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NOV 27 1990

10-22-93A11:34 RCVD

CERTIFIED  
COPY

K-46978  
CIRCUIT COURT OF OREGON

Vol. m93 Page 27722

FILED  
STATE OF OREGON  
CLERK OF COURT

1990 NOV 28 AM 11:50

KLAMATH COUNTY

CLERK OF COURT

BY

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

Plaintiff,

v.

LARRY S. FISH,

Defendant.

No. 8902484CV

AMENDED JUDGMENT

The above-entitled matter came on regularly for trial on  
the 5th day of September, 1990, before the Judge of the  
above-entitled court, plaintiff appearing by and through  
Robert A. Petersen of its attorneys; and the defendant Larry S.  
Fish appearing by and through Stanley C. Jones, P.C., of his  
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  
in the manner provided by law; the parties having made their  
opening statements; the parties having adduced evidence in  
support of their contentions; arguments by respective parties

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RETURN TO:  
OREGON DEPT. OF TRANSPORTATION  
RIGHT OF WAY SECTION  
409 TRANSPORTATION BUILDING  
SALEM, OR 97310-1354

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

9B-32-1

1 having been made to the jury, the jury having been regularly  
2 instructed in the law and having retired for deliberations did,  
3 on the 6th day of September, 1990, return its verdict, which  
4 verdict, omitting the title of the court and cause, is in the  
5 words and figures as follows:

6  
7 "We, the jury, being duly empaneled and sworn  
8 to try the above-entitled case, find just  
9 compensation to be paid for the acquisition to  
be \$3,410.

10 DATED this 6th day of September, 1990.

11 /s/Jeff Mueller  
12 Foreperson."

13 It appearing to the court and the court now finds that the  
14 amount of the verdict of the jury was more than plaintiff's  
15 tender made in writing more than 30 days prior to trial, and  
16 that defendant therefore is entitled to its costs and  
disbursements incurred herein;

17 It appearing to the court from files and records herein  
18 that on September 19, 1989, the plaintiff heretofore deposited  
19 the sum of \$1,000 with the Clerk of the Court for the use and  
20 benefit of the defendant herein; and

21 It further appearing to the Court that plaintiff has now  
22 deposited the balance of the verdict over and above the said  
23 \$1,000 heretofore deposited, the added sum of \$2,410, plus  
24 interest at 9% per annum from September 25, 1989, the date the  
25 plaintiff took possession of the property described herein, to  
26 the date of payment, and that plaintiff is now entitled to

Page

2 - AMENDED JUDGMENT



1 judgment herein; now, therefore,

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

3 1.

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

12 2.

13 Plaintiff shall take title of the real property described  
14 herein subject to the interest of others than the within named  
15 defendant in the following encumbrance:

16 "Rights of Way to The California Oregon  
17 Power Company, in Volume 69, Page 442,  
18 Volume 69, Page 495, and Volume 80, Page 478."

19 3.

20 Plaintiff and defendant, as a result of a stipulation  
21 entered into the record, have stipulated that the highway  
22 project adjacent to the Larry Fish property will be constructed  
23 as drawn on state's Exhibit 11 and not otherwise, unless  
24 changed in a way that is more beneficial to access the adjacent  
25 property, and not detrimental to highway access.

26 In the event of any change from Exhibit 11 that is  
detrimental to highway access from the adjacent property or

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SALEM, OREGON 97310  
PHONE 378-4400

1 changes grade to the detriment of the adjacent property the  
2 property owner shall be entitled to compensation for such  
3 change.

4 This stipulation runs with the land.  
5

6 4.

7 That defendant shall recover of and from the plaintiff the  
8 sum of \$5,607.92 as his costs and disbursements taxed herein.

9 DATED this 26 day of Nov, 1990.

10   
11 CIRCUIT COURT JUDGE

12 Submitted by:  
13 Robert A. Petersen  
14 Assistant Attorney General

15 8576T/dsk  
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## EXHIBIT A

File 57758  
Larry S. Fish  
AFD 8-16-88 9B-32-1

Survey Approval Project  
Section: Kern Swamp Rd.-Weyerhaeuser Rd.  
Highway: Green Springs  
Non-throughway

A parcel of land lying in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  and in the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 23, Township 39 South, Range 8 East, W.M., Klamath County, Oregon and being a portion of that property designated as Parcel 2 and described in that deed to Larry S. Fish, recorded in Book M-85, Page 185 of Klamath County Record of Deeds; the said parcel being that portion of said property included in a strip of land 50 feet in width, lying on the Northwestern side of the center line of the Green Springs Highway as said highway has been relocated, which center line is described as follows:

Beginning at Engineer's center line Station 223+82.73, said station being 623.65 feet South and 224.28 feet West of the North quarter corner of Section 27, Township 39 South, Range 8 East, W.M.; thence North 49° 50' 04" East 2112.37 feet; thence on a spiral curve left (the long chord of which bears North 48° 53' 49" East 374.96 feet) 375 feet; thence on a 3819.72 foot radius curve left (the long chord of which bears North 45° 11' 32.5" East 243.90 feet) 243.94 feet; thence on a spiral curve left (the long chord of which bears North 41° 29' 16" East 374.96 feet) 375 feet; thence North 40° 33' 01" East 503.74 feet; thence on a spiral curve left (the long chord of which bears North 39° 53' 01" East 399.98 feet) 400 feet; thence on a 5729.58 foot radius curve left (the long chord of which bears North 38° 13' 13" East 66 feet) 66 feet; thence on a spiral curve left (the long chord of which bears North 36° 33' 25" East 399.98 feet) 400 feet; thence North 35° 53' 25" East 450.23 feet to Engineer's center line Station 273+09.01.

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

The parcel of land to which this description applies contains 0.12 acre, more or less.

ael/  
8-25-88  
Access Controlled (to Highway).

Exhibit A

27727

CERTIFICATE OF SERVICE

I certify that on November \_\_, 1990, I served a true copy  
of the within Amended Judgment upon the following, by  
depositing it in the United States Post Office at Salem,  
Oregon, postage prepaid, addressed as follows:

Stanley C. Jones  
Boivin & Uerlings  
Attorneys at Law  
Suite 209  
110 N. 6th Street  
Klamath Falls, OR 97601-0215



ROBERT A. PETERSEN #71133  
Assistant Attorney General  
Trial Attorney  
Of Attorneys for Plaintiff  
450 Justice Building  
Salem, OR 97310  
Telephone: 378-6313

8576T/dsk

U.S. DISTRICT COURT  
JUSTICE BUILDING  
SALEM, OREGON 97310  
PHONE 378-4200



27728

27728

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 found to be a true and correct copy, and of the same I have caused to be attested on file of record and in my office.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 6 day of Oct A.D. 19 93

LYN G. HARDY Clerk of Court *Althys M. Hering*

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Title the 22nd day of Oct. A.D., 19 93 at 11:34 o'clock A M., and duly recorded in Vol. M93 of Deeds on Page 27722.

FEE \$40.00

Evelyn Biehn - County Clerk

By *Rouline Neulander*