths section in the line of said road, as definitely fixed in compliance with the act of Congress approved July, 5, 1866, entitled an act donating lands to the State of Oregon to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of said State, and with the act of the legislative assembly of the State of Oregon, approved October 24, 1866, entitled an act donating lands to the Willamette Valley and Cascade Mountain Military Road Company, granting certain lands to the company herein mentioned, and that said road, by my direction, has been examined and accepted from the twenty-ninth section to the thirty-sixth and eight-tenths section, inclusive, and I certify that the same has been completed according to said act of Congress.

In testimony whereof I have hereunto signed my name and affixed the seal of Oregon this 9th day of January, A. D. 1871.

L. F. GROVER,
Governor.

[SEAL.] S. F. CHADWICK,
Secretary of State.

M.

STATE OF OREGON, EXECUTIVE DEPARTMENT.

To all to whom these presents shall come, greeting :

I, L. F. Grover, governor of the State of Oregon, do hereby certify that this plat or map of the Willamette Valley and Cascade Mountain Military Wagon Road, has been filed in my office by the Willamette Valley and Cascade Mountain Military Wagon Road Company, and shows the location of route as actually surveyed (there being no public surveys in connection with said route to my knowledge) of the said Willamette Valley and Cascade Mountain Military Wagon Road, from Albany to the eastern boundary of the State. That part herein being from the 36.8 section to the 44.87 sections, inclusive, in line of said road, terminating at the eastern boundary of the State of Oregon, as definitely fixed in compliance with the act of Congress approved July 5, A. D. 1866, entitled "An act donating lands to the State of Oregon to aid in the construction of a military road from Albany, Oreg., to the eastern boundary of said State," and with the act of the legislative assembly of the State of Oregon, approved October 24, 1866, entitled "An act donating lands to the Willamette Valley and Cascade Mountain Military Wagon Road Company, granting certain lands to the company therein mentioned;" and that said road, by my direction, has been examined and ac-

cepted from the 36.8 section to the 44.87 section, inclusive, terminating at the eastern boundary of the State of Oregon aforesaid. And I certify that the same has been completed according to said act of Congress.

In testimony whereof I have hereunto signed my name and affixed the seal of the State of Oregon this 24th day of June, A. D. 1871.

L. F. GROVER,
Governor of Oregon.

Attest:
[SEAL.]

S. F. CHADWICK,
Secretary of State.

N.

EXECUTIVE OFFICE,
Salem, Oreg., June 23, 1869.

I, George L. Woods, governor of the State of Oregon, do hereby certify that this plat or map of The Dalles military road has been duly filed in my office by The Dalles Military Road Company, and shows in connection with the public surveys, as far as said public surveys are completed, the location of the line of route as actually surveyed and upon which their road is constructed in accordance with the requirements of an act of Congress approved February 25, 1867, entitled "An act granting lands to the State of Oregon to aid in the construction of a military wagon road from Dalles City, on the Columbia River, to Fort Boise, on Snake River," and with the act of the legislative assembly of the State of Oregon approved October 20, 1868, entitled "An act donating certain lands to Dalles Military Road Company." I further certify that I have made a careful examination of said road since its completion, and that the same is built in all respects as required by the said above-recited acts, and that said road is accepted.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Oregon.

Done at Salem, Oreg., June 23, 1869.

GEO. L. WOODS.

Attest.
[SEAL.]

SAMUEL E. MAY,
Secretary of State.