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5/14

After Recording, Return To:

Aaron Parker
City of Oregon City,
625 Center St.
Oregon City, OR 97045

Clackamas County Official Records
Sherry Hall, County Clerk

2021-067144



\$96.00

02482834202100671440140156

07/13/2021 02:32:09 PM

CLR-J Cnt=2 Stn=9 COUNTER1
\$75.00 \$5.00 \$16.00

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF CLACKAMAS

CITY OF OREGON CITY, an Oregon
municipal corporation,

Plaintiff,

v.

KATHLEEN ANN BERGE, Trustee of the
Kathleen Ann Berge Revocable Living Trust;
and TERRY W. EMMERT, an individual,

Defendants.

Case No. 19CV19265

STIPULATED GENERAL JUDGMENT**CONDEMNATION CASE**

This matter comes to the Court upon stipulation of the parties who have settled this case. Plaintiff City of Oregon City appears by and through Cynthia M. Fraser of Foster Garvey PC. Defendant Kathleen Ann Berge, Trustee of the Kathleen Ann Berge Revocable Living Trust ("Berge"), appears by and through William J. Stalnaker of Hibbard Caldwell Schultz. Defendant Terry W. Emmert ("Emmert") appears by and through Craig D. Curtright. Defendants Berge and Emmert shall be collectively referred to as "Defendants."

The parties stipulate, agree and advise the Court of the following:

The parties have reached an agreement settling the case as memorialized in the Settlement Agreement dated November 18, 2019, said terms incorporated herein;

That no good cause exists for setting aside the settlement agreement or setting this case for trial;

1 That this stipulated judgment reflects a settlement of all issues raised or that could have
2 been raised in this action;

3 That Defendants waive the right of repurchase of the property being acquired for the public
4 purpose pursuant to ORS 35.385(2)(b);

5 That Plaintiff, prior to commencement of this action and pursuant to its resolutions,
6 attempted to acquire property by agreement and purchase, but was unable to do so;

7 That the sum total judgment sum to be paid to Defendants for the settlement of this action
8 is \$120,000.00 which includes just compensation and damages, if any, for the acquisition of
9 property described herein and includes just compensation and damages, if any, for taking and
10 closure of the access at engineering station "STA 272+20 East Side" Highway 213 on the property
11 subject to this condemnation as depicted on drawing file 9499001 (*See Exhibit D*). Said
12 reservation of access previously granted by the State of Oregon, by and through its Department of
13 Transportation by Amended Final Judgment Clackamas County Circuit Court, CV82-3-389, and
14 recorded in Clackamas County Records on June 27, 1985, C83-36543 -7;

15 Pursuant to an Agreement between the City of Oregon City and Clackamas Community
16 College ("CCC") dated July 5, 2018, CCC conveyed an access easement of necessity for the
17 Defendants property for vehicular access to Meyers Road as part of the Improvements that will
18 serve 19842 Molalla Avenue Property. The easement is located to the south of the CCC property.
19 The easement was recorded in Clackamas County Records, Document 2020-00416, January 2,
20 2020. As part of the project, the City will construct a driveway access apron on Meyers Road to
21 the entrance of the CCC easement at a width of 40 feet. The CCC easement will be for 60 feet in
22 width. Defendants are responsible for any development of the CCC easement for future use of the
23 CCC easement for roadway access purposes. (*See Exhibit C showing Apron and Easement area*);

24 Plaintiff deposited the sum of \$70,000.00 with the Clackamas County Circuit clerk on
25 April 30, 2019, for the use and benefit of Defendants. That amount is credited toward the total
26 judgment sum of \$120,000.00, leaving a balance due of \$50,000.00, which sum shall be paid to

1 the client trust account of the Defendant Kathleen Ann Berge's respective attorney and to
2 Defendant Terry W. Emmert directly;

3 That Plaintiff is now entitled to judgment, appropriating the real property described, to the
4 City of Oregon City, an Oregon municipal corporation, free and clear of all liens and
5 encumbrances except as hereinafter provided; now therefore,

6 **IT IS HEREBY ADJUDGED:**

7 1.

8 The real property described herein and in Exhibit A and depicted in Exhibit B and Exhibit
9 D is appropriated for the public purposes; and title to said acquisition, together with all rights and
10 easements therein is vested in the City of Oregon City, an Oregon municipal corporation, free and
11 clear of all liens and encumbrances, except as herein provided, with said terms of the acquisitions
12 set forth below:

13 PARCEL 1 (RIGHT-OF-WAY DEDICATION)

14 A parcel of land situated on the southwest one-quarter of Section 9 and the Robert
15 Caufield DLC No. 53 in Township 3 South, Range 2 East of the Willamette
16 Meridian, Clackamas County, Oregon and being a portion of that property
17 conveyed to Kathleen Ann Berge, Trustee of the Kathleen Ann Berge Revocable
18 Living Trust in that Warranty Deed, recorded August 24, 2015 as Document No.
2015-056847, Clackamas County Deed Records; said parcel being that portion of
said property included in a strip of land 93.00 feet wide, 43.00 feet lying on the
northerly side and 50.00 feet lying on the southerly side of the centerline of Meyers
Road, which centerline is described below.

19 CENTERLINE DESCRIPTION OF A PORTION OF MEYERS ROAD

20 A road centerline situated in the southwest and southeast one-quarters of Section 9,
21 the Andrew Hood DLC No. 44 and the Robert Caufield DLC No. 53, Township 3
South, Range 2 East, Willamette Meridian, Clackamas County, Oregon.

22 Beginning at the intersection of Cascade Highway (OR 213) and the centerline of
23 Meyers Road, being Station 268+29.93 on Cascade Highway and being Station
50+62.02 for the purpose of this description, said point which bears North 59° 05'
24 23" West 2535.44 feet from the south one-quarter corner of said Section 9; thence
North 72° 11' 51" East 173.70 feet to a point of curvature (Station 52+35.72);
25 thence on the arc of a 1000.00 foot radius curve to the right, through a central angle
of 56° 55' 36", an arc distance of 993.56 feet (the long chord of which bears South
79° 20' 21" East 953.19 feet) to a point of tangency (Station 62+29.28); thence
26 South 50° 52' 33" East 98.90 feet to a point of curvature (Station 63+28.18); thence

on the arc of a 1200.00 foot radius curve to the left, through a central angle of 39° 23' 50", an arc distance of 893.90 feet (the long chord of which bears South 70° 34' 28" East 876.39 feet) to a point of tangency (Station 72+22.08); thence North 89° 43' 36" East 62.14 feet to the terminus of this description (Station 72+84.22), said point which bears North 07° 26' 30" West 832.65 feet from said south one-quarter corner of Section 9.

The parcel of land to which this description applies contains 11,718 square feet, more or less.

PARCEL 2 (PERMANENT SLOPE AND PUBLIC UTILITY EASEMENT)

A parcel of land situated in the southwest one-quarter of Section 9 and the Robert Caufield DLC No. 53 Township 3 South, Range 2 of the Willamette Meridian, Clackamas County, Oregon and being a portion of that property conveyed to Kathleen Ann Berge, Trustee of the Kathleen Ann Berge Revocable Living Trust in the Warranty Deed, recorded August 24, 2015 as Document No. 2015-056847, Clackamas County Deed Records; said parcel being that portion of said property included in a strip of land 60.00 feet in width and lying between lines at right angles to Stations 56+50.00 and 57+00.00 on the southerly side of the centerline of Meyers Road, which centerline is described above.

The parcel of land to which this description applies contains 15 square feet, more or less.

PARCEL 3 (PERMANENT SLOPE AND PUBLIC UTILITY EASEMENT)

A parcel of land situated in the southwest one-quarter of Section 9 and the Robert Caufield DLC No. 53 in Township 3 South, Range 2 East of the Willamette Meridian, Clackamas County, Oregon and being a portion of that property conveyed to Kathleen Ann Berge, Trustee of the Kathleen Ann Berge Revocable Living Trust in that Warranty Deed, recorded August 24, 2015 as Document No. 2015-056847, Clackamas County Deed Records; said parcel being that portion of said property included in a strip of land variable in width and lying on each side of the centerline of Meyers Road, which centerline is described above.

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

Station	to	Station	Width on the Northerly Side of Centerline
62+84.00		63+28.18	56.40 in a straight line to 58.00
63+28.18		63+50.00	58.00

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

Station	to	Station	Width on the Southerly side of Centerline
61+75.00		64+40.00	65.00

EXCEPT therefrom that portion lying within the above-described Parcel 1 (Right-

1 of-Way Dedication).

2 The parcel of land to which this description applies contains 3,771 square feet,
3 more or less

4 ACCESS CLOSURE: Closure of Access Reservation at Engineering Station "STA
5 272+20 East Side" of Cascade Highway South (Highway 213).

6 Closure of a right of access to the right of way of highway 213 for a width of 35
7 feet on the Easterly side thereof opposite Highway Engineer's center line Station
8 272+20; Access Reservation at Engineering Station "STA 272+20 East Side" of
9 Cascade Highway South (Highway 213).

10 2.

11 Defendants shall have a judgment for the sum total of \$120,000.00, of which \$70,000.00
12 was held by the Oregon Judicial Department and was withdrawn by Defendants on October 23,
13 2019 by Order of the Court. Plaintiff shall issue checks for the remaining amount of \$50,000.00,
14 within ten (10) days of entry of this judgment. This sum shall be split evenly between the parties;
15 Defendant Emmert's \$25,000 check shall be made payable to Terry W. Emmert and mailed to his
16 attorney's attention, and Defendant Berge's \$25,000 check shall be made payable to the trust
17 account of her attorney, Willian Stalnaker and mailed to his attention.

18 3.

19 All claims, counterclaims, and defenses which were raised or could have been raised
20 concerning the subject property are dismissed.

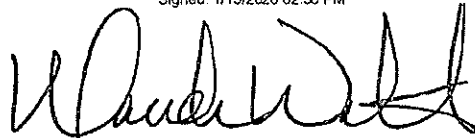
21 4.

22 There shall be no right of repurchase of property pursuant to ORS 35.385(2)(b).

23 5.

24 No party shall recover from another party costs, attorney fees or expenses incurred herein.

25 Signed: 1/15/2020 02:36 PM

26 

Circuit Court Judge Ulanda Watkins

Submitted by:

Cynthia M. Fraser, OSB #872243
E-mail: cynthia.fraser@foster.com
Foster Garvey PC
121 SW Morrison Street, 11th Floor
Portland, OR 97204
Telephone: (503) 228-3939
Fax: (503) 226-0259

Of Attorneys for Plaintiff City of Oregon City

IT IS SO STIPULATED:

DATED this 10th day of January, 2020.

FOSTER GARVEY PC

By s/ Cynthia M. Fraser

Cynthia M. Fraser, OSB #872243
E-mail: cynthia.fraser@foster.com
121 SW Morrison Street, 11th Floor
Portland, OR 97204
Telephone: (503) 228-3939

Of Attorneys for City of Oregon City

DATED this 10th day of January, 2020.

HIBBARD CALDWELL SCHULTZ

By s/ William J. Stalnaker

William J. Stalnaker, OSB #763415
E-mail: wstalnaker@hibbardcaldwell.com
1001 Molalla Avenue, Suite 200
Oregon City, OR 97045
Telephone: (503) 656-0125

Of Attorneys for Defendant Kathleen Ann
Berge, Trustee of the Kathleen Ann Berge
Revocable Living Trust

DATED this 10th day of January, 2020.

By s/ Craig D. Curtright

Craig D. Curtright, OSB #822317
E-mail: craigcurtright@gmail.com
2567 SW Kilkenney Court
West Linn, OR 97068
Telephone: (503) 709-6030

Of Attorneys for Defendant Terry W.
Emmert

EXHIBIT "A"

Meyers Road Extension
City of Oregon City
March 14, 2017
Revised July 21, 2017

Tax Map 3S2E9C
Tax Lot 00700

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EXCEPT therefrom that portion lying within the above-described Parcel 1 (Right-of-Way Dedication).

The parcel of land to which this description applies contains 3,771 square feet, more or less.

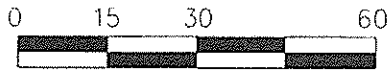


EXHIBIT "B"

SHEET 1 OF 2



56+00

57+00

MEYERS ROAD

05°43'46" C.R.
Δ 56°55'36"
T 542.13'
R 1000.00'

60.00

56+50.00
60.00 R

②

57+00.00 60.00 R

DOC. NO. 2015-056847
TL 3S2E9C00700

LEGEND:



② PERMANENT SLOPE AND PUBLIC UTILITY EASEMENT
15 SQ. FT. ± (0.0003 AC. ±)

MEYERS ROAD EXTENSION
OREGON CITY



**DAVID EVANS
AND ASSOCIATES INC.**
2100 Southwest River Parkway
Portland Oregon 97201
Phone: 503.223.6663

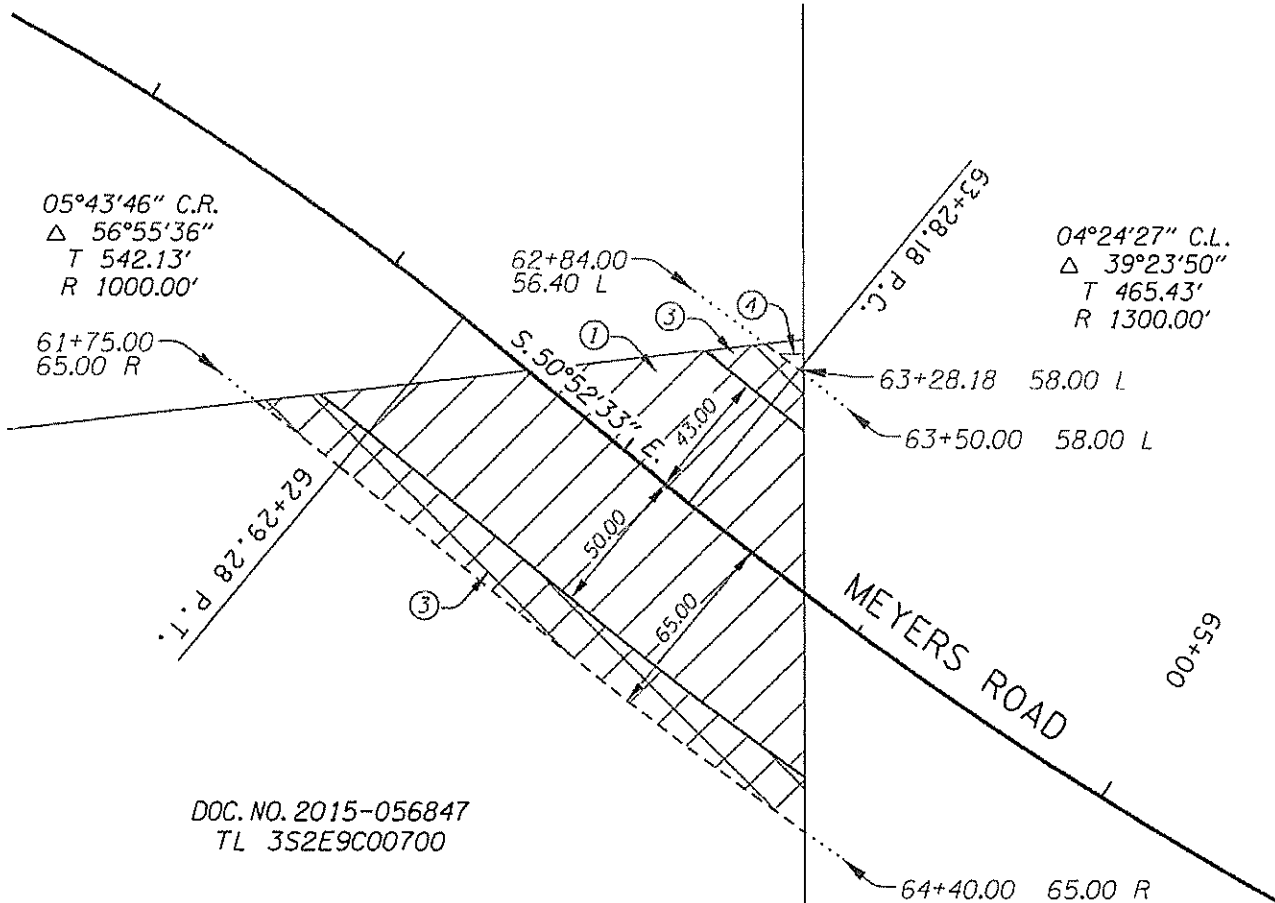
FILE NO: BERGE	SUBMITTAL DATE: 3/14/17	REV'D: 7/24/17
TAX LOT: 00700	ADDRESS: 19842 Hwy 213	
TAX MAP: 3S2E9C		

EXHIBIT B
Page 1 of 2






EXHIBIT "B"

SHEET 2 OF 2



DOC. NO. 2015-056847
TL 3S2E9C00700

LEGEND:

-  ① RIGHT-OF-WAY DEDICATION
11,718 SQ. FT.± (0.269 AC.±)
-  ③ PERMANENT SLOPE AND PUBLIC UTILITY EASEMENT
3,771 SQ. FT.± (0.087 AC.±)
-  ④ BERGE REMNANT PARCEL
73 SQ. FT.± (0.002 AC.±)

MEYERS ROAD EXTENSION OREGON CITY

FILE NO: BERGE	SUBMITTAL DATE: 3/14/17	REV'D: 7/24/17
TAX LOT: 00700	ADDRESS: 19842 Hwy 213	
TAX MAP: 3S2E9C		



**DAVID EVANS
AND ASSOCIATES INC.**
2100 Southwest River Parkway
Portland Oregon 97201
Phone: 503.223.6663

EXHIBIT B



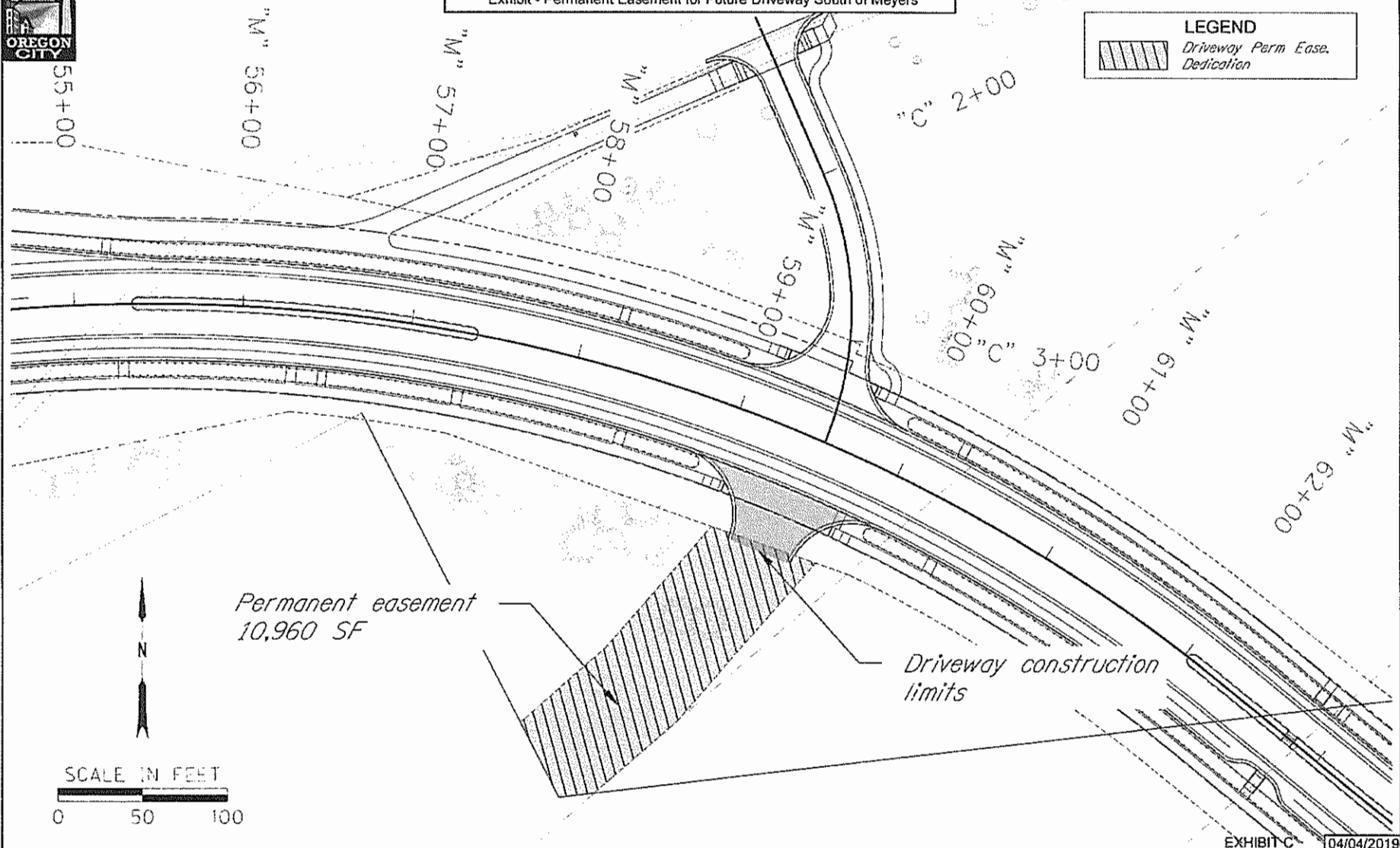
MEYERS ROAD EXTENSION PROJECT

Exhibit - Permanent Easement for Future Driveway South of Meyers

CONSULTING ENGINEERS
OFFICE: 5000 MEADOWS ROAD, SUITE 420
LAKE OSWEGO, OR 97035

LEGEND

 Driveway Perm Ease.
Dedication



SEC. 9, T. 3S, R. 2E, W.M.

P.O.T. 269+93.66
 99°35' 80.41'
 1002
 00+ 95.56
 75' 1001

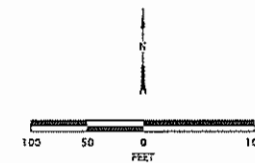
Kathleen Ann Berge, Trustee
 and Terry W. Emmert
 R 2015-056847
 R 91-591895

Cascade Highway South (OR213)
 S 30°00'19" E
 00+ 911
 00+ 275+00
 00+ 273+75
 00+ 274+80

United States of America
 Perm. Ease. - Electric Power Transmission Lines

United States of America
 Perm. Ease. - Electric Power Transmission Lines

Approximate C/L of Caulfield Creek



Proposed Closure of Access

Robert Caulfield D.L.C. No. 53
 Andrew Hood D.L.C. No. 44

ACTIVE DRAWING

THIS DRAWING SHOWS THE PROPOSED
 R/W NEEDED TO BE ACQUIRED TO
 SUPPORT THE PROJECT DESIGN

SUBJECT TO CHANGE

OREGON DEPARTMENT OF TRANSPORTATION



**RIGHT OF WAY
 ENGINEERING
 SKETCH MAP**

SECTION	MEYERS ROAD EXTENSION
HIGHWAY	CASCADE HIGHWAY SOUTH
COUNTY	CLACKAMAS COUNTY
PURPOSE	ACCESS

SCALE 1" = 100'

DATE MAY, 2019

FILE 9499001

SEE DRAWING 9B-17-19

Meyers_Rd_Ext.dgn :: Sketches 100ft

5/16/2019

CERTIFICATE OF READINESS

This proposed **STIPULATED GENERAL JUDGMENT** is ready for judicial signature because:

1. ☐ Each party affected by this order or judgment has stipulated to the order or judgment, as shown by each party's signature on the document being submitted.

2. ☒ Each party affected by this order or judgment has approved the order or judgment as shown by each party's signature on the document being submitted or by written confirmation of approval sent to me.

3. ☐ I have served a copy of this order or judgment on each party entitled to service and:

4. ☐ No objection has been served on me.

5. ☐ I received objections that I could not resolve with a party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.

6. ☐ After conferring about objections, counsel for defendants agreed to independently file any remaining objection.

7. ☐ Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.

8. ☐ This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (5) of this rule.

9. ☐ Other:

DATED this 10th day of January, 2020.

s/ Cynthia M. Fraser
Cynthia M. Fraser
Of Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **STIPULATED GENERAL JUDGMENT** on the following:

William J. Stalnaker
E-mail: wstalnaker@hibbardcaldwell.com
Hibbard Caldwell Schultz
1001 Molalla Avenue, Suite 200
Oregon City, OR 97045
Telephone: (503) 656-0125

Of Attorneys for Defendant Kathleen Ann
Berge, Trustee of the Kathleen Ann Berge
Revocable Living Trust

Craig D. Curtiright
E-mail: craigcurtright@gmail.com
2567 SW Kilkenny Court
West Linn, OR 97068
Telephone: (503) 709-6030

Of Attorneys for Defendant Terry W.
Emmert

by sending via email and by regular mail a complete and correct copy thereof, at said attorney's office with his clerk therein, or with a person apparently in charge thereof, at the address set forth above, on this 10th day of January, 2020.

s/ Cynthia M. Fraser

Cynthia M. Fraser
Of Attorneys for Plaintiff



Certified True Copy Of The Original
Dated This 13 Day of July 2021
Fifth Judicial District, State of Oregon
Trial Court Administrator
By: [Signature]
Total pages 14 pages