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ASPEN

Vol. 291 Page 25973

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AUG 08 1991

CIRCUIT COURT OF OREGON

KLAMATH COUNTY

1991 AUG 12 AM 10:24

CLERK OF COURT

BY

STATE OF OREGON, by and through
its Department of Transportation,

Plaintiff,

v.

No. 90-02528CV

STIPULATED FINAL JUDGMENT

LONNIE SANBORN, also known as
Lonnie William Sanborn; FEDERAL
DEPOSIT INSURANCE CORPORATION,
successor to Federal Savings &
Loan Association Insurance
Corporation, successor to Umpqua
Savings & Loan Association, an
Oregon corporation; and
WILLIAM FITZGERALD,

Defendants.

The above-entitled matter having come on regularly upon
stipulation of the parties, plaintiff appearing by and through
Robert A. Petersen of its attorneys and defendant Lonnie Sanborn
appearing by and through Aspell, Della-Rose & Richard, his
attorneys; and

It appearing to the court and the court now finds that an
Order of Default has been entered herein against William
Fitzgerald, defendant herein; and

It appearing to the court and the court now finds that the
Federal Deposit Insurance Corporation, successor to Federal
Savings & Loan Association Insurance Corporation, successor to
Umpqua Savings & Loan Association, an Oregon corporation; having
filed a disclaimer of compensation herein; and

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STIPULATED FINAL JUDGMENT

RETURN TO:
HIGHWAY DIVISION
RIGHT OF WAY SECTION
409 TRANSPORTATION BLDG.
SALEM, OR 97310

DEPARTMENT OF JUSTICE
450 JUSTICE BUILDING
SALEM, OREGON 97310
PHONE 378-6313

Copy to ASPEN, Finance Dept. Ltd.

90-34-14

1 It appearing to the court and the court now finds that the
2 acquisition described in Paragraph 3 of plaintiff's Complaint on
3 file herein is necessary for public use; and

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

8 It appearing to the court from the records and files herein
9 and the stipulation of the parties that the sum to be awarded to
10 the defendant for the appropriation of the property hereinafter
11 described is the sum of \$3,500, and

12 It further appearing to the court that plaintiff, on
13 August 10, 1990, deposited with the clerk of this court the sum
14 of \$2,250 for the use and benefit of defendant; and

15 It further appearing that plaintiff has deposited with the
16 clerk of this court the balance of the amount for the
17 appropriation which is over and above the \$2,250 heretofore
18 deposited, to wit: the sum of \$1,250, plus interest at the rate
19 of 9% per annum from August 15, 1990, the date the plaintiff took
20 possession of the property described herein, to the date of
21 payment, and that plaintiff is now entitled to judgment,
22 appropriating the acquisition hereinafter described, to the State
23 of Oregon, by and through its Department of Transportation, free
24 and clear of all liens and encumbrances; now, therefore,

25 ///

26 ///

Page 2 - STIPULATED FINAL JUDGMENT

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED by this court as
2 follows:

3 1.

4 That the acquisition hereinafter described be, and the same
5 hereby is, appropriated for public purposes; and title to said
6 acquisition, together with all rights and easements therein, be,
7 and the same hereby is vested in the State of Oregon, by and
8 through its Department of Transportation, free and clear of all
9 liens and encumbrances. Said acquisition so appropriated is
10 described on the attached Exhibit A and as follows:

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

12 All abutter's rights of access between the
13 relocated The Dalles-California Highway and
14 the real property described as Parcel 1,
EXCEPT, however;

15 Reserving access rights, for the service of
defendants' property, to and from said
16 property to the abutting highway at the
following place, in the following width:

	Hwy. Engr's Sta.	Side of Hwy.	Width
18	3082+50	Westerly	35'
19	3086+20	Westerly	35'

20 A permanent easement across the property
21 described as Parcel 2, for the purpose of
22 constructing, reconstructing, operating and
23 maintaining slopes, water, gas, electric and
24 communication service lines, fixtures and
25 facilities. Since fee simple title is not
being acquired, any use may be made of the
real property provided that such use shall
not interfere with the purpose of this
easement or endanger the lateral support of
the highway.

26 *///*

Page 3 - STIPULATED FINAL JUDGMENT

2.

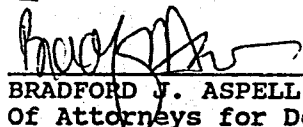
That none of the parties shall recover costs or attorney fees incurred herein.

DATED this 9 day of August, 1991.


CIRCUIT COURT JUDGE

IT IS SO STIPULATED:


ROBERT A. PETERSEN #71133
Of Attorneys for Plaintiff


BRADFORD J. ASPELL #74015
Of Attorneys for Defendant

JTT00E1P/ebh

EXHIBIT A

File R6050032
 Lonnie Sanborn and
 Chris Sanborn
 KEK 07-11-90 98-34-14

Survey Approval Project
 Section: Forge Rd.-Lobert (North Unit)
 Highway: The Dalles-California
 Throughway

PARCEL 1 - Access Only

A tract of land lying in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, Township 34 South, Range 7 East, W.M., Klamath County, Oregon and being that property described in that deed to Lonnie Sanborn and Chris Sanborn, recorded in Book M-88, Page 7792 of Klamath County Record of Deeds.

PARCEL 2 - Permanent Easement for Slopes, Water, Gas, Electric and Communication Service Lines, Fixtures and Facilities

A parcel of land lying in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, Township 34 South, Range 7 East, W.M., Klamath County, Oregon; the said parcel being that portion of said SE $\frac{1}{4}$ NE $\frac{1}{4}$ lying Southerly of that property described in that deed to the State of Oregon, by and through its State Highway Commission recorded May 10, 1947 in Book 206, Page 169 of Klamath County Record of Deeds; Northerly of a line at right angles to the center line of the relocated The Dalles-California Highway at Engineer's Station 3081+50 and included in a strip of land variable in width, lying on the Westerly side of said center line which center line is described as follows:

Beginning at Engineer's center line Station 3053+78.63, said station being 511.58 feet North and 803.30 feet West of the Southeast corner of Section 28, Township 34 South, Range 7 East, W.M.; thence South 6° 29' 28" West 7321.37 feet to Engineer's center line Station 3127+00.

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

Station	to	Station	Width on Westerly Side of Center Line
3069+70		3077+75	55 in a straight line to 70
3077+75		3081+50	70 in a straight line to 50

Bearings are based upon the Oregon Co-ordinate System of 1927, South Zone.

The parcel of land to which this description applies contains 9,875 square feet, more or less, outside of the existing right of way.

(CONTINUED ON PAGE 2)

EXHIBIT A CONTINUED - Page 2

File R6050032

rlr

07-11-90

NOTE: Parcel 1 Access Controlled to Highway.

Parcel 2 Access Not Controlled. Prior file RW8441 restricts access to highway.

Outside Area: 7.42 acres, more or less, right.

Prior file RW8441.

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25979

S0000001 0111

STATE OF OREGON)

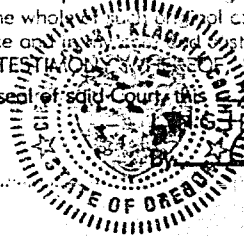
County of Klamath)

I, LYN G. HARDY Clerk of the Circuit Court of the County of Klamath and the State of Oregon do hereby certify that the foregoing copy has been by me compared with the original, and that it is a true and correct copy of the whole and of the same appears on file or of record in my office as shown by study.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 22 day of Dec. A.D. 19 91

L. G. HARDY,

Clerk of Court



Evelyn Biehn

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title Co. the 12th day of Dec. A.D. 19 91 at 3:40 o'clock P M., and duly recorded in Vol. M91 of Deeds on Page 25973.

FEE \$38.00

Evelyn Biehn County Clerk

By Dorlene G. Nield