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For STATE OF UTAH
GRAND COUNTY CORPORATION

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SEVENTH DISTRICT COURT
Grand County, Utah

FILED MAY 20 1998

IN THE SEVENTH JUDICIAL DISTRICT COURT IN AND FOR
GRAND COUNTY, STATE OF UTAH

UTAH DEPARTMENT OF TRANSPORTATION,)	ORDER OF IMMEDIATE OCCUPANCY
)	
Plaintiff,)	Project No. BFR-0128(2)14
)	Parcel Nos. 1, 1:E and 1:2E
vs.)	
)	
COLIN DON FRYER,)	Civil No. 9807-46
)	
Defendant.)	Judge Lyle K. Anderson

Plaintiff's Motion for an Order of Immediate Occupancy having been submitted to the Court for decision, together with a Memorandum and an Affidavit and no objection thereto having been filed by the Defendant and the Court having determined from the pleadings that the Plaintiff has the right of eminent domain, and that the purpose for which the premises sought by the Complaint herein to be condemned is a public purpose and that the immediate occupancy of said premises is necessary and proper,

NOW, THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED, that the Plaintiff is hereby authorized to occupy the property of the

Defendant, which is sought by this action for highway purposes, all such property interests or other rights as required by the Plaintiff are set out and described in resolution attached as Exhibit A to Plaintiff's Complaint, a copy of which is attached hereto. The Plaintiff is hereby permitted to take immediate possession of said property of the Defendant as described in Plaintiff's Complaint and to continue possession thereof pending further hearing or trial on the issues that may be raised in this action and to do such work thereon as may be required for the purposes for which said premises are sought to be condemned.

IT IS FURTHER ORDERED that during construction of the project and pending the hearing on the issues presented, that prior to the destruction or removal of any fence on or along the property condemned, the Plaintiff shall make adequate provisions for a fence along the right-of-way so as to provide fencing protection to the properties affected hereby at least equal to that now provided for each of such properties.

IT IS FURTHER ORDERED that pending further hearing or trial on the issues that may be presented in this action, the Defendant and his agents, servants and employees are hereby enjoined from interfering with Plaintiff's occupation of the property, or in the doing of such work thereon as may be required for the purposes for


which it is sought to condemn the said property as set forth in said Complaint.

This Order shall not be effective until the Plaintiff herein has deposited with the Clerk of the Court, for the use and benefit of the Defendant parties in interest herein, the full dollar amount of Plaintiff's approved appraisal of the Defendant's property to be acquired in this action.

IT IS FURTHER ORDERED that on receipt of said moneys, the Clerk of this Court shall remit the same to the appropriate Defendant in the percentage and portion to which each is entitled.

DATED this 20th day of May, 1998.

BY THE COURT:


LYLE K. ANDERSON
District Court Judge



CERTIFICATE

STATE OF UTAH } ss
COUNTY OF GRAND }

I, the undersigned Clerk of the Seventh Judicial Court in and for Grand County, State of Utah, do hereby certify that the annexed and foregoing is a true, full and correct copy of an original document on file in my office as such Clerk.

WITNESS my hand the seal of said Court this 20th
day of May, 1998

By Jackie Peterson Clerk

Order of Immediate Occupancy
Grand County Civil No. 9807-46

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing
ORDER OF IMMEDIATE OCCUPANCY was mailed, postage prepaid, this 15th
day of May, 1998, to:

Colin Don Fryer
2763 South State
Salt Lake City, UT 84115

CONDEMNATION RESOLUTION
HIGHWAY PROJECT NO. BRF-0128(2)14
Castle Creek Bridge Replacement

RESOLVED, by the Utah Department of Transportation, hereinafter referred to as the Department, that it finds and determines and hereby declares that:

The public interest and necessity required the acquisition, construction and completion by the State of Utah acting through the Department, of a public improvement, namely a State Highway. The public interest and necessity require the acquisition and immediate occupancy, for said public improvement, of the real property, or interest in real property, hereinafter described.

Said proposed state highway is planned and located in a manner which will be most compatible with the greatest public good and the least private injury as provided by Title 27, Chapter 12, Section 96, Utah Code Annotated 1953 as amended.

BE IT FURTHER RESOLVED by said Department that the Attorney General of Utah shall be requested, on behalf of said Department:

To acquire, in the name of the Department, the said hereinafter described real property, or interests in real property, by condemnation in accordance with the provisions of the Statutes and of the Constitution of Utah relating to eminent domain;

To prepare and prosecute such proceeding or proceedings in the proper court having jurisdiction thereof as are necessary for such acquisition;

To obtain, from said court, an order permitting said Department to take immediate possession and use of said real property, or interests in real property, for highway purposes, or purposes incidental thereto.

BE IT FURTHER RESOLVED that the State Finance Director shall be requested, on behalf of said Department:

To prepare State Warrant in the amount of the approved appraisal of each parcel of real property, or interest in real property set forth and described herein; payee to be the Clerk of the District Court of the County wherein the real property is located, for the use and benefit of the landowners and/or lien holder as described herein;

That a tender to the landowners of a sum equal to the fair market value of the property to be acquired for rights of way herein shall be made prior to issuance of Order of Immediate Occupancy.

The real property, or interest in real property, which the Department is by this resolution authorized to acquire for said public use, is situate in the County of Grand, State of Utah, Highway Project No. BRF-0128(2)14, and is described as follows:

HIGHWAY PROJECT NO. BRF-0128(2)14

RECORDED OWNER: Colin Don Fryer
ADDRESS: 2763 South State
Salt Lake City, Utah 84115
LIEN HOLDER: None of record
APPROVED APPRAISAL: \$10,500.00

Parcel No. 0128:1

A parcel of land in fee for a bridge replacement project of the existing highway State Route 128 known as Project No. 0128, being part of the original 66 foot prescriptive use right-of-way located in Lot 1 and the NW¼NE¼ of Section 35, T.24 S., R.22 E., S.L.B.& M. The boundaries of said parcel of land are described as follows:

Beginning in the southerly right-of-way line of said existing Highway State Route 128 at a point 10.058 m (33.00 ft.) radially distant southerly from the centerline of said project at Engineer Station 22+420.000; said point of beginning is approximately 1030.803 meters (3381.90 ft.) East and 223.495 meters (733.25 ft.) South of a found Northwest Corner of said Section 35, as monumented by a GLO brass cap; thence easterly 247.253 meters (811.20 ft.) along said southerly right of way and along the arc of a 208.178 meter (683.00 ft.) radius curve to the left (Chord bears S.85°42'49"E. 232.974 meters (764.35 ft.)); thence N.60°16'01"E. 84.693 meters (277.86 ft.) along said southerly right of way line to a point 10.058 meters (33.00 ft.) perpendicularly distant southeasterly from said centerline at Engineer Station 22+740.0; thence N.29°43'59"W. 20.116 meters (66.00 ft.) to the northerly right of way line of said existing State Route 128; thence S.60°16'01"W. 84.693 meters (277.86 ft.) along said northerly right of way line to the point of tangency of a 188.062 meter (617.00 ft.) radius curve to the right; thence westerly 223.362 meters (732.81 ft.) along said northerly right of way line and the arc of said curve to a point 10.058 meters (33.00 ft.) radially distant northerly from said centerline at Engineer Station 22+420.000; thence S.38°19'02"W. 20.116 meters (66.00 ft.) to the point of beginning. The above described parcel of land contains 6437.18 square meters or 69289 square feet, all of which lies within the existing highway.

HIGHWAY PROJECT NO. BRF-0128(2)14

Parcel No. 0128:1:E

A temporary easement upon part of an entire tract of property situate in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and Lot 1 of Section 35, T.24 S. R.22 E., S.L.B. & M. in Grand County for the purpose of constructing thereon a detour incident to the bridge replacement on existing highway State Route 128 known as Project No. 0128. The boundaries of said part of an entire tract of property are described as follows:

Beginning in the southerly right of way line of said existing Highway State Route 128 at a point 10.058 meters (33.00 ft.) radially distant southwesterly from the centerline of said project at Engineer Station 22+420.000, said point of beginning is approximately 1030.803 meters (3381.90 ft.) East and 223.495 meters (733.25 ft.) South of a found Northwest Corner of said Section 35, monumented by a GLO brass cap; thence easterly 247.253 meters (811.20 ft.) along said southerly right of way line and the arc of a 208.178 meters (683.00 ft.) radius curve to the left (Chord bears S.85°42'29"E. 232.974 meters (764.35 ft.) to a point 10.058 meters (33.00 ft.) radially distant southeasterly from said centerline at Engineer Station 22+655.307; thence N.60°16'01"E. 84.693 meters (277.86 ft.) along said southerly right of way to a point 10.058 meters (33.00 ft.) radially distant southeasterly from said centerline at Engineer Station 22+740.000; thence S.29°43'59"E. 10.942 meters (35.90 ft.) to a point 21.000 meters (68.90 ft.) radially distant from said centerline at Station 22+740.00; thence S.52°24'36"W. 112.498 meters (369.09 ft.) to a point on the arc of a 170.00 meter (557.74 ft.) radius curve to the right at a point 30.000 meters (98.43 ft.) radially distant southeasterly from the centerline of said detour at Engineer Station 0+220.686; thence westerly 210.981 meters (692.19 ft.) along said arc (Chord bears N.87°25'48"W. 197.699 meters (648.62 ft.) to a point 30.000 meters (98.43 ft.) radially distant southwesterly from the centerline of said detour at Station 0+046.937; thence N.41°02'23"W. 47.872 meters (157.06 ft.) to a point 21.000 meters (68.90 ft.) radially distant southwesterly from the centerline of said project at Engineer Station 22+420.000; thence N.38°19'02"E. 10.942 meters (35.90 ft.) to the point of beginning. The above part of an entire tract of property contains 9194.20 square meters of area or 98,858 square feet.

This easement shall expire upon completion of the construction of said project or 2 years after the date of execution of the within instrument, whichever first occurs.

HIGHWAY PROJECT NO. BRF-0128(2)14

Parcel No. 0128:1:2E

A perpetual easement upon part of an entire tract of property situate in the NW¹/₄NE¹/₄ and Lot 1 of Section 35, T.24 S., R.22 E., S.L.B. & M. in Grand County for the purpose of constructing thereon a fill slope and providing drainage access to highway State Route-128 known as Project No. 0128. The following description defines an area one foot inside an existing fence along the northerly boundary. The boundaries of said part of an entire tract are described as follows:

Beginning in the northerly right of way line of said project at a point 10.058 meters (33.00 ft.) radially distant northeasterly from the centerline of said project at Engineer Station 22+461.698, said point of beginning is approximately 1083.459 meters (3554.66 ft.) East and 220.231 meters (722.54 ft.) South of a found Northwest Corner of said Section 35, as monumented by a GLO brass cap; thence easterly 117.478 meters (385.43 ft.) along said northerly right of way line and the arc of a 188.062 meter (617.00 ft.) radius curve to the left (Chord bears S.81°38'15"E. 115.577 meters (379.19 ft.)) to a point 10.058 meters (33.00 ft.) radially distant northwesterly from the centerline of said project at Engineer Station 22+585.459; thence N.7°00'00"E. 3.489 meters (11.45 ft.); thence N.82°27'19"W. 114.909 meters (377.00 ft.); thence S.26°15'32"W. 1.942 meters (6.37 ft.) to the point of beginning. The above part of an entire tract of property contains 1011.79 square meters of area or 10890 square feet.

It is agreed hereby, that the Owner, by consent of the Utah Department of Transportation, shall have the right to lessen but not to increase the vertical distance or grade of said cut and/or fill slopes, after said slopes are constructed on the above described lands at the expense of said Utah Department of Transportation, thereafter said Utah Department of Transportation is released of any further claim or demand for costs, damages or maintenance charges which may accrue against said cut and/or fill slopes and appurtenant parts thereof.