



# Clatsop County

## County Counsel

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October 16, 2020

To: County Manager Don Bohn  
Assistant County Manager Monica Steele

From: County Counsel Joanna Lyons-Antley

Re: Gates on roads

You asked whether we can gate the Mainline if the County acquires the private access that is currently used as egress and ingress for multiple properties.

As a private owner of the Mainline, the County may gate the access and the only restrictions are if the road is a public road. The term “public road” means “a road which the public has a right of use that is a matter of public record.” ORS 368.001(5). To my knowledge, the public does not have a right to access the Mainline.

Second, even if the Mainline is dedicated to the public and becomes a public road, according to ORS 368.056, the County Board of Commissioners may authorize a gate. ORS 368.056 states the following:

**368.056 Permit for gate construction on public road.** A county governing body may issue a permit to a person to allow construction of a gate or stock guard on a public road under the jurisdiction of the county governing body. The county governing body may impose any conditions or specifications on the permit it determines advisable to preserve the purposes of the public road. Conditions on a permit under this section may include a requirement that the person issued the permit shall bear all costs of construction and maintenance of the gate or stock guard.

As a result, regardless of the future plans for the Mainline, there is a legal path forward to alleviate the neighbors’ concerns.

Please do not hesitate to ask further questions.