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**STATE OF OREGON**  
**Department of State Lands**

State of Oregon, County of Klamath  
Recorded 03/23/2004 8:23 A m  
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Linda Smith, County Clerk  
Fee \$ 41.00 # of Pgs 5

**EASEMENT NO. 31127-EA**

The STATE OF OREGON, by and through its Department of State Lands, GRANTOR,  
for and in consideration of \$ NONE, hereby grants to GRANTEE,

NAME of GRANTEE:  
Oregon Department of Transportation

ADDRESS:  
63085 N Hwy 97, Suite 102  
Bend OR 97701

an easement and right to construct, maintain, operate and replace a public highway fill embankment within Upper Klamath Lake over, upon, and across the following particularly described property situated in Klamath County, Oregon, more particularly described as follows:

A parcel of land lying in Section 25, Township 37 South, Range 7 East, W.M., Klamath County, Oregon; the said parcel being all State-owned submerged and submersible land lying between lines at right angles to the center line of the relocated Lake of the Woods Highway at Engineer's Stations 45+772.000 and 46+591.256 and included in a strip of land variable in width, lying on the Northeasterly side of said center line, which center line is described as follows:

Beginning at Engineer's center line Station 45+428.856, said station being 560.036 meters South and 302.571 meters East of the Northwest corner of Section 25, Township 37 South, Range 7 East, W.M., Klamath County, Oregon; thence South 42° 59' 10" East 226.223 meters; thence on a spiral curve right (the long chord of which bears South 40° 19' 12" East 121.814 meters) 121.920 meters; thence on a 436.594 meter radius curve right (the long chord of which bears South 26° 43' 04" East 125.574 meters) 126.011 meters; thence on a spiral curve right (the long chord of which bears South 13° 06' 56" East 121.814 meters) 121.920 meters; thence South 10° 26' 58" East 12.857 meters; thence on a spiral curve right (the long chord of which bears South 8° 44' 34" East 97.501 meters) 97.536 meters; thence on a 545.742 meter radius curve right (the long chord of which bears South 0° 44' 57" East 87.160 meters) 87.252 meters; thence on a spiral curve right (the long chord of which bears South 7° 14' 40" West 97.501 meters) 97.536 meters; thence South 8° 57' 04" West 3.744 meters to Engineer's center line Station 46+595.000

*Return to*  
*Oregon Dept Transportation*  
*63085 N Hwy 97 Suite 102*  
*Bend, Or 97701*

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The width in meters of said strip of land is as follows;

<u>Station</u>	<u>to</u>	<u>Station</u>	<u>Width of Northeastly Side of Center line</u>
45+772.000		45+814.000	56.000 in a straight line to 84.500
45+814.000		46+038.000	84.500 in a straight line to 52.500
46+038.000		46+174.000	52.500 in a straight line to 40.000
46+174.000		46+382.000	40.000 in a straight line to 34.500
46+382.000		46+478.000	34.500 in a straight line to 27.000
46+478.000		46+591.256	27.000 in a straight line to 9.000

Bearings are based upon the Oregon Coordinate System of 1983 (98), south zone

This parcel of land contains 2.231 hectares (5.51 acres), more or less

TO HAVE AND TO HOLD the same unto GRANTEE in perpetuity, subject to the following conditions:

1. GRANTOR has the right to grant additional easements within the area authorized by this easement subject to the provisions of the administrative rules governing the granting of easements.
2. GRANTEE shall obtain prior written approval from GRANTOR prior to:
  - (a) Changing the type of use authorized by this easement;
  - (b) Expanding the number of authorized developments or uses;
  - (c) Changing the authorized area; and/or
  - (d) Permitting other persons to utilize the easement for uses and developments requiring separate written authorization by GRANTOR pursuant to the administrative rules governing the granting of easements or other GRANTOR requirements.
3. The easement area shall remain open to the public for recreational and other non-proprietary uses unless restricted or closed to public entry by the State Land Board or GRANTOR.
4. GRANTOR and/or its authorized representative(s) shall have the right to enter into and upon the easement area at any time for the purposes of inspection or management.

5. Except as expressly authorized in writing by the Department, GRANTEE shall not:

- (a) Cut, destroy or remove, or permit to be cut, destroyed or removed any vegetation, or
- (b) Remove any sand and gravel, or other mineral resources for commercial use or sale, that occur in the easement area except as expressly authorized in writing by GRANTOR.

Routine right-of-way maintenance including vegetation trimming shall be allowed.

6. GRANTEE shall compensate GRANTOR for the fair market value of any commercially valuable timber or sand and gravel resources in the easement area that must be removed during or after placement of the authorized use, or which cannot be developed because of the authorized use.

7. GRANTEE shall conduct all operations within the easement area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, GRANTEE shall reclaim disturbed lands to a condition satisfactory to GRANTOR.

8. GRANTEE shall obtain a surety bond in the amount of \$ NONE to ensure compliance with the terms and conditions of this easement.

9. The right to use this easement shall automatically terminate if it, or the development authorized by GRANTOR, is not used within five (5) consecutive years of the date this easement was granted, pursuant to the provisions of the administrative rules governing the granting of easements.

10. Unless otherwise approved in writing by GRANTOR, GRANTEE shall remove all cables, pipes, conduits, roads, and other developments placed by GRANTEE on the easement, and shall restore the surface of the easement area to a condition satisfactory to GRANTOR within one (1) year following termination of use or expiration of this easement.

11. GRANTEE shall inspect the condition of the area authorized by this easement and the developments authorized by this easement on a frequency of: (Annually).

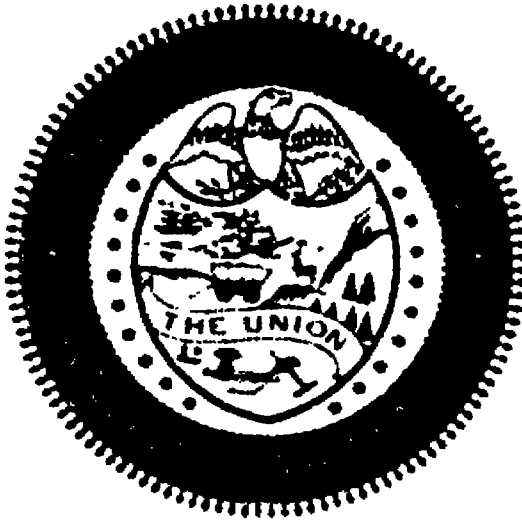
12. GRANTOR shall have the right to stop operation of the use authorized by this easement for noncompliance with the conditions of this easement, the provisions of the administrative rules governing the granting of easements, and/or any lawful requirement by a regulatory agency of this STATE.

13. If this easement authorizes the use of state-owned submerged and/or submersible land:
- (a) Construction in navigable waters shall conform to the standards and specifications set by the U.S. Army Corps of Engineers and the U.S. Coast Guard for the use authorized by this easement.
  - (b) Any blasting which may be necessary, or in-water placement, maintenance, or repair of the authorized use shall be performed according to the laws of this STATE, including strict adherence to Oregon Department of Fish & Wildlife in-water work windows.
14. GRANTEE agrees to defend and hold GRANTOR harmless from any and all claims suffered or alleged to be suffered on the premises. Further, GRANTEE shall be responsible for the payment of any fines or penalties charged against the premises as a result of GRANTEE's action in not complying with laws or regulations affecting the premises.
15. GRANTEE shall pay to GRANTOR the current market value, as determined by GRANTOR, for any unnecessary and non-approved damages to state-owned lands caused by construction or maintenance of the easement.
16. GRANTEE shall pay all assessments that may be legally charged on public lands which are levied against the property subject to this easement, whether or not such assessments have been levied against the easement area or STATE by the assessing agency.
17. GRANTEE shall use the authorized easement area only in a manner or for such purposes that assure fair and non-discriminatory treatment of all persons without respect to race, creed, color, religion, handicap, disability, age, gender or national origin.
18. This easement is freely transferable. However, no transfer may increase the burden on the easement area or detract from the value of the underlying state-owned land. Prior to transferring this easement, GRANTEE shall submit to GRANTOR notice of proposed transfer of this easement on a form provided by GRANTOR, and a non-refundable transfer processing fee of \$250 (two hundred and fifty dollars) payable to GRANTOR.

This easement does not convey an estate in fee simple of the lands used for a right-of-way. This grant is for an easement only, and title remains in the State of Oregon.

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WITNESS the seal of the Department of State Lands affixed this 2<sup>nd</sup> day of March, 2004.

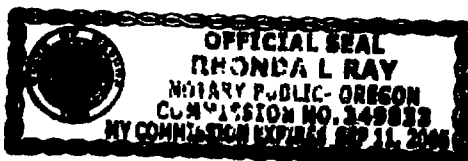


STATE OF OREGON, acting by and through its Department of State Lands

Nancy N. Pustis  
Nancy N Pustis

STATE OF OREGON                     )  
  )ss  
County of Deschutes                )

This foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of March, 2004 by Nancy N. Pustis, the EA Reg. mgr. of the Department of State Lands.



Rhonda Ray  
Signature  
My commission Expires Sept. 11, 2005