

ODOT File #6217-020
& #42423
10B-4-23

Lane County Clerk
Lane County Deeds and Records

2015-010886



\$107.00

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03/19/2015 09:48:23 AM

RPR-REST Cnt=2 Stn=41 CASHIER 02

\$5.00 \$40.00 \$20.00 \$10.00 \$11.00 \$21.00

After recording, return to:

Oregon Department of Transportation
Property Management/Access Research
4040 Fairview Industrial Drive SE MS#2
Salem, OR 97302-1142

**DECLARATION OF COVENANTS AND RESTRICTIONS and
ACCESS EASEMENT
FOR THE**

{Greenhill Mitigation Bank, Corps permit #NWP-2011-383, DSL permit #52761-RF}

THIS DECLARATION is made by, the State of Oregon by and through its Department of Transportation, ("Declarant").

RECITALS

1. Declarant is the owner of the real property described on the attached legal, attached hereto and by this reference incorporated herein (the "Property"), and has designated the Property as a compensatory mitigation site in accordance with Removal-Fill Permit # 52761_(the "DSL Permit") approved by the Oregon Department of State Lands ("Department"), and the Department of the Army permit #NWP-2011-383 ("Corps permit") approved by the US Army Corps of Engineers ("Corps").
2. Declarant desires and intends to provide for the perpetual protection and conservation of the wetland and waterway functions and values of the Property and for the management of the Property and improvements thereon, and to this end desires to subject the Property to the covenants, restrictions, easements and other encumbrances hereinafter set forth, each and all of which is and are for the benefit of the Property;
3. The Department has accepted the mitigation plan for the Property under ORS 196.800 et seq, and the Corps has likewise accepted the mitigation plan under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act.

ARTICLE 1

DEFINITIONS

1.1 “Declaration” shall mean the covenants, restrictions, easement, and all other provisions set forth in the Declaration of Covenants and Restrictions.

1.2 “Declarant” shall mean and refer to the State of Oregon by and through its Department of Transportation, the owner of the Property, and the owner’s heirs, successors, and assigns.

1.3 “DSL permit” shall mean the final document approved by the Department that includes the mitigation plan and which formally establishes the mitigation site and stipulates the terms and conditions of its construction, operation and long-term management. A copy of the DSL permit may be obtained at the Department of State Lands, 775 Summer St. NE, Salem, OR 97301; phone 503-986-5200.

1.4 “Corps permit” shall mean the final document approved and issued by the Corps which includes the mitigation plan describing where and how the compensatory mitigation will be completed, monitored, managed, and maintained. A copy of the Corps permit associated with this Declaration may be obtained at the office of the US Army Corps of Engineers, Regulatory Branch, 333 SW First Ave., Portland, OR 97208; Phone 503-808-4373.

1.5 “Property” shall mean and refer to all real property subject to this Declaration, as more particularly set forth on the attached legal

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION

The Property described on the attached legal is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration.

ARTICLE 3

DECLARANT REPRESENTATIONS

Declarant represents and warrants that after reasonable investigation, and to the best of its knowledge, that no hazardous materials or contaminants are present that conflict with the conservation purposes intended; that the Property is in compliance with all federal state, and

local laws, regulations, and permits; that there is no pending litigation affecting, involving, or relating to the Property that would conflict with the intended conservation use; and that the Property is free and clear of any and all liens, claims, restrictions, easements and encumbrances that would interfere with the ability to protect and conserve the Property.

ARTICLE 4

GENERAL DECLARATION

Declarant, in order to discharge in part its obligations under the DSL permit and the Corps permit, declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements and other encumbrances in this Declaration, in order that it shall remain substantially in its restored, enhanced, preserved, open and natural condition, in perpetuity. The terms and conditions of this Declaration shall be both implicitly and explicitly included in any subsequent transfer, conveyance, or encumbrance affecting all or any part of the Property. No modification or release of this Declaration will be effective unless authorized in writing by the Department and by the Corps. Any amendments must be signed by the Department and must be recorded in the official records of the county in which the Property is located.

ARTICLE 5

USE RESTRICTIONS, MANAGEMENT RESPONSIBILITIES, AND RESERVED RIGHTS

Declarant is subject to any and all easements, covenants and restrictions of record affecting the Property.

A. USE RESTRICTIONS. Except as necessary to conduct, remediate or maintain the Property consistent with the DSL permit and the Corps permit, the actions prohibited by this covenant include:

1. Removal, destruction, cutting, trimming, mowing, alteration or spraying with biocides of native vegetation in the Property, including any disturbance or change in the natural habitat of the Property shall be allowed only to the extent that it promotes the mitigation goals and objectives established for the Property. Hazard trees that pose a specific threat to existing structures including fences or pedestrian trails may be felled. Native vegetation may be mowed after July 1 to abate fire hazard or as

appropriate to promote mitigation goals and objectives. Controlled ecological burns are permitted after July 1.

2. There shall be no agricultural, commercial, or industrial activity undertaken or allowed in the Property; nor shall any right of passage across or upon the Property be allowed or granted if that right of passage is used in conjunction with agricultural, commercial or industrial activity.
3. No domestic animals shall be allowed to graze or dwell on the Property unless they are intentionally introduced to promote the mitigation goals and objectives established for the Property.
4. There shall be no filling, excavating, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock minerals or other materials, nor any storage nor dumping of ashes, trash, garbage, or of any other material, and no changing of the topography of the land of the Property in any manner once the wetlands are constructed unless approved in writing by the Department and by the Corps.
5. There shall be no construction or placing of buildings, mobile homes, advertising signs, billboards or other advertising material, vehicles or other structures on the Property.
6. There shall be no legal or de facto division, subdivision or partitioning of the protected Property.
7. Use of motorized off-road vehicles for recreational purposes is prohibited but shall be permitted for use in land management activities that promote the mitigation goals and objectives established for the Property.

B. MANAGEMENT RESPONSIBILITIES. Declarant shall take all reasonable action to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the mitigation purposes of the Property or that are otherwise inconsistent with this Declaration.

C. RESERVED RIGHTS. Declarant reserves all other rights accruing from Declarant's ownership of the Property including but not limited to the exclusive possession of the Property, the right to transfer or assign Declarant's interest in the same; the right to take action necessary to prevent erosion on the Property, to protect the Property from losing its wetland or waterway functions and values, or to protect public health or safety; and the right to use the Property in

any manner not prohibited by this Declaration and which would not defeat or diminish the conservation purpose of this Declaration.

The Declarant specifically reserves the right to use the Property for the purposes of (a) compatible recreation, such as hiking and nature watching; (b) education, including student field trips and on-site demonstration and study; and (c) research, intended to forward our understanding of ecology, restoration science, and environmental studies, which reserved rights are deemed to be consistent with the purposes enumerated in the permit.

ARTICLE 6 EASEMENT (RIGHT OF ENTRY)

Declarant hereby grants to the Department an easement and right of entry on the Property for the purpose of physically accessing the Property at all reasonable times to inspect the Property in order to monitor and to ascertain whether there has been compliance with this Declaration and the DSL permit. In the event that the Property lacks access via a public road or other common area, Declarant grants to the Department an easement over and across any other property of Declarant, the use of which is necessary to access the Property. The Declarant hereby grants to the Corps a right of entry to ascertain compliance with the Corps permit and this Declaration.

ARTICLE 7 GENERAL PROVISIONS

A. NOTICE. The Department and the Corps shall be provided with a 60-day advance written notice of any legal action concerning this Declaration, or of any action to extinguish, void or modify this Declaration, in whole or in part. This Declaration, and the covenants, restrictions, easements and other encumbrances contained herein, are intended to survive foreclosure, tax sales, bankruptcy proceedings, zoning changes, adverse possession, abandonment, condemnation and similar doctrines or judgments affecting the Property. A copy of this recorded Declaration shall accompany said notice.

B. VALIDITY. If any provision of this Declaration, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this

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Declaration, or the application of such provisions to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

IN WITNESS WHEREOF, the undersigned being Declarant herein, has executed this instrument this 13th day of ~~January~~ March, 2015.

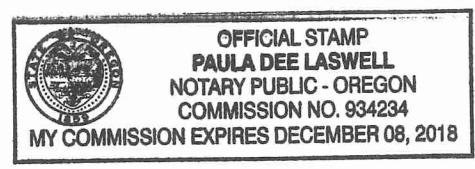
**STATE OF OREGON, by and through its
DEPARTMENT OF TRANSPORTATION**

by Joseph A. Gray
Joseph A. Gray, State Right of Way Manager

STATE OF OREGON, County of Marion

Dated March 13, 2015. Personally appeared Joseph A. Gray, who being sworn, stated that he is the State Right of Way Manager for the State of Oregon, Department of Transportation, and that this document was voluntarily signed on behalf of the State of Oregon by authority delegated to him. Before me:

Paula Dee Laswell
Notary Public for Oregon
My Commission expires December 6, 2018



Acceptance by Grantee:
The State of Oregon, Department of State Lands, approves Declarant's conveyance of an easement in favor of the Department.

By: Dan Field
Title: mitigation specialist
Date: Feb 19, 2015

Attachment: legal description

DESCRIPTION

A PARCEL OF LAND LYING IN THE SOUTH HALF OF THE SOUTHEAST ONE QUARTER OF SECTION 30, TOWNSHIP 17 SOUTH, RANGE 4 WEST OF THE WILLAMETTE MERIDIAN, LANE COUNTY, OREGON AND BEING A PORTION OF THAT PROPERTY DESCRIBED AND RECORDED IN THOSE DEEDS TO THE STATE OF OREGON, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION AND THE STATE OF OREGON, BY AND THROUGH ITS STATE HIGHWAY COMMISSION, RECORDED JULY 16, 1968 ON REEL 400R, INSTRUMENT NO. 31915, DECEMBER 22, 1976 ON REEL 826R, INSTRUMENT NO. 7667767, MARCH 13, 1996 ON REEL 2151R, INSTRUMENT NO. 9616477, AND THAT DEED TO LANE COUNTY, RECORDED AUGUST 17, 1993 ON REEL 1871R, INSTRUMENT NO. 9351848 OF LANE COUNTY OFFICIAL RECORDS; THE SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF GOBLE LANE (COUNTY ROAD NO. 99), SAID POINT BEING 332.54 FEET EAST AND 14.67 FEET NORTH OF THE ONE QUARTER CORNER COMMON TO SECTIONS 30 AND 31, TOWNSHIP 17 SOUTH, RANGE 4 WEST OF THE WILLAMETTE MERIDIAN; THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE NORTH 1°42'01" EAST PARALLEL WITH THE NORTH-SOUTH CENTERLINE OF THE SOUTH HALF OF SECTION 30, 358.94 FEET TO THE SOUTHERLY LINE OF PARCEL 1 OF THOSE TRACTS CONVEYED TO THE STATE OF OREGON BY DEED RECORDED JULY 16, 1968 ON REEL 400R, INSTRUMENT NO. 31915; THENCE SOUTH 77°39'59" WEST ALONG SAID SOUTHERLY LINE OF PARCEL 1, 206.13 FEET; THENCE NORTH 1°42'01" EAST PARALLEL WITH THE NORTH-SOUTH CENTERLINE OF THE SOUTH HALF OF SECTION 30, 328.57 FEET; THENCE SOUTH 87°32'19" EAST 467.02 FEET; THENCE NORTH 1°42'01" EAST PARALLEL WITH THE NORTH-SOUTH CENTERLINE OF THE SOUTH HALF OF SECTION 30, 646.62 FEET TO THE NORTH LINE OF THE SOUTH ONE HALF OF THE SOUTHEAST ONE QUARTER OF SECTION 30; THENCE SOUTH 87°32'01" EAST ALONG SAID NORTH LINE, 2034.77 FEET TO THE WESTERLY RIGHT OF WAY LINE OF GREENHILL ROAD (TRAXLER ROAD - COUNTY ROAD NO. 36); THENCE SOUTH 1°56'34" WEST ALONG SAID WESTERLY RIGHT OF WAY LINE, 637.83 FEET TO A POINT ON THE SOUTHERLY LINE OF THE HEREIN REFERRED TO PARCEL 1; THENCE LEAVING SAID WESTERLY RIGHT OF WAY LINE NORTH 70°25'40" WEST ALONG THE SOUTHERLY LINE OF SAID PARCEL 1, 75.26 FEET TO A POINT ON THE WESTERLY LINE OF THAT PARCEL RECORDED AUGUST 17, 1993 ON REEL 1871R, INSTRUMENT NO. 9351848; THENCE ALONG SAID WESTERLY LINE THE FOLLOWING COURSES: SOUTH 13°45'39" WEST 24.92 FEET; SOUTH 6°34'49" WEST

221.45 FEET; SOUTH 0°10'09"EAST 134.66 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF THE COOS BAY RAIL LINK (FORMERLY CENTRAL OREGON AND PACIFIC RAILROAD); THENCE SOUTH 83°55'58" WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE, 2130.90 FEET TO A POINT ON THE SOUTHERLY LINE OF SECTION 30; THENCE NORTH 87°21'21" WEST ALONG SAID SOUTHERLY LINE, 18.99 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF GOBLE LANE; THENCE LEAVING SAID SOUTHERLY LINE NORTH 26°04'02" WEST ALONG SAID EASTERLY RIGHT OF WAY LINE, 34.21 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF SAID GOBLE LANE; THENCE NORTH 87°21'21" WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE, 61.35 FEET TO THE POINT OF BEGINNING, ALL IN LANE COUNTY, OREGON.

SAID PARCEL CONTAINS 57.55 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE OREGON STATE PLANE COORDINATE SYSTEM – SOUTH ZONE – NAD83 (CORS 96) EPOCH 2002.