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ORIGINAL

Highway Division  
File 44999, L-6554

## WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That GLENN LEE HILYARD and SHIRLEY FAYE HILYARD, husband and wife, hereinafter called "Grantors", for the consideration of the sum of Seven Thousand Five Hundred and No/100 DOLLARS (\$7,500.00) received, do hereby convey unto the STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION, Highway Division, hereinafter called "Grantee", the following described property, to wit:

## PARCEL 1

A parcel of land lying in the NE $\frac{1}{4}$  of Section 12, Township 39 South, Range 9 East, W.M., Klamath County, Oregon; the said parcel being that portion of said NE $\frac{1}{4}$  lying Southerly of Hilyard Avenue; Southwesterly of the existing Klamath Falls - Lakeview Highway (formerly The Dalles - California Highway); Northwesterly of HILYARD TRACTS, Klamath County, Oregon and included in a strip of land 44 feet in width, lying on the Southwesterly side of the center line of the relocated Klamath Falls - Lakeview Highway, which center line is described as follows:

Beginning at Engineer's center line Station 160+00, said station being 1251.29 feet North and 2642.69 feet West of the Southeast corner of Section 1, Township 39 South, Range 9 East, W.M.; thence South 46° 06' 30" East 3050 feet to Engineer's center line Station 190+50.

The parcel of land to which this description applies contains 16,570 square feet, more or less.

Also for the above stated consideration, there is hereby conveyed to Grantee all existing, future or potential common law or statutory abutter's easements of access between the above described parcel and all of Grantors' remaining real property, EXCEPT, however,

Reserving for service of Grantors' remaining property, access rights to and from said remaining property to the abutting highway right of way at the following places and for the following widths:

Hwy. Engr's Sta.	Width	Side of Hwy.	Purpose
180+30	35 feet	Southerly	Unrestricted
183+30	35 feet	Southerly	Unrestricted
186+30	35 feet	Southerly	Unrestricted
189+60	35 feet	Southerly	Unrestricted

If, after written notice to desist, Grantors, or any person holding under them, shall use any of the above places of access in a width greater than above stated, or shall permit or suffer any person to do so, the right of access therefor shall automatically be suspended and Grantee shall thereupon have the right to close said places of access. The suspension shall terminate when satisfactory assurance has been furnished Grantee that the places of access will be used in a width not greater than above stated.

Also for the consideration hereinabove stated, there is hereby granted to Grantee a permanent easement to construct, operate and maintain an irrigation facility over and across the following described property, to wit:

## PARCEL 2

A parcel of land lying in the NE $\frac{1}{4}$  of Section 12, Township 39 South, Range 9 East, W.M., Klamath County, Oregon; the said parcel being that portion of said NE $\frac{1}{4}$  lying Southerly of Hilyard Street; Southwesterly of Parcel 1; Northwesterly of a line at right angles to the center line of the relocated Klamath Falls - Lakeview Highway at Engineer's Station 182+75 and Northeasterly of a line which is parallel with and 102 feet Southwesterly of said center line, which center line is described in Parcel 1.

The parcel of land to which this description applies contains 29,100 square feet, more or less.

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Grantee by virtue of this easement shall have the right to go upon the real property hereinabove described as Parcel 2 for the purpose of making those certain changes in the irrigation facility now constructed on said property or property adjoining thereto as may be necessitated by the construction of the Patterson Street - Klamath Falls - Malin Highway Section of the Klamath Falls - Lakeview Highway, it being understood that the rights in said relocated irrigation facility shall be the same as previously existed in that portion of the irrigation facility which is being relocated.

It is also understood that said easement does not convey any right or interest in the land above described as Parcel 2 except those expressly stated in this document.

Also for the above stated consideration, there is hereby granted to Grantee, a permanent right and easement to construct, operate and maintain irrigation facilities; and a permanent easement to construct, maintain, repair and have free access to all slopes of cuts or fills, occasioned by or resulting from the construction, operation or maintenance of a public street or highway and appurtenances; and also a permanent easement for State Highway Division signs over, upon and across the following described property, to wit:

PARCEL 3

A parcel of land lying in the NE $\frac{1}{4}$  of Section 12, Township 39 South, Range 9 East, W.M., Klamath County, Oregon; the said parcel being that portion of said NE $\frac{1}{4}$  lying Northwesterly of HILYARD TRACTS; Southeasterly of a line at right angles to the center line of the relocated Klamath Falls - Lakeview Highway at Engineer's Station 189+70 and lying between lines which are parallel with and 44 feet Southwesterly and 62 feet Southwesterly of said center line, which center line is described in Parcel 1.

The parcel of land to which this description applies contains 360 square feet, more or less.

PARCEL 4

A parcel of land lying in the NE $\frac{1}{4}$  of Section 12, Township 39 South, Range 9 East, W.M., Klamath County, Oregon; the said parcel being that portion of said NE $\frac{1}{4}$  lying between lines at right angles to the center line of the relocated Klamath Falls - Lakeview Highway at Engineer's Stations 185+00 and 185+15 and between lines which are parallel with and 44 feet Southwesterly and 60 feet Southwesterly of said center line, which center line is described in Parcel 1.

The parcel of land to which this description applies contains 240 square feet.

IT IS EXPRESSLY UNDERSTOOD that these easements do not convey any right, title or interest to the surface of the soil, nor any other rights except those expressly stated in these easements, nor prevent Grantors from the full use and dominion thereover, provided, however, that such use shall not be permitted to damage or destroy lateral support to said public street or highway, or to interfere in any way with the construction operation or maintenance of Grantee's irrigation facilities, and provided further that

nothing herein contained shall grant to Grantee, 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 Grantee shall never be required to remove the dirt or other materials placed by it upon said property, nor shall Grantee be subject to any damages to Grantors, their heirs and assigns, by reason thereof, or by reason of the slopes and irrigation facilities constructed thereon, or signs placed thereon, or by reason of change of grade of the street or highway abutting on said property. It is understood that the rights of the users, if any, in the irrigation facilities to be reconstructed or relocated shall be the same rights that they had in the existing facilities.

Also for the consideration hereinabove stated there is hereby granted to Grantee, an easement for slopes, necessitated by the widening and improvement of the Patterson Street - Klamath Falls - Malin Highway Section of the Klamath Falls - Lakeview Highway, to be constructed upon the following described property, to wit:

PARCEL 5

A parcel of land lying in the NE $\frac{1}{4}$  of Section 12, Township 39 South, Range 9 East, W.M., Klamath County, Oregon; the said parcel being that portion of said NE $\frac{1}{4}$  lying Southwesterly of Parcel 1; Southeasterly of Parcel 2; Northwesterly of Parcel 3 and included in a strip of land variable in width lying on the Southwesterly side of the center line of the relocated Klamath Falls - Lakeview Highway which center line is described in Parcel 1.

The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Southwesterly Side of Center line.
182+75		185+00	55
185+00		187+00	60
187+00		190+00	52

EXCEPT therefrom Parcel 4.

The parcel of land to which this description applies contains 7,595 square feet, more or less.

IT IS EXPRESSLY UNDERSTOOD that the easement and right herein granted shall terminate three (3) years from the date hereof or upon completion of the above mentioned construction project, whichever is sooner; that the slopes constructed will remain in place after the termination of this easement and without obligation on the part of Grantee to remove same and that the above stated consideration is intended to compensate Grantors in full for the use of said property by Grantee and for any grade change of the adjoining highway.

And Grantors do hereby covenant to and with Grantee, its successors and assigns, that they are the owners in fee simple of the said property which is free from all encumbrances and will warrant and defend the property herein conveyed and the easement rights herein granted from all lawful claims whatsoever.

Dated this 10<sup>th</sup> day of February, 1975.

Glenn Lee Hilyard  
Shirley Faye Hilyard

STATE OF OREGON, County of Klamath  
February 10, 1975. Personally appeared the above named Glenn Lee Hilyard and Shirley Faye Hilyard, who acknowledged the foregoing instrument to be their voluntary act. Before me:



Steven A. Gandy  
Notary Public for Oregon  
My Commission expires 9-19-75

ka/la

STATE OF OREGON; COUNTY OF KLAMATH; ss.  
Filed for record at request of STATE OF OREGON HIGHWAY DIVISION  
this 21st day of FEBRUARY A. D. 19 75 at 11:55 o'clock A.M., and  
duly recorded in Vol. M 75, of DEEDS on Page 2133  
FEES 8.00

Wm D. MILNE, County Clerk  
By [Signature]

State, Ore  
Rel: State Hwy Div  
Room 119 Sh Hwy 13 Ely  
Salem Ore