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M TC-10690-L

Contract No. 2-07-20-L2072

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATIONVol. M. 81 Page

20186

Klamath Project

EASEMENT FOR ACCESS ROAD AND CULVERT/BRIDGE

THIS INDENTURE, is made this 9 day of November, 1981, in accordance with the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof and supplementary thereto, all such acts being commonly known and referred to as the Federal Reclamation Laws, by and between the UNITED STATES OF AMERICA, herein called the "United States," represented by the officer executing this instrument on its behalf, which officer, his successor and duly authorized representative are hereinafter severally called the "Contracting Officer" and JACK NEWMAN, hereinafter styled "Grantee."

WITNESSETH:

WHEREAS, because no other reasonable access is available to Grantee's property, Grantee has requested that the United States grant him an easement to cross the E-Canal right-of-way for purposes of ingress and egress; and

WHEREAS, the United States has, at this time, no objection to such use and has determined that the grant of such an easement will not be incompatible with the purpose for which said parcel was acquired and is being administered.

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NOW, THEREFORE, in consideration of the premises and subject to the terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. The United States hereby conveys to Grantee, without warranty of title, a permanent, non-exclusive right, privilege, and easement to enter upon and at Grantee's sole cost and expense, construct, operate, and maintain, and from time to time reconstruct, alter and improve an access road and bridge or culvert in, on, over and across that portion of the right-of-way acquired for the E-Canal described as follows:

A tract of land in the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Twenty (20), Township Thirty-nine (39) South, Range Eleven and a Half (11 $\frac{1}{2}$) East, Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the northerly right-of-way line of the K.I.D. E-Canal, said point being south 44°19'55" east, 2142.5 feet from the northwest corner of said Section 20; thence southeasterly along said northerly right-of-way 60.0 feet ~~feet~~; thence southwesterly perpendicular to said northerly right-of-way 50.0 feet to the southerly right-of-way line of said E-Canal; thence northwesterly along said southerly right-of-way 60.0 feet; thence northeasterly 50.0 feet to the point of beginning. Being a portion of that property described in the deed from Eliza K. Smith to the United States of America, recorded in Volume 25 at page 49 of the Official Records of said county, containing an area of 0.07 acre, more or less.

Bearings are based on Record of Survey No. 1447 on file in the office of the Klamath County Surveyor.

and as shown on the print of United States Department of the Interior, Bureau of Reclamation Drawing No. 12-201-5294, marked Exhibit "A," attached hereto and made a part hereof.

Checked as to Engineering data

W. J. D. Gray 10-15-81

2. Any improvements, such as a bridge or culvert, placed within the United States right-of-way will be approved by the United States in advance of construction. Plans for improvements shall be submitted to the Project Manager of the Klamath Project at least 30 days before construction is to take place. Further, the Grantee agrees to maintain said improvements to the satisfaction of the United States or its duly authorized representative.

3. Upon execution of this instrument Grantee shall pay to the United States a fee of TWO HUNDRED AND FIFTY DOLLARS (\$250.00).

4. The rights herein granted are subject to the right of the United States to use said access road and to existing rights in favor of the public or third parties for highways, roads, railroads, telegraph, telephone and electrical transmission lines, canals, laterals, ditches, flumes, siphons, and pipelines.

5. Grantee hereby agrees to indemnify and hold harmless the United States, its agents and employees, from any loss or damage and from any liability on account of personal injury, death, or property damage, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made arising out of Grantee's activities under this easement.

6. The waiver of a breach of any of the provisions hereof shall not be deemed to be a waiver of a subsequent breach of the same provision or of any other provision hereof.

7. This easement is granted for and limited to the specific purposes set forth in Article 1 hereof, and the issuance of this instrument shall not constitute nor be construed as a surrender or

subordinate to Grantee of the jurisdiction or supervision of the United States, its successors and assigns, over the remaining interests of the United States in the land herein described.

8. The terms and provisions of this agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

9. If Grantee ceases to use the easement for an access road herein conveyed, such easement shall terminate and the Grantee may be required, at the discretion of the United States, to remove all structures and restore the land to its condition as of the date of this easement.

10. The Grantee warrants that no person or agency has been employed or retained to solicit or secure this conveyance upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee excepting bona fide employees or bona fide established commercial agencies maintained by the Grantee for the purpose of securing business. For breach or violation of this warranty, the United States shall have the right to annul this conveyance without liability or in its discretion to require Grantee to pay full amount of such commission, percentage, brokerage or contingent fee to the United States.

11. No member of or delegate to Congress or resident Commissioner shall be admitted to any share or part of this conveyance or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this conveyance if given to a corporation or company for its general benefit.

12. The attached statement marked Exhibit "B" entitled Reclamation Land-Use Stipulation, is by reference incorporated herein and made a part hereof.

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13. The attached statement marked Exhibit "C" entitled Environmental Requirements, is by reference incorporated herein and made a part hereof.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date first above written.

THE UNITED STATES OF AMERICA

By
Acting

M.A. Patis
Regional Director
Mid-Pacific Region
Bureau of Reclamation

Jack Newman
Jack Newman

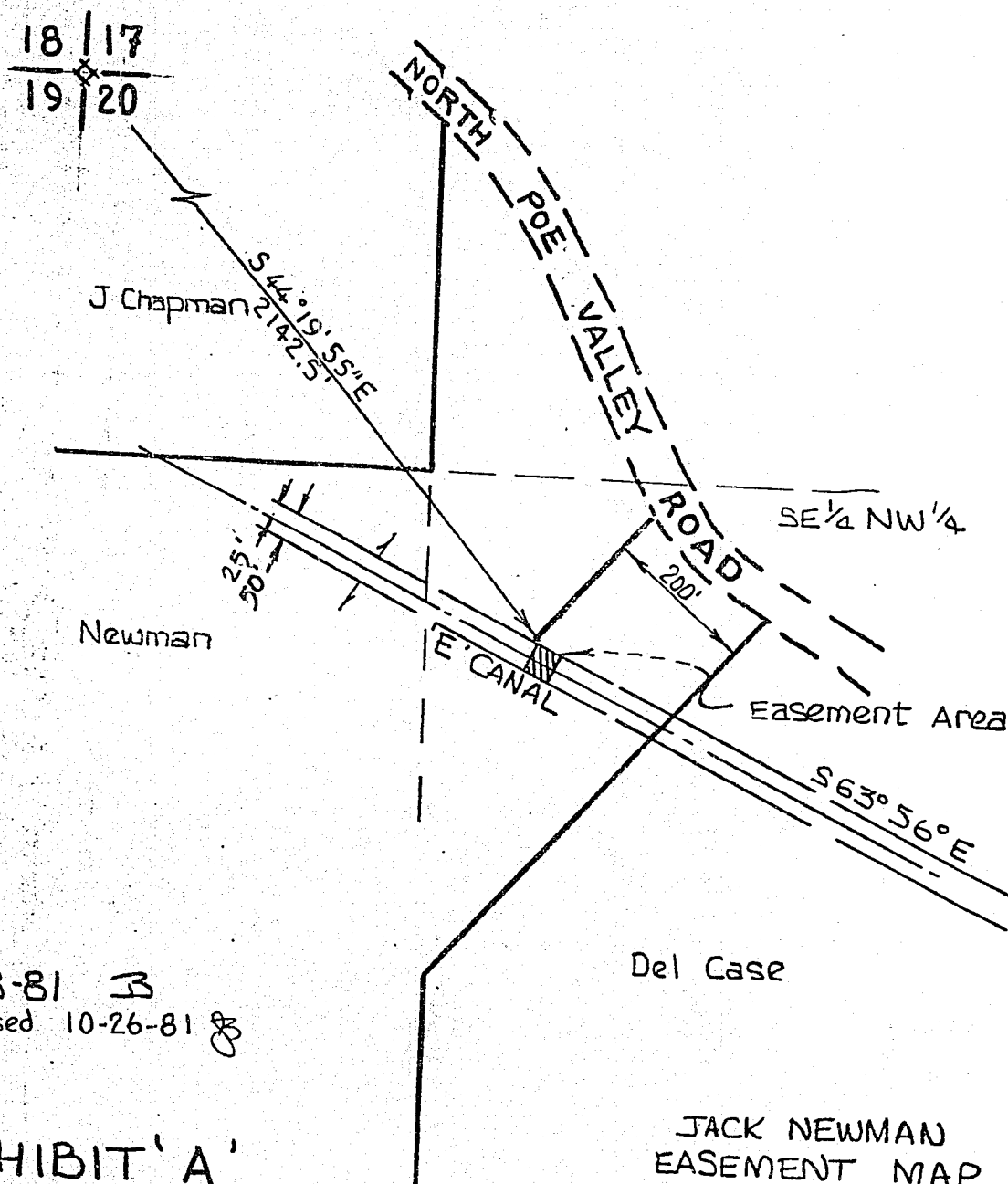
NOTED:

KLAMATH IRRIGATION DISTRICT

By Melinda R. Crawford
Title Manager

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T.39S; R.11½E.



9-23-81 B

Revised 10-26-81 B

EXHIBIT 'A'

JACK NEWMAN
EASEMENT MAP

12-201-5294

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LAND-USE STIPULATION

The United States has granted this easement for special use as a(n) access road.

The United States retains the right of full possession and use of the lands located in the easement, while it remains in effect, to the extent that the United States does not interfere with the right of special use granted to the holder of this easement.

As part of the United States continuing noninterfering possession and use of the easement, the United States will not be liable for any minor damage or wear to the easement, or to the easement holder's personal property which can normally be expected because of reasonable uses which the United States may carry out on the easement.

If the United States damages or causes unreasonable wear to the easement lands, or the easement holder's personal property used on the easement, the United States will repair or replace the damage at its own expense.

The United States reserves the right to terminate this easement, or part of it, when easements lands are needed for the construction, operation and maintenance of structures and works needed for the Klamath Project.

Some examples of structures and works include lands, wasteways, laterals, ditches, roadways, electrical transmission lines, dams, dikes, reservoirs, pipelines, telephone and telegraph lines, communication structures, substations, switchyards and powerplants, but there may be others.

Notwithstanding the preceding paragraph, as an alternative to terminating the easement, the United States will, in all appropriate situations, use its best efforts to cooperate with the easement holder in order to adopt modified construction or use plans which will not interfere with and result in the termination of the easement. If the United States construction or use costs are increased because of these modifications, the easement holder agrees to pay the reasonable increased costs. However, the easement holder may reduce or eliminate the United States increased costs by agreeing to appropriate modifications of the easement.

Should a difference of opinion arise between the United States and the easement holder regarding the rights which the United States has reserved by this stipulation, then both parties agree that the Secretary of the Interior shall act as arbitrator and his decision will be final and binding on all parties.

EXHIBIT "B"

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ENVIRONMENTAL REQUIREMENTS

1. Grantee shall plan, construct, operate, maintain, and manage all structures and facilities on the premises herein described so as to minimize adverse environmental consequences. In so doing, careful consideration will be given to alleviating potential harmful effects on, but not limited to, landscape, soils, water, air, mineral, timber, or population or other animate resources.

Prior to any artificial modification of the environment on the said premises, Grantee will submit a draft detailed statement of environmental impact to the Regional Director, Mid-Pacific Region, Bureau of Reclamation, and such other reports as may now or hereafter be required. Such detailed statement shall state clearly and concisely, but not limited to, (1) the environmental impact of the proposed action, (2) any adverse environmental effects that cannot be avoided, (3) alternatives to the proposed action, (4) the relationship between local short-term uses hereunder and the maintenance, and (5) any irreversible and irretrievable commitment of resources involved hereunder.

No such artificial modification of the environment shall be undertaken without prior approval of the Bureau of Reclamation in writing.

2. Grantee shall correct or modify any pollution of soil, air, or water and deterioration of living or inanimate resources caused by or resulting from exercise of the privileges granted herein in accordance with rules, regulations, and directives of the Secretary of the Interior, including but not limited to aesthetic qualities of the environment, and in compliance with all Federal laws. Increased cost will not justify noncompliance with environmental quality controls required by the United States.

3. Grantee shall comply fully with all applicable Federal laws, orders, and regulations and the laws of the State of Oregon, all as administered by appropriate authorities, concerning the pollution of streams, reservoirs, ground water, or water courses with respect to thermal pollution or the discharge of refuse, garbage, sewage effluent, industrial waste, oil, mine tailings, mineral salts, or other pollutants, and concerning the pollution of the air with respect to radioactive materials or other pollutants.

4. In the use of pesticides on the land covered by this contract, the Grantee shall comply with all provisions of Federal and State pesticide laws and any amendments thereto. Grantee is specifically prohibited from using on said land any and all pesticides named on the "Prohibited List" listed below and any amendment thereto. Further, in the use of all pesticides on lands owned by the United States, the Grantee shall submit plans for such use annually and shall obtain prior written approval of the Contracting Officer for the United States before implementing said plans.

PROHIBITED LIST

2,4,5-T
Silvex (2,4,5-TP)

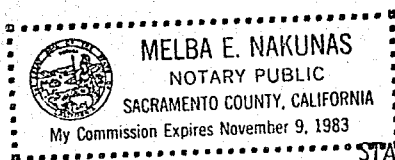
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STATE OF CALIFORNIA }
 County of Sacramento } ss.

On this 9 day of November, 19 81, before
 me, Melba E. Nakunas, a Notary Public in and for
 the County and State aforesaid, personally appeared

M. A. Catino Acting Regional Director of the United States
 Bureau of Reclamation, Mid-Pacific Region, known to me to be the
 person whose name is subscribed to the within instrument, and acknow-
 ledged that he executed the same on behalf of the United States.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
 my official seal the day and year in this certificate first above
 written.



Melba E. Nakunas
 Notary Public in and for the County
 of Sacramento, State of California

(SEAL)

After recording
 return to:
 MTC

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record ~~at noon~~

this 19 day of November A. D. 19 81 at 3:30 o'clock P M., and
 duly recorded in Vol. M 81, of Deeds on Page 20186

Fee \$ 40.00

EVELYN BIEHN, County Clerk
 By Joyce M. Dine