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Vol. 1991 Page 3425

57744

CERTIFIED  
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JAN 22 1991  
CLERK OF COURT

CIRCUIT COURT OF OREGON

1991 JAN 22 PM 4:29

COUNTY OF KLAMATH

CLERK OF COURT

*J. A. Paulsen*STATE OF OREGON, by and through )  
its Department of Transportation, )

Plaintiff, )

No. 8902256 CV

v. )

FINAL JUDGMENT

EARL MARTIN KERNS and SHIRLEY F. )  
KERNS, husband and wife; STATE )  
OF OREGON, by and through its )  
Director of Veterans' Affairs; )  
and PACIFIC NORTHWEST BELL )  
TELEPHONE COMPANY, a Washington )  
corporation, )

Defendants. )

The above-entitled matter came on regularly for trial on the 17th day of October, 1990, before Judge Rodger D. Isaacson of the above-entitled court, plaintiff appearing by and through Robert A. Petersen of its attorneys; and the defendants appearing by and through Karla J. Knieps and Stanley Jones, their attorneys; and

It appearing to the court and the court now finds that the real property described in plaintiff's Complaint on file herein is necessary for public use; and

It appearing to the court and the court now finds that the plaintiff, prior to the commencement of this action and pursuant to its resolution, attempted to acquire said real property by agreement and purchase, but was unable to do so; and

A jury having been called, examined, and duly empaneled and sworn; a view of the proposed acquisition having been held

Page 1 - FINAL JUDGMENT

After Recording Return To:  
Highway Division  
Right of Way Section  
Rm 409 Transportation Bldg  
Salem, OR 97310

98-32-1

91 FEB 25 PM 3 55

DEPARTMENT OF JUSTICE  
JUSTICE BUILDING  
SALEM, OREGON 97310  
PHONE 378-4400

1 in the manner provided by law; the parties having made their  
2 opening statements; the parties having adduced evidence in  
3 support of their contentions; arguments by respective parties  
4 having been made to the jury, the jury having been regularly  
5 instructed in the law and having retired for deliberations did,  
6 on the 19th day of October, 1990, return its verdict, which  
7 verdict, omitting the title of the court and cause, is in the  
8 words and figures as follows:

9  
10 "We, the jury, being duly empaneled and sworn  
11 to try the above-entitled case, at least nine  
12 out of the twelve jurors in the verdict find  
just compensation to be paid for the  
acquisition to be \$26,859.

13 DATED this 19th day of October, 1990.

14 /s/Robert G. Nau, Jr.  
15 Foreperson."

16 It appearing to the court and the court now finds that the  
17 amount of the verdict of the jury was more than plaintiff's  
18 tender made in writing more than 30 days prior to trial, and  
19 that defendants Earl Martin Kerns and Shirley F. Kerns  
20 therefore are entitled to their costs and disbursements  
21 incurred herein;

22 It appearing to the court from files and records herein  
23 that on August 24, 1989, the plaintiff heretofore deposited the  
24 sum of \$21,475 with the Clerk of the Court for the use and  
25 benefit of the defendants herein; and

26 It further appearing to the Court that plaintiff has now

Page

2 - FINAL JUDGMENT

1 deposited the balance of the verdict over and above the said  
 2 \$21,475 heretofore deposited, the added sum of \$5,384, plus  
 3 interest at 9% per annum from September 25, 1989, the date the  
 4 plaintiff took possession of the property described herein, to  
 5 the date of payment, and that plaintiff is now entitled to  
 6 judgment herein; now, therefore,

7 IT IS HEREBY ORDERED AND ADJUDGED by this court as follows:

8 1.

9 That the real property hereinafter described be, and the  
 10 same hereby is appropriated for public purposes; and title to  
 11 said property, together with all rights and easements therein  
 12 be, and the same herein is vested in the State of Oregon, by  
 13 and through its Department of Transportation, free and clear of  
 14 all liens and encumbrances. Said real property so appropriated  
 15 is described on the attached Exhibit A.

16 The use to be made of each parcel is as follows:

17 Title in fee simple to the property described  
 18 as Parcels 1, 2, and 3.

19 All abutter's rights of access between the  
 20 relocated Green Springs Highway and your  
 remaining real property, EXCEPT, however,

21 Reserving access rights, for the service of  
 22 your remaining property, to and from said  
 remaining property to the abutting highway at  
 the following place, in the following width:

23 Hwy. Engr's Sta.	Side of Hwy.	Width
24 168+00	Northerly	35'
25 187+00	Southerly	35'
187+00	Northerly	35'
26 196+11	Southerly	35'

///

Page

3 - FINAL JUDGMENT



1 herein subject to the interests of others than the within named  
 2 defendants in the following encumbrances:

3 Easements of the Klamath Project and Keno  
 4 Irrigation District.

5.

6 That defendant shall recover of and from the plaintiff the  
 7 sum of \$26,000. as their costs and disbursements taxed  
 8 herein.

9 DATED this 12 day of January, 1991.

11 Rodger Hadden  
 12 CIRCUIT COURT JUDGE

13 8361T/dsk

14  
 15  
 16  
 17  
 18 STATE OF OREGON )

County of Klamath )

19 LYN G. HARDY Clerk of the Circuit Court of the County of Klamath  
 20 of Oregon do hereby certify that the foregoing copy has been  
 21 compared with the original, and that it is a transcript therefrom, and  
 22 such original as the same appears on file or of record in my  
 23 office and custody.  
 24 WHEREOF, I have hereunto set my hand and affixed  
 25 my seal, this 15 day of Feb A.D. 1991  
 26 LYN G. HARDY, Clerk of Court  
 By Joyce Paulsen

## EXHIBIT A

File 57744

Earl Martin and Shirley F. Kerns

AFD 8-16-88 9B-32-1

## Survey Approval Project

Section: Kern Swamp Rd.-Weyerhaeuser Rd.

Highway: Green Springs

Non-throughway

## PARCEL 1

A parcel of land lying in Sections 27 and 28, Township 39 South, Range 8 East, W.M., Klamath County, Oregon; the said parcel being that portion of said sections lying between lines at right angles to the center line of the relocated Green Springs Highway at Engineer's Stations 178+30 and 218+25 and included in a strip of land variable in width, lying on the Northwest-erly side of said center line which center line is described as follows:

Beginning at Engineer's center line Station 166+76.11, said station being 2087.46 feet South and 1351.25 feet West of the East quarter corner of Section 28, Township 39 South, Range 8 East, W.M.; thence North 68° 26' 16" East 372.28 feet; thence on a spiral curve left (the long chord of which bears North 66° 26' 17" East 199.90 feet) 200 feet; thence on a 954.93 foot radius curve left (the long chord of which bears North 57° 37' 15" East 292.74 feet) 293.90 feet; thence on a spiral curve left (the long chord of which bears North 40° 48' 13" East 199.90 feet) 200 feet; thence North 38° 48' 14" East 3688.91 feet; thence on a spiral curve right (the long chord of which bears North 40° 08' 14" East 399.91 feet) 400 feet; thence on a 2864.79 foot radius curve right (the long chord of which bears North 44° 19' 09" East 151.51 feet) 151.53 feet; thence on a spiral curve right (the long chord of which bears North 48° 30' 04" East 399.91 feet) 400 feet; thence North 49° 50' 04" East 2112.37 feet to Engineer's center line Station 244+95.10.

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

Station	to	Station	Width on Northwesterly Side of Center Line
178+30		182+80	40 in a straight line to 50
182+80		186+50	50
186+50		189+10	50 in a straight line to 60
189+10		199+00	60
199+00		200+00	60 in a straight line to 45
200+00		215+00	45
215+00		216+30	45 in a straight line to 60
216+30		218+25	60

OVER

ALSO that portion of the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 27 lying Southerly of Round Lake Road (County Road); Northwesterly of the existing Green Springs Highway and Northeasterly of a line at right angles to said center line at Engineer's Station 218+25.

Bearings are based upon the Oregon Co-ordinate System, South Zone.

The parcel of land to which this description applies contains 2.77 acres, more or less, outside of the existing right of way.

#### PARCEL 2

A parcel of land lying in the W $\frac{1}{2}$  of Section 27 and in the SE $\frac{1}{4}$  of Section 28, Township 39 South, Range 8 East, W.M., Klamath County, Oregon; the said parcel being that portion of said subdivisions lying Northeasterly of a line at right angles to the center line of the relocated Green Springs Highway at Engineer's Station 178+30 and included in a strip of land variable in width, lying on the Southeasterly side of said center line 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 Southeasterly Side of Center Line
			45
178+30		193+00	45 in a straight line to 65
193+00		194+00	65 in a straight line to 45
194+00		195+00	45
195+00		200+50	45 in a straight line to 40
200+50		202+00	40
202+00		214+31.20	40 in a straight line to 55
214+31.20		219+82.73	55 in a straight line to 45
219+82.73		223+82.73	45 in a straight line to 40
223+82.73		229+20	

The parcel of land to which this description applies contains 0.80 acre, more or less, outside of the existing right of way.

#### PARCEL 3

A parcel of land lying in the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 27, Township 39 South, Range 8 East, W.M., Klamath County, Oregon; the said parcel being that portion of said NE $\frac{1}{4}$ NW $\frac{1}{4}$  lying Northerly of Round Lake Road (County Road), Westerly of that property described in that deed to Robert R. and Velma B. Rowton, recorded in Book 252, Page 330 of Klamath County Record of Deeds and included in a strip of land variable in width lying on the Northwesterly side of the center line of Green Springs Highway as said highway has been relocated, which center line is described in Parcel 1.

CONTINUED

EXHIBIT A CONTINUED - Page 3

File 57744

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

Station	to	Station	Width on Northwesterly Side of Center Line
219+00		220+25	70
220+25		225+00	70 in a straight line to 45

The parcel of land to which this description applies contains 0.26 acre, more or less, outside of the existing right of way.

ael/

8-25-88

NOTE: Parcels 1, 2 and 3 Access Controlled (to Highway).

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Title Co. the 25th day  
of Feb. A.D., 19 91 at 3:55 o'clock P M., and duly recorded in Vol. M91,  
of Deeds on Page 3425.

FEE \$43.00

Evelyn Biehn - County Clerk

By Pauline Mendenhall