

26485

Vol. 91 Page 3820

Highway Division  
File 6050-039  
SA-4-1 (2)

ORIGINAL

HIGHWAY EASEMENT DEED

THIS DEED, made this 8th day of February, 19 91, by and between The UNITED STATES OF AMERICA, acting by and through the DEPARTMENT OF TRANSPORTATION, Federal Highway Administration, hereinafter referred to as "Department", and the STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION, Highway Division, hereinafter referred to as "Grantee":

WITNESSETH:

WHEREAS, Grantee has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 317) for the right-of-way of a highway over certain land owned by the United States in the State of Oregon, which is under the jurisdiction of the Department of Agriculture - Forest Service, and

WHEREAS, this transfer is further authorized under the provisions of the Act of Congress approved October 15, 1966 (80 Stat. 931, 937, Section 6 (a)(1)(A)).

WHEREAS, the Federal Highway Administrator, pursuant to delegation of authority from the Secretary of Transportation, has determined that an easement over the land covered by the application is reasonably necessary for a right-of-way for The Dalles-California Highway No. 4 (Highway U.S. 97), and

WHEREAS, the Department of Agriculture, acting by and through the Forest Service, has agreed to the transfer by the Department of an easement over the land to the Grantee;

NOW THEREFORE, the Department as authorized by law, does hereby grant to the Grantee an easement for right-of-way for the construction, operation and maintenance of a highway, including control of access thereto from adjoining lands, and use of the space above and below the established grade line of the highway pavement for highway purposes on, over, across, in, and upon the following described land of the United States within the Winema National Forest, County of Klamath, State of Oregon:

Section 33, Township 34 South, Range 7 East, W.M.,

as shown on three sheets of right-of-way plats, marked Exhibit A, attached hereto and made a part hereof, subject however, to the following terms and conditions:

- (1) Outstanding valid claims, if any existing on the date of this grant, and the Grantee shall obtain such permission as may be necessary on account of any such claims.
- (2) The Grantee and the Regional Forester shall make determination as to the necessity for archeological and paleontological reconnaissance and salvage within the right-of-way, and such reconnaissance and salvage to the extent determined

necessary because of maintenance of the highway facility is to be undertaken by Grantee in compliance with the act entitled "An Act for the Preservation of American Antiquities," approved June 8, 1906, (34 Stat. 225, 16 U.S.C. 432-433), the Archaeological Resources Protection Act of 1979 (93 Stat. 721, 16 U.S.C. 470aa-47011), and State laws where applicable.

- (3) The easement herein granted is limited to use of the described right-of-way and the space above and below the established grade line of the highway pavement for the purpose of construction, operation and maintenance of a highway in accordance with the approved plans described in the following condition Number 4 and does not include the grant of any rights for nonhighway purposes or facilities: Provided, That the right of the Forest Service to use or authorize the use of any portion of the right-of-way for nonhighway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration Regulations issued pursuant thereto or would interfere with the free flow of traffic or impair the full use and safety of the highway, and in any case the Grantee and the Federal Highway Administration shall be consulted prior to the exercise of such rights; and Provided further, That nothing herein shall preclude the Forest Service from locating National Forest and other Department of Agriculture information signs on the portions of the right-of-way outside of construction clearing limits.
- (4) The design and construction of highway projects situated on this right-of-way will be in accordance with the provisions of Title 23, United States Code--Highways, and amendments; the Regulations for the Administration of Federal Aid for Highways, effective May 11, 1960; and amendments and established procedures for Federal-aid projects, including the requirements of Title 23, Code of Federal Regulations, part 771, and the construction specifications of the State highway department as approved by the Federal Highway Administration for use on the Federal-aid projects.

The Regional Forester will be provided an opportunity to review plans relative to effects, if any, that the project works as planned will have upon adequate protection and utilization of the land traversed by the right-of-way and adjoining land under the administration of the Forest Service for the purposes for which such land is being administered. Those features of design, construction, and maintenance of the highway facility and of use of the right of way that would have effect on the protection and utilization of the land under the administration of the Forest Service are to be mutually agreed upon by the Regional Forester and the Grantee by conference or other communication during the preparation of the plans and specifications for each construction project, and the plans shall be revised, modified, or supplemented to meet the approval of the Regional Forester, or when deemed appropriate, supplemented by written stipulation between the Regional Forester and the Grantee, prior to the start of construction.

The final design and the construction specifications for any highway construction project on the right-of-way will be presented to the Regional Forester for approval; construction shall not begin until such approval is given: Provided, That if it is subsequently deemed necessary that the approved plans, specifications, or stipulation be amended or supplemented, any amendment or supplement shall be approved by the Regional Forester and the Grantee before being placed in effect.

(5) Consistent with highway safety standards, the Grantee shall:

(a) Protect and preserve soil and vegetative cover and scenic and esthetics values on the right-of-way outside of construction limits.

(b) Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by the operation, or maintenance of the highway, and shall vegetate and keep vegetated with suitable species all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed where it is deemed necessary during a joint review between the Regional Forester and the Grantee, and the Grantee shall maintain all terracing, waterbars, lead-off ditches or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur after construction.

(c) Dispose of waste material resulting from slides during and after construction and surplus material at location approved by the Forest Supervisor. A plan showing the proposed method of disposal shall be submitted by the Grantee at the time approval is requested.

(d) Build suitable access structures, grade separations, and/or connecting roads to standards that conform with the approved plans and specifications at the following locations:

Retain existing approach for access road into Chiloquin Ranger District administrative site at approximate Station 3109 + 75.

(e) Permanently monument the right-of-way in accordance with State requirements for such right-of-way before completing construction, but in any event, the minimum requirements shall be to place permanent monuments at the intersection of right-of-way with all property lines, section lines, and at intervals of not more than 1,000 feet along the right-of-way limits.

(f) Reestablish or restore public land monuments disturbed or destroyed by construction, reconstruction, or maintenance according to instructions of the Bureau of Land Management, Department of the Interior. Other land monuments and property corners or witness markers shall not be damaged,

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destroyed, or obliterated without the prior permission of the Regional Forester and shall be relocated or reestablished in accordance with standards satisfactory to the Regional Forester.

- (6) The Grantee shall establish no borrow, sand, or gravel pits, stone quarry, or permanent storage areas, sites for highway operation and maintenance facilities, camps, supply depot or disposal areas within the right-of-way unless shown on approved construction plans, without first obtaining approval of the Regional Forester.
- (7) The Grantee shall maintain the right-of-way clearing by means of chemicals only after specific written approval has been given by the Regional Forester. Application for such approval must be in writing and specify the time, method, chemicals, and the exact portion of the right-of-way to be chemically treated.
- (8) The Grantee, in consideration of the grant of this easement, does hereby covenant and agree as a covenant running with the land, for itself, its successors and assigns that:
  - (a) no person shall, on the grounds of race, color, sex, age, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed,
  - (b) the Grantee shall use said easement and right-of-way so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in federally assisted programs of the Department of Transportation, effectuation of Title VI of The Civil Rights Act of 1964, and as said Regulations may be amended.
- (9) When need for the easement herein granted shall no longer exist, the Grantee shall give notice of that fact to the Secretary of Transportation and the rights herein granted shall terminate and the land shall immediately revert to the full control of the Department of Agriculture.

IN WITNESS WHEREOF, I, Robert B. Rutledge, Regional Counsel, pursuant to delegations of authority from the Secretary of Transportation, the Federal Highway Administrator, the Regional Federal Highway Administrator, and Chief Counsel, Federal Highway Administration,

1-25-91

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by virtue of authority in me vested by law, have hereunto subscribed my name as of the day and year first above written.

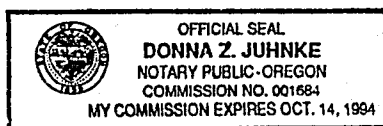
UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

By Robert B. Rutledge  
Robert B. Rutledge, Regional Counsel

STATE OR OREGON )  
COUNTY OF MULTNOMAH )

I, Donna Z. Juhnke, a Notary Public in and for the State of Oregon, do hereby certify that on this 8th day of February, 1991, before me personally appeared Robert B. Rutledge, Regional Counsel, Federal Highway Administration, and acknowledged that the foregoing instrument bearing date of February 8, 1991, was executed by him in his official capacity and by authority in him vested by law, for the purposes and intents in said instrument described and set forth, and acknowledged the same to be his free act and deed as Regional Counsel, Federal Highway Administration.

Witness my hand and seal this 8th day of February, 1991.



Donna Z. Juhnke  
Notary Public for Oregon

My Commission expires Oct. 14, 1994

In compliance with the conditions set forth in the foregoing deed, the Grantee certifies, and by the acceptance of this deed, accepts the right-of-way over certain land herein described and agrees for itself, its successors and assigns, forever to abide by the conditions set forth in said deed.

APPROVED AS TO LEGAL SUFFICIENCY

Dale H. Hermann  
Assistant Attorney General

Date Jan. 29, 1991

STATE OF OREGON, by and through its DEPARTMENT  
OF TRANSPORTATION Highway Division

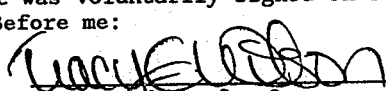
By Steven Green  
Steven Green, Right of Way Manager

3825

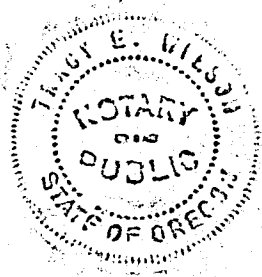
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STATE OF OREGON, County of Marion

February 26, 1991. Personally appeared Steven Green, who being sworn, stated that he is the Right of Way Manager for the State of Oregon, Department of Transportation, Highway Division, and that this document was voluntarily signed on behalf of the State of Oregon by authority delegated to him. Before me:

  
Notary Public for Oregon

My Commission expires 8-28-93



Return: Oregon Hwy Div.  
Transportation Bldg.  
Salem, Or. 97310

1-25-91

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ael/*mp*

## EXHIBIT A

## RIGHT OF WAY GRANT

OREGON STATE HIGHWAY DIVISION

Located Line

**FORGE RD. - LOBERT (NORTH UNIT) SEC.**

THE DALLES - CALIFORNIA HIGHWAY

PROJECT NO. SA-4-1(2)

FILE NO. R6050039

KLAMATH COUNTY, OREGON

NOVEMBER, 1990

RIGHT OF WAY PLATS

U.S.D.A.  
FOREST SERVICE  
PACIFIC NORTHWEST REGION  
WINEMA NATIONAL FOREST

1927 GRID BEARINGS-SOUTH ZONE

NOTE: COORDINATES USED ON THIS MAP ARE ON A  
LOCAL DATUM PLANE WHICH REPRESENTS TRUE GROUND  
DISTANCES. TO CONVERT LDP COORDINATES TO OREGON  
STATE GRID SOUTH ZONE, MULTIPLY LDP COORDINATES  
BY 0.9997442.

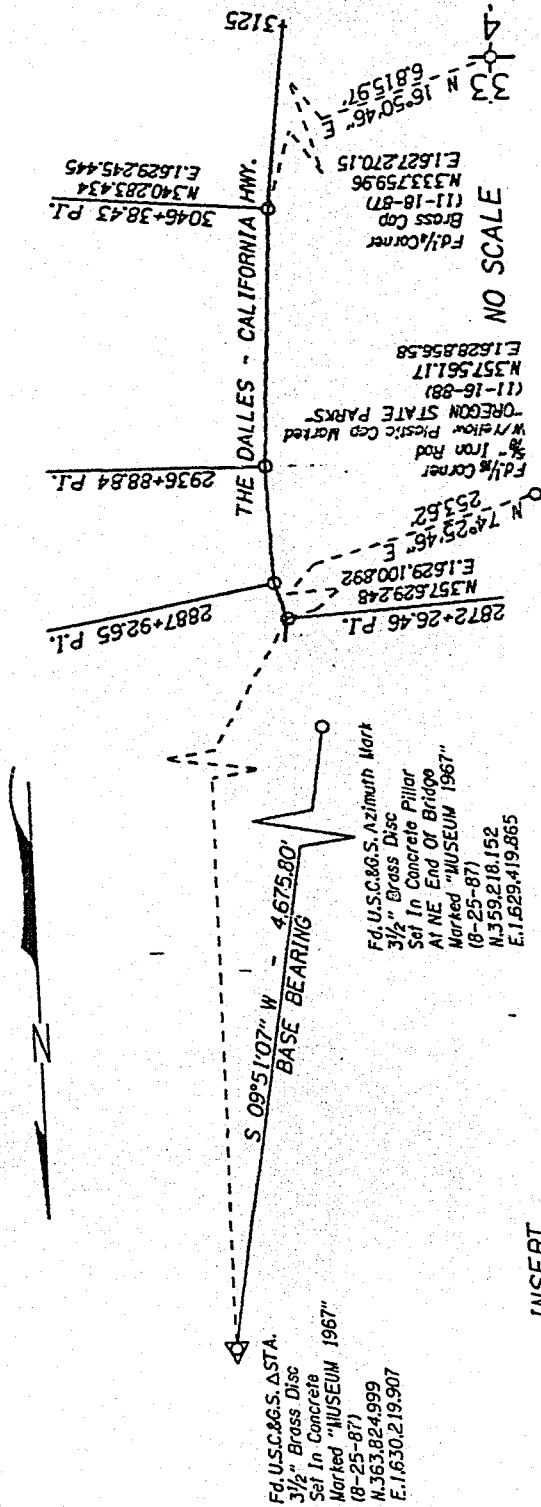
THIS DRAWING WAS PREPARED FROM AN OREGON  
STATE HIGHWAY DIVISION SURVEY. THE SURVEY  
TRANSIT NOTES ARE RETAINED IN THE FILES AS  
FIELD BOOK NUMBER 2852.

## LEGEND

- Township or Range Line
- Section Line
- Quarter Section Line
- Sixteenth Section Line
- Existing Right of Way or Property Line
- Access Control Line
- Proposed Right of Way Line
- Top of Cut Slope
- Top of Fill Slope
- ⊙ Access Point
- Found Monument As Noted
- ▨ Right Of Way Grant Area

SEE ORG. 9B-34-14

**BASIS OF BEARING**



INSERT

NO SCALE

**RIGHT OF WAY GRANT**

**EDGE RD - LOBERT (NORTH UNIT) SEC.**

THE QUEEN - CALIFORNIA HIGHWAY

WINEMA NATIONAL FOREST  
RIGHT OF WAY PLAT  
Description of Land:

SEE SHEET 3 OF 6

EXHIBIT A  
SHEET 2 OF 3

Accepted By: 28/10/99  
Date: 28/10/99

05-1-017-27-00

**KLAMATH COUNTY, OREGON**

7E1J370 101E0RGFR088.F2A

STATE OF OREGON: COUNTY OF KLAMATH: SS.

Filed for record at request of Oregon Hwy Div. the 4th day  
of March A.D., 19 91 at 10:05 o'clock AM., and duly recorded in Vol. M91  
of Deeds on Page 3820

**FEE**            **\$\$\$5.00**

On page 522.  
Evelyn Biehn County Clerk  
By Orville Mullender

