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JE 36-27-120

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IN THE SECOND DISTRICT COURT IN AND FOR DAVIS COUNTY

STATE OF UTAH

STATE OF UTAH, by and through :
its ROAD COMMISSION, :

ORDER OF IMMEDIATE
OCCUPANCY

Plaintiff, :

-vs-

Civil No. 16326

Project No. NS-129(1)

WILLIAM K. OLSON and BARBARA :
L. OLSON, his wife, :

Parcel Nos. 129:3; 129:3:E;

129:5:A; 129:5:E;

129:7:A; 129:7:E

Defendants. :

The plaintiff's motion for an order of immediate occupancy

having come on regularly for hearing before the above entitled court on the 5th day of October, 1971, at the hour of 10:00 a.m., and it having been shown to the satisfaction of said court that notice of such motion has been given to the defendants above named in the manner prescribed by law; and the court having heard the evidence offered by the plaintiff in support of such motion and have determined that the plaintiff has the rights 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 be and is hereby permitted and authorized to occupy the premises belonging to the defendants above named, which premises are sought for highway purposes or concerning which premises, easements or other rights for highway purposes are sought, all such property easements or other rights as required by the plaintiff herein, and the property belonging to the defendants as affected thereby being particularly set out and

Recorded at request of State Dept. of Highways Fee Paid 1.00
Date OCT 18 1971 9:10 AM M. VARGURME S. BOURNE Recorder Davis County
BY Barbara J. Hunsicker Deputy Book 152

described in the complaint on file in this action, and in the condemnation resolution filed in this action, a copy of which is hereby annexed, and the plaintiff is hereby permitted to take immediate possession of said properties of said defendants as required and as described and as set out in the plaintiff's complaint and to continue the possession of the same pending further hearing and 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 and according to the nature thereof.

IT IS FURTHER ORDERED that during construction of the project and pending the hearing on the issues presented, the plaintiff shall protect any private drains now crossing the proposed highway right of way, and further, 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 highway 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 AND ADJUDGED that pending further hearing and trial on the issues that may be presented in this action, and subject to the conditions herein set forth, the defendants and their agents, servants and employees be and they are hereby restrained and enjoined from hindering or interfering with plaintiff or any of the agents, employees or contractors of the plaintiff in the occupation of said premises required by plaintiff as particularly described and set forth in plaintiff's complaint, 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

described in the complaint on file in this action, and in the condemnation resolution filed in this action, a copy of which is hereby annexed, and the plaintiff is hereby permitted to take immediate possession of said properties of said defendants as required and as described and as set out in the plaintiff's complaint and to continue the possession of the same pending further hearing and 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 and according to the nature thereof.

IT IS FURTHER ORDERED that during construction of the project and pending the hearing on the issues presented, the plaintiff shall protect any private drains now crossing the proposed highway right of way, and further, 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 highway 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 AND ADJUDGED that pending further hearing and trial on the issues that may be presented in this action, and subject to the conditions herein set forth, the defendants and their agents, servants and employees be and they are hereby restrained and enjoined from hindering or interfering with plaintiff or any of the agents, employees or contractors of the plaintiff in the occupation of said premises required by plaintiff as particularly described and set forth in plaintiff's complaint, 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 the approved appraisal of the defendants property to be acquired in this action.

IT IS FURTHER ORDERED that on receipt of said moneys, the clerk of this court is ordered to remit the same to the appropriate defendants in the percentage and ration to which entitled.

Dated this 5th day of October, 1971.

B. J. Thornley, Jr.

DISTRICT JUDGE

RODNEY W. WALKER, County Clerk and Ex-officio Clerk of the District Court of the Second Judicial District of the State of Utah, in and for the County of Salt Lake, do hereby certify that the foregoing copy of _____

ORDER OF IMMEDIATE OCCUPANCY

has been compared with the original thereof now of record in this office and the same is a full, true and correct transcript therefrom and of the whole thereof. The same appears of record in my office and in my custody.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 5th day of Oct. A.D., 19 71.

File No. 16326

RODNEY W. WALKER

Clerk

By *Barbara E. Grand*
Deputy Clerk

Oct. 5, 19 71

CO*129*3, 3:E, 5:A, 5:E, 7:A, 7:E

HIGHWAY PROJECT NO. NS-129(1)
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RECORDED OWNER: William K. Olson and Barbara L. Olson, his wife
 ADDRESS: 1098 East Millbrook Way, Bountiful, Utah
 LIEN HOLDERS: None of record
 APPROVED APPRAISAL: \$11,100.00
 Parcel No. 129:3

A parcel of land in fee for a frontage road incident to the construction of an expres'sway known as Project No. 129, being part of an entire tract of property, in Lot 9 of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, T. 2 N., R. 1 W., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at the SW. corner of said entire tract of property, which point is approximately 917.36 ft. west from the SE. corner of said Lot 9; thence Northerly 68 ft., more or less, along the westerly boundary line of said entire tract to a westerly corner on said boundary line; thence Northerly 128 ft., more or less, along said westerly boundary line, which is on a 1256.3-foot radius curve to the left, to a point of tangency on said line; thence S. 17°12'32" W. 12.71 ft. to a point of tangency with a 170.0-foot radius curve to the left opposite Engineer Station 21+45.45 (Note: S. 17°12'32" W. Highway Bearing equals S. 17°15' W. in the recorded property description); thence Southerly 53.21 ft. along the arc of said curve; thence S. 0°43'28" E. 125 ft., more or less, to the southerly boundary line of said Lot 9; thence Westerly 35.0 ft. along said southerly boundary line to the point of beginning. The above described parcel of land contains 0.087 acre, more or less.

Parcel No. 129:3:E

A slope easement, upon part of an entire tract of property, in Lot 9 of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, T. 2 N., R. 1 W., S.L.B.&M., in Davis County, Utah, and adjoining easterly the easterly right of way and limited-access line of a highway known as Project No. 129 for the purpose of constructing thereon cut and/or fill slopes and necessary drainage ditches and appurtenant parts thereof incident to the grading of the roadway of said project. The boundaries of said part of an entire tract are described as follows:

Beginning at the NW. corner of said entire tract of property at a point 30.0 ft. perpendicularly distant easterly from the center line of said "U" line and approximately 199 ft. north and 870.06 ft. west from the SE. corner of said Lot 9; thence S. 17°12'32" W. 24.71 ft. to a point of tangency with a 170.0-foot radius curve to the left; thence Southerly 53.21 ft. along the arc of said curve; thence S. 0°43'28" E. 125 ft., more or less, to the southerly boundary line of said Lot 9; thence Easterly 10.0 ft. along said boundary line; thence N. 0°43'28" W. 42 ft., more or less; thence N. 89°16'32" E. 10.0 ft.; thence N. 0°43'28" W. 82.85 ft. to a point of tangency with a 150.0-foot radius curve to the right; thence Northerly 46.95 ft. along the arc of said 150.0-foot radius curve; thence N. 17°12'32" E. 25 ft., more or less, to the north line of said Lot 9 (Note: S. 17°12'32" W. Highway Bearing equals S. 17°15' W. in the recorded property description); thence S. 89°44' W. 20.92 ft. along said north line to the point of beginning. The above described parcel of land contains 0.071 acre, more or less.

The owners of the above described parcel of land, by consent of the Department of Highways, shall have the right to lessen but not to increase the vertical distance or grade of said slopes.

Parcel No. 129:5:A

A parcel of land in fee for an expressway known as Project No. 129, being part of an entire tract of property, in Lot 9 of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, T. 2 N., R. 1 W., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at the intersection of the northerly existing right of way line of 2600 South Street and the northwesterly right of way line of the former Bamberger Railroad, which point is approximately 41 ft. west from the SE. corner of said Lot 9; thence Northeasterly 22.40 ft. along said northwesterly right of way line of said former Bamberger Railroad;

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thence Westerly 167.23 ft. along a straight line parallel to and 53.0 ft. perpendicularly distant northerly from the center line of said project to a point of tangency with a 689.62-foot radius curve to the left opposite Engineer Station 25+92.75; thence Westerly 166.49 ft. along the arc of said curve to the intersection with said northerly existing right of way line of said 2600 South Street; thence Easterly 322.03 ft. along said existing northerly right of way line to the point of beginning. The above described parcel of land contains 0.125 acre, more or less.

Together with any and all rights or easements appurtenant to the remaining portion of said entire tract of property by reason of the location thereof with reference to said expressway, including, without limiting the foregoing, all rights of ingress to or egress from said remaining-portion, contiguous to the lands hereby conveyed, to or from said expressway.

Parcel No. 129:5:E

A slope easement, upon part of an entire tract of property, in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, T. 2 N., R. 1 W., S.L.B.&M., in Davis County, Utah, and adjoining northerly the northerly right of way and limited-access line of a highway known as Project No. 129 for the purpose of constructing thereon cut and/or fill slopes and necessary drainage ditches and appurtenant parts thereof incident to the grading of the roadway of said project. The boundaries of said part of an entire tract are described as follows:

Beginning on the northwesterly right of way line of the former Bamberger Railroad at a point 53.0 ft. perpendicularly distant northerly from the center line of said Highway Project No. 129 opposite Engineer Station 27+59.98, which point is also approximately 1973 ft. north and 1157 ft. east from the SW corner of the SE $\frac{1}{4}$ of said Section 36; thence Northeasterly 16.80 ft. along said right of way line; thence N. 89°52' W. 174.79 ft. to a point of tangency with a 704.62-foot radius curve to the left; thence Westerly 197.18 ft. along the arc of said curve; thence S. 74°06' W. 27.49 ft. to a point 68.0 ft. perpendicularly distant northerly from the center line of said project opposite Engineer Station 23+87.11; thence Easterly 56.15 ft. along the northerly existing right of way line of said project; thence Easterly 166.49 ft. along the arc of a 689.62-foot radius curve to the right (Note: Tangent to said curve at its point of beginning bears N. 76°18'03" E.); thence S. 89°52' E. 167.23 ft. to the point of beginning. The above described parcel of land contains 0.126 acre, more or less.

The owners of the above described parcel of land, by consent of the Department of Highways, shall have the right to lessen but not be increase the vertical distance or grade of said slopes.

Parcel No. 129:7:A

A parcel of land in fee for an expressway known as Project No. 129, being part of an entire tract of property, in Lot 21 of the N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 36, T. 2 N., R. 1 W., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at the intersection of the northerly existing right of way line of 2600 South Street and the southeasterly right of way line of the former Bamberger Railroad, which point is approximately 1930 ft. N. 0°09' W. and 1224 ft. N. 89°50' E. from the SW corner of the SE $\frac{1}{4}$ of said Section 36; thence Northeasterly 62.38 ft. along the said southeasterly right of way line of the former Bamberger Railroad to a point 94.06 ft. perpendicularly distant northerly from the center line of said project at Engineer Station 28+55.16; thence S. 31°02'23" E. 47.98 ft. to a point 53.0 ft. perpendicularly distant northerly from the center line of said project; thence S. 89°52' E. 109.28 ft. to a point 41.25 ft. perpendicularly distant westerly from the center line of U.S. Highway 91; thence Southeasterly 23.39 ft. along a straight line and parallel to the center line of said U.S. Highway 91 to a point on the existing northerly right of way line of said 2600 South Street; thence N. 89°52' W. 153.38 ft. along said existing northerly right of way line to the point of beginning. The above described parcel of land contains 0.092 acre, more or less, of which 0.004 acre, more or less, is now occupied by the existing highway. Balance 0.088 acre, more or less.

Together with any and all rights or easements appurtenant to the remaining portion of said entire tract of property by reason of the location thereof with reference to said expressway, including, without limiting the

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foregoing, all rights of ingress to or egress from said remaining portion, contiguous to the lands hereby conveyed, to or from said expressway.

- Parcel No. 129:7:E

A slope easement, upon part of an entire tract of property, in Lot 21 of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, T. 2 N., R. 1 W., S.L.B.6M., in Davis County, Utah, and adjoining northerly the northerly right of way and limited-access line of a highway known as Project No. 129 for the purpose of constructing thereon cut and/or fill slopes and necessary drainage ditches and appurtenant parts thereof incident to the grading of the roadway of said project. The boundaries of said part of an entire tract are described as follows:

Beginning on the northwesterly existing right of way line of U.S. Highway 91 at a point 53.0 ft. perpendicularly distant northerly from the center line of said Highway Project No. 129 opposite Engineer Station 29+79.65, which point is also approximately 1972 ft. north and 1377 ft. east from the SW. corner of the SE $\frac{1}{4}$ of said Section 36; thence N. 31°21' E. 11.59 ft. along said existing right of way line; thence N. 89°52' W. 111.76 ft.; thence S. 31°02'21" E. 11.69 ft. to a point 53.0 ft. perpendicularly distant northerly from the center line of said project; thence S. 89°52' E. 99.65 ft. to the point of beginning. The above described parcel of land contains 0.024 acre, more or less.

The owners of the above described parcel of land, by consent of the Department of Highways, shall have the right to lessen but not to increase the vertical distance or grade of said slopes.