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File 6008035

ORIGINAL

## MATERIALS SOURCE EASEMENT DEED

THIS DEED, made this 20<sup>th</sup> day of March, 1997, 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, 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 certain lands to be used as a materials source over certain Federal land under the jurisdiction of the Department of the Interior - Bureau of Land Management in the State of Oregon, which land has been appropriated by the Department, and

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 materials source to be used in connection with the Paradise Creek-Klamath County Line project on the Klamath Falls-Lakeview Highway; and

WHEREAS, the Department of the Interior, acting by and through the Bureau of Land Management, in its consent to the appropriation of the Federal land, has agreed to the transfer by the Department of an easement for a materials source over the land to Grantee;

NOW THEREFORE, Department, as authorized by law, and in compliance with all requirements imposed by or pursuant to Title 49 CFR, Department of Transportation, Subtitle A, Office of Secretary, Part 21, nondiscrimination in federally-assisted programs of the Department of Transportation (49 CFR 21.2 - 21.23) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby grant to Grantee an easement for a materials source on, over, across, in, and upon the following described Federal land within the County of Klamath, State of Oregon:

S $\frac{1}{4}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{4}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Sec. 9, T.37S., R.14E., W.M.

as shown on the following map:

Drawing No. 1R-4-940, Dated December 15, 1995, Marked Exhibit A OR 52560, attached hereto and made a part hereof, subject, however, to the following terms, conditions, and covenants:

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- (1) Outstanding valid claims, if any existing on the date of this grant, and Grantee shall obtain such permission as may be necessary on account of any such claims.
- (2) The Authorized Officer for this right-of-way is the Klamath Falls Resource Area Manager.
- (3) Access is limited to use of the existing roads.
- (4) The Holder is responsible for clean-up and proper disposal of all trash and debris dumped on the site during the term of the right-of-way.
- (5) The Holder shall control noxious weeds within the limits of the right-of-way. The Holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods.
- (6) Use of pesticides shall comply with the applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and only for the control of noxious weeds. Prior to the use of pesticides, the Holder shall obtain from the Authorized Officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the Authorized Officer. Emergency use of pesticides shall be approved in writing by the Authorized Officer prior to such use.
- (7) Reclamation of abandoned excavated areas will occur as mineral materials are removed. Topsoil, removed and stockpiled, and crusher reject and oversize material developed from the active quarrying operation will be used to reclaim the exhausted and abandoned portions of the quarry. Crusher reject and oversize material will be placed in the bottom of the pit, graded, and then the pit floor and abandoned cut slopes covered with topsoil and seeded with Regreen.
- (8) There may be occasions where crushing contracts extend for more than one year. When this occurs, all productive topsoil (usually the top 12 to 18 inches) from all excavations will be stripped, stockpiled, and protected from erosion for use in future reclamation. Do not mix topsoil and subsoil. Control erosion of stockpiles through appropriate construction design with mulching (using weed free mulch) and/or revegetation with Regreen (a sterile wheatgrass hybrid) to facilitate establishment of native species. Whenever possible do not store topsoil for extended periods (over two years).
- (9) For public safety, no high, steep banks conducive to cave-in will be left in the pit area after any gravel removal operation.
- (10) Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the Holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the Authorized Officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the Authorized Officer after consulting with the Holder.
- (11) Excavation shall take place no closer than 20 feet to any fence line or boundary line in the area, or 50 feet to any powerline or road.
- (12) All highwalls, benches, and other cuts shall conform to the requirements of Oregon Dept. of Geology and Mineral Industries, and the U.S. Mine Safety and Health Administration.
- (13) All material removed under the authority of this right-of-way must be used on federal aid highways.

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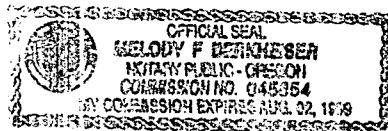
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- (14) The Bureau of Land Management reserves the right to issue free use mineral materials permits to third parties for removal of mineral materials from this materials site right-of-way when the Bureau of Land Management determines: 1) the third party will not interfere with the Grantee's use of the materials site right-of-way and 2) the material removed under the free use permit is not used on federal aid highways.
- (15) The Grantee shall maintain the right-of-way and highway facilities to acceptable standards of repair, orderliness, neatness, sanitation, and safety.
- (16) When need for the easement herein granted shall no longer exist and the area has been reasonably rehabilitated to protect the public and environment, Grantee shall give notice of that fact to the Secretary of Transportation and rights herein granted shall terminate and the land shall immediately revert to the full control of the Secretary of the Department of the Interior or its assigns.

The Grantee, in consideration of the conveyance of said land, 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 land hereby conveyed, (b) that Grantee shall use said land 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, in effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

In the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have the right to re-enter said land and facilities on said land, and the above-described land and facilities shall thereupon revert to and vest in and become the absolute property of the Department and its assigns, as such interest existed prior to this instrument.

IN WITNESS WHEREAS, I, Robert B. Rutledge, Regional Counsel, pursuant to delegation of authority from the Secretary of Transportation, the Federal Highway Administrator, and the Chief Counsel, Federal Highway Administration, 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 OF OREGON     )  
COUNTY OF MULTNOMAH)

20<sup>th</sup> Melody F. Berkhiser a Notary Public in and for the State of Oregon, do hereby certify that on this 20<sup>th</sup> day of March, 19 97, before me personally appeared Robert B. Rutledge, Regional Counsel, Federal Highway Administration, and acknowledged that the foregoing instrument bearing date of March 20, 19 97, 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 20 day of March, 19 97

Melody F. Berkhiser  
Notary Public for Oregon

My Commission expires Aug. 02, 1999

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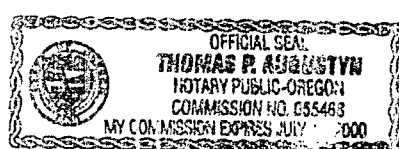
in compliance with the conditions set forth in the foregoing deed, the State of Oregon certifies, and by the acceptance of this deed, accepts the right of way over certain land herein described and agrees for itself, its successors and assigns, forever to abide by the conditions set forth in said deed.

APPROVED AS TO LEGAL SUFFICIENCY

Kathy A. Lincoln  
Assistant Attorney GeneralDate 3/14/97STATE OF OREGON, by and through its  
DEPARTMENT OF TRANSPORTATIONBy Deolinda G. Jones  
Deolinda G. Jones, Right of Way Manager

STATE OF OREGON, County of Marion

4-29, 1997. Personally appeared Deolinda G. Jones, who being sworn, stated that she is the Right of Way Manager for the State of Oregon, Department of Transportation, and that this document was voluntarily signed on behalf of the State of Oregon by authority delegated to her. Before me:

Thomas P. Augustyn  
Notary Public for OregonMy Commission expires 7/17/2000

July 17, 2000  
TBA

Sec. 9, T 37 S, R 14 E, W.M.



R-4-340

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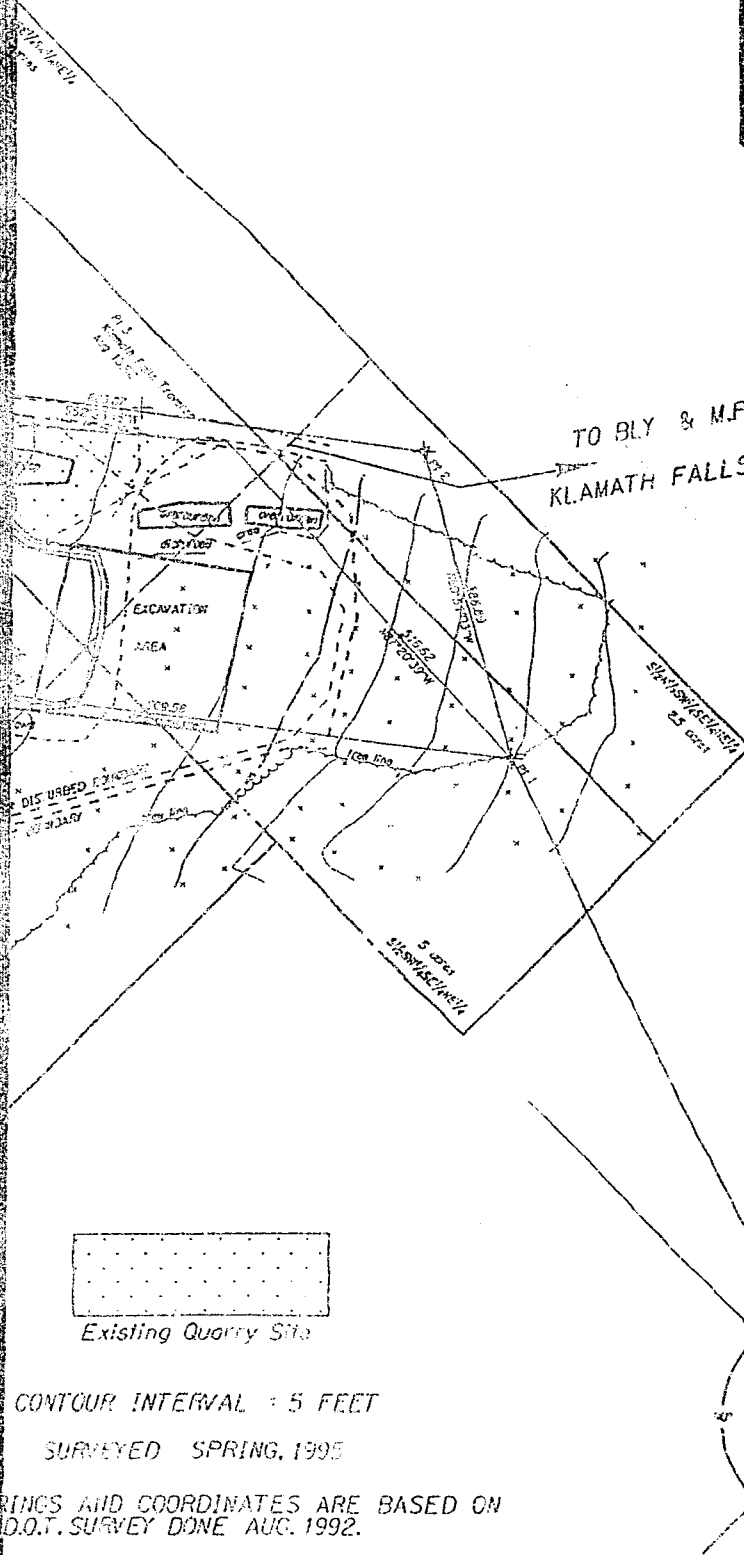
DOGAM #18-0079  
SOURCE #18-033-4

## OREGON DEPARTMENT OF TRANSPORTATION

Purpose	MATERIAL SOURCE
Section	BEATTY - BLY
Highway	KLAMATH FALLS - LAKEVIEW
County	KLAMATH
Scale : 1"=200'	Date : Dec. 15, 1995

S1/2NW1/4SE1/4SW1/4NE1/4	2.5 acres
S1/2NW1/4SW1/4SE1/4NE1/4	2.5 acres
S1/2SE1/4SW1/4NE1/4	5 acres
S1/2SW1/4SE1/4NE1/4	5 acres
E1/2NW1/4NW1/4SW1/4SE1/4	2.5 acres
E1/2NW1/4NW1/4SE1/4	5 acres
NE1/4NW1/4SE1/4	10 acres
W1/2NW1/4NE1/4SE1/4	5 acres
E1/2SW1/4SW1/4NW1/4SE1/4	2.5 acres
E1/2SW1/4NW1/4SE1/4	5 acres
SE1/4NW1/4SE1/4	10 acres
TOTAL	55 acres

TO BLY & M.P. 53.9 of the  
KLAMATH FALLS - LAKEVIEW HWY



Existing Quarry Site

CONTOUR INTERVAL : 5 FEET

SURVEYED SPRING, 1995

ANGLES AND COORDINATES ARE BASED ON  
D.O.T. SURVEY DONE AUG. 1992.

STATE OF OREGON : COUNTY OF KLAMATH: ss.

Filed for record at request of Oregon Dept. of Transportation the 13th day  
of May A.D., 1997 at 1:36 o'clock P.M., and duly recorded in Vol. 1197  
of Deeds on Page 14595.

FEE \$35.00

Bernetha G. Letsch, County Clerk

by Kathleen R. Rasmussen