

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Umatilla Project, Oregon

RIGHT-OF-WAY EASEMENT

THIS AGREEMENT, made this 31 day of August, 1981, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the Federal Reclamation Laws, between the UNITED STATES OF AMERICA, hereinafter called the United States, represented by the officer executing this agreement, hereinafter called the Contracting Officer, and the COUNTY OF UMATILLA, OREGON, a body politic, hereinafter called the County.

WITNESSETH, THAT:

2. WHEREAS, in connection with the Three Mile Falls Diversion Dam, a feature of the Umatilla Project, Oregon, the United States, through the Bureau of Reclamation, Department of the Interior, has, pursuant to Federal Reclamation Laws, acquired and withdrawn certain lands in Umatilla County, Oregon; and

3. WHEREAS, the Three Mile Falls Diversion Dam and appurtenant facilities are operated and maintained by the West Extension Irrigation District.

4. WHEREAS, the County desires to utilize a portion of such lands to reconstruct, widen, operate and maintain a county roadway and appurtenant structures.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations hereinafter stated, the parties hereto agree as follows:

5. The United States hereby grants to the County, subject to the terms and conditions hereinafter provided:

a. A right-of-way easement to reconstruct, operate and maintain a county roadway and the necessary appurtenant structures and works upon, over and across the following described lands in Umatilla County, Oregon:

Tract No. 1 - An easement for roadway slope and embankment.

A parcel of land lying in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 5 North, Range 28 East, W.M., Umatilla County, Oregon; the said parcel being that portion of said NE $\frac{1}{4}$ NW $\frac{1}{4}$ lying between lines at

right angles to the center line of River Road (formerly the Old Oregon Trail Highway) at Engineer's Stations 415+50 and 416+50 and between lines parallel with and 30 feet Southwesterly and 35 feet Southwesterly of said center line.

Said tract consisting of 497 square feet more or less.

Tract No. 2 - An easement for drainage.

A parcel of land lying in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 5 North, Range 28 East, W.M., Umatilla County, Oregon; the said parcel being that portion of said NE $\frac{1}{4}$ NW $\frac{1}{4}$ lying between lines at right angles to the center line of River Road (formerly the Old Oregon Trail Highway) at Engineer's Stations 420+90 and 421+10 and between lines parallel with and 30 feet Southwesterly and 40 feet Southwesterly of said center line.

Said tract consisting of 200 square feet more or less and,

b. A temporary construction easement upon the following described United States lands for the purpose of constructing a roadway and appurtenant structures:

Those lands in Sections 28 and 33 of Township 5 North, Range 28 East, Willamette meridian, lying west of the center line of River Road (formerly the Old Oregon Trail Highway) between said center line and a line 50 feet west of and parallel to said center line.

Said construction easement to expire December 31, 1984.

The location of the above-mentioned easements is shown on the attached Exhibit "A", said exhibit by this reference is made a part hereof.

6. The County shall operate and maintain its roadway and necessary appurtenant structures and works in a good and workmanlike manner and in full compliance with the laws of the State of Oregon, and with all laws, regulations, and orders of the United States affecting such operations. The failure of the County after due notice to abide by any of the terms and conditions of any of such applicable laws, rules, and regulations shall cause this easement to be subject to immediate termination at the option of the Contracting Officer.

7. This easement is granted subject to all rights previously acquired by third parties.

8. The roadway and appurtenances shall be constructed, operated and maintained by the County without cost to the United States or its assigns and in such a manner as to cause no interference with the normal operation and maintenance of the Umatilla Project, the Three Mile Falls Diversion Dam and appurtenant works, or with the administration of adjacent lands owned by the United States. All construction, reconstruction, and maintenance work performed by the County upon the

premises of the United States shall be undertaken only at times, according to plans, and in a manner satisfactory to the Contracting Officer. The County shall reseed and establish grass on the road cuts where erosion may occur. These areas will be determined by the Contracting Officer. The County shall repair and/or reconstruct all fences and gates belonging to the United States or the West Extension Irrigation District which may be damaged or removed during construction.

9. The County agrees as follows:

a. There is reserved to the United States, its successors and assigns, the prior right to use any of the right-of-way herein described to construct, operate and maintain all structures and facilities, including, but not limited to, canals, wasteways, laterals, ditches, roadways, electrical transmission lines, communication structures generally, substations, switchyards, powerplants and any other appurtenant irrigation and power structures and facilities, without any payment made by the United States or its successors or assigns.

b. That if the construction of any or all of such structures and facilities across, over or upon said right-of-way should be made more expensive by reason of the existence of improvements or works of the County thereon, such additional expense is to be estimated by the Secretary of the Interior, whose estimate is to be final and binding upon the parties hereto. Within thirty (30) days after demand is made upon the County for payment of any such sums, the County will make payment thereof to the United States or any of its successors or assigns constructing such structures and facilities across, over and upon said lands. As an alternative to payment, the County, at its sole cost and expense and within time limits established by the Government, may remove or adapt facilities constructed and operated by it on said right-of-way to accommodate the aforementioned structures and facilities of the United States. The County shall bear the cost to the Government of any costs occasioned by the failure of the County to remove or adapt its facilities within the time limits specified.

c. There is also reserved to the United States the right of its officers, agents, employees, licensees, and permittees, at all proper times and places freely to have ingress to, passage over, and egress from all of said right-of-way for the purpose of exercising, enforcing and protecting the rights reserved herein.

d. That the United States, and its officers, agents and employees and its successors and assigns, shall not be liable for any damage to the County's improvements or works by reason of the exercise of the rights here reserved; nor shall anything contained in this paragraph be construed as in any manner limiting other reservations in favor of the United States contained in this agreement.

10. The County hereby agrees to indemnify and hold harmless the United States, its agents and employees, from any loss or damage and from any liability on account of personal injury, death, or property damage, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made arising out of the County's activities under this agreement.

11. Upon termination of this agreement for any reason, the County shall at the option of the Contracting Officer remove all structures and facilities placed upon the premises by the County and shall restore the premises occupied by such structures and facilities to a condition satisfactory to the Contracting Officer. If the County fails to remove its structures and facilities within sixty (60) days after the termination of the agreement, provided such request has been made by the Contracting Officer, such structures and facilities, at the option of the Contracting Officer, shall become the property of the United States.

12. The provisions of this agreement shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this agreement or any part or interest therein shall be valid until approved by the Contracting Officer.

13. Unless otherwise specified in this agreement, this agreement shall terminate:

a. At the option of the Contracting Officer if the County fails to comply with any of the terms and conditions thereof.

b. At the option of the Contracting Officer upon discontinuance by the County of the use of the area covered by this agreement for a period of six (6) consecutive months.

c. At the request of the County by giving written notice to the Contracting Officer.

14. The County hereby agrees as follows:

a. To comply with Title VI (Section 601) of the Civil Rights Act of July 2, 1964 (78 Stat. 241) which provides that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance," and to be bound by the regulations of the Department of the Interior for the effectuation thereof, as set forth in 43 CFR 17.

b. To obligate its subcontractors, subgrantees, transferees, successors in interest, or any other participants receiving Federal financial assistance hereunder, to comply with the requirement of this provision.

15. No Member of or Delegate to Congress or resident commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom. This restriction shall not be construed to extend to this agreement if made with a corporation or company for its general benefit.

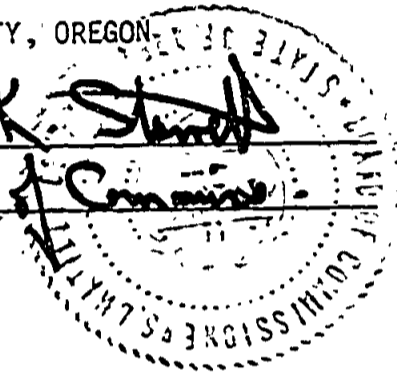
IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

THE UNITED STATES OF AMERICA

By John W. Keys, III
Acting Regional Director, PN Region
Bureau of Reclamation
Box 043 - 550 West Fort Street
Boise, Idaho 83724

UMATILLA COUNTY, OREGON

By Forest K. Stoddard
Title Ch. Pl. of Comm.



(SEAL)

Attest:



J. Dean Fouquette Sr.
J. Dean Fouquette Sr., County Clerk
Title

This right-of-way easement agreement has been considered and is hereby approved by the WEST EXTENSION IRRIGATION DISTRICT this 8th day of July, 1981.

WEST EXTENSION IRRIGATION DISTRICT

By Leo S. Lytle
Title Chairman

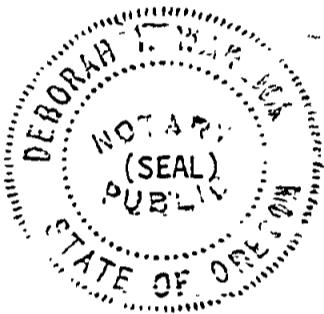
Attest:

Mari A. Johnson
Secretary-Treasurer

STATE OF OREGON)
County of Umatilla) ss

On this 6th day of August, 1981, personally appeared before me Robert H. Harrett, to me known to be the official of the UMATILLA COUNTY, who executed the within and foregoing instrument and acknowledged that he signed the same as the free and voluntary act and deed of said County, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

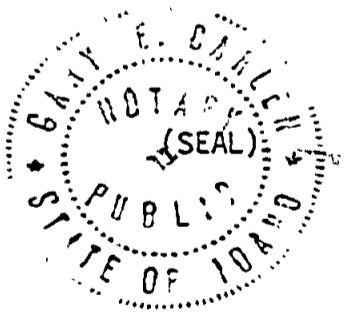


Deborah T. Harrett
Notary Public in and for the
State of Oregon
Residing at: P.O. Box 672, Pendleton
My commission expires: 12/26/85

STATE OF IDAHO)
County of Ada) ss

On this 1st day of September, 1981, personally appeared before me John W. Keys III, to me known to be the official of the United States of America that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said United States for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Gary E. Carlen
Notary Public in and for the
State of Idaho
Residing at: Boise
My commission expires: 5-5-83

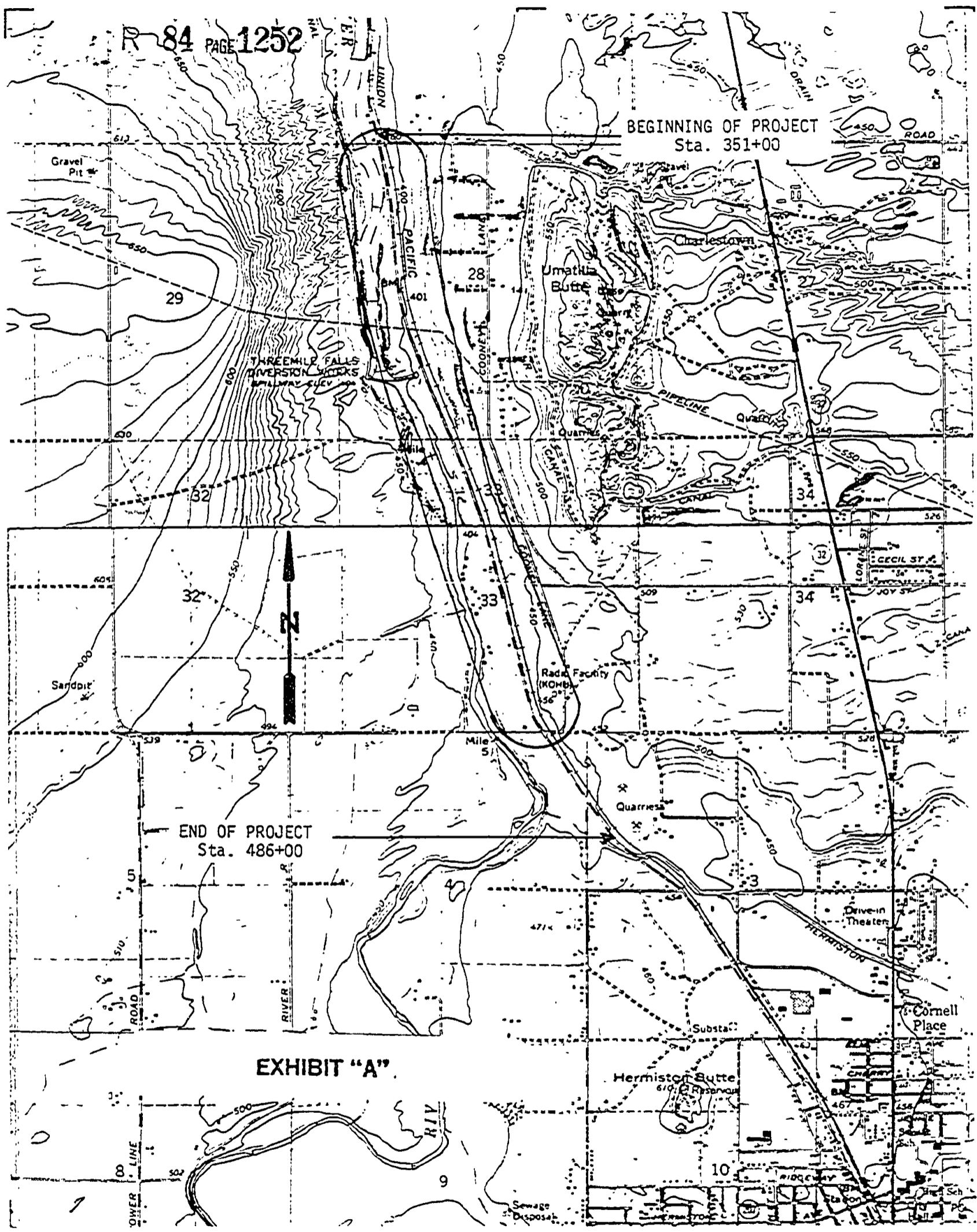


EXHIBIT "A"

INDEXED ✓

TRACED ✓

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STATE OF OREGON, }
COUNTY OF UMATILLA, } SS

I, J. Dean Fouquette, Sr., County Clerk,
certify that this instrument was received and
recorded

ON SEP. 16. 1981

at 9:42 o'clock A. M. in the record
of DEEDS of said County in

Book

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1246

J. DEAN FOUQUETTE, SR.
County Clerk

By Maude M. Farley Deputy

Fees \$ XXX No. 78175

*Road Dept
(Carroll)*