

38249

Vol. 91 Page 25382

Highway Division  
File 23083  
7B-31-8

ORIGINAL

DEED

The STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION, Highway Division, Grantor, conveys unto JACK F. WELLS and MARILEE WELLS, husband and wife, Grantees, the following described property:

A parcel of land lying in Lot 2, Block 45, BUENA VISTA ADDITION, Klamath County, Oregon and being that property described in that deed to the State of Oregon, by and through its State Highway Commission, recorded January 21, 1957 in Book 289, Page 222 of Klamath County Record of Deeds.

The parcel of land to which this description applies contains 3,125 square feet, more or less.

This conveyance is made and delivered upon the following express conditions, reservations, and restrictions:

1. That there is reserved unto the State of Oregon, its successors and assigns, all minerals, as defined in ORS 273.775(1), and all geothermal resources, as defined in ORS 273.775(2), together with the right to make such use of the surface as may be reasonably necessary for prospecting for, exploring for, mining, extracting, reinjecting, storing, drilling for, and removing such minerals and geothermal resources, provided, however, that the right reserved to use the surface for any of the above activities shall be subordinate to that actual use of the surface of the premises deeded herein, or any part thereof, being made by the surface rights owner at the time that the State's lessee conducts any of the above activities. In the event such use of the premises by a surface rights owner would be damaged by one or more of the activities described above, then such owner shall be entitled to compensation from State's lessee to the extent of the diminution in value of the real property, based on the actual use by the surface rights owner at the time the State's lessee conducts any of the above activities.

2. That the above described land shall never be used for the placing or maintenance of any advertising sign, display, or device, except such sign, display, or device used to advertise the activities on said land, or the lease or sale of said land or any portion thereof. In the event of violation of this condition, Grantor shall have the right, through its authorized officers, agents, or employees to enter upon said land and remove, destroy, or obliterate any unauthorized sign, display, or device, without liability for damage or injury thereto, and to recover the cost of such removal, destruction or obliteration from the owner of said land.

3. That no junk, scrap, junked motor vehicles, or parts thereof, debris, trash, waste, or other such materials shall be placed on said land for whatever purpose in any

TAX STATEMENTS SHALL BE SENT TO:

310 Nevada Avenue  
Klamath Falls, OR 97601

5-10-91

PLEASE RETURN TO:  
Department of Transportation  
Highway Division  
412 Transportation Building  
Salem, Oregon 97310  
ATTN: PROPERTY MANAGEMENT

91 DEC 23 AM 10 23

manner so as to be visible from a state highway, provided that such items as listed above can otherwise be placed on said land without violating any applicable law, ordinance, or regulation. In the event of violation of this condition, Grantor shall have the right, through its authorized officers, agents, or employees, to enter upon said land and remove or destroy any unauthorized junk, scrap, or other material mentioned above and recover the cost of such removal or destruction from the owner of said land.

4. That this property shall not be used for the operation of any garbage dump or sanitary land fill. If such use is made of the property, Grantor may, at its election, enter upon said land and restore it to the condition that existed prior to said use for garbage dump or sanitary land fill purposes and recover the cost thereof from the owner of said land.

5. That this conveyance is made upon the further condition, which shall constitute a covenant running with the land, that Grantor shall not at any time become liable to Grantees, their heirs and assigns in interest, for damages to the land herein described or any buildings, structures, improvements, or property of any kind or character now or hereafter located upon said land or for any injuries to any owner, occupant, or any person in or upon said land or for any interference with the use and enjoyment of said land or for damages which except for this covenant might constitute a nuisance caused directly or indirectly by noise or air pollutant emissions from transportation vehicles using the highway or transportation facility adjacent to said land. Any reference in this covenant to the highway or transportation facility adjacent to said land refers to the highway or transportation facility as it now exists and also as it will exist with future improvements. Grantees, for themselves and for those who may hold title to any of said land under or through them, covenant not to sue Grantor for any said injuries or damages.

It is understood that the conditions, reservations, restrictions, and covenants herein set out have been considered in determining the amount of consideration of this conveyance.

The rights and remedies herein reserved or provided shall not be exclusive and shall not be in derogation of any other right or remedy which Grantor may have. The conditions and restrictions herein contained shall run with said land and shall forever bind Grantees, their heirs and assigns. Where any action is taken to enforce the above mentioned conditions and restrictions, Grantor shall not be liable for any trespass or conversion as to any real or personal property. Where legal proceedings are commenced by Grantor to enforce the foregoing conditions and restrictions or for the recovery of the aforementioned removal or destruction costs, the successful party shall be entitled to reasonable attorney fees and court costs.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

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The true and actual consideration received by Grantor for this conveyance is \$650.00.

Dated this 27<sup>th</sup> day of Nov, 1991.

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

By Lou Schwab  
Lou Schwab, Acting Right of Way Manager

STATE OF OREGON, County of Marion

November 27<sup>th</sup>, 1991. Personally appeared Lou Schwab, who being sworn, stated that he is the Acting 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:

Carole R. Steis  
Notary Public for Oregon

My Commission expires 12-10-92

STATE OF OREGON,  
County of Klamath ss.

Filed for record at request of:

Dept. of Transportation  
on this 5th day of Dec. A.D. 19 91  
at 10:23 o'clock A M. and duly recorded  
in Vol. M91 of Deeds Page 25382  
Evelyn Biehn County Clerk

By Pauline N. Mullender  
Deputy.

Fee, \$15.00

11-27-91  
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