

2-19-63

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File No. 17948

INDENTURE OF ACCESS

THIS INDENTURE, made and executed this 14th day of March, 1963, by and between the STATE OF OREGON, by and through its State Highway Commission, hereinafter called "State", and EDGAR E. COLBURN and BARBARA A. COLBURN, husband and wife, hereinafter called "Owners";

WHEREAS, State acquired from Willis C. Jorstad and Mabel Jorstad, husband and wife, the then owners, by deed executed on March 14, 1952, and recorded in Klamath County Book of Deeds, Volume 253 at page 523, certain lands lying in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, Township 24 South, Range 8 East, Willamette Meridian, Klamath County, Oregon; and

WHEREAS, as a part of the consideration for said deed, State's grantors conveyed to State all of their abutters' easements of access from their remaining abutting lands to the relocated The Dalles-California Highway, State Primary Highway No. 4, except that there were reserved for service of said abutting lands, rights of access on the easterly side of said highway at points opposite Highway Engineer's Centerline Stations 49+05 and 50+40, each of a width of 40 feet and unrestricted as to use. Said rights of access are subject to the right of State to construct at any future time a frontage road or roads within the present or hereafter acquired right of way, whereupon all rights of direct access reserved to and from the public way, that are on or adjacent to any such frontage road or roads, shall cease, but Owners, their heirs and assigns, shall have access to any such frontage road or roads for any lawful purpose; and

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WHEREAS, Edgar E. Colburn and Barbara A. Colburn, husband and wife, are now the legal owners of said lands abutting on the easterly side of the relocated The Dalles-California Highway; and

WHEREAS, Owners have requested that the aforementioned rights of access on the easterly side of said highway at points opposite Highway Engineer's Centerline Stations 49+05 and 50+40, be cancelled, and in lieu thereof there be substituted rights of access at points opposite Highway Engineer's Centerline Stations 47+97 and 50+92 on the easterly side of said highway, each of a width of 45 feet and unrestricted as to use; and

WHEREAS, State is willing to grant Owners' request.

NOW, THEREFORE, this Indenture witnesseth that for and in consideration of the grant hereinafter made by State, Owners do hereby sell, relinquish and transfer unto State, their easements of access to, from and between the remaining abutting property on the easterly side of the relocated The Dalles-California Highway at points opposite Highway Engineer's Centerline Stations 49+05 and 50+40. In consideration of the relinquishment and conveyance by Owners of their rights of access as hereinabove set out, State does hereby grant and convey unto Owners, their heirs and assigns, easements of access and rights of ingress, egress and regress to, from and between the right of way of the relocated The Dalles-California Highway and Owners' property abutting on the easterly side of said highway at points opposite Highway Engineer's Centerline Stations 47+97 and 50+92, each of a width of 45 feet and unrestricted as to use; PROVIDED HOWEVER, State reserves the right to construct or to otherwise

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provide at any future time a frontage road or roads, whereupon all rights of direct access herein granted to and from the highway, that are on or adjacent to any such frontage road or roads, shall cease, but Owners, their heirs and assigns, shall have access to the frontage road or roads for any lawful purpose.

Except as herein modified, the deed of March 14, 1952, shall remain in full force and effect and the rights of access herein granted shall be subject to all the provisions of said deed as fully as if set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

APPROVED

Lloyd P. Stuenkel
Assistant State Highway Engineer

APPROVED AS TO FORM:

R. H. Kudas
Chief Counsel
M. H. Hengert
Staff Attorney

ATTEST:

Floyd Querry
Secretary

STATE OF OREGON, by and through
its State Highway Commission

By William Jackson Chairman
By R. H. Embrey Commissioner
By David B. Simpson Commissioner

STATE

Edgar E. Colburn Edgar E. Colburn
Barbara A. Colburn Barbara A. Colburn

OWNERS

STATE OF OREGON

County of Marion

ss

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On this 14th day of March, 1963, before me appeared GLENN L. JACKSON, KENNETH N. FRIDLEY, and DAVID B. SIMPSON, to me personally known, who each being duly sworn, did say that he, the said Glenn L. Jackson, is Chairman of the State Highway Commission of the State of Oregon, and that he, the said Kenneth N. Fridley, and he, the said David B. Simpson, is State Highway Commissioner of the State of Oregon; that the seal affixed to said instrument is the seal of the State Highway Commission, and that the said instrument is signed and sealed in behalf of said State by said Commission, and that the said Chairman and the said Commissioners acknowledge said instrument to be the free act and deed of said State, by said State Highway Commission.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Cecil A. Head
Notary Public for Oregon

My commission expires: Nov. 5, 1966

STATE OF OREGON

County of Deschutes

ss

On this 4 day of March, 1967, personally came before me, a notary public in and for said county and state, the within named Edgar E. Callum and Barbara A. Callum, husband and wife, to me personally known to be the identical persons described in, and who executed the within instrument, and who each personally acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein named.

Witness my hand and official seal the day and year last above written.

Edgar E. Callum
Notary Public for Oregon

My commission expires: 4-30-66

CONSENT AGREEMENT

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WHEREAS, the unrecorded indenture to which this agreement is now attached was executed by the State of Oregon, by and through its State Highway Commission, and the then Owners, Edgar E. Colburn and Barbara A. Colburn on March 14, 1963; and

WHEREAS, said "Owners", as grantors, conveyed by Warranty Deed dated August 17, 1964, and recorded in Book of Deeds for Klamath County, Oregon, Volume 355, page 419, said remaining abutting lands to D. J. Herin and Pearl Herin, husband and wife; and

WHEREAS, said D. J. Herin and Pearl Herin wish to subject their lands to the terms and conditions of said indenture of March 14, 1963.

NOW, THEREFORE, in consideration of the benefits contained therein, we, the undersigned, hereby consent to and agree to be bound by the terms and conditions of said indenture, to which this Consent is attached.

IN WITNESS WHEREOF, we, the present fee owners named hereinabove, have at Crescent, Oregon, on this 14th day of September, 1965, affixed our signs and seals.

D. J. Herin (SEAL)
D. J. Herin

Pearl Herin (SEAL)
Pearl Herin

OWNERS

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Oregon State Highway Comm.

this 20 day of Sept. A.D. 19 65 at 10:35 clock A.M., and
duly recorded in Vol. M-65, of Deeds on Page 1780

Fee \$7.50 Collect

DOROTHY ROGERS, County Clerk

By 15