

89211

File No. 35989

Vol 35-3 Page 294

EASEMENT AND CONVEYANCE OF ACCESS

KNOW ALL MEN BY THESE PRESENTS, that I, Basso Antonia Frazer, a widow, herein after referred to as Grantor, for the consideration of the sum of Twenty and 00/100 Dollars (\$ 20.00), receipt of which is hereby acknowledged, have granted and do hereby grant to the State of Oregon, by and through its State Highway Commission, hereinafter referred to as State, a permanent easement for highway purposes, including construction, operation and maintenance of highway slopes and sidewalks, and for the relocation of irrigation facilities, over, across and upon the following described premises, to wit:

A parcel of land lying in Lot 3, Block 2 of HOMELAND TRACTS in Klamath County, Oregon; the said parcel being that portion of said Lot 3 included in a strip of land 50 feet in width, lying on the Southerly side of the center line of the Klamath Falls-Lakeview Highway as said highway has been relocated, which center line is described as follows:

Beginning at Engineer's center line Station 70+00, said Station being 1.44 feet South and 389.80 feet West of the West quarter corner of Section 2, Township 39 South, Range 9 East, W.M.; thence South 89° 58' 30" East, 521.6 feet; thence North 89° 43' 30" East, 2984.1 feet; thence South 89° 52' 30" East, 2863.7 feet to Engineer's center line Station 133+69.4, said Station being 1.21 feet South and 354.40 feet East of the East quarter corner of said Section 2. The Southerly line of said strip of land crosses the West and East lines of said Lot 3 approximately opposite Engineer's center line Stations 129+90 and 130+70, respectively.

The parcel of land to which this description applies contains 842 square feet.

ALSO a strip of land 10 feet in width abutting said Lot 3 on the North, heretofore dedicated for sidewalk purposes and also containing 842 square feet.

The State by virtue of the easement herein granted shall have the right to go upon the above described real property for the purpose of making those certain changes in the irrigation facilities now constructed on the property herein described as may be necessitated by the widening and improvement of the K. I. D. Canal-Madison Street Section of the relocated Klamath Falls-Lakeview Highway, and upon completion of said changes, the relocated irrigation facilities shall, for all intents and purposes, be considered permanently located, and the rights in said relocated irrigation facilities shall be the same as previously existed in that portion of the irrigation facilities which are being relocated. Nothing herein contained shall be construed to impose any duty, obligation, or liability upon the State by reason of the relocation, operation or maintenance of said facilities upon the hereinabove described property, nor shall there be imposed any liability, duty, or obligation upon the State to replace, maintain or operate said facilities.

The State by virtue of the easement herein granted shall also have the right to go upon the above-described property for the purpose of widening the existing Klamath

Page 2 - Eas. & Conv. of Access

File No. 35989

Falls-Lakeview Highway, constructing, operating and maintaining highway slopes and sidewalks, it being understood that Grantor, her heirs and assigns, shall have full use of said slope area provided that such use does not endanger, damage or destroy the lateral support of the adjoining highway and provided further that nothing herein contained shall grant to the State of Oregon, by and through its State Highway Commission, the right to excavate beneath existing buildings or deposit fill materials against existing buildings above the top of the foundations thereof, but it is understood and agreed that the State of Oregon shall never be required to remove the dirt or other materials placed by it upon said property, nor shall the State of Oregon be subject to any damages to the Grantor, her heirs and assigns, by reason thereof, or by reason of the relocation of the above-mentioned irrigation facilities, the construction of the highway slopes and sidewalks on the above described property, or by reason of change of grade of the street or highway abutting on said property.

As a further part of the consideration hereinabove stated, there is also bargained, sold, conveyed and relinquished to the Grantee all existing, future or potential common law or statutory abutter's easements of access between the right of way of the public way identified as the relocated Klamath Falls-Lakeview Highway and all of the Grantor's abutting real property.

Reserving, for service of the said abutting property, right of access from Grantor's abutting property to the highway right of way, at the following place and for the following width:

Hwy. Engr's Sta.	Side of Hwy.	Width	Purpose
130+29	Southerly	35 feet	Unrestricted

TO HAVE AND TO HOLD the said access rights and easement for highway purposes and for relocation of irrigation facilities unto the said State of Oregon, by and through its State Highway Commission, its successors and assigns forever.

And I, the said Grantor, do hereby covenant to and with the State of Oregon, by and through its State Highway Commission, that I am the owner in fee simple of the property affected by the easements herein granted and access rights herein conveyed; that they are free from all encumbrances, and that I will warrant and defend the same from all lawful claims whatsoever.

It is expressly intended that these covenants, burdens, restrictions and reservations shall run with the land and shall forever bind the Grantor, her heirs and assigns.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 29 day of

1964.

Basso Antonia Frazer

By Anne M. Morrison

her Attorney in fact